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**THE STATE AND PUBLIC GOODS/SERVICES:  
REGULATOR OR PROVIDER?**

PROCEEDINGS

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# Turkey in its quest for more power over Balkans

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## Abstract

*Turkey is currently a major player in the Balkans, as it is continuously trying to expand its sphere of influence. As part of its foreign policy strategy, Turkey is developing common interests in the region. European Union has changed its policy toward Turkey and, at the same time, Turkey constantly challenges Europe. As history tells us, Balkans have been battleground for clashes of different powers. Turkey is increasing becoming a powerful actor that has to be taken into consideration, even though in the Balkan area it is showing certain limits. The qualitative method is used in the study, referring to secondary data, as it relies on various critical journals entailing Turkish politics, foreign policy and international relations. The study focuses on two main areas: economic relationships and religious influence, through which Turkey is trying to project power into the Balkans. The paper tries to test the hypothesis that economic struggles and Balkans orientation toward European Union have prevented Turkey in fully achieving their goal.*

*Key words: major player, foreign policy strategy, geo-economy, religion, influence*

## Turkey a major player in the region

Turkey's goal is to become a preeminent regional power not only in the Middle East (Nehme, 2009). It is a mistake, however, to think of Turkey as an exclusively Middle Eastern power. The modern Turkish Republic is the heir to the Ottoman Empire, which at its height ruled a vast expanse of territory stretching west across North Africa, as far north into Europe as Vienna, east into the Caucasus, and south throughout much of the Arab world. The heart of Turkey's power is its core strategic territory and its influence radiates from this strategic location.

Davutoglu (2001) laid out its "Strategic Depth" doctrine regarding expanding influence in Balkans, and since then Turkey's quest for power in Balkans has continued. Nowadays we see Ankara's involvement in Bosnian issues, its rapprochement with Serbia, the influx of Turkish investors, and the popularity of Turkish TV soap operas across the region or use of religion. Such activism is part of the so-called "Neo-Ottomanism", which fuels fears that today's Turkey is at best inspired by imperial nostalgia to gain a strong position in the region. According to Bechev (2012), "Turkey has been linked to the Balkans: in its security strategy and diplomacy, geography, demography, and political imaginaire" (f. 4).

It should be noted that the post-Cold War world system created opportunities for Turkey to exert influence in countries that were previously unavailable - the Balkans, the Caucasus and the Middle East. Turkey's position was further strengthened following the events of September 11, when, under this new order, the West considered Turkey an indispensable ally in the fight against Islamic terrorism. Despite this Western approach, in 2002 an Islamist-rooted government took power in Turkey.

In the new context, Turkey takes another role in foreign policy. This study will analyze two main dimensions Turkey uses to exert power in Balkans: economy and religion. The new vision for foreign policy emphasizes the incarnation of strategic depth towards well-defined goals - in political, economic and cultural terms.

In his speech on Europe Day, 8 May 2009, Davutoglu (2009) reflects these goals. First, according to the cultural perspective,

it represents a country through which historical cultural mobility is integrated in universal culture:

The first is the cultural aspect. We need to put to the forefront the consolidating rather than the dividing nature of cultures. We imagine a Europe that communicates well with the whole accumulation of human culture that unifies the principle of plurality with “common good” and “ethics of coexistence”.

To reinforce Davutoglu’s words, in a much stronger tone, “Prime Minister Binali Yıldırım portrayed Erdoğan as a descendant of a well-regarded Ottoman-era sultan” (Peterson, 2017). A local official of Justice and Development Party (AKP) controversially posted on his Facebook page that Erdoğan “will be the Caliph of the Presidency,” and that in 2023 – when the Turkish republic reaches its 100th birthday – “Allah will finish the light.” (Ibid). Actually, other officials say that Turkey is in the process of restoring its historical Ottoman influence as a leader of the Islamic world. Those references point to a moderate, inclusive form of Islam, but also authoritarian rule in the form of a sultan.

Secondly, in the above speech, Davutoglu (2009), according to the economic perspective, claims that Turkey deserves to be amongst the superpowers:

Second dimension of our vision for Turkey is related to the economy. Again, as Turkey we want to maintain our ambition to rank as one of the most powerful economies of the world with our powerful human resources, with a new understanding of technological revolution, science, and project of sustainable economic development. This geography cannot maintain weak economies. Such an economy entails instability as well as distrust in this region. Being aware of this, in the period ahead we hope that Turkey will rank among the top ten economies of the world.

To understand Turkey’s power, Friedman (2012) lists the powers of the future in the famous book “The Next 100 Years”, he notes:

Then there is Turkey, currently the seventeenth-largest economy in the world. Historically, when a major Islamic empire has emerged, it has been dominated by the Turks. The Ottomans collapsed at the end of World War I, leaving modern Turkey in its wake. But Turkey is a stable platform in the midst of chaos. The Balkans, the Caucasus, and the Arab world to the south are all unstable. As Turkey’s power grows—and its economy and military are already the most powerful in the region—so will Turkish influence (f. 7).

## Methodology

This is a social research and the method of data used was secondary methodologies of data collection. It involved the use of secondary sources, i.e. collecting information and data that could be used for this research. While carrying out the research, emphasis was to look for data about the foreign policies of Davutoglu, how he influenced their implementation in Turkey and how is TFP is working in Balkans.

While carrying out the library research, reliance was on books published about the Turkish foreign policies. Furthermore, there was a need of looking at the profile of the authors before using the published books. Materials relied on were ones published by academics with experience in addressing Turkish foreign policies.

### *Research Question / Hypothesis*

This paper tries to answer the question: Are economic and religious dimensions contributing to the success of Turkish Foreign Policy objectives in Balkans?

The hypothesis of this study is: Economic struggles and Balkans orientation toward European Union have prevented Turkey in fully achieving their goal of projecting their power in Balkans.

### *Theory of International Relations*

While doing the research, constructivism is the theory helping in testing the hypothesis. Constructivism is the claim that important aspects of international relations are historically and socially constructed, instead of the inevitable consequences of human nature or other essential characteristics of world politics (Jackson, P & Nexon, M, 2002).

Constructivists create the necessary spaces for the identity and interests of international actors to take a central place in the theorization of international relations. In this context, now that actors are not simply governed by the imperatives of a self-help system, their identities and interests become important in analyzing the behaviour of these actors. Taking into account the nature of the international system, constructivists see such identities and interests by not being objectively based on material forces, but as being the result of ideas and the social construction of such ideas. In other words, the meanings of ideas, objects, and actors are set on the basis of social interaction (Ibid). In this sense the historic legacy takes priority.

Many authors (Bulent, Aras, Friedman, etc.) point out that Islam is the foundation of AKP's policy. Using the parameters - geography, history, population and culture - Turkey applies soft power. Rather than judging them as a barrier, which has happened in its Kemalist past, Turkish policymakers have turned them into strategic assets. Thus, the new Turkish public diplomacy has been built to spread the soft power of the Balkans, the Middle East and the Caucasus, but also beyond. It seems Turkey has become more confident in overcoming the fears of the past by building a new identity in international relations.

To illustrate the above-mentioned concept of constructivism, when cognitive maps are outlined, using explanations from critical geopolitics, Davutoglu mentions the collective memory or what is commonly referred to as common heritage. In this context, Davutoglu (2001) states that "the analysis of the sphere of international relations, without penetrating the historical depth, is similar to the psychological analysis when it does not take into account the data on a person's memory" (p.551). Thus, a foreign policy perspective, without considering historical assets and geographic depth, would not be compatible with Turkey's geography.

Referring to Cohen (2016), constructivism has precedence in the Davutoglu's thinking. First, Davutoglu (2001) has emphasized that Islamism and history are important in creating solidarity or friendship between different civilizations and cultures. He stresses that "the best way to ensure that interaction between cultures is positive is communication among international organizations. . . and that the role of culture and history is of great importance in improving relations between nations" (Cohen, 5). Second, constructivists argue that states' interests are not determined by power, but by identities built during a long process of socialization. Unlike realism, according to Wendt (1999), "it is not the hard power that promotes international relations but the power of ideas" (p. 8). And third, another element - reflected in the outlying principles drafted by Davutoglu - is the priority given to the soft power in relation to the hard power, and according to Cohen (2016), "power in Davutoglu's thinking involves not only realistic transitional aspects but also social and civil identity, as these factors further stimulate a nation's ability to add power and influence to other actors" (p. 7).

## How does Turkish Foreign Policy (TFP) works in Balkans

Since the AKP came to power, Turkey has adopted new principles in forming foreign policy. This new foreign policy now operates within a conceptual framework formulated by Ahmet Davutoglu, based on principles such as balance between security and democracy, zero problem policy toward Turkey's neighbors, developing relations with the neighboring regions and beyond, rhythmic diplomacy, and multidimensional foreign policy.

In this framework of TFP, Aras & Fidan (2009) explain this change by referring to the notion of geographic imagination, which defines "cognitive maps of political elites and thus paves the way for labelling regions . . . and provides a framework for assumptions and representations for policymakers" (p. 196). From this perspective, Turkey, as it has increased contacts with neighboring countries through political, economic and cultural mechanisms, has reduced conflicting perceptions of the past. Turkey is reinterpreting its international position through a new foreign policy vision.

"Strategic depth" is essentially based on the geopolitical and historical analysis of Turkey's international position. As Davutoglu (2010) notes, the concept is a "reinterpretation of Turkey's history and geography in line with the new international context" (p. 430). In this context, the "Strategic Depth" analysis is essential to understanding the current agenda of Turkish foreign policy. According to Kirisci (2009), "the meaning of the book derives from. . . introducing the concept of Strategic Depth as a factor that should characterize Turkish foreign policy" (p. 36).

"Strategic Depth" is the guide of Turkish foreign policy. Based on this guide, geography takes on Turkey a very important role as much as culture and history. The strategic location and historical heritage of Turkish geography enables Turkey to engage in all the processes and geopolitical developments of the regions surrounding it. This circumstance makes it a geographic center - one of Davutoglu's basic concepts. One of them is the Nearby Land Basin which includes three regions related to Turkey with land borders: the Balkan Peninsula, the Middle East and the Caucasus.

Based on this premise, this basin directly impacts on the formulation of Turkish foreign policy. Davutoglu (2001) gives extraordinary importance to this area as it states that "Turkey should not make the mistakes of the past. . . in the alienation of this basin" (p. 157). As Turkey tends to become an economic superpower, it is also trying to expand its influence in these regions.

It is commonly known that the Balkans represent the Turkish bridge to the West, and Turkey aims to use this bridge not only to exert its influence in this area, but also to establish a relationship with the West. Turkey's goals are clear and in the case of the Balkans there is a double purpose: influence in the region and other opportunities to Europe because "an Anatolian country that has no impact on Balkan developments . . . neither can maintain the integrity on this sensitive geopolitical field and nor can be opened to the world" (Davutoglu, 2001: 157).

Then, in his analysis of the strategic depth, Davutoglu (2002) protects Turkish "imperialist" interests, calling Muslim populations "Ottoman remnants". He adds that "particularly two countries (Bosnia and Albania), where Muslims, the natural allies of Turkey, have a Muslim majority, have expressed the will to turn this historic experience based on Ottoman legacy into a natural alliance. Meanwhile, Turkish and Muslim minorities in Bulgaria, Greece, Macedonia, Sandzak, Kosovo and Romania are important elements of Turkish politics in the Balkans" (p.161).

Between Davutoglu's lines there is the tendency for hegemony. It seems that Davutoglu has secured the influence in Albania as he worries about Russia's neutralization in the region and maintaining the equilibrium with the US. He also worries about

the countries over which Turkey really has influence when proposing the preparation of a plan. “. . . internal security in the Balkans would equilibrate the Russian factor in the area as well as the preparation of a framework plan would be necessary to guarantee the internal security and territorial integrity of Albania, Bosnia and Macedonia. . . “ (Davutoglu, 2001: 162).

## Economic relations

Turkey's economic role in the Western Balkans has been somewhat successful in achieving economic relations. In fulfilling “No Problem with Neighbors” principle, Turkey has been focused on normalizing and intensifying cultural, political and economic ties with neighboring countries, including Albania and other Balkan countries. Therefore, relations with the Balkans countries have improved considerably. In this sense, promoting economic integration and diplomacy as a way of solving problems has helped raise Turkey's profile as soft power.

Factors driving Turkish tendency to invest in Albania's economy are common history, geographic proximity and Turkey's growing economic influence. On the Albanian part, the government of Albania has defined Turkey as a strategic partner, along with Italy, Greece and Austria - the so-called four-angle Albanian foreign policy.

In 2012, trade between the two countries was estimated at \$ 400 million. Turkey has increased its investments that have already reached over a billion dollars. Albania is not yet integrated into EU structures due to problems with law enforcement and corruption. This situation creates a tendency to find support in other countries. As Likmeta (2010) says, Albania finds the “rescuer in the former imperial ruler” (f. 3). However, it should be noted that there were over 160 bilateral agreements between Turkey and Albania in various areas of cooperation, including agriculture, tourism, national archives, environment, education, defense, energy, trade and the economy. Turkey regards Albania as a key strategic player in establishing peaceful co-existence and stability in the Balkans, and also supports Albania's integration into European and Euro-Atlantic institutions (Pawel, 2010: 12), while still had leverage on such structures.

Considering the whole Balkans countries, economic relationships should be the major path for Turkey to create the leverage it aims. And yet Turkey's relative economic success for much of the 2000s has *not* been translated into a large increase in Turkey's economic presence in the Balkans. This is mainly because the Turkish economy has stalled in the last decade or so (Srivastava, 2016).

Turkey was a success story before the 2008 financial crisis, with GDP growth reaching a peak of 9.4 percent in 2004. The effects of the financial crisis hit Turkey hard, but Turkey rebounded quickly, posting a 9.2 percent growth rate in 2010 and 8.8 percent growth in 2011. Since then, however, Turkey's economy has slowed: GDP growth has oscillated between 2 and 4 percent since 2012, and that slowdown has been accompanied by diminished potential for Turkey to improve its trade position with Balkan countries. (Ibid)

At present, apart from internal problems and the conflict in Syria, the Turkish government's biggest challenge is the increasing economic prosperity and repairing the damage to investor confidence caused by domestic political instability. Erdogan and the AKP have centralized much power as via constitutional amendments or by shutting down media organizations – tactics they have already employed – but without economic prosperity, this power will be far from secure (Toskoz, 2017).

The underlying weakness in the Turkish economy has manifested in the Balkans by the limited extent to which Turkey has managed to increase the value of its regional trading relationships. Despite Turkish officials' flurries of high-level visits to the Balkans, in part because of the government's concentrated push to solidify economic relationships in the region, Turkey has failed to take a significant position in trade with most Balkan countries, let alone a dominant one. This is illustrated by the chart below.

## Investment in the Balkans

The media has made much of expanding Turkish influence in the Balkan region. The statistics regarding the level of investment, however, do not bear this out. The latest data on outgoing Turkish foreign direct investment (FDI) is from 2012, but it paints an underwhelming picture of Turkish investments.

Both in absolute terms and a percentage of Turkey's overall FDI, Turkish investment in the Balkans is limited. According to the data above, countries like Macedonia, Serbia, Bosnia and Herzegovina and Albania each accounted for less than 1 percent of Turkey's outgoing FDI. It is also unlikely that Turkey's FDI behavior has changed markedly since 2012 (Toskoz, 2017).

Here, too, Turkey's commitment to the Balkans is relatively underwhelming in terms of the type and quality of projects it has undertaken and the financial value of TİKA's activities in Balkan countries. In its 2014 annual report, TİKA reported a budget of \$168 million. The largest Balkan recipient of this aid by far was Bosnia and Herzegovina, with 7.35 percent of the TİKA budget that year. In absolute terms, that is just under \$12 million – insufficient to create influence or power in a foreign country. Furthermore, most of the other Balkan countries only received 2 percent or less of TİKA's budget in 2014, according to the annual report (TİKA, 2014).

## Religious influence

Religion, as another dimension Turkey employs to connect with the Balkans in the strategic thinking of Davutoglu (2001), is part of geo-culture, a term used to describe how human beings think about their culture in order to explain basic assumptions and the meanings upon which human nature is built. Moreover, “geoculture is a set of norms, which are widely accepted in a



certain social environment. It is closely related to a political process and the factors constituting geocultural norms are derived from political aspects (Wallerstein, 1991: 15).

Religion has been one of the most debatable issues in social sciences for years (Davutoglu, 2001). Even the definition of religion has raised several questions and hence there are several approaches concerning the definitions of religion in different fields. Furthermore, the discipline of international relations has also become interested in the role of the religion in politics especially since the early 1990s (Ibid). The debate on this issue has increased in the post-Cold War world. From the rise of fundamentalist religious movements to the increasing role of religion in politics, the secularization theories, which had assumed the decline of the religion in social life thanks to the advance of modernization, had to be revised (Venetis, 2015).

However, since 2005, the AKP's foreign policy has changed to multi-dimensional foreign policy which is described by Öniş and Yılmaz as "soft EuroAsianism" strategy (Venetis, 2015). Yet, according to them, "soft Euro-Asianism" does not just apply to the former Soviet Union region and the Middle East, but to all of Turkey's neighbors.

Religion is also a potential lever that could allow Turkey to exercise power in the Balkans. As the map below shows, Kosovo and Albania both have Muslim-majority populations. Bosnia and Herzegovina, Macedonia, Montenegro and Bulgaria have sizable Muslim populations as well. This map, however, obscures the significance of the Muslim population in Bosnia and Herzegovina. This country is a combination of two distinct entities: Republika Srpska and the Federation of Bosnia and Herzegovina. The population of the former is roughly 80 percent Orthodox Christian, and the latter is about 70 percent Muslim, which means in practical terms that at least part of Bosnia and Herzegovina should be considered a Muslim-majority country like Kosovo or Albania.

The fact that Turkey is a Muslim country creates a natural shared interest between Turkey and the Balkans' Muslim states. Turkey even committed a brigade of troops to the region in the 1990s, within the context of U.N. and NATO intervention in the Balkans. This was in large measure to support the Muslim populations in places like Bosnia and Herzegovina, Kosovo and Albania. Any time EU seems to distance itself from these countries, and the situation is destabilized, Turkey is ready to intervene and gain influence in the region.

However, these relationships will also be a barrier to any strong assertion of Turkish power in the region. While there is a sizable Muslim population in the Balkans, there are also many Orthodox Christians and ethnic groups of various stripes that will be hostile to any Turkish move (Srivastava, 2016). Although Turkey and Serbia have managed to work together in terms of their economic relationship, they are on opposite ends of the Kosovo issue. More broadly, a large swath of the Balkans would not welcome a return of Turkish influence in the region - contrary to what Davutoglu says: Turkey is a natural actor in this region (Tozkoz, 2017).

Furthermore, Turkish Islam was pushed in the Balkans during recent decades as a tool of Turkish influence. The Gulen movement, a one-time ally of the Turkish government, established schools and social services throughout the Balkans with the government's blessing and encouragement. Since then, there has been a break between Fethullah Gulen, a predominant Turkish preacher and politician, and the AKP government. Erdoğan has blamed Gülen for being one of the masterminds behind the attempted coup last year. As a result, Turkey has established a new organization called the Maarif Foundation to take the place of Gulen's organization. The Turkish government is pressuring countries to relinquish control of Gulen offices and schools to the Maarif Foundation. Turkish government officials have also brought up the issue of expelling Gülen teachers and closing their schools in countries like Albania, Kosovo and Bosnia and Herzegovina. And while many countries have already acquiesced to the Turkish government's demands, the Balkans' Muslim countries have not. They have made public pronouncements supporting the Erdoğan government, but the Maarif Foundation's head noted in an interview with Turkey's Daily Sabah that "talks with Balkan countries like Albania and Bosnia and Herzegovina were continuing" (Stockholm Center for Freedom, 2017), without the expected success.

From this perspective, ostracizing Gulen may have created political confusion in some of these Balkan countries rather than developing an affinity for the Turkish brand of Islam. The basic religious doctrine is the same between AKP's version of Islam and Gulen's. The difference between AKP and Gülen versions is political. Still, there is a limit to how much Turkey can play the Muslim card in these countries, both due to the Gulen-AKP fracture and because the countries have created their own versions of Islam. There will also be an inevitable backlash from the region's non-Muslim countries if Turkey pushes the issue too hard (Ibid).

### **The role of Turkish Islamic networks in Albania**

After the Cold War, an important role in exercising the cultural dimension in the Western Balkans, including Albania, has been given to the introduction of Turkish Islamic networks in the region. This role - has been fulfilled by the "Diyanet" - Turkish Presidency for Religious Issues and non-governmental networks, such as neo-Sufi communities and charitable Islamic foundations. Though their influence may be limited, it is natural that these networks have a long-lasting influence on Islam in the Balkans by fulfilling their goal: strengthening ties between Turkey and these countries.

Since 1924, Diyanet was perceived as an instrument to create national identity based on Pan-turkism, Islamic religious tradition and the secular state system, as it is emphasized in the Constitution of Turkish Republic: "The Presidency of Religious Affairs, which is within the general administration, shall exercise its duties prescribed in its particular law, in accordance with the principles of secularism, removed from all political views and ideas, and aiming at national solidarity and integrity" (Article 136). However, referring to the AKP foreign policy, it can be noted that Turkey is very interested in controlling Diyanet.

Conservative AKP on one hand, and Diyanet, a Kemalist institution, do not find a common language in their intentions. But after 12 years in power, the AKP has worked to “introduce some state institutions under its umbrella, aiming for a strong control over the Kemalist-born Diyanet” (Axiarlis, 2014: p. 83).

Since the early 1990s, Diyanet has opened its own missions throughout the Balkans, aiming to support Turkish communities in the region, as well as to develop cooperation with Islamic institutions. The main task of Diyanet’s representatives is the selection of students to study theology in Turkey. Another aspect of Diyanet’s work is the translation and distribution of religious literature. Only 40,000 texts have been translated and distributed in Albania (Korkut, 2012: 117 - 123).

### **Turkish Islamic charity networks in the Western Balkans**

A considerable number of Turkish Islamic charity organizations are also active in the Western Balkans, including Albania. Charitable institutions have a long tradition in Turkey. In Ottoman society, educational services, health and social services were provided mainly by religious foundations (vakifs). These foundations were nationalized in 1924, but the institution’s Islamic of vakif provided a model for pro-Islamist civil society in the 1980s and 1990s (Barnes, 2012: 7).

“Suleymans”, a community established in the ‘20s as a reaction to the closure of schools, have their roots in Sufism. Currently they are influential in some European countries. They teach Balkan Muslims the Turkish tradition Sunni-Hanafi and protect them from the influence of neo-Salafism, which they consider a deviation from Islam. They have a very well organized network in the Western Balkans, with dormitories and schools where the Koran is studied throughout the region through a number of different foundations. Suleymans have been active in Albania since 1996, and run nine dormitories in eight different locations across the country. They have been active in Kosovo, Macedonia and Bosnia since the early 2000s. They are also aiming to expand their activities and open new dormitories in many regions. (Barnes, 2012: 8-12).

“AMHV” - “Aziz Mahmud Hüdayi” Foundation (AMHV) is associated with Erenkoy community, which nowadays is one of the most influential communities. At first this foundation dealt mainly with social services, particularly distribution of aid to the poor. Now the network has extended itself beyond Turkey. The bulk of its financial resources come from religious Turkish businessmen, many of them originating from the Balkans who want to support their Muslim supporters in the Balkans (Barnes, 2012: 14-17). AMHV started its activity in Kosovo in the late 1990s to provide humanitarian assistance after the war. It set up an association, “Istanbul International Brotherhood and Solidarity” (IIBS) which has opened a permanent office in Pristina in order to coordinate humanitarian activities in the region. Since then, AMHV has been developing its activities in a similar way as in Turkey, building dormitories and running Koran courses. IIBS coordinator in Pristina explains that their main goal is to ensure that the Turkish tradition remains the dominant form of Sunni Islam in the Balkans. Currently they manage dormitories and madrasas in Kosovo. AMHV is also active in Albania - with the madrasa in Shkodra - and constantly tries to extend its activities. (Barnes, 2012: 44).

IHH - İnsan Hak ve Hürriyetleri İnsani Yardım Vakfı (Foundation for humanitarian aid and human rights) was founded in 1993 by German branch Milli Gorus (Milli Gorus - National Vision is one of the leading Turkish organizations in Europe) and supported by the Refah Party (outlawed in 1998). Understandably it is now close to the AKP and to reformist wing of Milli Gorus. IHH has helped - during the wars in Bosnia and Kosovo - through humanitarian aid for refugees in Albania, Macedonia, Sandzak and Bosnia. Besides humanitarian aid, IHH also emphasizes the need to provide spiritual support to Muslims in the Balkans, especially in areas where there is Christian missionary activities. In 2006, IHH distributed 10,000 Korans in Albania and Kosovo, and 5,000 books for children in Tirana. Although IHH is now focusing on other countries like Palestine and Lebanon, it still close ties with Islamic institutions and Muslim communities in the Western Balkans (Barnes, 2012: 71).

Besides their humanitarian activities, these charities have played an important role in establishing contacts between the pro-Islamic civil society in Turkey and Muslim and Islamic communities and institutions in Western Balkans - exercising in this way public diplomacy so pronounced by the new spirit of today’s Turkish foreign policy.

With these projects, undertaken by state-financed institutions and the co-called non-profit foundations, Turkey has not been able to dictate its policies in such domains.

### **Conclusion**

The Balkan region is still not one of Turkey’s main partners. For example, European Union countries have much stronger economic ties with Turkey than with Balkan countries. However, Turkey is still attempting to extend its tentacles in the Balkans. We talk about Albania as a potential economic partner of Turkey, but, for example, Serbia ranks among the countries with the greatest intensity of economic cooperation. Therefore, in this context, it is to be noted that Turkey, despite its potential, has not yet strongly intervened economically in Balkans.

Encouraged by importance of the Balkans, the new Turkish foreign policy run by the AKP has repositioned Turkey as a regional power in the Balkans. As explained above, Turkey is increasingly using geo-economic values such as foreign direct investment, signing free trade agreements and other forms of economic support to create a political influence.

Turkey continues to use economics not only to strengthen political influence but also to maintain stability in the region from whose destabilization Serbia and Greece could benefit. In this context, Turkey continues to use its strength for economic

expansion. The small Balkans countries should know their position and orientation, as Turkey has not used all its potential. Turkey has some distinct economic advantages relative to neighboring powers, but the next few years will be tough for Turkey's economy. That will limit its ability to project power in the short term.

According to Friedman (2011), Turkey will rise as a regional power. In this paper, we discussed what that rise will mean in terms of Turkey's ability to project power into the Balkans. We conclude that while Turkey will seek to increase power in the Balkans because of its imperatives, doing so will be difficult in the near-to-medium term. Concerns about Turkey's trade and investment positions in the Balkans are overstated, and while Turkey shares natural interests with Muslim-majority countries in the Balkans, there are inherent limits to how far Turkey can use this to its advantage.

Europe is becoming wary of Turkey's power; at the same time, Turkey is increasingly unafraid of challenging Europe. The Balkans have always been a battleground for outside powers. In the current state of affairs, Turkey's influence is rising, but there are limits to its power and it will face some of those limits in the Balkans.

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# Starting All Over. The politics of protest and the struggle for democratic consolidation in Albania

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## **Abstract**

*Experimenting with democracy in Albania has reached a quarter of a century, displaying that democratization is a complex project that begins with the transition but does not always end in consolidation. Therefore, novel approaches and theories that elucidate what occurred after the early transition as well as during it are considered necessary. In western democracies, one of the broadly accepted and well-practised forms of citizen engagement is protest participation. A plethora of authors deem that protest participation is a pivotal activity for the formation of a democratic public as well as an instrument for fostering democratic consolidation. Consequently, as on the one hand, we perceive an upsurge of protest activities in the western countries, hence, on the other, we see a gradual deterioration of protest participation in a Post-Communist country like Albania. Local studies on this topic are sporadic and not as much of participation trends is known of Post-Communist Albanian citizens. While, other sources of participation studies, which stems from western countries tend to construct their analyses based on broad formal questionnaires without analyzing the contrast between protest in democracies and protest in authoritarian regimes. Thus, in this article, we aim to shed light on the correlation between protest participation and state mobilization strategies. More concretely, how the state undertakes to mobilize measures to promote or prevent social movements activities? The answer to the aforesaid question will be in heart of this paper.*

***Keywords:** protest, Albania, state mobilization, democratization, Social movement*

## **Introduction**

Following the 2009 election in Albania, the defeated Socialist Party radicalized its interaction with the government by contesting the legitimacy of the elections as well as its overall policy. These contentions reached its peak on 21 January 2011, when protesters engaged in a riot against the Prime Minister's edifice. In this confrontation, four protesters lost their life and dozens of others were injured. Police forces as well count several injures among their forces. The government called for a coup d'état while the opposition blamed the government for killing innocent unarmed protesters. The events of 21 January confirmed once again the idea that right after little more than two decades of the fall of the communist regime, the experiment with democracy did not promise for any long-term success. This episode well captured the spirit of politics in contemporary Albania that mix elements of political competition with strong authoritarianism.

## **Theoretical background**

Understanding routes of protest in Albania seem to be a key point issue for future democratic consolidation. Therefore, in this paper, our goal is to explore protest patterns in contemporary Albania, in particular at how people express themselves through acts of protest in the public space. We look at how Albanians organize collectively, what this means for their political



action and what these actions mean for the character of the political system in which they live. In a nutshell, we will look at Albanian politics and think about how political institutions undertake to mobilize measures to promote or rather prevent social movements activities. The goal here is to explain the dynamics that underlie protest patterns.

Classic and modern authors stressed the idea of the unique value of citizens participation in public activities. Whereas, contemporary theorists ranging from participatory democrats (Pateman, 1970; Barber, 1984, Möckli 1994; Schiller 2002; Steiner 2012; Mansbridge-Parkinson, 2012;) to democratic realists (Schumpeter, 1952; Sartori, 1987) share the same opinion about citizen participation as a central characteristic of democracy. While according to Inglehart and Welzel (2007), protest participation is one of the prerequisites that an effective democracy to take place.

Protest movements in Albania begin to reflect and influence mainstream politics since the system collapsed. To understand Albania's political system and its social and political world we need to pay attention to the protest. In a normative perspective, a protest plays a significant part in the cultural, civil and political life of citizens. It encourages the spread of engaged and informed citizens and aims at strengthening democracy by enabling direct participation in public affairs. (see Inglehart and Welzel, 2007; Welzel, 2007). Protest enable individuals and groups to express dissent and grievances, to share views and opinions, to expose flaws in governance and to publicly demand that the authorities rectify problems and are accountable for their actions. (see Kaase and Marsh, 1979; Inglehart, 1997; Inglehart and Catterberg, 2002).

Remarkably the interaction between protest and the democratic consolidation in post-communist Albania has not been in the focus of internal researchers. However, if we look at domestic post-communist studies we see that political orientation of citizens in areas such as nationalism, authoritarianism, and political culture have earlier been studied. To name a few see for example Feraj 1999, 2011; Sulstarova, 2003, 2006; Biberaj 2011; Kocani 2004, 2008, 2012; Çullhaj 2017. While the phenomenon of protest as important as it remains unanalyzed from domestic scholars.

The protest is a strategy employed by those who are relatively powerless. Michael Lipsky defined it as "a mode of political action oriented toward objection to one or more policies or conditions, characterized by showmanship or display of an unconventional nature, and undertaken to obtain rewards from political or economic systems while working within the systems". Furthermore he specify his definition by stating that; "if you have substantial political or financial clout, it is more common to work through the system to express your views (writing letters, giving campaign contributions, and talking to legislators); those without substantial resources resort to rallies, demonstrations, boycotts, civil disobedience, or other forms of direct action" (Lipsky, 1968, pp. 1144-1158)

Data from several studies show that those citizens who are willing to engage in protest behaviour accept the basic democratic values to a higher degree. Political tolerance is one of such values, which denotes that respondents allow the full legal rights of citizenship to groups they themselves dislike (see Sullivan et al., 1982). Accordingly, political tolerance is the "willingness to grant rights and freedoms to enemies" (Guérin et al., 2004: 371), (Levitsky and Ziblatt, 2018). Therefore, we can infer that protest activities play a crucial role in the process of democratic consolidation in post-communist Albania.

The democratization process in the post-Communist Albania involved massive demonstrations, students strikes, and other forms of collective protest as the regime began to open up to political expression and competition. However, demobilization of movement that was out of state control characterized the period after Communism in Albania. In the old communist fashion, the state institutionalize politics as a hard to die legacy. In other words, highly repressive closed regimes first liberalized and then democratized, protest levels rose and then fell as the state still falls back in its old fashion activity as an all-controlling inhibitor apparatus.

## Methodological Approach

This paper draws on qualitative methods employing an interpretive analysis of the state of citizens' protest participation and its effect on the process of democratic consolidation. In process of this analysis, we evaluate as proper to avoid complex debates about concepts definitions and the uses and misuses of methods, but, focusing on clarification of what has really happened in the country, and which of the existing theories is helpful in explaining the complexities of these developments. The paper starts with a brief presentation of a conceptual framework, followed by in-depth analyses of the country's experience with protest actions as one of the prerequisites toward democratic consolidation, as well as the role of other actor in this endeavour. However, from a standard methodological viewpoint the question what causes what could be addressed as follows: how the state undertakes to mobilize measures to promote or prevent social movements activities? In this whole perspective, the question of what is the independent variable here can also be better formulated: both the state and social movements have to be considered as independent and dependent variables (interchangeable status) to oversee more precisely what causes what.

## Defining Albania's regime. From Externally Hybrid to internally Authoritarian

The main premise of this paper is to explain that the nature of the regime in Albania has an intertwined nature. Today most leaders give up to non-democratic norms of legitimation and deliberate liberal democracy without fully adopting its practices. States, in which authoritarian control coexists with legal competition for political office, are classified as hybrid regimes. (Diamond, 2002). According to Democracy index of 2017, Albania is characterized as a hybrid regime based on externally

broad parameters of evaluation. Despite this fact, within the last decade, Albania's domestic environment bears a resemblance to an autocratic regime, when the state itself or state-sponsored organizations dominates the field looking to monopolize mobilization, lowering participation and competition in all levels. Consequently, protest levels stay low and rare. Those that do ensue has the propensity to escalate in direct actions or violence.

In this paper, our line of reasoning covers Albania's domestic political environment of which at least some legitimate and public political competition coexists with an organizational and institutional playing field that renders this competition unfair. We argue that within Albania, protests are likely to be manoeuvred by state strategies. The Focus on this variable can elucidate the rapid shift of Albania from its path toward a flawed democracy to an autocratic regime.

In the following, we look at protest as the independent variable, namely how politics and protest have interacted to produce the contemporary, state-of-the-art authoritarian regime in Albania.

## Democracy's state-of-the-art in Post-Communist Albania

From the time when Sophocles' Antigone rebelled against her King Creon, by defending the honour of her brother, revolt toward the authority has become one of the people's peaceful political means of stating dissent. (Butler, 2000) Uprisings against authority occurred in Albania throughout history but, with the installation of the Communist regime, Albanians political culture orientation shifted toward isolation. The politics of violence, slanted towards anyone that dare to challenge regimes political power, was the veiled political culture that Albanian citizens internalized along those years. Consequently, if we want to categorize current Albanians' political culture in relation to attitudes towards authority, it classifies as a 'submissive one' which means unquestioned and unlimited subjection to those who are in power.

Consequently, it can be said that communism led to the preservation of the notion of strong state, but it defined its functions in terms of the welfare of the entire community. Liberal democratic values as tolerance and trust were almost non-existent in communist Albania. Distrust of political institutions and fellow citizens and intolerance towards different views prevailed during the communist period. (Rose, 1994, pp. 18-30\_ In the terminology of the civic culture approach, there was mostly a subject culture which has characterized Albanian citizens. However, there were some participant elements in communist political culture, such as high-level popular participation in facade elections, as well as forced 'public activity' to mobilize the socialization process, save for when the system collapsed such attitudes vanished without delay.

Therefore, as I stated elsewhere, from an ontological perspective, the legacy of the communist regime destroyed any precondition for the internalization of democratic values among Albanians in the abstract sense, let alone as a political system. (Çullhaj, 2017)

However, due to the long systemic oppression exercised by the communist regime, mobilization in Albania reached its peak between 1990 and 1992. Citizens, workers, students were marching, striking and hunger-striking in pursuit of freedom and democracy dominated the bulk of protests back in the 90s. In the March 1991 parliamentary elections, the Democratic Party failed to win the majority in parliament. In the early parliamentary elections of March 22, 1992, the Democratic Party won the absolute majority of seats in parliament. It governed until 1997. During this period, the Democratic Party's government conducted a series of reforms to liberalize the country, to build a free-market economy, to ensure rule of law, and to consolidate the democratic electoral system. At its opening to the outside world, Albania signed hundreds of cooperation agreements with European countries and beyond. This was the predominant way of thinking outside of Albania to evaluate Sali Berisha's era as one of the nascent democracy, marked by the common shortcomings that one would expect to see in a poor country. Whereas domestically the situation was quite different. Social tensions, political conflict, suppression of any kind of opposition voices and actions coupled with the financial breakdown in 1997, lead to the disintegration of the state. This kind of political style showed that tension and confusion were more suitable adjectives for the Berisha's era rather than common. Albania under Berisha was not a pluralistic immature-democracy, but a strong autocratic regime in which subordination rather than representation characterized all opposition forces. Such kind of political style followed pretty much all government since the system changed. The Democratic Party again appeared as the winner of the much contested 1996 parliamentary elections. The elections that followed the troubled year of 1997 gave power back to the Socialist Party, which tried to appease the political environment. The Socialist Party was reaffirmed in once more contested elections of 2001 failing in their democratization endeavours. A new change of government took place in 2005, the clear winner was the Democratic Party which was subsequently reaffirmed in the elections of 2009 yet contested. It was not in this way that Albanians thought that democracy was held to transpire. Three decades later that the system changed, it is not democracy that has triumphed in Albania but façade-autocratic-democracy.




After the events of 2011 that I pointed out at the introduction, which followed by the change of power in 2013 brought a new hope for Albanians. The triumph over the long-lasting transition and finally enter the road to the democratic consolidation. Citizens denounce with the vote the autocratic style of Sali Berisha, binding him to resign from party leader and to move into opposition. However, five years after the Socialist Party leader Edi Rama came into office, his political style activities seem to be far more problematic compared to his predecessor. As we earlier showed, Albania continued to organize elections but contestation concerning their outcomes always accompanied them. Opposition parties run and win seats, but ostracism deliberation toward new forces outside the mainstream of the incumbent political-economical establishment expands. The opinions of the ruling groups dominate news and current affairs TV programs. Nowadays, there are no more critics of the

government on television, because televisions owners are already part of the ruling group. Alternative media like online newspapers, blogs, social media, internet think tanks manage to construct a free Political debate, but the television remains the ultimate means of mass broadcasting, therefore the impact of the alternative media is in a second hand, mostly for young individuals who usually don't care about politics. Thus, Albania has become an atypical case of the hybrid-autocratic regime. Namely - externally displaying a hybrid political regime while internally an autocratic one, - where political competition is officially legal but heavily twisted by the strength of neo-autocratic all-controlling leaders. To put it with Diamond "the existence of formally democratic political institutions...masks the reality of authoritarian domination, provides the base for hybrid regimes" (Diamond, 2002: 24). Or as Steven Levitsky and Daniel Ziblatt insightfully put it:

Democratic backsliding today begins at the ballot box. The electoral road to breakdown is dangerously deceptive. With a classic coup d'état, as in Pinochet's Chile, the death of a democracy is immediate and evident to all. The presidential palace burns. The president is killed, imprisoned or shipped off into exile. The constitution is suspended or scrapped. On the electoral road, none of these things happen. There are no tanks in the streets. Constitutions and other nominally democratic institutions remain in place. People still vote. Elected autocrats maintain a veneer of democracy while eviscerating its substance. Many government efforts to subvert democracy are "legal", in the sense that they are approved by the legislature or accepted by the courts. They may even be portrayed as efforts to improve democracy – making the judiciary more efficient, combating corruption or cleaning up the electoral process. Newspapers still publish but are bought off or bullied into self-censorship. Citizens continue to criticize the government but often find themselves facing tax or other legal troubles. This sows public confusion. People do not immediately realize what is happening. Many continue to believe they are living under a democracy. Because there is no single moment – no coup, declaration of martial law, or suspension of the constitution – in which the regime obviously "crosses the line" into dictatorship, nothing may set off society's alarm bells. Those who denounce government abuse may be dismissed as exaggerating or crying wolf. Democracy's erosion is, for many, almost imperceptible. (pp-5-6)

At present, in Albania, the problem is not with extremist demagogues because they have been neutralized by the bipartisanship of the Albanian electorate, which does not easily replace the traditional political orientation, despite how lucrative and touching the narrative of the demagogues is. But, with a new event that has not happened before, the promotion of candidates with criminal records that have further eroded the fragile democracy in Albania. As the above authors analyze, from fear, opportunism and misconception for the triumphing at any cost of their political party.

Democracy Index (2015), argue that Hybrid regimes are nations where consequential irregularities exist in elections regularly preventing them from being fair and free. These nations commonly have governments that apply pressure on political opponents, non-independent judiciaries, and have widespread corruption, harassment and pressure placed on the media, anemic rule of law, and more pronounced faults than flawed democracies in the realms of underdeveloped political culture, low levels of participation in politics, and issues in the functioning of governance. For comparison purposes, the table below shows a full democracy like Norway a hybrid democracy like Albania and an authoritarian regime like Russia. Despite there are some net differences between Albania and Russia in several political realms, in the political participation section the values are almost equal which displays that Albania has not done much progress in this political feature, so imperative for a democratic consolidation.

Democracy Index 2017								
Rank	Country	Score	Electoral process and pluralism	Functioning of government	Political participation	Political culture	Civil liberties	Category
1	 Norway	9.87	10.00	9.64	10.00	10.00	9.71	Full democracy
77	 Albania	5.98	7.00	4.71	5.56	5.00	7.65	Hybrid regime
135	 Russia	3.17	2.17	1.79	5.00	2.50	4.41	Authoritarian

Listing by country is available on The Economist website <http://pages.eiu.com>

## Managing Protest through State mobilization strategies

Graeme B. Robertson in his book *The Politics of Protest in Hybrid Regimes* argue that “hybrid regimes tend to feature hybrid protest in which the isolated, direct action style of protest that characterizes authoritarian regimes is mixed with the more symbolic protest patterns of democracies” (Robertson, 2011, p. 4) According to Robertson a lot of protest in hybrids is managed; that is, permitted, controlled, and integrated into the broader political strategies of elites. Furthermore, within these kinds of regimes, variations in protest patterns are likely to be driven by three key variables: organizational ecology, state mobilization strategies, and elite competition. As important as they are the analyzes of each one of the above variables far exceed the possibilities of this paper. Consequently, we will limit our analyzes on the variable of the state mobilization strategies which in our opinion shed light on the reasons of the actual state of low levels of public participation as well as of the scarce levels of protest activities.

According to Robertson in contemporary authoritarian regime “competition in elections and on the streets means that contemporary authoritarians are likely to seek not just to repress opponents, but also to mobilize their own supporters. Consequently, in order to pass the political test election, provide the ability of the incumbents to mobilize large numbers of supporters on the streets will be crucial” (Robertson 2011, pp 32). On the other hand, Robertson states that the danger of allowing demonstrations of opposition strength on the streets is that it might signal to regime insiders the possibility that a challenge to incumbent rulers could succeed. In Albania, there are not examples of a successful overthrow of incumbent elites by a former regime. Except in the tumultuous year of 1997 caused by the pyramidal crises when the Socialist Party and other opposition forces took advantage from people’s desperation and a stubborn President who did not want to resign - calling for a mass mobilization which leads to almost a civil war and to a Pyro’s victory, inheriting a devastated country. In this case, street protests helped encourage a former Prime Minister and Socialist Party leader Fatos Nano, newly released from a political imprisoning, who revived his career by mounting a challenge to the incumbents. If we bring in in this analysis the events of 2011, in the post-communist collective memory of Albanians, protesting against the government remains a risky activity similar to the communist period. According to Robertson, rulers in hybrids are likely to resort to a variety of ways of repressing opposition demonstrations while in hybrid-autocrat regimes violence is still a final resort for both incumbents and opposition forces which eventually lead to a total passivity of individuals in political involvement.

Furthermore, Robertson argues that leaders in contemporary hybrids regimes have weaker tools for mobilizing support than their counterparts in totalitarian or closed authoritarian regimes. This is not the case in Albania’s reality, because even if it is not a closed authoritarian regime the leader still has that huge advantage of keeping a monopoly of political organization. In Robertson words, this monopoly was usually exercised in the context of socialist economies, which gave the state tremendous influence over flows of economic and financial resources. Albania today is not a socialist economy anymore, however, the state still controls more than a few strings in realms of employment, economic and financial resources. We will briefly analyze this phenomenon by adding another variable to this scenario, namely, the state propaganda as another monopoly of political organization which on the long run turns to be the main one that influences all the other variables.

As stated earlier, with the coming into power of Edi Rama the internal political situation apparently changed for better in comparison to his predecessor Sali Berisha. Rama was more liberal in his political style than Berisha in relation to the contention concept, a political behaviour that promised for fostering democracy a step further. But this is not the case. Despite his liberal behaviour, Rama invested his political energy and state apparatus in constructing an all-controlling media to convey only his way of doing politics, silencing all opposite voices. Today, media in Albania is only able to act as a biased watchdog to those in power due to the control exercised through advertising industry and other interests for their owners. This control is exercised even upon the public television, which is legally required to provide coverage of public interest since it is funded by public taxes. But this television only bears the name ‘public’ because it is under the full control of any government in power, thus betraying its original mission. When the opposition party wins elections, the general director and employees are replaced with people loyal to the winning party, with the intention to pursue the political line of the winner. On the other hand, many other private Media count on financial resources in order to survive in the media market. Before Rama’s era, the Media’s environment was quite different. Those Media that were held reliable were associated either with Democratic Party or Socialist Party and when each one of them was in power Media were under their political influence. This was not an ideal situation, but at least we had an alternative view of the political situation, as well as critics towards government was possible. While, in Rama’s era there are no more such divisions because media’s reporting is influenced by the economic and political interests of their owners, interests, that are in the hands of the government. Consequently, the result is a hitched media environment that represents the interest of a single part, the government. Today there is no single media that play an active role in the public political debate. Independent news coverage or an independent political analysis is uncommon. The situation is so absurd as the Prime Minister has established his personal online television on Facebook, ERTV Edi Rama television and also two Facebook virtual newspapers “Good morning” and AMARCORD. The main critic on government come from online portals. One of them in a recent article argues that Rama has begun these forms of communication within what he calls ‘co-governance with citizens’, but in fact is a propaganda inventive, to make more noise than work. Rama, along with one or two ministers, is developing communication through a giant screen, which has cost over 100,000 euros and is used fairly throughout to make more shows than work. So, we are in the conditions when we have a cabinet closed in a box, like within ERTV, where the government successes trumped. (lapsi.al/2018/04/16).



Today in Albania the possibility to organize exist but if you do not have any kind of support, whether political or economic the failure is guaranteed. According to Robertson in hybrid regimes the organization outside of the state is usually allowed, but then again, is this possibility exercisable in a capillary controlled political environment when any activity that dares to challenge Rama's political power is filtered through a biased media and subsequently captured and neutralized by state apparatus through means of economic or political 'seduction'. Those individuals or organization that refuse and resist such seductions are left in a mediatic obscurity and thus condemned to be politically dead.

Moreover, Robertson argues that contemporary hybrid regimes now run in market-oriented economies, which limits the extent to which the state can link participation in approved organizations with economic advantage, making it harder to mobilize supporters. In Albanian case this phenomenon is somehow equal to an autocratic regime when the state still has that kind of power to link participation with economic advantages, mobilizing a broader mass of supporters. Synthetically, in contrast to Robertson, the presence of an organizational monopoly and more state control over the economy have not reduced the extent to which economic and social advancement is tied to participation in state-approved organizations.

Today in Albania, anti-government protesters have been in some ways discouraged and exhausted, *imprimis* by their leader who has a different political agenda and secondly by the disregard that the government displayed towards their demands. In Albanian political environment, the general belief is that when the opposition forces that are somehow independent, well organized and enjoy enough funds does not succeed to address their demands, imagine how hard this endeavour turn to be for a modest organization. Rama created a political system in which competition is allowed but defeat is highly improbable and is beset with tensions. Today Albania bear a resemblance to a closed autocracy when contention is heavily repressed and public protests are sporadic and when they do take place shifts in violence. Actions are politically isolated, spontaneous and without the coordination of any organized social movement (Tilly 2004). In the following, I will briefly analyze social movements in Albania and their role in the democratization process.

## Social Movements as a Democratization feature

According to Cohen and Arato (1992) civil society has two main democratic functions. First, associations and movements from within civil society cooperate, develop identities, offer the opportunity for participation and create networks of solidarity. Second, civil society organizations and associations try to influence or reform the state. At times they also take on issues of corporate power and have pressed states to redress the power imbalance generated by capitalism. They also, increasingly, organize globally to promote social justice transnationally. Civil society thus has a dual function, offering a vision of a more participatory system and engaging in the public sphere to promote change. For Iris Marion Young (1999: 152), 'the critical and oppositional functions of the public spheres of civil society perform irreplaceable functions for democracy'.

While, Charles Tilly in his book *Social Movement 1768-2004* state the idea that social movement has contributed to the evolution of democracy, but on the other hand is a democracy that creates the preconditions that a social movement could arise. More concretely, he has identified a broad correspondence between democratization and social movements. Social movements originated in the partial democratization that set British subjects and North-American colonists against their rulers during the eighteenth century. Across the nineteenth century, social movements generally flourished and spread where further democratization was occurring and receded when authoritarian regimes curtailed democracy. The pattern continued during the first and twenty-first century: the maps of full-fledged institutions and social movements overlap greatly.

Whereas, in communist states, Tilly argues that the destruction of centralized superstructure would rapidly open the way to social movements, which would then help construction of a democratic civil society. However, such explosion of social movements does not happen in post-communist Albania. Why so? In Tilly's words "where democracy fell short, social movements remained sparse" (Tilly 2004, p.125). Consequently, the problem of such failure is with the quality of democracy that has been implemented in Albania rather than with social movement patterns.

To paraphrase Della Porta

If democratization promotes democracy via the broadening of citizens' rights and the public accountability of ruling elites, most, but not all, social movements support democracy. In fact, in pushing for suffrage enlargement or the recognition of associational rights, social movements contribute to democratization – Gains in the democratization of state processes are perhaps the most important that social movements can influence and have the greatest systemic impacts (Della Porta 245).

Social movements are fundamentally political and are based on changes in the nature of the state itself and the state has to become involved in institutionalizing these claims. In post-communist Albania, such condition has not been a priority for the leaders as long as in old communist reminiscence their political power is a target and under challenge by the social movements. The activity of the later has been seen as power threatening thus leaders keep to destroying opportunities for action, imposing restrictions on movement activities thus leaving an empty political environment. Consequently, social

changes without the support of the state will not persist. In communist Albania, the party claimed to represent the general interests of the people. While in today's liberal democracy, political parties and interest associations claim to represent social groups and the people. The question that rises here is whether the state has created today the conditions for representation resembling classic conceptions of participatory democracy, a device for representing the underrepresented through social movement activity. We want to stress that a condition that is considered to limit social movement potential is followed by political leaders by weakening movements organizational structures. New movement organizations have not emerged during the democratization process and those few that arose have not survived state domination and the decline in mobilization was comprehensible. Social movements activities and their contribution to more participatory approaches have been diminished by autocrat leaders.

To conclude, the weak civil society and the strong state authority remained the definitive characteristics of Albanian political culture in the communist period. The strong party-state made the emergence of a viable civil society impossible. In addition, communism was to a great extent responsible for the creation of another important aspect of Albania's politics: autocracy.

## Conclusion

Some observers have emphasized the authoritarian nature of Albanian leaders to illustrate elements of continuity in Albanian political culture. Along these years, political leaders seem to make a virtue out of rejecting Politics and Ideology towards an extreme political pragmatism, turning into anti-politics and their ascent to power has been based on virtual platforms lacking in substantive content. Perhaps, this is the main fact that confirms people's lackadaisical attitude and low level of participation toward Politics, as compared to the 1990s when they were seemingly acclaiming for real democracy. In this sense, is not the strong hand of Albanian leadership but is their particular emptiness as politicians that drive people to disengage from the Political process.

In Albania, the tradition of the strong leader also constrained the democratic impulse when in 1996 Berisha intensified the exercising of personalist rule of political power depending upon a 'presidential pyramid' in which the president is supported exclusively by personal appointees and is able to govern by presidential decree, bypassing parliament in the process. Along these years the introduction of the new constitution helped to prevent the concentration of power in a few hands and formally speaking it is written excellently but in practice, it has had no effect on the reduction of the autocratic attitude of political leaders. Once in power, controlling everything remains their modus operandi; every independent institution must be under their control to consolidate power and to avoid criticism as well as accountability. In a situation when civil society is not existent or better said captured by political influence, democratization process is constantly under serious threat from the inability of the elite for self-restriction and critical reflection over their holistic control tendencies. (Çullhaj, 2017, pp. 103-104)

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# Student perception comparison on learning methods based on thinking styles

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## Abstract

*Universities are always seeking new teaching methods. The object of their search is to discover and implement effective and efficient ways of teaching methodologies. Modern technology has had an influence in this area, and as a result new types of teaching are being developed nowadays, for example, the online and hybrid learning. Today, three teaching methods are universally applied in learning: traditional, online, and hybrid learning. In Albania, universities have begun to implement the elements of hybrid learning, such as LMS (Learning Management System). The application of different teaching methods, serves the purpose of a more effective transfer of knowledge among students. Because students can differ from each other. One element which can make them different, is their thinking style. The objective of this study is the analysis of student perception on learning methods based on thinking styles. The descriptive method and quantitative research are utilized for this paper. The research instrument is the questionnaire, which was distributed online. The study sample consists of 190 students from Albanian universities. SPSS 20 and JASP-0.8.5.1 are used to analyze the data in the study. The study concluded that students have different perceptions on the hybrid learning. Students belonging to different thinking styles have different preferences with respect to the traditional learning, online learning and hybrid learning. There exist differences in perception on two statements on the hybrid learning and for one statement on the online learning.*

**Keywords:** *perception, traditional learning, online learning, hybrid learning, thinking style*

## Introduction

Technological developments frequently result in improvements and innovation in teaching methodology. Significant technological advances have an impact on the development of new teaching methods. New online and hybrid teaching methods can be used by anyone to study at anytimes. The advantages of these methods reside with the self-management of study time and ability to access it at any place (Fitzgerald & Li, 2015; Farkas, 2011). Study programs in the hybrid learning include a number of study hours completed on campus. Whereas in online study programs, about 80% - 100% of the program takes place online (Allen & Seaman, 2011). Contemporary teaching methodologies (online learning and hybrid learning) are regarded as most effective methods to be employed in the future by universities (Morris, 2010; Anderson, Boyles, & Rainie, 2012; Collopy & Arnold, 2009; Güzera & Canera, 2014; O'Malley & McCraw, 2001; Jasim, Sherbiny, & Guirguis, 2015; Ora, Sahatcija, & Ferhataj, 2018; Dziuban, Graham, & Picciano, 2014; Curran, 2008).

Since students possess various characteristics, not all teaching methods deliver academic results with the same level of effectiveness. Students acquire knowledge with one of their preferred teaching methods. Such behaviour on the part of students is determined by their thinking style. Thinking style is one of the influencing factors in student academic performance (Sahatcija, Ora, & Ferhataj, 2017; Cano-García & Hughes, 2010; Bernardo, Zhang, & Callueng, 2010). The objective of this study is to analyze student perceptions of learning methods based on thinking styles.



## Literature Review

Topics on education engage by and large a great many researchers (Collopy & Arnold, 2009; Güzera & Canera, 2014; Jasim, Sherbiny, & Guirguis, 2015; Sahatcija, Ora, & Ferhataj, 2017; Ora, Sahatcija, & Ferhataj, 2018; Harris, Sklar, Amend, & Novalis-Marine, 2010). Interestingly, there has been an increase in research performance on such topics in recent times. Moreover, today's developments and advances make it possible for further research breakthroughs in the field. New teaching methods are a field that is both wide and significant with respect to research, and as such it encompasses additional extensive research. It has been concluded by various researchers that the hybrid learning is more effective than the online learning or traditional learning (Morris, 2010; Fitzgerald & Li, 2015). While other researchers conclude that the online learning along with the hybrid learning will be the future of teaching in universities (Güzera & Canera, 2014; Anderson, Boyles, & Rainie, 2012; Collopy & Arnold, 2009; Stockwell, Stockwell, Cennamo, & Elise, 2015). Such programs and courses are positively perceived by students. (O'Malley & McCraw, 2001; Jasim, Sherbiny, & Guirguis, 2015; Ora, Sahatcija, & Ferhataj, 2018). In Albania, universities have recently introduced elements of the hybrid learning in different study programs.

Meanwhile, in a research setting, thinking style is an even more complex matter. Researchers have difficulty in interpreting the complex functioning of the brain. Thinking style, by its own merit, is a highly intricate field, with respect to thoughts, actions, reasoning, and judgement and it clearly requires further study of the impacts on its various aspects. There exist a number of categories on thinking styles (Sternberg, 1997; Zhang & Sternberg, 2005; Gregorc, 2017), however this study utilizes the classification according to Gregorc (2017). He argues that thinking style is classified in four categories: concrete-sequential, concrete-random, abstract-sequential, abstract-random. The thinking style categories are created as a result of combinations of perceptual quality and ordering ability. Perceptual quality consists of abstract and concrete. Abstract quality infers the usage of intuition, imagination and conception of ideas that are unseen but perceived by an individual. Whereas the concrete quality makes use of the five senses in order to gather information that are based on tangible objects. Ordering ability is formed by sequential and random. Sequential is applied by persons who wish to receive information in a step-by-step manner or to execute actions in logical order. The opposite of sequential is random. Such individuals do not prefer to organize information logically, which occurs often. Therefore, these individuals will skip steps instead of organizing in a linear manner and will achieve their objectives. Individuals employing concrete-sequential, prefer to act in a logical order, predictable and fact-based, following directions, prefer structured environments, find it hard to work in groups and manage abstract ideas. Individuals who employ abstract sequential prefer listening to others, analyze matters in detail before making decisions, strong application of logic in solving solutions, yet do not prefer task repetition. Persons employing concrete random prefer risk, using intuition, try various ways in solving a problem, yet lose effectiveness once limitations are placed, and have no other options. Individuals employing abstract random collaborative, have great communication abilities, tend to thrive in personalized environments but encounter difficulties in adapting to competing environments and cooperating with authoritarian types (Gregorc, 2017).

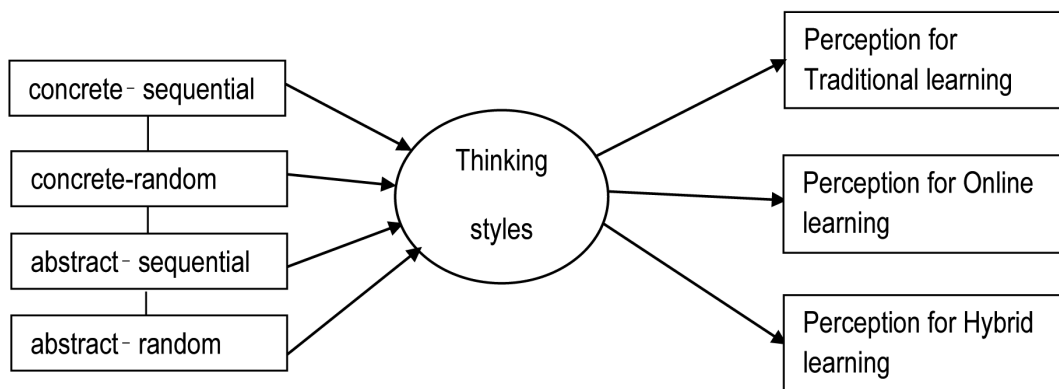
The research questions of the study are:

- (1) Are there differences in perception of the traditional learning between students who belong to different thinking styles?
- (2) Are there differences in perception of the online learning between students who belong to different thinking styles?
- (3) Are differences in perception of the hybrid learning between students who belong to different thinking styles?
- (4) Which element of the traditional learning is most preferred based on student classification according to thinking style?
- (5) Which element of the online learning is most preferred based on student classification according to thinking style?
- (6) Which element of the hybrid learning is most preferred based on student classification according to thinking style?

The research hypotheses of the study are:

- H1a: Students who belong to different thinking styles have the same perception of the traditional learning ( $\alpha=0.05$ ).
- H1b: Students who belong to different thinking styles have the same perception of the online learning ( $\alpha=0.05$ ).
- H1c: Students who belong to different thinking styles have the same perception of the hybrid learning ( $\alpha=0.05$ ).

The literature review provides this conceptual model:

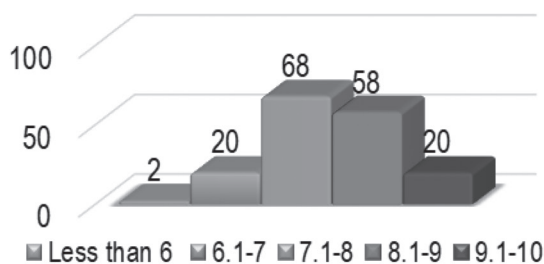


## Methodology

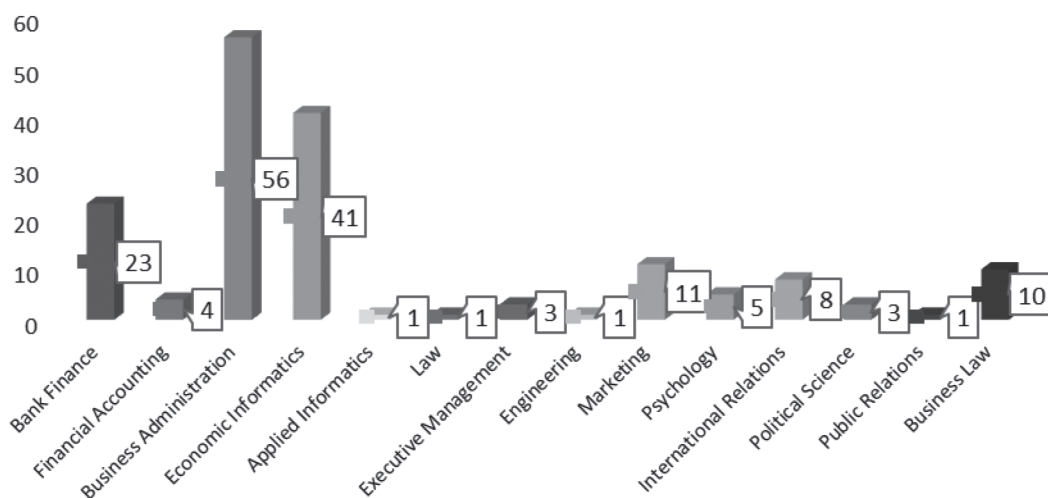
This study employs the descriptive method. Data collection was realized through quantitative research, where the research instrument utilized was the questionnaire (O'Malley & McCraw, 2001; Gregorc, 2017). The questionnaire is structured in three parts. The first part consists of questions on teaching methodology, the second part consists of questions on thinking style and the third part consists of demographic questions. The evaluation of questions was conducted through a five-point Likert-scale, with items ranging from "Strongly disagree" to "Strongly agree". The questionnaire was distributed online during the period March 2017 – June 2017. The study sample consists of 190 Albanian university students. Valid questionnaires for use in this study are 168. The rate of response return is 88%. The descriptive data of the participants in the study is shown in the following graphs.



Graph 1: Gender



Graph 2: Grade Average



Graph 3: Student Distribution According to Area of Study

The analysis of the data was conducted through JASP-0.8.5.1 and SPSS 20. The conclusions of the analysis shown on Table 1 establish the reliability coefficient Cronbach's  $\alpha=0.889(>0.7)$ . Therefore, the data collected through the questionnaires are valid and reliable and are further employed in the study.

**TABLE 1:** Reliability coefficient Cronbach's  $\alpha$

		Cronbach's $\alpha$
scale		0.889
Note. Of the observations, 168 were used, 0 were excluded listwise, and 168 were provided. * minimum acceptable value 0.7.		

## Results and Discussion

This part treats the empirical analysis of the findings of the study.

Are there differences in perception of the traditional learning between students who belong to different thinking styles?

Table 2 data show that there do not exist significant statistical differences in perception about the traditional learning between students who belong to different thinking styles. Sig values of the traditional method statements are  $> \alpha=0.05$ . The analysis concluded that there do not exist differences in perception of the traditional learning.

**TABLE 2:** One – Way ANOVA

		Sum of Squares	df	Mean Square	F	Sig.
Thinks the traditional learning is more effective	Between Groups	13.275	3	4.425	2.024	.113
	Within Groups	358.576	164	2.186		
	Total	371.851	167			
It is easier to study with the traditional learning	Between Groups	10.894	3	3.631	2.402	.070
	Within Groups	247.958	164	1.512		
	Total	258.851	167			
Prefers traditional study programs	Between Groups	.575	3	.192	.148	.931
	Within Groups	212.258	164	1.294		
	Total	212.833	167			
Information received in traditional study programs are equivalent to information received through the online learning and hybrid learning	Between Groups	1.548	3	.516	.464	.708
	Within Groups	182.446	164	1.112		
	Total	183.994	167			
Performs better with the traditional learning	Between Groups	1.151	3	.384	.283	.838
	Within Groups	222.254	164	1.355		
	Total	223.405	167			
Interested in taking more traditional courses	Between Groups	1.660	3	.553	.371	.774
	Within Groups	244.858	164	1.493		
	Total	246.518	167			
Thinks the traditional learning encourages student-professor academic discussion	Between Groups	3.444	3	1.148	.910	.437
	Within Groups	206.836	164	1.261		
	Total	210.280	167			
Prefers listening to in-class lectures	Between Groups	4.944	3	1.648	1.107	.348
	Within Groups	244.050	164	1.488		
	Total	248.994	167			

Are there differences in perception of the online learning between students who belong to different thinking styles?

Table 3 values show that value  $\text{Sig}=0.038 < \alpha=0.05$ . This means that there exist significant statistical differences between students who belong to different thinking styles regarding the statement that it is “easier to access learning materials online”. Whereas for the other statements on the online learning there do not exist significant statistical differences between students. The analysis concludes that students have different thoughts regarding solely one statement on the online learning.

**TABLE 3:** One – Way ANOVA

		Sum of Squares	df	Mean Square	F	Sig.
Thinks that the online learning is more effective	Between Groups	6.795	3	2.265	1.546	.205
	Within Groups	240.324	164	1.465		
	Total	247.119	167			
Thinks it is easier to study with the online learning	Between Groups	2.102	3	.701	.569	.636
	Within Groups	201.874	164	1.231		
	Total	203.976	167			
Prefers online study programs	Between Groups	2.514	3	.838	.713	.546
	Within Groups	192.766	164	1.175		
	Total	195.280	167			
Information received through online study programs are equivalent to information received through the hybrid learning and traditional learning	Between Groups	.357	3	.119	.112	.953
	Within Groups	174.352	164	1.063		
	Total	174.708	167			
Performs better in online courses	Between Groups	.996	3	.332	.283	.838
	Within Groups	192.284	164	1.172		
	Total	193.280	167			
Interested in taking more online courses	Between Groups	3.396	3	1.132	.837	.475
	Within Groups	221.723	164	1.352		
	Total	225.119	167			
It is easier to self-manage study in online courses	Between Groups	3.047	3	1.016	.813	.488
	Within Groups	204.899	164	1.249		
	Total	207.946	167			

More effective in time management with the online learning	Between Groups	6.943	3	2.314	2.232	.086
	Within Groups	170.051	164	1.037		
	Total	176.994	167			
Easier to access materials online	Between Groups	11.285	3	3.762	2.864	.038
	Within Groups	215.376	164	1.313		
	Total	226.661	167			

Are differences in perception of the hybrid learning between students who belong to different thinking styles?

Data analysis concludes the two statements on the hybrid learning have significant statistical differences between students who belong to different thinking styles (table 4). Differences exist only for the statements: “prefer hybrid study programs” (value Sig=0.022 <  $\alpha$ =0.05) and “it is easier to self-manage my studies in hybrid courses” (value Sig=0.037 <  $\alpha$ =0.05). There do not exist differences in perception, regarding the other statements, between students notwithstanding their thinking styles.

**TABLE 4:** One – Way ANOVA

		Sum of Squares	df	Mean Square	F	Sig.
Thinks the hybrid learning is more effective	Between Groups	11.520	3	3.840	2.071	.106
	Within Groups	304.099	164	1.854		
	Total	315.619	167			
Easier to study with the hybrid learning	Between Groups	9.618	3	3.206	2.347	.075
	Within Groups	224.001	164	1.366		
	Total	233.619	167			
Prefers hybrid study programs	Between Groups	11.670	3	3.890	3.293	.022
	Within Groups	193.735	164	1.181		
	Total	205.405	167			
Information received through hybrid study programs are equivalent with information received through the online learning and traditional learning	Between Groups	4.114	3	1.371	1.536	.207
	Within Groups	146.458	164	.893		
	Total	150.571	167			
Performs better through the hybrid learning	Between Groups	6.808	3	2.269	2.112	.101
	Within Groups	176.186	164	1.074		
	Total	182.994	167			

Interested in taking more hybrid courses	Between Groups	3.855	3	1.285	1.033	.380
	Within Groups	204.050	164	1.244		
	Total	207.905	167			
It is easier to self-manage study in hybrid courses	Between Groups	7.862	3	2.621	2.885	.037
	Within Groups	148.971	164	.908		
	Total	156.833	167			
More effective in time management with the hybrid learning	Between Groups	1.738	3	.579	.542	.654
	Within Groups	175.381	164	1.069		
	Total	177.119	167			
Easier to access materials in the hybrid course	Between Groups	7.075	3	2.358	2.002	.116
	Within Groups	193.205	164	1.178		
	Total	200.280	167			

Which element of the traditional learning is most preferred based on student classification according to thinking style?

Table 5 values show that students who belong to the concrete-sequential thinking style prefer most the element of attending auditorium lectures in the traditional learning (mean value = 4.49). Students who belong to the concrete random thinking style have a preference for the element of performance in the traditional learning (mean value = 4.59). Students who belong to the abstract-sequential thinking style prefer most the element of general output with the traditional learning (mean value = 4.24). Students who belong to the abstract-random thinking style prefer the element of productivity in the traditional learning (mean value = 4.35).

**TABLE 5:** One – Traditional learning evaluation

		N	Mean	Std. Error
Effectiveness of the traditional learning	concrete-sequential	69	4.07	.163
	concrete random	34	3.32	.273
	abstract-sequential	34	3.88	.218
	abstract-random	31	3.97	.323
	Total	168	3.86	.115
Simplicity in use of the traditional learning	concrete-sequential	69	4.17	.140
	concrete random	34	3.53	.212
	abstract-sequential	34	4.09	.176
	abstract-random	31	4.19	.276
	Total	168	4.03	.096
Quality of the traditional course	concrete-sequential	69	4.09	.149
	concrete random	34	4.03	.171
	abstract-sequential	34	4.03	.166
	abstract-random	31	4.19	.220
	Total	168	4.08	.087

Information update	concrete-sequential	69	3.91	.144
	concrete random	34	3.76	.164
	abstract-sequential	34	4.06	.133
	abstract-random	31	3.97	.194
	Total	168	3.92	.081
Productivity	concrete-sequential	69	4.33	.144
	concrete random	34	4.15	.164
	abstract-sequential	34	4.21	.168
	abstract-random	31	4.35	.260
	Total	168	4.27	.089
General output	concrete-sequential	69	4.04	.159
	concrete random	34	4.00	.219
	abstract-sequential	34	4.24	.174
	abstract-random	31	3.94	.202
	Total	168	4.05	.094
Performance in traditional courses	concrete-sequential	69	4.38	.157
	concrete random	34	4.59	.164
	abstract-sequential	34	4.21	.183
	abstract-random	31	4.19	.157
	Total	168	4.35	.087
Attending in-auditorium lectures	concrete-sequential	69	4.49	.155
	concrete random	34	4.29	.161
	abstract-sequential	34	4.03	.221
	abstract-random	31	4.32	.224
	Total	168	4.33	.094

Which element of the online learning is most preferred based on student classification according to thinking style?

Students who belong to the concrete-sequential thinking style have a preference for the element of flexibility regarding time usage with the online learning (mean value =4.54). Whereas students belonging to concrete random thinking style prefer most the general output element of the study program with the online learning (mean value = 4.06). Students belonging to the abstract-sequential thinking style and abstract-random thinking style prefer most the accessibility element of the online learning, mean values respectively 4.38 and 4.39. Table 6 provides a detailed view of the above.

**TABLE 6:** One – Online learning evaluation

		N	Mean	Std. Error
Effectiveness of the online learning	concrete-sequential	69	4.00	.131
	concrete random	34	3.56	.257
	abstract-sequential	34	3.85	.199
	abstract-random	31	3.55	.212
	Total	168	3.8	.094
Simplicity of use with the online learning	concrete-sequential	69	3.81	.137
	concrete random	34	3.68	.192
	abstract-sequential	34	3.94	.174
	abstract-random	31	4.00	.202
	Total	168	3.85	.085
Quality of the online course	concrete-sequential	69	3.86	.136
	concrete random	34	3.68	.206
	abstract-sequential	34	4.00	.164
	abstract-random	31	3.68	.176
	Total	168	3.82	.083

Information update	concrete-sequential	69	3.99	.131
	concrete random	34	4.00	.152
	abstract-sequential	34	3.94	.126
	abstract-random	31	3.87	.231
	Total	168	3.96	.079
General output	concrete-sequential	69	4.22	.140
	concrete random	34	4.06	.207
	abstract-sequential	34	4.26	.186
	abstract-random	31	3.87	.216
	Total	168	4.13	.090
Self-study	concrete-sequential	69	3.80	.138
	concrete random	34	3.97	.196
	abstract-sequential	34	3.56	.175
	abstract-random	31	3.71	.203
	Total	168	3.85	.085
Flexibility with time usage	concrete-sequential	69	4.54	.141
	concrete random	34	4.00	.193
	abstract-sequential	34	4.24	.112
	abstract-random	31	4.32	.149
	Total	168	4.33	.079
Accessibility	concrete-sequential	69	4.19	.162
	concrete random	34	3.68	.222
	abstract-sequential	34	4.38	.134
	abstract-random	31	4.39	.137
	Total	168	3.77	.086

Which element of the hybrid learning is most preferred based on student classification according to thinking style?

Table 7 values show that students who belong to the concrete-sequential thinking style prefer most the elements: general output, self-study with the hybrid learning and accessibility (mean value = 4.62). Students with the concrete random thinking style and abstract sequential thinking style have the greatest preference for the general output element of the hybrid study program, mean values respectively 4.32 and 4.53. Students who belong to the abstract-random thinking style prefer most the element of accessibility (mean value = 4.39).

**TABLE 7:** One – Hybrid learning evaluation

		N	Mean	Std. Error
Effectiveness of the hybrid learning	concrete-sequential	69	4.17	.150
	concrete random	34	3.53	.240
	abstract-sequential	34	3.82	.225
	abstract-random	31	3.68	.287
	Total	168	3.88	.106
Simplicity of use with the hybrid learning	concrete-sequential	69	4.38	.132
	concrete random	34	3.79	.230
	abstract-sequential	34	4.12	.183
	abstract-random	31	3.9	.219
	Total	168	4.12	.091
Quality of the hybrid course	concrete-sequential	69	4.55	.123
	concrete random	34	3.85	.207
	abstract-sequential	34	4.21	.157
	abstract-random	31	4.19	.224
	Total	168	4.27	.086



Information update	concrete-sequential	69	4.17	.122
	concrete random	34	3.85	.170
	abstract-sequential	34	4.32	.145
	abstract-random	31	4.19	.150
	Total	168	4.14	.073
Productivity	concrete-sequential	69	4.46	.136
	concrete random	34	4.21	.162
	abstract-sequential	34	4.5	.142
	abstract-random	31	3.97	.199
	Total	168	4.33	.081
General output	concrete-sequential	69	4.62	.132
	concrete random	34	4.32	.178
	abstract-sequential	34	4.53	.154
	abstract-random	31	4.26	.254
	Total	168	4.48	.086
Self-study	concrete-sequential	69	4.62	.107
	concrete random	34	4.21	.183
	abstract-sequential	34	4.5	.142
	abstract-random	31	4.1	.193
	Total	168	4.42	.075
Flexibility with time usage	concrete-sequential	69	4.41	.137
	concrete random	34	4.15	.180
	abstract-sequential	34	4.29	.123
	abstract-random	31	4.23	.190
	Total	168	4.3	.079
Accessibility	concrete-sequential	69	4.62	.126
	concrete random	34	4.12	.183
	abstract-sequential	34	4.24	.184
	abstract-random	31	4.39	.216
	Total	168	4.4	.084

H1a: Studentët who belong to different thinking styles have the same perception of the traditional learning ( $\alpha=0.05$ ).

Table 8 values show (Sig = 0.643 >  $\alpha=0.05$ ), therefore, there do not exist significant statistical differences in perception of the traditional learning between students who belong to different thinking styles. Thus, students share the same opinion regarding the traditional learning. Since there do not exist differences in perception of the traditional learning, it can be concluded that hypothesis H1a is supported by confidence interval 95%.

**TABLE 8:** One – Way ANOVA

		Sum of Squares	df	Mean Square	F	Sig.
Perception for traditional learning	Between Groups	1.214	3	.405	.559	.643
	Within Groups	118.669	164	.724		
	Total	119.882	167			

H1b: Students who belong to different thinking styles have the same perception of the online learning ( $\alpha=0.05$ ).

Table 9 analysis concludes that students who belong to different thinking styles have the same perception of the online learning. Value Sig=0.555 >  $\alpha=0.05$  shows that there do not exist significant statistical differences between students regarding perception of the online learning. Hypothesis H1b is supported by confidence interval 95%.

**TABLE 9:** One – Way ANOVA

		Sum of Squares	df	Mean Square	F	Sig.
Perception for Online learning	Between Groups	1.113	3	.371	.697	.555
	Within Groups	87.306	164	.532		
	Total	88.419	167			

H1c: Students who belong to different thinking styles have the same perception of the hybrid learning ( $\alpha=0.05$ ).

Value Sig = 0.033 <  $\alpha=0.05$  shows that students have different perceptions for the hybrid learning. Students who belong to different thinking styles do not share the same opinions on the hybrid learning. Between students there exist significant statistical differences in perception of the hybrid learning. The analysis concludes that hypothesis H1c is rejected.

**TABLE 10:** One – Way ANOVA

		Sum of Squares	df	Mean Square	F	Sig.
Perception for hybrid learning	Between Groups	5.435	3	1.812	2.981	.033
	Within Groups	99.668	164	.608		
	Total	105.103	167			

## Conclusions and Recommendations

In general, students have a positive perception of teaching methods. There do not exist significant statistical differences in the traditional learning between students who belong to different thinking styles. Students do not share the same opinion with the online learning about the statement “easier to access material online”. There exist significant statistical differences between students regarding this statement. Whereas, regarding the other statements for the online learning preferences are similar. With regard to the hybrid learning, there exist differences only for two statements, the “general output” and “self-study in the hybrid learning”. Specifically, students who belong to different thinking styles have different preferences regarding elements of the learning methods. The elements most preferred by students about the traditional learning are: attending in-auditorium lectures, performance, productivity and general output. The elements most preferred about the online learning by students: general output, flexibility in time usage and accessibility. The elements most preferred about the hybrid learning are: general output, self-study and flexibility in time usage. Students have different perceptions only of the hybrid learning, whereas about the traditional learning and online learning, they have the same perceptions. The conclusions of the study are in line with those of the literature review. Thus, students who belong to different thinking styles have different preferences about learning styles.

The extensive application of hybrid study programs and online study programs is recommended to universities. Based on the study’s conclusions it is recommended to universities the use of specific auditoriums for students who belong to different thinking styles.

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# The Importance of Reading Books in students' life

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## Abstract

*Books play an important role of a teacher, guide, and friend in our life. Why is it important to read books? Why do students need books? This is the great research question we have raised, according to the chairman of the Publishers Association, Petrit Ymeri, which was invited to the UET Forum, in a conversation with students and lecturers at the end of the 20th edition of the book in Tirana: where he showed the problems facing the book, from VAT to bad translations. One of the concerns raised by UET students in their questions, was the battle of paper book with the digital book and the world of social networks that has involved young people. Concretely, he argued that, "the book is always fashionable, it's a paper or a digital book, we get it online, download it or not, we read, as Umberto Eco said that we need to flip our eyes when we read on the phone or ipad. The book of paper, continues to be the winner everywhere, because the book of the paper can be re-read. We all know, besides the pleasure we have in our hands, but even when you make a note, you go back to read it again". (Mapo, 2018). A study published in Social Science & Health shows that reading books has a significant relationship to increase lifespan. A team of public health researchers from Yale University looked at data for 3,635 Americans over age 50 collected from 1992 to 2012. Adjusting for age, sex, race, education, wealth, marital status, and depression they found, that those who read books were more likely to live longer. (Flood, 2016). In this study, we want to measure book readership of students. How many students are currently reading and how to encourage readers of the future? We have compiled a self – questionnaire that measures student involvement with the genre of reading, engagement in fairs, the participation in city libraries, etc. About 80 questionnaires were distributed to see the current situation of students in a Private University (European University of Tirana).*

**Key words:** Books, Students, Genre of reading, City libraries, Book Fairs, Digital books.

## Introduction

Why is it important to read books? In the digital world reading books, is placed face to face with digital book and the traditional book. The study we are going to present does not intend to identify the losers or winners of each category of reading. The concern that arises is whether we will have readers in the future in a world that is fragmented by the rapid evolution of technology? Is the level of readership of books reduced by students? How many students are currently reading according the tool they choose to read, why they choose one of these tools, the way they read, their membership in a book club, their favorite book genre, the form of reading (for example, alone, accompanied, loudly), the time they spend to read, attendance in city libraries, book fairs, their favorite author and books, etc. According to a study, which is published in the September issue of the *Journal Social Science & Medicine*, by three authors from Yale University, on average, book readers were found to live for almost two years longer than non-readers, the paper also specifically links the reading of books, rather than periodicals, to a longer life. "We found that reading books provided a greater benefit than reading newspapers or magazines. We uncovered that this effect is likely because books engage the reader's mind more – providing more cognitive benefit, and therefore increasing the lifespan". (Bavishi, Slade, Levy, 2016). There are two cognitive processes involved in reading books that could create a "survival

advantage". First, reading books promote the "slow, immersive process" of "deep reading", a cognitive engagement that "occurs as the reader draws connections to other parts of the material, finds applications to the outside world, and asks questions about the content presented". "Cognitive engagement may explain why vocabulary, reasoning, concentration, and critical thinking skills are improved by exposure to books," they write. Second, books "can promote empathy, social perception, and emotional intelligence, which are cognitive processes that can lead to greater survival". (Bavishi, Slade, Levy, 2016).

## Enjoy Reading

As teachers, as parents, as educators, we all want the best for our students. We're probably all aware that it's important to make sure they are confident, fluent readers who enjoy reading, but often it's hard to know where to start. What can we do as teacher to help our students get familiar reading with books? And how do we help them progress at school when the teaching is different nowadays? The big challenge for teachers is not simply getting students to read – it's getting them to enjoy it too. It's one thing for students to trudge through set texts in a lesson, but will they open another book when they got home at the end of the day?

But reading for pleasure is so much more than just a form of play or escapism – it is also a way of connecting with text. According to Pullman (2004), writing on the features that make reading pleasurable: "Consider the nature of what happens when we read a book... It isn't like a lecture: it's like a conversation. There's a back-and-forthness about it. The book proposes, the reader questions, the book responds, the reader considers". And we are active about the process... We can skim or we can read it slowly; we can read every word, or we can skip long passages; we can read it in the order it presents itself, or we can read it in any order we please; we can look at the last page first, or decide to wait for it; we can put the book down and ... we can assent or we can disagree. (Clark & Rumbold, 2006, p.6).

According to Krashen(1993), who is a major proponent of the value of reading for pleasure he found when children read for pleasure, when they get "hooked on books", they acquire, involuntarily and without conscious effort, nearly all of the so-called "language skills" many people are so concerned about: they will become adequate readers, acquire a large vocabulary, develop the ability to understand and use complex grammatical constructions, develop a good writing style, and become good (but not necessarily perfect) spellers. Although free voluntary reading alone will not ensure attainment of the highest levels of literacy, it will at least ensure an acceptable level. Without it, I suspect that children simply do not have a chance. (Ibid.).

For Ames (1992), students with learning goals seek to understand content, master skills, and gain competence. In contrast, students with performance goals attempt to maximize their grades, test scores, or public recognition for achievement (Guthrie et. al, 2000).

## The benefits of reading books

- According Clark and Rumbold (2006), research has shown that reading for pleasure is positively linked with the following literacy-related benefits:
- reading attainment and writing ability (OECD, 2000) for reading that is done both in school and out of school (Krashen, 1993; Anderson et al, 1988; but also see Taylor et al., 1990);
- text comprehension and grammar (Cipielewski and Stanovich, 1992; Cox and Guthrie, 2001), even after a variety of health, wealth and school factors were statistically controlled for (Elley, 1994);
- breadth of vocabulary (Angelos and McGriff, 2002), even after other relevant abilities such as IQ or text-decoding skills are controlled for (Cunningham and Stanovich, 1998);
- positive reading attitudes (Guthrie and Alvermann, 1999), which are linked to achievement in reading (McKenna and Kear, 1990);
- greater self-confidence as a reader (Guthrie and Alvermann, 1999);
- pleasure reading in later life (Aarnoutse and van Leeuwe, 1998). (p.9)

Similar findings PISA (OECD, 2002), explored the reading habits of 15-year-olds in 32 countries. In this study, UK students came seventh in terms of mean performance, below Finland, Canada, New Zealand, Australia, Ireland and Korea. Overall, 72% of students said that they read for enjoyment on a daily basis: 12% read for more than one hour a day on average, 23% for between 30 minutes and one hour, and 36% for up to half an hour. Those who were high achievers in reading literacy were much more likely than low achievers to read for enjoyment: 87% compared with 55% said they did so. Girls were much more likely than boys to read for enjoyment: 78% of girls, compared with only 65% of boys, said they did so on a daily basis. At all levels of achievement in reading literacy, girls were significantly more likely than boys to read for enjoyment. Among the 25% of students who were most proficient in reading literacy, 90% of girls, compared with 84% of boys, read for enjoyment every day. Among the least proficient 25% of students, however, the difference was much more marked: 64% of girls, compared with only 48% of boys, did so.(as cited at Clark, Rumbold, 2006).

A Nestle Family Monitor (2003), which surveyed 914, 11-18-year-olds attending state and public schools across England and Wales, reported that four in five (83%) of young people read books in their spare time, with 16% reading books everyday. Only one in ten (11%) said that they never read books outside school hours. Overall, 40% agreed with the statement that books

are important to them. However, a third also agreed with the statement that they have better things to do than read books, while a quarter agreed that they would be disappointed if somebody gave them a book as a present. This survey also reported that girls read more books for pleasure than boys. More specifically, one in five boys (16%) said that they never read in their spare time compared with 7% of girls. Overall, two-thirds (65%) of young people reported that they find reading enjoyable, with 21% also claiming that it is very enjoyable. (Ibid.).

## Reading Motivation

Research findings are also likely to present only a temporal snapshot of students reading preferences. So, why do some people choose to read for pleasure while others do not? According (Mitchell, (1992); Guthrie & Wigfield, (2000); Baumann & Duffy (1997), indeed, “motivation for learning is thought to be one of the most critical determinants of the success and quality of any learning outcome” and it is therefore likely “that motivational processes are the foundation for coordinating cognitive goals and strategies in reading ...reading motivation is defined as “the individual’s personal goals, values and beliefs with regard to the topics, processes, and outcomes of reading, reading motivation is a multifaceted construct that includes reading goals, intrinsic and extrinsic motivation, self-efficacy and social motivation for reading” and “motivation to read and reading ability are synergistic, mutually reinforcing phenomena”.(as cited at Clark and Rumbold, 2006).

According Mazzoni, Gambrell and Korkeamaki (1999) two related aspects of reading motivation are reading attitude and reading interest: *Reading attitudes* “refer to the feelings and beliefs an individual has with respect to reading”, *Reading interest* “relates to people’s preferences for genres, topics, tasks or contexts and *Reading motivation*, “as outlined above, refers to the internal states that make people read”. (Ibid.) In addition to motivation, another important factor in fostering lifelong readers is choice.

According Sanacore (1999), Krashen (1993), Flowerday & Schraw (2000), “encouraging and respecting reading choices are important steps toward helping children, young people and adults develop a sense of ownership and self-determination”, “students who choose what they read and have an informal environment in which to read tend to be more motivated, read more and show greater language and literacy development”, similarly, “teachers like to provide choice in the classroom because they believe that it increases motivation, effort and learning”(as cited at Clark and Rumbold 2006).

Motivation often is domain specific, according Wolters (2003), “motivation also is important for the maintenance of behavior, particularly when activities are cognitively demanding”. Reading is one such activity, as many different cognitive skills are involved. These range from processing individual words to generating meaning from complex texts. Furthermore, although reading is required for many school tasks and activities, it is also something students can choose to do or not; “Am I going to read or do something else?” Given these characteristics, motivation is especially crucial to reading engagement. (as cited at Guthrie & Wigfield & You, 2012, p.602 – 603).

One of the most frequently cited studies is the study carried out by Gambrell et. Al (1996) where they found six classroom characteristics that influence pupils’ reading motivation. This characteristics include having a teacher who (1) models reading, provides access to both, (2) large amounts and (3) wide variety and reading material in the classroom, (4) provides opportunities for children to choose reading material, (5) offers opportunities for students to interact with other students and adults in the classroom about their reading interest and (6) provides incentives directly related to reading.(Pečjak, Košir, 2004).

## Objectives

The purpose of this study is to explore: Why do students need books? In this study, In this study, we want to measure book readership of students. The two research questions are: How many students are currently reading and how to encourage readers of the future? We have compiled a self – questionnaire that measures student involvement with the genre of reading, engagement in fairs, the participation in city libraries, and so on.

The objectives of this study are to identify some variables of their relationship with the book, more concret, we want to analyze:

- students currently reading;
- The tool they choose to read;
- Why they choose one of these tools;
- The way they read;
- Their membership in a book club;
- Their favorite book genre;
- The form of reading (for example, alone, accompanied, loudly);
- Time spend reading;
- Attendance of city libraries;
- Book fair;
- Their favorite author and books etc.



## Method

### Participants

The questionnaire was administered to 80 students 19 – 35- year – old students.

The most involved age group was 19 - 21 years old with 27% of students, 22-25 years with 23% of students, 26-35 years old with 15% of students, and abstention resulted 15% of responses; 28% of the sample were females. 22% of the sample were male and 21% have abstained.

### Instruments

To evaluate students readership at books, we have used a self – administered questionnaire about this study. In the questionnaire designed, we have made a cross-section of the research methods, both quantitative and qualitative. The questionnaire contains a total of 17 questions. In the quantitative method are included all the variables encoded in response, while the inclusion of the qualitative method consists in their personal responses (the title and author of the book they are currently reading or have just completed, the way they read, the favorite book genre, their presence at a book fair, also marking the publishing house, their book or their favorite author).

### Procedure and Design

Faculty of Education evaluated and authorized the collection of data by allowing researchers to use the data for scientific purposes. Understanding the situation in which students are concerned with the development of critical thinking as a situation that can be presented to the university's governing bodies to make possible solutions. Students volunteered to participate in the research, without receiving any reward, after presenting a statement of informed consent signed by their pedagogues and agreeing to anonymously complete the questionnaire. A self – reported questionnaire was administered to the students while they were in school, after researchers from the Department of Education (European University of Tirana) explained the aims of the study to them.

### Data Analyses

We have used the SPSS 22 program. In this procedure the variables was analyze with the frequencies procedure. Understand the situation where students are in their relationship with the book, the level of readability and related aspects.

### Results

Following are the relevant findings, in an effort to answer research questions and to validate the hypotheses of the study:

By gender 28% were Females, 22% were male, and 21% have abstained. The most involved age group was 19 - 21 years old with 27%, 22-25 years with 23%, 26-35 years with 15%, and abstention resulted 15% of responses.

The question, 'Do you prefer to read books?' 27% of students said sometimes they prefer to read books, 25% said with No answer, 15% with Yes answer, and 13% have abstained.

The question, 'Do you enjoy reading?' 35% with yes, 30% of students said to some extent because it depends on the genre of the book, and 15% have abstained.

The questions, 'Do you prefer to read E – books or Print Books' 38% of students prefer to read E – books only, 27% of students prefer to read Print Books only and 15% have abstained. Why do they own a E - Reader for the purpose of reading digital E – books, 20% said 'I read to reduce the cost of spending', 11% said 'Reading with E – books is more exciting for me', and 7% said 'I want books but buying them spends me money, so I can't buy them'.

The question, 'Are you reading any books currently or you have just finished reading it' 28% of students said 'I'm currently reading', 25% of students said 'I just finished it', and 27% have abstained.

The question, 'Where do you prefer to read more?', 24% of students said 'whenever I have time', 19% of students said 'during vacations and holidays', 17% of students said 'on bed', 10% of students said 'before I lay down to sleep', 10% of students said 'even more during the weekend'.

The question, 'Are you a member of any book clubs in or out of your school', 48% of students said 'they are not members of a book club', 25% of students said that 'they are members in a book club', and 7% have abstained.

The question, for 'What genre of books do you like to read?' Responses to the genre preference are listed below, Romance came in first; then Story from real life; Foreign writers; Modern; Historical; Classic, Crime and mystery, Diary; Comic, Fantasy; Trips; Autobiographical; Factual books; Others; Fantasy story, Horror.

The question 'How Do You Prefer to read your books?', 51% of students prefer to read alone, 18% prefer to read accompanied and 11% have abstained.

The question, 'When you read books, do you prefer to read aloud?', 48% of students said 'I prefer silent reading', 22% of students said 'I prefer aloud reading', and 10% have abstained.

The question, 'Do you prefer to talk to your friends about what you've read?', 42% of students said 'I prefer to talk to my friends', 26% of students said 'I don't prefer to talk to my friends', and 12% have abstained.

The question, 'How many hours a week do you spend reading books?', 30% of students said 'I probably spend about 1 hour and 30 minutes a day reading books', 21% of students said 'I probably spend about one hour a day reading books', 14%

of students said 'I probably spend about 2 hours a day reading books', and 9% of students said 'I probably spend about 3 hours or more reading books'.

The question 'Do you attend the library of your city to receive books?', 40% of students said 'Yes I use city libraries to get books', 26% of students said 'I do not use city libraries to get books, and 14% have abstained.

The questions, 'Do you attend a book fair?', 45% of students said 'I do not attend the book fair', 25% of students said 'I attend in the book fair', and 10% of them have abstained.

The questions, 'Which was the last time you were at the book fair', from the answers was the 2017 annual fair, publishing houses where they bought the most are: Uet Press; Pegi; Dudaj Albas; Living.

The questions, 'What are your favourite books of all time and who are your favourite authors?'. So we are going to list cited authors and a list of student books to discover their current preferences towards books. They are listed as follows:

**Honoré de Balzac** ("Eugénie Grandet"; "Le Père Goriot"), **Gëte, Stefan Cvajg**;  
**Gabriel García Márquez**("Love in the Time of Cholera", "One Hundred Years of Solitude");  
**Gustave Flaubert** ("Madame Bovary");  
**John A. Barnes**("John F. Kennedy on Leadership"), **Osho**;  
**J. K. Rowling**("Harry Potter"), **John Ronald Reuel Tolkien, Dale Carnegie**;  
**Victor Hugo**("Notre-Dame de Paris", "Les Misérables");  
**Danielle Steel**("Once in a Lifetime");  
**Khaled Hosseini**("The Kite Runner");  
**Zhyl Vern**("Around the world for 80 days");  
**Jean Sasson**("The Princess");  
**Paulo Coelho**("The Alchemist");  
**Isabel Allende**("The House of the Spirits");  
**Salman Rushdie, José Saramago, Umberto Eco**;  
**Nicholas Sparks**("The Theory of Everything", "A Ride to Remember", "The Choice", "See me", "Dear John");  
**Don Brown**("The Da Vinci Code");  
**Anthony Doerr**("All the Light We Cannot See");  
**Stephen King**("Mr. Mercedes"), **Rebecca James, Ayn Rand**;  
**Joseph Conrad**("Heart of Darkness");  
**Leo Tolstoy**("War and Peace", );  
**Jenny Tomlin**("Behind Closed Doors");  
**George Orwell**("Nineteen Eighty-Four");  
**Kate Andersen Brower**("The Residence");  
**Rhonda Byrne**("The Secret");  
**Daniel Kehlmann**("Measuring the World");  
**Sophie Hannah**("The Human Condition");  
**Cecelia Ahern** ("PS, I Love You");  
**Jojo Moyes** ("Me Before You");  
**Anna Premoli**("Please let me hate you");  
**John Green**("The Fault in Our Stars");  
**Tatiana de Rosnay**("Sarah's Key");  
**Sandra Boynton**("Belly Button Book");  
**Federico Moccia**("Three Meters Above Heaven");  
**Jane Austens** ("Pride and Prejudice");  
**Gary Chapman** ("The 5 Love Languages");

Students have mentioned from Albanian authors: **Migjeni, Martin Camaj, Ismail Kadare**("Arch of Triumph", "Broken April"), **Gjergj Fishta, Petro Marko, Stavri Pone**("Tears of the roses").

## Discussions and Conclusions

Why should students read books?

In addition to their attitudes towards reading, students should have a reason why they need to read books. According Clark and Akerman(2006), the reasons why young people need to read is because:

- It is a skill for life;
- It teaches them how other people live and feel;
- It helps them understand the world;
- It helps them find what they want/need to know;
- They have to;
- It helps them understand themselves;
- It is fun and because it gives them a break.



Top 10 tips to help them enjoy reading:

To help make reading enjoyable and fun, we asked experts and authors what they recommend to help reading.

1. *Make books part of your family life* – Always have books around so that you are ready to read whenever there's a chance.
2. *Join your local library* – Get a library card. You'll find the latest videogames, blu-rays and DVDs, plus tons and tons of fantastic books. Allow them to pick their own books, encouraging their own interests.
3. *Match their interests* – Help them find the right book - it doesn't matter if it's fiction, poetry, comic books or non-fiction.
4. *All reading is good* – Don't discount non-fiction, comics, graphic novels, magazines and leaflets. Reading is reading and it is all good.
5. *Get comfortable!* – Snuggle up somewhere warm and cosy, either in bed, on a beanbag or on the sofa, or make sure they have somewhere comfy when reading alone.
6. *Ask questions* – To keep them interested in the story, ask questions as you read such as, 'What do you think will happen next?' or 'Where did we get to last night? Can you remember what had happened already?'
7. *Read whenever you get the chance* – Bring along a book or magazine for any time they have to wait, such as at a doctor's surgery.
8. *Read again and again* – Encourage them to re-read favourite books and poems. Re-reading helps to build up fluency and confidence.
9. *Bedtime stories* – Regularly read at bedtime. It's a great way to end the day and to spend valuable time.
10. *Rhyme and repetition* – Books and poems which include rhyme and repetition are great for encouraging them to join in and remember the words. (Pearson, 2018, p.7).

Reading books is part of the educational process, which includes all forms of formation of the individual, such as family, school, society, and mass media. All these forming components play their part in encouraging young people to read the book. In family an important role has our parents. Parental education on reading books begins when their children are babies, in preschool, in primary, and upward.

Parents are a child's most important teacher and it's never too young for a child to start, even if you're only reading with your child for a few minutes a day. Before they're born, babies learn to recognise their parents' voices. Reading to your baby from the time they're born gives them the comfort of your voice and increases their exposure to language". Also as Christopher Edge has said "Books transform children's lives - they can open windows onto new worlds, widen their horizons or even just make them laugh themselves silly! Reading for pleasure can give children the key they need to unlock their dreams". (Pearson, 2018, p.2 – 4).

In school are our teachers. A number of studies have shown that contextual variables of the classroom such as instructional practices, teacher support, and other conditions may directly impact students' reading competence. An important classroom characteristic is the quality of teacher-student relationships. When teachers emphasize collaboration and positive interpersonal relationships (between themselves and students and among students in the classroom), students motivation increases for school in general and for reading.

Furrer, Skinner, (2003) and Decker, Dona & Christenson (2007) said that "when students believe their teachers think they are important, they are likely to participate more socially in the class-room" also "as both teacher and student reports of the quality of teacher-student relationships increase, there are also enhancements in positive social interactions and engagement outcomes". (Guthrie & Wigfield & You, 2012, p.25).

Reading books tends to involve two cognitive processes that could create a survival advantage. "First, it promotes "deep reading," which is a slow, immersive process; this cognitive engagement occurs as the reader draws connections to other parts of the material, finds applications to the outside world, and asks questions about the content presented" (Wolf, Barzillai, & Dunne, 2009). "Cognitive engagement may explain why vocabulary, reasoning, concentration, and critical thinking skills are improved by exposure to books" (Stanovich, West, & Harrison, 1995; Stanovich & Cunningham, 1998; Wolf, Barzillai, & Dunne, 2009). Second, "books can promote empathy, social perception, and emotional intelligence, which are cognitive processes that can lead to greater survival" (Bassuk, Wypij, & Berkman, 2000; Djikic, Oatley, & Moldoveanu 2013; Kidd & Castano 2013; Shipley, Der, Taylor, & Deary 2008; Olsen, Olsen, Gunner-Svensson, & Waldstrom, 1991). "Better health behaviors and reduced stress may explain this process" (Bassuk, Wypij, & Berkman, 2000). (as cited at Bavishi, Slade, Levy, 2016).

Promoting reading with the aim of inspiring all students to read for pleasure is a responsibility of all schools. The benefits for literacy skills, wider learning and personal development are supported by substantial research evidence.

#### **The findings from this survey confirm the need for schools to:**

- From the study responses, the number of students who prefer to read books is very little differentiated by the number of students who do not prefer to read books. Therefore, the number of readers should increase in the future and need a serious engagement of educational policies, school as an institution and family to encourage their children to read books. The book culture should be promoted to all children regardless of age, gender, social status, etc.
- We also learned from the results that the most favorite way to read is E – Book. This means that technology (E – Book) has replaced traditional books (Printed Books). However, the focus of our study is just reading books, so this aspect is

not taken into account, it is enough for books to be part of students life, regardless of how students choose to read with E – Book or Printed Book.

- Another problematic point of study is the lack of attendance of students as a registered club member of books outside or within the school. School policies should be activated here to encourage students or to organize them in book clubs. Another way is to involve teachers to encourage and motivate students to read at least one or two books during the course semester that they give. Also, students in a large number of responses do not frequent city libraries and book fairs as two important aspects of the individual culture with the book.
- Their favorite authors are foreign authors and Albanian authors are very little mentioned by students, like Migjeni, Ismail Kadare, Martin Camaj, Petro Marko, Stavri Pone. Perhaps this point should be addressed to school policies and home publishers who should find a solution to encourage readers for Albanian authors. It is necessary to create student clubs, academic forums that promote more Albanian authors.
- Create a culture in which all students are encouraged to be enthusiastic readers. To support this goal, schools with effective approaches consult with students to learn of their interests and to ensure that the range of reading materials available in school reflects those interests.
- They recognise that a diverse range of reading materials will encourage students to read, for example websites, comics and magazines. They engage students in the planning and delivery of reading and library activities, offering them the opportunity to select and purchase reading materials for their use. (Clark, & Foster, 2005, p.93).
- Consider how we can support parents in encouraging reading in the home. The role of the home is important for all children. Home-school practices that successfully involve all parents in students home and school reading, in ways they value, need to be shared between schools.

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# Ten-year incidence and time trends of psychiatric disorders in Scutari from 2005 to 2015

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## Abstract

**Aim:** One in four people in the world will be affected by mental or neurological disorders at some point in their lives. Mental disorders are among the leading causes of ill-health and disability worldwide. There is no data on mental health incidence in our country. Scutari is the most important city in north region of Albania, which provides hospital and day care mental health services for people living in this area. This retrospective study aimed to estimate the ten-year incidence and time trends of mental health cases, diagnosed in Scutari from 2005 to 2015. **Method:** All new cases diagnosed in Scutari during 2005-2015 were included in the study. The data were collected from statistic office registry of mental health Institutions in Scutari. We considered demographic and socioeconomic data, age, diagnosis, timing of first diagnose and the service which provided the care for each case. It was estimated the incidence per 100.000 inhabitants and it was analysed the time trends over a decade. **Results:** There were 7620 cases diagnosed in total during ten years. Among them about 83 % (n =6287) were hospital inpatients, while community mental health centres provided inpatient and day care for 17% of cases (n=1333). The incidence ranged from 244 to 378 per 100.000 inhabitants, still there was not much change in the incidence rates over a decade. Community mental health services were established in Scutari in 2010 reflecting the new public health policy. Since 2010 community mental health centres had a rapid increase in figures each year, taking over some of the patients flow from state psychiatric hospital of Scutari which was the only service up to 2010. About 60% of diagnosed psychiatric patients were males versus 40% females; 57% lived in rural areas versus 43% in urban areas. The most prevalent diagnoses according ICD-10 were psychotic disorders (F20-29), followed by mood disorders (F 30-F39). **Conclusion** Mental disorders were more frequent in this study with predominance of Schizophrenia. Those problems were more common in male, in patients that live in rural area and unemployed persons. Young people and active age people were also more likely to have mental disorders that indicating an early age of onset for mood, anxiety and alcohol disorders.

**Keywords:** mental health services; Scutari; psychiatric disorders; incidence; time trend; decade

## Introduction

WHO defines mental health as “a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community (WHO, 2004). The mentally ill is vulnerable and should be recognized as such and strongly considered whenever we are talking of universal coverage (Obayi et. al, 2017). So nowadays the adopted slogan “No health without mental health” is the true one (Prince et. al, 2007).

Based to the WHO report, one in four people in the world will be affected by mental or neurological disorders at some point in their lives. Around 450 million people currently suffer from such conditions, placing mental disorders among the leading causes of ill-health and disability worldwide. (WHO, 2001).

The problem of mental disorders and mental disorders continues to grow with a significant impact on health and social, human and economic rights in all countries of the world (Demyttenaere et al., 2004). For this reason, the fact that mental health

is a foundation for the well-being and efficient functioning of the individual and the community as a whole, and the World Health Organization and other international organizations identify the improvement of mental health as a preoccupation primary for both low and middle income and wealthy countries (WHO, 2005).

Mental disorders include: depression, bipolar affective disorder, schizophrenia and other psychoses, dementia, intellectual disabilities and developmental disorders including autism.

In our country, there is no national survey about mental problems and their prevalence in the population. In Albania the data about epidemiology and incidence of mental disorders are few (Kruja et. al, 2012). Scutari is the most important city in north region of Albania, which provides hospital and day care mental health services for people living in this area. This retrospective study aimed to estimate the ten-year incidence and time trends of mental health cases, diagnosed in Scutari from 2005 to 2015.

## Method

All new cases diagnosed in Scutari during 2005-2015 were included in the study. The data were collected from statistic office registry of mental health Institutions in Scutari. We considered demographic and socioeconomic data, age, diagnosis, timing of first diagnose and the service which provided the care for each case. It was estimated the incidence per 100.000 inhabitants and it was analysed the time trends over a decade. Classification of the mental disorders was based on diagnostic criteria from the Diagnostic and Statistical Manual of Mental Disorders DSM-5. 5th ed (DSM\_V) (APA, 2013) and also the International Classification of Diseases and Injuries 10th Revision (ICD\_10) (WHO, 1992). For analyze of epidemiological statistical data we were used the software SPSS version 19.

## Results

There were 7620 cases diagnosed in total during ten years. Among them about 83 % (n =6287) were hospital inpatients, while community mental health centres provided inpatient and day care for 17% of cases (n=1333). The incidence ranged from 244 to 378 per 100.000 inhabitants, still there was not much change in the incidence rates over a decade. Community mental health services were established in Scutari in 2010 reflecting the new public health policy. Since 2010 community mental health centres had a rapid increase in figures each year, taking over some of the patients flow from state psychiatric hospital of Scutari which was the only service up to 2010. About 60% of diagnosed psychiatric patients were males versus 40% females; 57% lived in rural areas versus 43% in urban areas. The most prevalent diagnoses according ICD-10 were psychotic disorders (F20-29), followed by mood disorders (F 30-F39).

Table 1 represent the overall demographic data of patients surveyed from 2005 -2015 for SHSHMSH and 2010-2015 for QKSHM.

**TABLE 1** The general demographic data of the population

The general demographic data of the population	Number of cases	Percentage of cases
Total number of cases 7620		
Number of cases dealt with at QKSHM	1,333	17.5%
Number of cases dealt with at SHSHMSH	6,287	82.5%
Settlement (225549 inhabitants according to CENSUS 2011)		
Scutari	6,139	80.57%
Puka	86	10.7%
Great mountain	566	7.43%
Other	99	1.30%
Residential area		
rural	4,327	56.8%
urban	3,293	43.2%
gender		
Females	3,085	40.5%
Male	4,535	59.5%
Age group		
Average age 43 ± 4		
0-14 age	68	0.90%
15-24 age	417	5.48%
25-44 age	3,3341	43.85%

45-64 age	3,385	44.43%
+65 age	409	5.37%
Ethnicity		
Albanian	7,415	97.3%
Egyptiane	55	0.73%
Malazeze	26	0.35%
Not declared	124	1.63%
Religious Sessions		
Catholic	4,070	53.42%
Myslyman and Bektashis	3,394	44.54%
Christian is a Catholic	34	0.45%
Atheist	15	0.20%
A believer without proper definition	38	0.50%
Data is missing	69	0.91%

Table 2 present other demographic data of the population related to the educational level, monthly family income, employment and family heritage. Familiar familiarity with many studies carried out (mentioned in the theoretical part) is very related to the emergence of PSHMs to successors. It is worth pointing out that each data is contained in each patient's card.

**TABEL 5.2** Other population data

Other general population data	Number of cases	Percentage of cases
Educational level		
Without education	91	1.19 %
Primary Education	157	2.06 %
8-9 Year Old Education	492	6.45 %
Secondary education	5,181	68 %
High education	1,699	22.3 %
Monthly income		
No income	34	0.44 %
Social help	267	3.5 %
100 to 200 thousand for month	2,349	30.8 %
200-400 thousand for month	2,612	34.29 %
400-600 thousand for month	1,583	20.77 %
> 600 thousand for month	775	10.2 %
employment		
Employed	3,423	44.9 %
Without job	2,670	35.04 %
retiree	970	12.73 %
Gardens and schools	557	7.3 %
Familiar familiarity		
Previous family history	2,699	35.42 %
No family history	4,921	64.58 %

For years now, the clinical diagnosis of cases is based on the determination of mental health problems according to DSM-IV and DMS-V classification. In recent years, especially after 2010, the classification of DSM V coded by ICD 10 is being used. The table below presents the prevalence of morbidity based on classification of DSM V but coded according to ICD 10.

**TABLE 3** Prevalence of morbidity according to ICD 10

1Diagnosis by ICD 10	No. of cases	Prevalence0
F10-F19	245	3.2%
F20-F29	3534	46.4%

F30-F39	2001	26.3%
F40-F48	771	10.1%
F60-G69	256	3.3%
ETC	813	10.7%
Total	7620	100%

Since classification of mental health problems was introduced long afterwards by the existence of the psychiatric hospital in Shkodra district, the detection, classification and treatment of cases with disorders were based on DMS-IV and DMS-V. For this reason, the cases dealt with by the SHSHMSH are presented with the classification according to DSM - V as the cases taken in the study are from 2005.

**TABEL 5.20** Demographic factors and mental problems. Logistic regression

Demographic data	Demographic Factors and Mental Health Problems Odds Ratio (95% CI) p value <0.05 <sup>1</sup>					
	F10-19	F20-29	F30-39	F40-48	F60-69	Tjetër
Separation by sex						
Female	1 <sup>2</sup> (reference)	1.18 1.08-1.27 p=0.0003	1.01 0.9-1.12 p=0.79	2.60 2.23-3.04 p<0.0001	1.08 0.87-1.35 p=0.44	1.03 0.90-1.17 p=0.65
Man	28.12 (11.56-68.39) p<0.0001	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)
Residence						
Urban	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)
Rural	1.08 0.84-1.39 p=0.60	1.24 1.14-1.34 p<0.0001	1.18 1.08-1.3 P=0.0013	1.36 1.17-1.54 P=0.0001	1.73 1.36-2.23 p<0.0001	1.06 0.91-1.22 p=0.51
Age groups						
0-14 age	_ <sup>3</sup> N/A	_ <sup>3</sup> N/A	10.0 (2.24-40.0) p=0.0022	_ <sup>3</sup> N/A	_ <sup>3</sup> N/A	94.33 (22.70-391.84) P<0.0001
15-24 age	1.89 (0.99-3.59) p=0.05	1.35 (1.02-1.8) p=0.032	2.18 (1.5-3.23) p=0.0001	1.54 (0.98-2.40) p=0.057	1.09 (0.57-2.09) p=0.82	1.22 (0.960-1.7) p=0.22
25-44 age	1.24 (0.71-2.13) p=0.47	1.71 (1.38-2.12) p<0.0001	1.29 (1.01-1.66) p=0.037	1.25 (0.87-1.8) p=0.2	1.3 (0.80-2.13) p=0.3	4.17 3.23-5.56 p<0.0001
45-64 age	1.25 (0.72-2.18) p=0.44	1.72 (1.39-2.14) p<0.0001	1.41 (1.10-1.8) p=0.0058	1.07 (0.75-1.54) p=0.68	1.93 (1.17-3.23) p=0.011	3.85 2.95-5.0 p<0.0001
+65 age	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)

1. All p values values that resulted in <0.05 are called statistically significant for 95% CI.
2. Since the habit of drinking alcohol or drugs is most commonly encountered in males compared to women, in this table for illnesses caused by ethylitis or female drugs are taken as a reference. This is to see the impact that this consumption may have on males.
3. Can not be calculated due to lack of value. For diseases classified in F10-19, F20-29, F40-48 there are no diagnosed cases for the age group 0-14 years.



**TABEL 5.22** Demographic factors and mental problems. Logistic Regression (continued)

Demographic data	Demographic Factors and Mental Health Problems Odds Ratio (95% CI) p value <0.05 <sup>1</sup>					
	F10 - 19	F20 - 29	F30 - 39	F40 - 48	F60 - 69	ECT
<b>Educational level</b>						
Without education	7.4 (4.08 – 13.47) p<0.0001	6.37 (3.43 – 11.85) p<0.0001	10.30 (5.9 – 17.94) p<0.0001	5.38 (2.8 – 10.31) p<0.0001	6.37 (3.43 – 11.85) p<0.0001	6.37 (3.43 – 11.85) p<0.0001
Primary Education	9.27 (5.8 – 14.8) p<0.0001	7.32 (4.48 – 11.95) p<0.0001	11.8 (7.52 – 18.5) p<0.0001	4.98 (2.9 – 8.5) p<0.0001	4.18 (2.37 – 7.3) p<0.0001	2.67 (1.4 – 5.12) p = 0.0031
8-9 year education	2.17 (1.37 – 3.43) p = 0.0009	9.85 (6.95 – 13.96) p < 0.0001	11.57 (8.15 – 16.44) p < 0.0001	7.03 (4.9 – 10.10) p < 0.0001	3.98 (2.67 – 5.92) p < 0.0001	2.32 (1.48– 3.64) p = 0.0002
Secondary education	0.70 (0.50 – 0.99) p = 0.043	30.29 (22.8 – 40.24) p < 0.0001	12.41 (9.33 – 16.51) p < 0.0001	2.73 (2.03 – 3.67) p < 0.0001	0.51 (0.36 – 0.73) p = 0.0002	4.55 (3.4 – 6.09) p < 0.0001
High education	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)
<b>Monthly income</b>						
No income	3.08 (1.13 – 8.38) p = 0.027	4.64 (1.9 – 11.28) p = 0.0007	3.83 (1.5 – 9.78) p = 0.0049	5.5084 (2.34 – 12.92) p = 0.0001	1.73 (0.5 – 5.9) p = 0.37	3.08 (1.13 – 8.38) p = 0.02
Social help	1.52 (0.88– 2.63) p = 0.12	10.38 (6.9 – 15.5) p < 0.0001	5.76 (3.78 – 8.77) p < 0.0001	1.21 (0.67 – 2.18) p = 0.508	1.21 (0.67 – 2.18) p = 0.508	2.7 (1.68 – 4.34) p < 0.0001
100-200 thousand	5 (3 – 7) p = 0.0001	18.04 (13.03 – 24.96) p < 0.0001	4.9 (3.5 – 6.8) p < 0.0001	1.91 (1.3 – 2.69) P = 0.0002	0.38 (0.24 – 0.58) p < 0.0001	3.20 (2.29 – 4.48) p < 0.0001
200-400 thousand	0.5 (0.37 – 0.81) P = 0.0025	19.96 (14.43 – 27.59) p < 0.0001	6.70 (4.84 – 9.29) p < 0.0001	0.97 (0.68 – 1.39) p = 0.89	0.55 (0.37 – 0.82) p = 0.0031	1.73 (1.23 – 2.44) p = 0.0016
400-600 thousand	0.80 (0.54 – 1.19) p = 0.28	9.96 (7.15 – 13.87) p < 0.0001	7.58 (5.4 – 10.57) p < 0.0001	3.64 (2.59 – 5.13) p < 0.0001	0.60 (0.4 – 0.92) p = 0.019	1.98 (1.39 – 2.83) p = 0.0002
> 600 thousand	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)
<b>Employment</b>						
Employed	1.34 (0.71 – 2.52) p = 0.36	65.39 (35.8 – 119.24) p<0.0001	17.46 (9.6 – 31.8) p<0.0001	3.97 (2.16 – 7.32) p<0.0001	1.05 (0.55 – 1.99) p = 0.87	2.61 (1.4 – 4.83) p = 0.0023
Without job	2.13 (1.13 – 3.99) p = 0.017	44.95 (24.63– 82.06) p<0.0001	22.98 (12.5 – 41.97) p<0.0001	5.08 (2.75 – 9.36) p<0.0001	2 (1 – 3) p= 0.58	3.03 (1.63 – 5.64) p<0.0004
retiree	1.0 (0.9 – 3.58) p = 0.0931	18.56 (10.05 – 34.27) p<0.0001	11.0025 (5.9 – 20.42) p<0.0001	8.79 (4.7 – 16.38) p<0.0001	6.61 (3.52 – 12.38) p<0.0001	15.95 (8.6 – 29.5) p<0.0001
Gardens and schools	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)
<b>Familiar familiarity</b>						

Previously familiar history	1.31 (1.01 – 1.69) p = 0.039	3 (2 – 4.69) p < 0.0001	1.13 (1.02 – 1.26) p = 0.016	2.88 ( 2.47 – 3.35) p<0.0001	2.95 (2.29 – 3.81) p<0.0001	1.113 (0.95 – 1.29) p = 0.16
No family history	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)	1 (reference)

Based on the logistic regression of variables with morbidity, it is worth pointing out that a strong signal correlation exists for most of the variables taken in the study for CI 95% p values have resulted to be less than 0.05

## Discussion

A state that respects and protects the basic civil, political, economic, social and cultural rights of its people has as its core issue the promotion of mental health. Without the security and freedom offered by these rights, it is very difficult to maintain a high level of mental health (Gost, 2001). Dr. Gro Harlem Brundtland, Director-General of WHO, on releasing the World Health Report has said; “Mental illness is not a personal failure. In fact, if there is failure, it is to be found in the way we have responded to people with mental and brain disorders” (WHO, 2001).

In this study, 7620 individuals have received special treatment at the Mental Health Service [6,287 (82.5%)] and the Community Mental Health Service [1,333 (17.5%)]. This is a descriptive retrospective epidemiological study, which is based on the research of individuals' files that have been diagnosed with at least one mental health problem during their lifetime in the Shkodra district for a period of 10 years from 2005 to 2015. The analysis of the data on the incidence of PSHM problems in Shkodra district is based on the number of population according to 2011 CENSUS (Census, 2011).

The number of inhabitants of Shkodra region according to CENSUS is 225,549, out of which 166,050 inhabitants belong only to Shkodra district.

In total, the PES incidence over 2005-2015 resulted in 3378.42 persons with PSHM for a number of 100,000 inhabitants, which is a relatively high figure compared to some of the countries close to Albania. In a 2010 study on mental health problems in Serbia, Kosovo, Malta, Croatia and Bosnia and Herzegovina, the prevalence of mental illness resulted in figures of 44.8%. However, the prevalence of having a mental disorder ranges between the Balkan countries, for example, the Republic of Macedonia has the lowest prevalence of 21.5%, followed by Croatia with 39.9%, Bosnia and Herzegovina with 48.2%, Serbia with 54% and Kosovo with 62.2% of the population analyzed. Issues related to anxiety disorders ranged from 15.6% to 41.8%, behavioral disorders from 12.1% to 47.6%. Disorders due to Etilization, Somatization and Psychotics were less frequent. The most commonly encountered individual problems in this study were Post-Traumatic Stress Disorder with an interval of 10.6% -35.4% and Major Depression with 4.1% -35.4% (Priebe et al., 2010).

Table 1 and 2 presented the general demographic data of patients surveyed from 2005 -2015 to the AHSH and from 2010-2015 to QKSHM. With regard to the prevalence of morbidity we can say that we have a prevalence of cases who suffer from diseases that according to the classification of ICD 10 are included in F20-29. This group includes diseases such as schizophrenia that takes the lead, delusional disorders, and reactive psychiatry. These diseases occupy a 46.4% prevalence of the total morbidity encountered in this paper.

We think that this large number comes as most of the cases analyzed belong to the SHSHMSH, where the patients treated there are serious complications with PSHMs such as Schizophrenia.

Second, we classify Depressive Disorders and Affective Disorders with 765 and 739 cases, respectively. Then rank those with mental retardation, neuritis disorders, personality, anxiety, reactive, and so on. If we were to be based on the ICD-10 classification, the highest prevalence is shown for the categories of diseases that are included in F 20 - 29 with 46.4%, in the second place those with F 30-39 with 26.3%, with F 40-48 and the other category with 10% respectively, while those in category F 10 - 19 and F 60 - 69 with over 3%.

The number of men cases treated near the two centers resulted to be higher by 4,535 (59.6%) compared to female cases 3,085 (40.5%). The incidence appeared higher again for male gender compared to women 2011.98 and 1367.8 respectively. Even with regard to the classification according to the classification of diseases, again there is a prevalence of male cases against women. This is most evident in cases of diseases caused by ethylisation or drugs. This is also in line with the literature cited as men in this category have the highest percentage of cases in men: 5.6%, women 1.3% (WHO, 2014).

In urban-rural segregation, rural households account for 56.8% of urban areas compared to urban areas 43.2%. Even with regard to the incidence, there is still a high incidence in rural areas of 1918.34 cases per 100,000 inhabitants versus 1460 cases per 100,000 inhabitants in urban areas. The largest number of cases analyzed belonged to age groups 35-44 years and 45 to 54 years with 1726 and 1861 cases respectively. The age groups 55-65 and over 65 already represent the same number of cases with 1067 cases altogether. The 25-34 age group represents 1018 cases altogether. The smallest number of cases is noted for age groups 0 to 24 years.

Regarding the level of education, those who have declared a secondary education level have a very high prevalence of 68%, secondly those with higher education 22.3%. those with 8-9 years of education and primary education rate of the cases is small by 6.45% and 2.06%.

The highest proportion of cases with PSHM represent individuals who have declared income from 2004-400 thousand lek per month and 100-200 thousand lek per month with 34.29% and 30.8% respectively. Then rank them with 400-600 thousand lek per month with 20.7% and over 600 thousand lek per month with 10.2%. Individuals who have had a previous family history with mental health problems appear with 35.42% of cases while those without family history with 64.58% of cases.

It is worth pointing out that this paper revealed a strong correlation for all the risk factors that we have taken in the study. Significant strong links were noted for gender, place of residence, age groups, educational level, monthly income, employment and familial heritage. For all these cases we have had significant links of  $p < 0.05$  and CI 95%.

## Conclusion

The prevalence of mental disorders in Albania is higher if we compared with other countries. This difference may be explained by population or/and genetic structure and environmental factors. Mental disorders were more frequent in this study with predominance of Schizophrenia. Those problems were more common in male, in patients that live in rural area and unemployed persons. Young people and active age people were also more likely to have mental disorders that indicating an early age of onset for mood, anxiety and alcohol disorders.

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# Personality traits and stress coping strategies among Albanian young adulthoods

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## Abstract

*Personality is defined as a set of general, consistent, and distinct patterns of behavior displayed as a reaction to the environment. As personality traits differ across individuals, so do stress coping strategies. Therefore some people use healthier coping strategies (e.g., Active coping, Positive reframing, Planning, Humor etc.) as compared to others, who might employ Self-distraction, Denial, Substance use, Behavioral disengagement etc. The present study aimed to assess whether personality traits (e.g., neuroticism, extraversion, conscientiousness etc.) determine the choice of a specific coping strategy (adaptive or maladaptive). Methodology The sample included 255 participants (Mage=26.45years, SD=4.4years), 169 women and 86 men. The measuring instrument was a self-report questionnaire; The Brief Big Five Inventory (BFI) questionnaire was used to measure the 5 personality traits while The Brief Cope questionnaire was used to measure the stress management techniques. Results showed that Neuroticism correlated positively with less adaptive coping strategies, such as self-blame ( $r=.32, p<.01$ ), substance use ( $r=.17, p<.01$ ), venting ( $r=.15, p<.05$ ) and behavioral disengagement ( $r=.12, p<.05$ ) but negatively correlated with adaptive coping strategies such as humor ( $r= -.18, p<.01$ ) and active coping ( $r= -.31, p<.01$ ). Extraversion positively correlated with several adaptive coping strategies such as active coping ( $r=.19, p<.01$ ), positive reframing ( $r=.21, p<.01$ ) planning ( $r=.17, p<.01$ ), humor ( $r=.27, p<.01$ ) etc. Conscientiousness was also positively correlated with several adaptive coping strategies such as planning ( $r=.39, p<.01$ ), religion ( $r=.16, p<.05$ ) and active coping ( $r=.24, p<.01$ ), and negatively correlated with maladaptive coping strategies such as denial ( $r= -.16, p<.05$ ) and substance use ( $r= -.24, p<.01$ ). Agreeableness was positively correlated with several adaptive coping strategies (e.g., use of instrumental support ( $r=.22, p<.01$ ), active coping ( $r=.24, p<.01$ ), and negatively correlated with maladaptive coping strategies such as behavioral disengagement, ( $r= -.12, p<.05$ ) and substance use ( $r= -.15, p<.05$ ). Openness to experience also showed positive significant relationships with several adaptive strategies such as active coping ( $r=.23, p<.01$ ), positive reframing ( $r=.23, p<.01$ ), planning ( $r=.27, p<.01$ ), humor ( $r=.19, p<.01$ ), etc.. Results supported the claim that personality characteristics are relevant in the choice of coping strategies, particularly as regards the distinction between healthy and unhealthy coping. Findings are discussed in the context of theoretical and practical implications.*

**Keywords:** Big Five, personality traits, coping strategies, individual differences

## Theoretical background

### Theories on coping strategies

What kinds of environmental events are typically cited as stress stimuli, or in Selye's terms, "stressors"? Lazarus and Cohen (1977) speak of three types: major changes, often cataclysmic and affecting large numbers of persons; major changes affecting one or a few persons; and daily hassles. As to the first, certain cataclysmic phenomena are usually treated as universally stressful and outside anyone's control. Included here are natural disasters, man-made catastrophes such as war, imprisonment, and uprooting and relocation. These may be prolonged events (e.g., imprisonment) or over quickly (earthquake, hurricane), although the physical and psychological aftermath of even a brief disaster can be extended over a long time.

During the last years, especially during the last few decades, there's been an increasing interest on the processes using by people coping with stress (Ogden, 2007). The starting point of this research is to analyze the concept of stress itself and coping, suggested by Lazarus (1996). Lazarus argued that stress consisted on three processes. The primary appraisal is the perception of the threat. The secondary appraisal is the process of remembering a possible reaction to that threat, while facing it is the execution of that response. During all the while, individuals react to their environment including different ways of thinking, emotions and behaviours which are consistent with their personality traits and previous ways of coping (McCrae & Costa, 2003). So, Lazarus and Folkman, (1984) observed that the coping is a dynamic process which changes during the course of a stressful interaction between the individual and the environment.

The confrontation is defined by Lazarus as: "The process of managing the stress sources, which are considered as overwhelming to the individual's resources and also as an effort to manage the demands of the surroundings as well as the internal ones" (Lazarus & Launier, 1978). In the context of the stress, coping reflects the ways the individuals interact with the stress sources in the effort to go back to some kind of normal functioning. This may include correcting or eliminating the problem, or changing the way a person thinks of a problem, or learning to tolerate and accepting it (Folkman & Lazarus, 1980).

Cohen and Lazarus (1979) defined the objectives of coping/managing as: 1) to reduce the difficult environment conditions and to increase the possibility to heal; 2) to regulate or to tolerate the negative events; 3) to preserve a positive self-image; 4) to maintain an emotional balance; and also 5) to carry on satisfying relationships with others. Individuals prefer different managing techniques predisposed by specific personality features and more over, the personality searches for ways of inflexible managing (Carver, Scheier, & Weintraub, 1989). To study the process of coping, Lazarus and his colleagues developed a measure which was called types of management (Folkman & Lazarus, 1980). This measure consisted on a series of assertions, each of one portrays the coping or the action people engage when under stress. The persons who answered tell that when techniques used in a specified stressful interaction, are used or not, make a valuation of the questions in Likert scale.

The evaluation in the ways of stress managing is the difference between two types or general techniques of facing. The first model of coping strategies is problem-focused coping, focusing on solving the problems or doing something to change the source of stress, and emotion-focused coping, focusing on reducing or managing negative state of emotions, which relate to (or are caused by) the situation (Folkman & Lazarus, 1980).

Even though most of stressors encourage both ways of facing, the technique focused on the problem tends to prevail when people think something constructive may be achieved. Meanwhile, the technique focused on emotion, tends to prevail when people feel that the stressor is something that has to be endured (Folkman & Lazarus, 1980). The difference between these two techniques is important according to Carver et al. (1989). Studies show that the responses on the techniques of managing stress are generally more than two (Aldwin, Folkman, Schaefer, Coyne & Lazarus, 1980; Aldwin & Revenson, 1987; Coyne, Aldwin, & Lazarus, 1981; Folkman & Lazarus, 1985; Folkman, Lazarus, Dunkel-Schetter, DeLongis, & Gruen, 1986; Parkes, 1984; Carver et al., 1989).

Also, there is evidence showing that facing is constant during all the period of a stressful event (Gil, Wilson & Edens, 1997; Powers, Gallagher-Thompson & Kraemer, 2003) and that people tend to use the same ways of facing in stressful situations (Moss & Holahan, 2003). Researchers have noticed that these other techniques strongly differ in character (Scheier, Weintraub & Carver, 1986).

Some of the answers focused on emotion include denial, some others include positive reframing and many others include the search for support. These answers differ very much from each other and more over, they might have different consequences on someone's success on managing (Carver et al., 1989). Also the coping strategy focused on the problem deserves a further investigation (Aldwin & Revenson, 1987). Problem-focused coping in itself, can include some special activities in the individual such as planning, active managing, asking for help, self-distraction, or simply compel themselves to wait before making a decision. All of these different techniques individuals use should be considered and measured separately (Carver et al., 1989). Carver and colleagues (1989), built the instrument to measure the different techniques individuals use when facing a potential stressor.

According to Carver et al., (1989), there are fourteen managing techniques (active management, instrumental support, emotional support, surrender, self-distraction, release of negative feelings, positive reconstruction, denial, acceptance, use of substances, humour, self-guilt and religion): Active management is the process of trying to plan ahead to eliminate or improve stress's effects. Active management include direct action, increasing of someone's efforts and the struggle to develop a step-by-step facing technique. Active management is very similar to the core of problem-focused facing of Lazarus & Folkman (1984), but Carver et al. (1989) showed the differences of techniques in this wide category (Scheier & Carver, 1985).

Planning is thinking how to face a stressor. Planning includes the usage of action strategies and thinking on the steps that must be taken and how to best face the problem in order to eliminate it. This technique is also thought to be adaptable and useful in the facing process (Scheier & Carver, 1985). Another technique is the seek of social support for instrumental reasons, therefore asking for advice, help or information from the others. Another technique is seeking social support for emotional reasons, used as moral support, sympathy or understanding. These two techniques have separated functions, as the result of their concept differences. But, practically, they may very often occur at the same moment (Aldwin & Revenson, 1987).

The tendency to seek emotional support is a double-edge knife. It may seem functional in many ways. The individual who has become insecure as the result of a stressful transaction, might get calmed using this managing technique. This technique may favour to get back in other techniques such as positive reconstruction, planning or active managing. On the other hand, sympathy sources might be used to release negative feelings (Carver et al., 1989). Studies have shown that using the technique



of seeking emotional support to release negative feelings is not always adaptable (Billings and Moos, 1984, Costanza, Derlega, and Winstead, 1988, Tolor & Fehon, 1987). The notion that the technique of seeking emotional support isn't always useful, shows that some techniques of stress-answering might be ill-fitted (McCrae & Costa, 1986).

Another managing technique is surrender, which consists in reducing the efforts to face the stressor, even to give up objectives when dealing with stress factor. Surrender is reflected in a feeling of powerless. In theory, surrender might occur when people expect poor facing results. Self-distraction, another managing technique, is a variation of surrender. It is pretended that self-distraction occurs when a situation prevents surrender (Carver, Peterson, Follansbee, & Scheier, 1983). Self-distraction occurs in a large scale of activities (going to the movies, watching TV, reading or shopping), which help to detach a person from thinking on the behavior dimension, or the objective in which the stressor interferes, but apparently, escaping from facing a problem, doesn't exterminate it (Scheier & Carver, 1977). The other technique individuals make use of is the release of negative feelings, therefore, expressing negative feelings to make them go away. But, according to Scheier & Carver (1977), this technique isn't very useful, as concentrating on the negative state, might increase the stress perception, also might detach the individual from active management, positive reframing or planning, which are considered to be adaptable.

The detachment from an objective, might be an adaptable answer sometimes, according to Klinger (1975), even though this answer often prevents adaptive facing (Aldwin & Revenson, 1987; Billings & Moos, 1984; Wills, 1986). Positive reconstruction, a technique, which is considered also by Lazarus & Folkman (1984), some kind of emotion-focused facing: facing in this case aims to manage the negative feelings instead of stressor itself. This technique is appreciated in positive terms, which aim to redirect a person to continue or begin the active management, planning or positive reconstruction. Another technique is denial, the rejection to believe that a stressor does exist, or the effort to behave in such a way as the stressor didn't exist. Often, is suggested that denial is a useful technique which eases the facing (Breznitz, 1983). On the other hand, denial brings other problems, by rejecting the reality of the event, the event gets more serious, making it more difficult to face (Matthews, Siegel, Kuller, Thompson dhe Varat, 1983). A third point of view is that denial is useful in the early phases of a stressful transaction, but prevents from facing it later (Mullen & Suls, 1982; Suls & Fletcher, 1985).

The opposite technique of denial is acceptance, a functional facing response. When the individual accepts the reality of a difficult situation, this seems to be engaging in the effort to take care of the situation. Acceptance seems to be more important when adapting with the stressor (Carver et al., 1989). The technique of using the substances is another response when facing a stressor by using alcohol or other drugs as a way to detach from the stressor. Naturally this technique isn't adaptable according to Carver et al. (1989). Humor is another technique consisting in joking on the stressor, which brings positive effects on facing the stress.

Another technique individuals make use of when dealing with a stressful event is self-blaming, which relates with the guilt individuals feel toward particular behaviors or habits they engage to. According to Peterson, Schwartz dhe Seligman (1981), self-blaming is associated to harmful psychological responses as distress (anxiety, fear). Shirom (2003), also showed that self-blaming, surrender and the use of substances are non-adaptable managing techniques. The last technique described by Carver et al. (1989) is turn on religion as a coping response through prayers or meditation. McCrae & Costa (1986), think that this technique may be of a great importance to many individuals. Religion may serve as a source for emotional support and as a mean for positive reframing and growth, however, its function depends by the individual itself (Carver et al., 1989).

## Personality and coping strategies

The personality has a strong connection with the nature of coping as the personality inflicts on the experienced situation, which, in turn, inflicts on specific managing techniques (Bouchard, Guillemette, & Landry-Leger, 2004; Penley & Tomaka, 2002). The personality's influence on emotions and behaviors is especially clear on stressful situations, which allows the change on choosing the managing techniques (Strelau, 2001). The personality doesn't affect only the choice of ways of coping, but also the capability to put them in action (Vollrath, 2001).

Other studies have also shown that the five personality features are in strong connection with the managing techniques and that special personality features encourage specific behavior responses. In their research they also got to the conclusion that the Extraversion feature, Being Opened to Experiences, Politeness and Consciousness are positively connected to active managing, acceptance, planning, seek of instrumental support, religion, release of negative feelings, humor and positive construction (Hooker, Frazier, dhe Monahan, 1994; McCrae & Costa, 1986; Hurtz & Donovan, 2000; Grant & Langan-Fox, 2007; Heslegrave & Colvin, 1998; Penley & Tomaka, 2002; Watson, Minzenmayer, dhe Bowler, 2006).

McCrae and John (1992), also showed that the expression of Being opened to experiences might lead to intellectual interests, that foresees the use of active managing techniques, positive reconstruction, acceptance, humor and self-distraction, which in return demand the capability to consider new perspectives. Some other studies have shown that the Extraversion feature is positively connected with active managing and positive valuation of the stressor, as well as the Neuroticism feature was positively connected to emotional support, self-distraction, self-blaming, denial and substances use (Hooker, Frazier, & Monahan, 1994; Watson & Hubbard, 1996; Vollrath, 2001; Velting, 1999).

Hooker and colleagues (1994) also showed that Politeness feature was negatively connected with managing techniques as self-blaming, surrender, substances use and denial. In their study, O'Brein and DeLongis (1996), showed that Politeness feature was positively connected with emotional and instrumental support.

In their research, Connor-Smith and Flachsbarth (2007), showed that Extraversion and Consciousness features predicted



managing techniques such as active managing, planning and positive reconstruction, as well as Consciousness feature predicted resistance to surrender impulses. Meanwhile Being opened to experiences predicted techniques which demand the capability to consider new perspectives to unexpected events. Neuroticism feature predicted weak coping strategies to release negative feelings, emotional support and self-blaming. Hemenover and Deinstbier (1996) reached to the same conclusion in their research, that Neuroticism feature is connected to inadequate ways of coping. Also in another study, the high Consciousness feature predicted low levels of surrender, self-blaming, substances use and denial (Lengua, Sandler, West, Wolchik & Curran, 1999).

In the study of O'Brien and DeLongis (1996), Consciousness feature showed a stronger connection with the active managing and planning, and negatively with self-blaming, self-distraction, surrender and substances use. In the study of Watson and Hubbard (1999), being opened to experiences, was connected with planning, managing and positive reconstruction. Knoll, Rieckmann and Schwarzer (2005), got to the conclusion that Extraversion feature was connected with positive coping through the techniques of positive reconstruction, humor, instrumental and emotional support, while Being opened to experiences was positively connected with the active managing. They also showed that the techniques used by these two features are efficient and give positive results.

# Depression and the quality of life among people of the third age

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## Abstract

*Depression is a widespread problem in third age (> 60 years old). A considerable number of elderly people and their relatives fail to recognize the symptoms for a variety of reasons. The presence of depression increases the risk of death and has a negative effect on the life of the elderly. The relationship between depression and the quality of life has often been investigated over the past years. However, in Albania studies concerning third age are very scarce. Therefore the following literature review might contribute to a better understanding of the relationship between depression and the quality of life. The study also aims to identify other aspects or factors affected by this relationship, which in turn will help service providers to promote a better quality of life, identify risk factors leading to depression and implement treatment in due time. This literature review entails articles which meet established criteria and have as their object the quality of life, depression and third aged people. The studies under consideration are cross-sectional, longitudinal etc. Mental health has an impact on the physical health, while the reverse is also true. The elderly exhibiting depression symptoms have generally speaking a poorer quality of life as compared to those who do not experience depression. Also people having a low quality of life, due to factors such as social support and physical health, are more prone to develop depression. In conclusion, studies have found a link between the level of depression and the quality of life among the elderly.*

**Keywords:** depression, quality of life, old age

## Introduction

Individuals over 65 are currently classified as elderly. Aging is an inevitable process of any living organism and is associated with the reduction of organ system capacity reserves, the ability to adapt to environmental factors and the capacity to respond to stress and stressful situations.

Besides being an inevitable physiological process, aging is one of the main factors reducing the quality of life due to its chronological, biological, social and psychological dimensions. The high prevalence of chronic diseases and disabilities in the elderly, compared to any other age group, along with a limited social life on their part, leads to the reduction of the quality of life.

Quality of life is defined as the “individual’s” perception of their position in life, in the context of the culture and value system they live in, as regards their goals, expectations, standards and concerns. Studies on life quality in relation to health have assessed the quality of life and report that it a multi dimensional concept, including physical functioning, social and psychological factors, life satisfaction, well-being, and awareness on the state of health. The physical functioning dimension includes daily life activities and effects of chronic illness (if present). The dimension of social functioning involves relationships with family members, friends and society. The dimension of psychological functioning includes emotional states such as depression, anxiety, fear, anger, and happiness.

Depression is one of the most frequent psychiatric disorders that affect third age. In studies conducted in different countries, the prevalence of depression in the elderly has been reported to reach up to 15%. Risk factors to depression in the

elderly are not very different from those of the youngest population; however exposure to these factors varies with age. Being female, problems with physical health, neurotic characteristics of personality, a history of depression, living in elderly homes, inadequate life events, and lack of social support are significant risk factors for the development of depression in the elderly. Also, depression is often associated with an increased mortality risk and low treatment levels of physical health disorders. Thus, depression can negatively affect the quality of life. Several studies have investigated the relationship between depression symptoms and quality of life in the third age. This literature review can serve to better understand this relationship and to provide an overview to quantitative studies on this subject.

## Methodology

As above mentioned, the purpose of this literature review is to understand the relationship between the quality of life and symptoms of depression in the elderly. The objectives of this paper are as follows:

- Investigate the relationship between depression and quality of life
- Understand factors that affect depression
- Discuss the role that environmental factors have on the manifestation of depression and whether these factors affect the quality of life.

In addition to the objectives, a number of research questions have been built, which we aim to address as follows.

- What is the relationship between depression and quality of life?
- What are the factors that influence the appearance of depression symptoms and do these factors affect the quality of life?
- Gender differences in psychosocial factors that lead to the onset of depression symptoms.

Keywords such as depression, quality of life, other elderly were used to select different studies. After finding a number of articles, several criteria were set to shortlist the studies that would be included in the literature review, namely:

- Extracting studies from scientific websites such as MEDLINE, PubMed, PsychINFO, etc.
- Quantitative studies
- Studies involving individuals of the third age ( $\geq 60$  years)
- Studies that show which variables may lead to depression in the third age.
- Studies that highlight the factors that affect the quality of life of the elderly.
- Studies that have as their objective the quality of life, depression levels or the symptoms of depression in the elderly.

## Third age

According to Erik Erikson, individuals develop throughout their lives. He was among the leading theorists in psychosocial theories, studying individuals to the end of their lives. According to him, individuals develop at certain stages, where they face certain conflicts, which the individual either successfully or unsuccessfully resolves. At this stage, individuals begin to think about death. This might also be due to life events such as retirement, spouse's death, change of dwelling place, and changes in social dynamics. At the final stage, the psychosocial task is Integrity against Despair. At this stage, questions on the meaning of life arise, what has been achieved, a reflection on lost or seized opportunities. Integrity to Erikson, refers to the feeling an individual experiences when s/he feels proud of their achievements and is pleased with them. With the experience of integrity, the individual feels little regret about things that could have been done. Having enough self-confidence, the integrity person appreciates the course of life and accepts the idea of closure, which makes death less frightening. Failure to accept and like oneself and the world regardless of the flaws leads to a tendency to depression. A person disposed to despair is not satisfied with his / her memories or self-image. S/he has an insufficient sense of belonging and has little time left to try again to mature or fulfill his / her desires. These people feel that they have misused their lives and experience much regret. They feel angry about those things they could not do in their lives while hoping they could turn back the time and be given a second opportunity.

## Psychosocial factors affecting the onset or intensification of depression symptoms in the third age

Psychosocial variables that are most prevalent in the third age as compared to younger age groups can be characterized as newer stressors emerging or intensified at the third age. These may include: being widowed, living alone, illness, cognitive

decline, financial difficulties / poverty and caring. Each of these variables increases at the third age, so we can observe if there are gender differences in these variables at the third age.

### **Being widowed/ living alone**

Marital status and life style are the most studied variables regarding depression among the elderly. The data show that women are less likely to be married and more likely to be widowed compared to older males. Although the literature clearly states that older people who are married are less depressed than elderly people who are separated / widowed, there is little evidence whether there is a gender difference when it comes to marital status affecting depression.

Depressive symptoms are an expected reaction to loss, but if these symptoms persist for more than two months then they may indicate a depression disorder. Older people are more likely than younger ones to choose sorrow as the best way to adapt to loss (Torges, Steeart & Nolen-Hoeksema, 2008). Compared to women, men are more likely to fall into depression after losing their spouse and being affected by it for a longer time. This may be due to the fact that the loss of a spouse can have different consequences for men and women, linked to the different roles they have in marriage: for widowed women, financial hardship is the first mediator to depressive symptoms, meanwhile for men housekeeping is the first mediator (Umberson, Wortman & Kessler, 1992).

### **Illness / poor physical health**

Depression in sick patients usually leads to higher levels of inability and morbidity. For many physical ills, related experiences, such as the need to manage the disease, limited functions or pains resulting from illness, hearing or vision loss, may provoke the onset of depression. Depression on its part makes it more difficult to treat the disease.

Since physical health is measured in a number of ways: the number of chronic illnesses, the ability to perform everyday tasks, etc., gender differences can be observed in men and women. There are gender differences in the elderly, where women experience more chronic illnesses, demonstrate less ability to perform in day-to-day tasks, and in questionnaires self-report poorer health. In a study conducted by Noh et al. (2016), found that there was no difference in score regarding depression between males and females who had not been diagnosed with any disease. On the other hand, women who were diagnosed with at least one disease were more depressed than men who were diagnosed with at least one disease.

### **Cognitive decrease/ dementia**

Studies concerning cognitive decline / dementia and depression in the elderly vary depending on other variables. In a study conducted by Geda et al., (2006), found that those who suffered from depression were more likely to develop mild cognitive impairment (MCI) or incidence of dementia with a stronger impact for those who did not have a prior history of depression.

Dementia can be a risk factor for depression as a result of psychological reactions to the cognitive and behavioral changes associated with dementia. Since depression adds another burden to the quality of life of patients suffering from dementia (and their caregivers), it is very important to treat it.

Data on depression as a risk factor for the onset or a correlation of cognitive decline are mixed. In studies conducted by Sevick, Rolih and Pahor (2000), data on depression as a predictor or correlator of dementia or cognitive decline were mixed, and no gender differences were reported. In a meta-analysis by Jorm (2000), there was a small but significant link between a history of depression and the passing of dementia or cognitive decline within a period of less than a decade, but again there is no gender difference. In a study among individuals with dementia, elderly women with mild dementia have more depressive symptoms than older men with light dementia. However, it is not clear whether a history of depression is a risk factor for dementia or cognitive decline.

### **Financial hardship/ Poverty**

Financial status is one of the most stressful events experienced by the elderly. Old people who are economically disadvantaged are more likely to experience depressive symptoms, due to exposure to chronic stressors, such as low income, exposure to unsafe and unprotected environment. Such issues can complicate treatment for low-income elderly people who suffer from depression. Moreover, socioeconomic disadvantages in early life may increase vulnerability to depression throughout life due to effects of poor nutrition, reduced educational opportunities, less access to healthcare, etc. All these disadvantages become more evident with time. Though financial difficulties and poverty are thought to be more prevalent in females than men, throughout their lives, however, few studies on depression indicate that women experience more financial difficulties and poverty than old men.

### **Care**

Caring for other people is often a must among old people. Pincart and Sorenson (2006) in a meta-analysis showed that women caregivers reported higher levels of depression symptoms compared to male caregivers. Moreover women reported higher levels of responsibility, more care hours, greater variety of caring tasks, and more personal care.

## **Problems with social support**

Deficiencies in social support, the negative aspects of the social network, and even excessive social support have been studied as risk factors for the elderly, either when they are causes or effects of depression. In particular, problematic relationships can be a factor to explain depression in the third age, including marriage conflicts, perception of family criticism, and spouse's depression. Despite the fact that old people are less lonely than young or middle aged people, loneliness is associated with depression at this age. Social support that is perceived as unnecessary or excessive may be a risk factor for depression. Increasing the level of depression symptoms associated with receiving social support is found in the elderly with physical disabilities who have a great desire for independence.

## **Loneliness and quality of life**

Despite the fact that females live 6-8 years longer than men, they have lower life quality. According to Kirchergast and Haslinger (2008), the low quality of life in old women comes as a result of social and behavioral factors. Old women may be widows, socially inactive, have income problems, and experience a series of health problems that make them feel unhappy with their lives.

Moreover, cultural habits and socio-economic factors can explain the effect of gender differences in the quality of life. Women in particular seem to experience more stress about their health, family and display low self-esteem. Also, the majority of old women cite that the inability to perform their daily tasks and pursue social activities limits their lives. On the other hand, it is known that women's body weakens faster than men's. Consequently, at the third age, they have more functional disabilities, health problems, dependence on others, and experience cognitive decline (e.g. Alzheimer) that make them feel miserable. In European countries the number of widowed women is higher than their male counterparts.

Being widowed produces a lot of negative feelings in a person: they feel stressed, frightened, worried. Moreover, the majority of widowed women become socially inactive and refuse to participate in activities. They note that their income is lower than their spouses', which makes them feel dependent on their families.

Loneliness is another problem at the third age. Abuse is one of the many factors that affect it. Often, the elderly are forced to tolerate unpleasant behavior on the part of their family members because they fear ending up being alone in a time they will most need care.

Health problems are observed more among old women than men. Age-related disabilities impair their ability to perform daily activities independently. This lack of independence or autonomy deprives them from communication or pursuing activities outside the home; they feel that their life has no longer a meaning. The death of friends (a likelihood which increases with age) increases social isolation because it is very difficult at this age to make new friends. Their income mostly goes to buy medications. Due to such a lifestyle, the elderly are vulnerable to exhibit depression and spiritual degradation. Consequently, old women stand lower in the social ladder, either because of loss of the spouse or poor relationship with other family members. Loneliness grows even more over 75 years of age because of an increased prevalence of depression and being widowed.

So, the elderly who live near their family members have social support, exhibit better mental health and less solitude. All of these lead to a better quality of life.

## **Physical illness, depression and quality of life**

Chronic pain seriously affects a person's daily activities and at the same time even the quality of their life. Chronic pain and psychological disorders are highly interrelated, affecting physical and psychosocial functioning. Various studies have shown that chronic pain is related to severe symptoms of depression. Moreover, factors such as economic disadvantage, medical complications are related to the low level of quality of life.

In a study by Akyol, Durmuş, Doğan, Beck, Cantürk (2010), the objective was to investigate the effects of overall health and personal characteristics on the quality of life of the elderly and to assess the relationship between the level of depression symptoms, pain intensity of quality of life. There was a negative correlation between quality of life, pain intensity and depression level. The presence of a chronic illness and poor education status reduced the quality of life and increased the level of depression in the elderly. The quality of life is negatively affected by the level of depression and intensity of pain. However, a number of studies have focused on being widowed as a life event that affects third age.

## **Studies that link depression to the quality of life**

The study conducted by Cao et al., (2016) aimed to look at the relationship between life quality and depression. The study included 1168 Chinese elderly. The findings of this study showed that the highest scores in terms of life quality dimensions concerned social support, followed by the environment, physical health and psychological health. Results showed that there was a negative correlation between physical health, the environment and depression in elderly people. Those who suffered from depression were older, less educated, had lower monthly incomes and were likely to report insomnia. All dimensions of the questionnaire on life quality, except for the social dimension, had a negative correlation with depression.

In their study in Portugal, Becker et al., (2018), identified the link between depression and life quality, but in this case the effect of sleep quality served as a mediator variable. The study showed that the elderly who had 6-9 hours of sleep had a better cognitive functioning, lower levels of physical and mental illness and better quality of life compared to those who slept less or more. A meta-analysis proves that depression is associated with subjective sleeping disorders (Becker, Jesus, João, Viseu, & Martins, 2016), and other activities (Dzierzecki et al., 2015; Maglione et al., 2012; Potvin, Lorrain, Belleville, Grenier, & Prévile, 2014; Rashid & Tahir, 2015). So sleep quality is considered an important variable affecting depression and other variables, such as life quality.

The study conducted by Demura & Sato (2003) had as its objective the analysis of the relationship between depression life quality characteristics of elderly living in community and compare them later by gender and age. 1302 people participated. The results of the study showed that the characteristics of depression in the elderly differed according to age groups and gender. Depression was higher among those who were advanced in age compared to those who were about to enter adult age and was higher among very old women. The main factors associated with the elderly who lived in the community were the number of friends and spirits. In particular, the increase in the number of friends was associated with reduced depression.

The study conducted by Diefenbach, Tolin, Gilliam intended to look at the symptoms of depression and quality of life in the elderly who received home-based home care services through home care programs. The study involved 66 elderly. They suffered from chronic diseases and needed home care. The results of the study showed that the link between depression symptoms and impairment of life quality dimensions was quite strong and widespread. Symptoms of depression were almost linked to damages of life quality in all dimensions.

Halvorsrud L, Kirkevold M, Diseth A, Kalfoss M. (2010) aimed at looking how symptoms of depression, physical function, health satisfaction, age and environmental conditions affect the quality of life based on Wilson and Cleary's model. The study conducted in Norway stratified the population by age, gender and living area. The results showed that the quality of life is directly dependent on environmental conditions and health satisfaction. In addition, environmental conditions indirectly affect the quality of life, mainly through symptoms of depression that the elderly display.

Xiao, YoungYoon, Bowers (2015), in their study aimed to show how way the elderly organized their lives (the comparison between elderly people living in homes vs. those living in elderly homes) had a direct effect on the quality of life of the elderly and if daily activities and depression have an indirect effect on the relationship between the way of life's organization and quality of life. Psychological factors have been identified as very important in the quality of life of elderly people who live in their homes (Baernholdt et al., 2012; Wicke et al., 2014), namely on psychological factors, depression causes poor quality of life due to low levels of social engagement and behavioral and verbal concerns (Dow, Lin, Tinney, Haralambous, & Ames, 2011). Differences in the link between the way of life organization and depression have always been shown. For example, a previous study reported that elderly people who had cognitive impairments and lived at home were less depressed compared to those who lived in elderly institutions (Nikmat et al., 2015). In contrast, another study showed that those living at homes and communities experienced more depression than those who lived in elderly homes (Chung, 2008). The findings of this study showed that individuals living in community reported better daily activity and less depression, which are related to a better quality of life compared to those who lived in the homes of the elderly. These data suggest that elderly homes themselves do not bring about low life quality, but mediating factors, daily activities and depression have a significant impact on the quality of life.

Treating depression symptoms can lead to life improvement. The study conducted by Wang, Tzeng, Chung (2014), focused on the effects of group psychotherapy on symptoms of depression and quality of life in the elderly, who live in elderly homes. Therapy was conducted once a week for 8 weeks among 96 elderly in Japan. The results of this intervention showed that depression was significantly reduced for the group who had participated in the therapy compared to the control group. Also, data analysis showed significant differences in social and psychological dimensions, but not physical and environmental ones.

## **Religion and quality of life**

A large number of studies have shown that religion is positively associated with mental health and well being at the third age (Ardelt, 2003; Koenig, McCullough, & Larson, 2001; Nelson-Becker, 2005). Various studies have pointed out that high levels of religious inclusion predict a greater satisfaction in the lives of third-aged people (Moberg, 2008, Roh, 2010). As mentioned above, social support is very important. Studies have shown that social support is also positively linked to life satisfaction in the third age (Roh, 2010; Yoon & Lee, 2007). Social support is not only a predictor of life satisfaction in the elderly (George, 2006) but has been found to be a positive result of faith in the elderly (S.J. Jang & Johnson, 2004, E. O. Lee & Sharpe, 2007). The study conducted by Park, Roh, and Yeo, (2011) among old Korean emigrants in America aimed to find out whether strong religious faith was positively related to a greater life satisfaction and whether the relationship between them was mediated by social support. Results showed that strong religious beliefs are associated with greater enjoyment of life and that social support partly explains the relationship between religion and life satisfaction. These data may indicate that religious involvement and social support can be important factors to improve the quality of life of the elderly.

One of the dimensions of life quality measurement is social support and in the elderly it is seen as an indicator of their well-being. On the other hand depression is one of the major problems in the third age. The spiritual and religious part also



serves as a strategy to cope with the various losses that the elderly experience during their lives (González-Celis, 2012a; González-Celis & Araujo, 2010). Following their previous study, Gonzales-Celis, Gómez-Benito (2013), conducted a study among the elderly in Mexico, which aimed at assessing whether social support and spirituality are indicators of life quality in the elderly and investigate their effects on depression. Individuals with higher levels of depression had poorer life quality and vice versa. There was also no change in the quality of life depending on the type of depression. There was no meaningful connection between scores in the dimension of spirituality and participation in a religious group. It was noted that individuals who participated in a group had higher scores in the dimension of spirituality, which means that affiliation in a group helps increase spirituality level, which in turn can affect the quality of life of people.

Regarding spirituality and quality of life, we can say that spirituality can be a defensive factor when used as a source to fight depression symptoms. In this way the quality of life of the elderly can be improved through psychological interventions to reduce the presence of depression symptoms. Spirituality can also be used as a source, as well as a coping strategy to strengthen other aging fields.

## Conclusions

At the end of this literature review, what we can say is that there is a negative relationship between depression and quality of life. Severe depression symptoms are associated with a poor quality of life and this relationship seems to remain stable over time. Depressed people have a poorer quality of life than those who do not suffer from depression. Based on past studies, an improvement in quality of life has been observed in people who have fully or partially recovered compared to those who have a persistent depression. Elderly people who had two or more physical illnesses had a poorer quality of life compared to people with fewer physical disabilities. In general, life quality dimensions were negatively affected by depression or symptoms of depression.

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# Best Interest of the Child

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## Abstract

*In this paper we aim to discuss the best interest of the child as one of the one of the key principles and priorities to international and domestic law. The purpose of this study is to treat the legal aspect for best interest of the child especially related to adoption institute and on the possibility of children's adoption by homosexuals, identification of the most critic cases that are related with it, and ongoing debates about the composition of the family, because more and more homosexuals aim to adopt a child therefore it is very important to clarify the criteria that have to be considered by courts in order to guaranty the best interest of the child.*

*Key words: best interest, child, parent, law, doctrine*

## Methodology

This research is combination of a qualitative and a comparative study but mainly focused on a qualitative one. It will concentrate on the analysis of the statutory national rules, international legal instruments and related case law in the field of adoption. On the other hand, it shall deal with the literature dealing with adoption laws, Hague Convention etc. Considering a variety of doctrinal articles related to this study. The research will be focused on several national legal systems.

## Best interest of the child

Children are the most delicate and sensitive beings of the planet...it's our duty to decide and act for them properly. They are the future of the country, and the main attention should be focused on children as the foundation of future. International legal instruments also the Albanian Family Code recognize that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding. According to Convention on the Rights of the Child, "...a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier .." If we refer to Family Code, there is no definition what a child means by law, but we can interpret from article 6,7 and 8 of Civil Code.

The best interest of the child principle, is an old concept that originally appeared as a standard articulated in the American Adoption Law in the mid-1800s (Kohm LM, 2009: 9). Today, this concept is changing and there are new issues to deal with. Domestic legislation sets out strict rules for making decisions about children only on the basis of their best interest. Although in any international convention or instrument for child protection, the best interest is primary, in the national legislation of different countries the context of this interest is viewed in different ways, depending on the country's socio-economic development. Due to the evolution and legal changes of children's rights in Albania, the aim is to create a normative framework and judicial practices in accordance with international standards. This interest has started to be widely recognized by social workers, practitioners and professionals working with children. International legal instruments and national legislations of

EU countries, explicitly proclaim the best interest of the child as the most important and necessary condition for the child's future. The Albanian legislation gives importance to whether the person is able to create a suitable family environment to raise and educate a child

Children's adoption by single homo/heterosexual parent should be treated based on the best interest of the child or based on the nondiscrimination of these people for their sexual orientation?

The Declaration of Human Rights of 1959 sets the best interest of the child at the highest consideration and is mentioned in Articles 3, 9, 18, 20, 21, 37, 40; The European Convention on the Adoption and Convention on the Rights of the Child also set the best interest as primary consideration.

The child's well-being is determined by individual characterizing circumstances for the child, such as the age of the child (which is related to the ability of the child to perceive), the child's growing environment and the relationship with the biological parents.

Our legislation, as well as the domestic law of the EU countries, give priority to the growth of the child by the biological parents, determining the validation of all opportunities to keep the child in his or her family, which must be accompanied with the government's supportive policies towards families with severe economic conditions, creating facilities in order to avoid renouncing parental responsibility and giving consent to child adoption. One of the main principles of F. Code is the best interest of the child. Like the Constitution, other laws have seen the minor involved in the concept of citizen without differentiating it (UNICEF, 2009: 25).

In cases where it is noted that the rights of a child are not respected, the People's Advocate may start addressing this case even on his own initiative, where he considers that the best interest of the child is not taken into account<sup>1</sup>.

Best interest of the child is a standard designed to guide judges when making child-related decisions, it is also a determining factor for specific actions, mainly for adoption (CRC, Article 21). In examining the issue of adopting a child to determine what is best for a child, the court must first rely on the child's happiness (on child's will), or on other aspects of religion, race, nationality, or economic status of adoptive parents? Which of these criteria is most important to the well-being, and education of a child?

First of all, we are not dealing with a hierarchical list by AZ, which sets out the criteria, conditions and values that adopting parents must have, but the diversity of values and circumstances that characterize the beginning of a new parent-child relationship leads the court in determining and selecting the primary criteria on a case-by-case basis and that the issue of the best interest of the child does not have strict rules.

In interpreting this interest, emphasis is placed on the child as an individual with his / her thoughts and feelings as well as the child as a subject of civil and political rights, as well as special protection (Training Manual, 2012: 16). In many cases, only legislation cannot determine the best interest for each child individually, in any particular situation. Adoption should always be allowed if it serves the child's interest, so the child's interest in wellbeing (Weisberg, Appleton, 2006: 1129).

However, the doctrine sets out a general summary list of criteria to be taken into account in determining the child's highest interest in establishing the adoption relationship, such as:

- Adequacy of the child with adoptive parents
- The consent of the child with regard to adoption
- Prospective parents' ability to raise children
- The economic situation of adoptive parents
- Change of race between parents and children (especially in those cases where adoptive and adopted children have different skin color)
- Sexual orientation of adoptive parents
- Religion, language, culture (in those cases where the child is at an age who understands and can suffer such changes)
- Age of adoptive parents and age difference between adoptive parent and adopted child
- Any other aspect that the court considers important

The best interest principle should define all policies and decisions regarding children, not allowing the prevalence of adult interest (UN Supplementary Report, Italy, 2001: 15). The obligation to respect the child's interest does not violate the rights of adults, in our case of biological parents and adoptive parents, but this interest under UNCRC prevails over other rights.

*Can a child's decision be made against his will even if it is in his/her best interest?*

Under Article 9 of the CRC, in cases involving the separation of the child from one or both parents, if the child disagrees, this action is not undertaken even though it may be in his / her interest. In cases where it is established that the child's wish is expressed under the influence of different forms from other persons, an adverse decision may be taken with his will that at the trial of the court constitutes his best interest.

In the case of Sommerfeld v. Germany, judged by the ECtHR, the applicant alleges that the German court did not take into account his request to have contacts with the daughter who was born out of wedlock, so there was a violation of his right to respect for family life and that he was the victim of discriminatory treatment.

It is based on Articles 6, 8 and 14 of the Convention. German courts based on sections 1634 and 1711 of the German Civil Code unjustifiably impose the father of children born out of wedlock in a less favoring position than the father of children who

<sup>1</sup> <http://www.avokatipopullit.gov.al/sq/të-drejtat-e-fëmijëve> date of access 31.01.2018

is divorced from the biological mother and in cases of giving custody does not take into account the child's highest interest but the case is judged on the basis of the father's status. Most importantly, the German regional court did not consider allowing contact between the child and the natural father *prima facie* in its best interest since the child repeatedly refused to meet his father. The court had the right to refuse the father's request, as long as this was not in the best interest of the child. According to Article 9, paragraph 2 of the CRC, a child who is separated from one or both parents must maintain personal relations and direct contact with both parents on a regular basis only if this is inconsistent with her best interest.

What about in case of adoption procedures of a child from a couple who has biological children, whose child's interest should prevail? Should the biological child's wish or consent be taken into consideration by the court regarding the adoption of a brother or a sister?

Neither domestic law nor international legal instruments regarding adoption and children's rights are expressed in relation to such situations. Courts are basically based on the principle that in every action taken with regard to a child, consideration should be given to the child's wishes, respecting his/her best interest, but how to decide whether one child's interest is to be met fulfill the interest of the other child? Adoption procedures according to Law 9695 "On Adoption Procedures" do not provide as part of the administrative or judicial procedures for taking the opinion of the biological child that his parents adopt a child.

Another type of adoption, transracial, often opposed by different organizations in different countries and coupled with controversial ongoing debates, is considered to be a violation of the child's interest. Courts in general, in reasoning about their attitude to decisions in relation to this type of adoption, say that such an adoption relationship would be easily evident from others, the child would have easy to understand in their age small non-biological connection with parents and that this new relationship does not mimic the natural family, as is the purpose of adoption. Given that the child's highest interest is in court interpretation, in those cases where adoption of a trans-national adoption is approved, the child is generally colored while the parents are white. This puts discriminating discriminatory positions on colored adoptive applicants, which for the application for transgressive adoption, the courts decide to violate the child's highest interests. Different scholars define trans-racial adoption as the adoption of black children by white families (Turner & Taylor, 1996: 262).

## Conclusions

As sanctioned in both international and national legislation, priority should be given to raising the child in the biological family, interfering with financial or social support.

It is important to design effective social programs and policies to sensitize or extract the family from the difficulties that have led to the abandonment of the child

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# The role of the private sector in developing the health system in Albania and governance

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## Abstract

*The private sector plays an increasingly important role in health systems in the countries with low and medium incomes. “Private health sector” includes a large variety of actors, including providers, financiers and physical and knowledge suppliers for the health sector. Boundaries between the public and private sector are often unclear, as many private actors act outside the framework health sector regulator on the basis of informality. Public sector institutions often have limited experience of engaging with the private sector due to lack of communication, concerns about sustainability, and complexity. This paper presents an analytical framework for conceptualizing the functioning of health care system governance and the role of government in the context of expanding private and public services its financing. Governance is increasingly recognized by the World Health Organization and other national and global actors, to have an essential role in the center of the health system, and central part of their healthcare sectors and strategies for development. Governance is a multi-dimensional concept, and there are norms, instruments, and pragmatic models of the administration. In our conceptual model, the government interacts with the private sector on three different levels: protecting the public interest, working with the private sector, and learning from each other. The possible roles of governance are identified in the context of a growth of the private sector. Progress indicators are also suggested. The framework recognizes many public and private sector actors, including individual consumers, civil society, and donors. These actors are in complex interconnections involving the exchange of funds, skills, inputs, services, information, influence and accountability. The framework is applied in the case of Albania illustrating how differences in context affect the nature of the administration function and approaches adopted for the governance of mixed health systems.*

**Key words:** Private Sector, Health system, Governance

## Introduction

The Albanian health system consists of two sectors, one focused on the health of the population, which is called the public health sector, or “Public Health”, and a disease-focused sector called diagnostic-curative or otherwise “Medicine” sector.

Referring to the objectives of international organizations such as the World Health Organization, a health system should have key objectives such as continuous improvement of the health of its population, high responsiveness to the needs and demands of citizens and patients, as well as fair funding, which includes support, the protection of citizens, especially the poorest from the financial burden of sickness costs.

Medicine itself consists of the public and private sector, which compete the market, a different concept from that of the commercial market, to which the main goal is the profit.

The competition between the sectors of medicine is complementary and cooperative, with the aim of providing a better quality of service and responsiveness to the needs of the patient, in terms of the opportunities offered by each sector for quality, standards, cost, applied technology, attendance and respect.

Undoubtedly, the public sector remains irreplaceable and indispensable for hospitals and university hospital centers, as a



clinical-diagnostic base, but also to the scientific, teaching, methodological centers, as well as for the continuing education and training of doctors and medical personnel.

Any health care system that does not pay attention to the elements that essentially constitute the objectives of its existence, such as equality in service delivery, justice, economic efficiency, citizen information on health issues, high security of services medical care and choice, endangers the loss of public confidence in their health system and its leaders (Gudha, A. 2008)

The organization and functioning of the health system is initiated and supported by the Government at national, local and international level through legal acts, decrees, guidelines, etc. Different countries have drafted and adapted strategies for interventions in health policies. This is previously seen in the developed countries, and at last in the countries of the region, a similar pattern of political interaction, which on the one hand tries to maintain a stable balance between market-oriented mechanisms and, on the other hand, a mix of the decentralization of the public sector, with the tendency to increase the role of the private sector in the provision of health services and their financing.

Market elements are applied to healthcare providers (healthcare personnel) in the form of payment for work performed, as well as for healthcare providers (citizens, patients), through mechanisms such as cost sharing and increased options of choice. This is associated with the increasing role of patient-citizens in the development of strategies for development of the health system and their participation in clinical decision-making.

In Albania, the history of the health system is relatively new and closely related to political developments. The beginnings of a proper health system are found during the Zog leadership. Its strong influence was from the health system according to the Italian model of its organization. With the coming of the communist system that led the country during the years 1945-1990, significant changes occurred in the health system. Like any other aspect of the economic, political, social and cultural life, the Albanian health system was oriented and influenced by the model of the Soviet Union. The health system in Albania was essentially the implementation of the Semashko type, designed for the countries of the Soviet Union, the core element of which is the centralization of competencies. During the years of implementation of this system, we have important developments both in terms of infrastructure and achieved results for a better population health. This system of organization of the health system stopped the private initiative in the provision of health services, everything was state-owned and propagated that health was free. Despite developments, this system (as in any other country where it was implemented) left behind the development of health sector (pharmaceutical, medical, dental, and public health sectors) compared to Western countries whose health systems were based health insurance.

Among the weaknesses of the centralized health system we can mention low efficiency, low quality, slow pace of change, lack of response to external changes, and unsatisfied patients with the quality of services and overlooked decision making related to health issues.

Political changes in the early 1990 brought radical changes in the Albanian health system. In Albania was implemented the mix health system with dominant features of the German health system of organization, the Bismarck health system. It should be emphasized that private initiatives in health care were allowed in 1992 and the first steps of establishing a legal basis for allowing private initiatives and equal opportunities in the market were laid.

### **The importance of the private sector in health systems**

The private sector plays an increasingly important role in low- and middle-income health systems. She has had insufficient attention due to lack of information about her role and importance. Public sector institutions often lack the skills and competences to engage with non-performing actors, without excluding motivation and interest in it (Balabanova, D. Oliveira-Cruz, V, Hanson K, (2008).

The World Bank, in the 1990s, has undertaken initiatives for the private sector as a partner in reforming the financing and delivery of healthcare, including the introduction of public access facilities in low and middle income countries, and finally re-evaluate the role of the private sector in relation to outsourcing, social reinsurance and the incorporation of public hospitals (Preker, A. & Harding, A. 2003).

The existence of a large private sector has many effects on the health care system. A high level of direct payments from the pocket for private health care is often the cause of catastrophic health spending (Das & Hammer 2007). When the public sector of the health systems are weak and poorly funded as in the case of Albania, patients and service providers may experience corrupt and informal payment phenomena (also a form of private sector unregulated practice) (Balabanova,

McKee 2004 ). The use of the private sector can lead to irresistible and poor quality care, especially for the poorest groups, who have limited alternative options (Das and Hammer 2007).

The private sector, despite challenges, often undertakes initiatives that the public sector qualifies as unsuitable and ineffective by offering an inadequate service. In this regard, the pharmaceutical and dental sector has made an important contribution since 1992 to providing a quality service despite the risks.

Referring to a World Health Organization study (WHO 2007) in 39 low and middle income countries, healthcare services were available to citizens by 20% in the public sector and 56% in the private sector. This indicates not only the tendency of citizens for a better quality service but also the bureaucracy faced in the public sector, as well as the need for regulation through policies and other legal acts that regulate the activity of respective sectors, especially the public sector.

It is important to emphasize that the private sector can have interaction and relationship with different actors of the health system such as (Dina, B. Valeria, O. Kara, H. 2008) institutions that provide health services, health policy makers. The role of this sector is complementary to the public system that fulfills the needs of the population for health services.

## Objectives and Objectives

The purpose of this study is to identify the role of the private sector in the Albanian healthcare system in the development of specific health services, increase of the quality of health care system in the areas it operates, problems it faces during the development of its activity, opportunities and challenges for development of this sector while guaranteeing equity in the market.

The objectives of this study are:

- Analyzing the legal framework and other regulatory practices that imply the private health sector.
- Finding opportunities for this sector to interact with the public sector in favor of patients.
- The study should serve as an opportunity for Albanian healthcare policy makers to make appropriate interventions in the relevant legislation.
- Encouraging a debate between the actors of the Albanian healthcare system and the patient community.

## Methodology

The study is qualitative, which is based on literature research, legal basis and data on organization, governance, management of the health system and aspects that imply it.

This paper presents an analytical framework for conceptualizing the functioning of the health system governance and the role of government in the context of the extended provision of private services and its financing. Governance has increasingly been recognized by the World Health

Organization and other national and global actors, to be a core function in the health care center, and central to their health sectors and development strategies.

## Results and Discussions

The first beginnings of the private sector in the Albanian health care system date back to changes in the political order of the early 1990s. The first sectors undergoing their almost complete privatization were the pharmaceutical sector (excluding pharmacies of public hospitals) and the dental sector (emergency dentistry and dentistry in the schools). The performance of the pharmaceutical and dental sector compared to the health care and public health sector, which have been much more marked with regard to privatization, have been more effective both in terms of quality offered to patients and in terms of access the public and the patients have them.

Also in the early 1990's there was the opportunity to develop private initiatives for both primary care (family medicine) and hospital care.

The legal changes at that time were the most important steps through which the private sector developed rapidly and helped the development of the Albanian health system. In this regard, Law No. 7670, dated 13.10.1994 "On Health Insurance in the Republic of Albania" ([www.shendetesia.gov.al](http://www.shendetesia.gov.al)) constitutes a real step by which the government not only accepts the private sector as complementary, but also contracts it to do a give health services. Pharmacists and pharmaceutical agencies that were then state-owned, are now being privatized and a large part of them that meet the pre-established conditions are contracted by the Health Insurance Institute to offer the reimbursable medicines to patients according to the respective definitions. This service has grown steadily from 1994 to 2018, as well as the number of pharmacies and contracted pharmaceutical agencies, as well as the number of medicines included in the list of reimbursable medicines. This scheme has proved efficient, flexible, and has increased the access of patients for the medications they receive.

Unlike the pharmaceutical sector, which was treated as an important partner by outsourcing its services to citizens, the dental sector did not pay such attention to the health policies that regulate its activity. Dental services remain over 90% of the games that they offer entirely private (with direct payment from citizen and patient) and less than 10% entirely state providers (emergency dentistry and school dentistry services). Despite this fact, the development of these two sectors of the health system, they had a very positive performance compared to that of medicine sector.

It is noticed an interruption of rapid development in the private sector during the years of political and social problems in the late 1990s.

In the beginning of the year 2000 there was an increasing tendency to increase the number of private medical clinics offering single services according to different specialties to patients, mainly concentrated in the large urban city.

After 2005, private hospitals started to operate in the Albanian medical market. There are currently 6 well-functioning hospital units as well as a number of clinics that are specialized in specific hospital services. These operators are concentrated in the Albanian capital city, and only one of them with several branches in other cities. In all major cities of Albania there are clinics that offer services as primary and hospital care.

The role of private healthcare institutions that provide services to patients every day is with greater importance, both in the volume of procedures, medical visits, operations, examinations and laboratory analyzes, as well as in the enhancement of

the quality of these services. Private sector not only has invested a lot of money in our health system but has brought advanced technologies, which have consequently increased the quality of health care. Law No. 10383, dated 24.2.2011 "On compulsory health insurance in the Republic of Albania", amended, created the possibility for private institutions providing health services to be contracted for certain needs by the compulsory health care fund .

Since 2014, a number of health services as in Table no 1 have been contracted for private hospitals for the provision of these services due to the overpopulation of public hospitals, increasing patient demand, and increasing the capacity of private hospitals to perform these services according to approved standards and protocols.

**TABLE 1.** Service packages covered 100% by Compulsory Health Insurance Fund (CHIF),

No	Type of service
1.	Dialysis
2.	Renal transplantation
3.	Therapy of Acute Renal Failure
4.	Pacemaker definitive
5.	Coronary Angiography
6.	Soronary angioplasty
7.	Valve interventions
8.	Congenital interevents
9.	Coronary By pass
10.	Cochlear implant for children with hearing problems

Source: Ministry of Health

The beneficiaries of these 10 packages, approved in June 2014, are covered 100% by the Compulsory Health Insurance Fund (CHIF), both in the case of receiving public and private hospitals that have already been contracted by Compulsory Health Care Fund ([www.fsdksh.com.al](http://www.fsdksh.com.al)).

The implementation of these packages can be considered as a major beginning of the application of public and private sector competition in the Albanian health system.

Another development over the last 5 years in public and private sector relations is the forms of cooperation initiated by the Albanian government. Concession and private public partnership in some health services, mainly medical, have been carried out over the years.

It is noticed a tendency of the government to organize tenders for 10 years, in some cases the subjects do not provide technical guarantees for achieving within the standards of the services for which they are contracted.

Dialysis case as a model of cooperation between private and public sector

**TABLE 2.** Number of patients treated with hemodialysis over the years

No	Year	Number of patients treated with hemodialysis
1.	2007	60
2.	2013	734
3.	2015	880
4.	2017	1050

Source: Ministry of Health

Its beginnings the Hemodialysis Service dates very late in 2007 to about 60 patients, based on the capacities the public sector provided at a time when the demand for this service was high and had no capacity for its coverage. From this moment and according to the needs, the private sector operates as a public sector planner in order to meet the growing needs for this service. Thanks to this initiative in 2013 this number reaches 734 patients treated with hemodialysis. Then in 2014 as a result of the initiatives of the Ministry of Health to concession to a part of the public health services, the Hemodialysis service was granted with a concession for a period of 10 years, thus increasing the capacity for the treatment of the patients, the number of beds, and dialysis centers in the cities of Tirana, Durrës, Elbasan, Shkodra, Lezha, Berat, and Korça.

Increasing patient care capacities is a very good opportunity that should be encouraged also in other health services for which the public sector can not develop with the flexibility of the private sector.

The last five years in the Albanian healthcare system, services trusted to the private sector through concessions or public private partnerships are as follows:

**TABLE 3.** Hospital services provided with concession / PPP (private public partnership)

No	Private public partnership, type of service
1.	Check-Up
2.	Sterilization of medical and surgical equipment
3.	The hemodialysis service
4.	Treatment of hospital wastes
5.	Laboratory examinations in medical laboratories in public hospitals

### The role of government in relation to the private sector

When describing relationships between different actors of the health system, the role of the government is understood as a Service Provider (WHO 2000) or the Health System Leader (WHO 2007) is considered to be a central role in guaranteeing a good governance of the system health care (Kaufman, Kraay 1999).

**TABLE 4.** Public and private sector cooperation tools

Protecting public interest	Cooperation with the private sector	Learning from each other's experience
Ensure good governance	Increase interventions in order to improve the quality	Dissolution of the best practices of the respective sectors in favor of the patient's interest
Ensure law enforcement	Reduce fragmentation and reach synergies	
To set the goals of health policies	To increase co-operation by creating a coalition between the two sectors	
To provide a healthcare service (access to the health system and its quality guaranteed)	Establish bodies that mediate and facilitate policy progress with common goals.	

**TABLE 5.** Forms of public and private sector engagement

Strengthen current legislation	Increase in the contribution of compulsory health insurance	Health system (public and private sector)
Applying quality standards for health services	Extending public money financing from the mandatory health insurance scheme to private operators	The private sector of the health system (dental sector, pharmaceutical sector, primary private health care sector, private hospital care operators)
Strengthening transparency and public information	Increasing the schemes that fund the healthcare infrastructure	Health system (public and private sector)
Strengthening the role of the patient and his rights	Application of the co-payment principle (to be recognized the right to use health insurances and to private operators)	Private healthcare providers
	Public-Private Partnership	Services by specification (those not provided by public operators, or in case of overload)
	Inclusion of other private and public health insurance funds	All public and private operators

## Platform for an effective approach to private and public sector cooperation

1. Platform for effective public-private cooperation (annual meetings for problem-solving)
2. Joint initiatives (eg, trainings)
3. National strategic plans and technical policy documents
4. Health Information Management Systems
5. National System of Transparency regarding health
6. Annual performance reports
7. Improve and unify treatment protocols
8. Health insurance of patients from bad medical practices (insured physician)
9. Strengthen audit practices on insurance schemes for their private sector

## Conclusions

The private sector has developed relatively recently compared to political, economic, and social development as a whole.

Health system sectors that have been subject to privatization since the early 1990s (whenever possible) have a much better performance than the public sector over the two decades of their activity.

The Ministry of Health has not responded during years to the velocity of development of the private health sector through legal or regulatory acts that regulate, specify, outline their activity not only as institutions providing health services, but also forms of cooperation with other public health institutions, as well as responding to patient requirements.

Increase cooperation between public and private operators as well as create spaces for expanding the activity of healthcare providers for services that have high demand from patients, as well as specific services for which the state does not interest to develop them .

To increase the transparency of private healthcare providers to the public, in relation to their capacity as well as the quality of the service they provide.

Consider the possibility of increasing compulsory health contributions by expanding the mandatory health insurance scheme with other services that are not currently offered, but also extended to other private operators. It is also necessary to assess the possibility of entering into the

health insurance market of funds, that imply other public health contributions, or even increase the cooperation with the private funds of health insurance.

Parity in the financial treatment based on the health contribution of the public and private sector, based on indicators of the quality of the health service. The patient should choose which operator to spend his / her healthcare contribution for a particular service that has previously been costly.

To use the potentials of potential investors for the development of certain health services through possible forms of legal-financial cooperation.

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# The challenges of legal protection of the environment in Albania

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## **Abstract**

*Environmental law is a new branch of jurisprudence and with modern technological developments lies in the focus of media and not only domestic but also global politics. Referring to the last 100 years earth has been damaged in an extraordinary way by the activity of human being and it will be very difficult to be recovered, so there was a need to take measures by governments to create the legal framework for environmental protection as it is integral to people's lives. International enforcement mechanisms are constrained by the need to have the consent of the participating states, and within the framework of the actions of these states it is possible for an international agreement to be effective. Albania, as one of the late-demo-southeastern European countries has developed a number of legal mechanisms to protect the environment, however, there are many gaps in this area of law, by not implementing some EU directives and some international laws that could regulate the environmental situation in the country. Multilateral environmental protection agreements have been ratified by Albania, but implementation and their execution has been selective. At national and regional level, environmental policies will impact the development of industry and private economies by offering an impulse for a more climate-friendly behavior through condemnation of climate-damaging behaviors. However, there is not only a positive prerogative, but also the will of the state bodies together with the citizens to be effective in environmental protection.*

**Key words:** *international agreement, legislation, environmental law, environmental protection, greenhouse effect, functional legal framework.*

## **Introduction**

The economic development of the states is now a complex issue. State policies need to be adapted depending on a proportional context of technology development, industrialization and conservation / protection of a healthy environment. The vision of sustainable development requires a constant and measured performance of economic policies that are interdependent with environmental policies, even for generations to come in the future. Developments in technology, infrastructure, energy and transport require the respect of economic policies for a qualitative environment. Climate change poses a challenge to global dimensions, which requires the effort and cooperation of all countries of the world despite the contribution they have to the concentration of greenhouse gases in the atmosphere and the negative impacts of these releases. Climate change is an international problem that requires complete solidarity, as its effects know no boundaries, while any attempts to deal with it are resisted by conflicts of interests, financial pressure groups and government caution. Such effects do not have the same intensity throughout the world, given that the countries suffering the worst impact from climate change are the ones with the fewest emissions and least capacity for countering the negative effects on their populations. International agreements can no longer hold back the environmental and social impact caused by unsustainable growth models around the world.<sup>1</sup>

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<sup>1</sup> <http://ajuntament.barcelona.cat/ecologiaurbana/sites/default/files/Barcelona%20Committed%20to%20Climate.pdf>



At European level, the use of climate policy instruments is also possible beyond state borders, as the launch of the European Union's emissions trade shows. This measure utilizes market economy mechanisms for climate protection and is subject to a very controversial discussion. Environmental legislation has its place in the European Union directives. This position is characterized by the fact that it is a little complicated, because apart from the countries that try to adhere to the EU, the community itself is under obligation. This is because the notion of the environment and its protection is present in all other directives. In this regard, the obligations of member countries are at a very high cost, not forgetting the fact that the EU was created after a major industrial development and the submission to the restrictive norms against the use of the environment would be translated into a lack of profit for economic operators in this sector. Environmental directives are only conceived under the development of science, under optics and alternatives, by which will be the path that will lead to human development. In this way, the existence of technological development and primitivism with modernity are balanced. The environmental law has several characteristic aspects. Nature rules melted in biological, physical and chemical sciences are fundamental to environmental lawmaking. There is a small number of legal disciplines that require scientific knowledge. Much of the legal field tries to regulate various human relationships. In contrast to these parts of legislation, the environmental law uses science to predict the consequences of man's behavior and activity on natural phenomena. The need for environmental law to take into account „nature laws“ inevitably leads to an interdisciplinary approach to environmental problems. Referring to the basic law on environmental protection, the coercive measures are foreseen to constitute administrative offenses: failure to notify the population by natural or legal persons of causing pollution or damage to their environment, the measures taken for limiting or avoiding and for the mode of the citizens' action, the failure to provide consumers with relevant information on goods and services that are hazardous and the potential negative effects or adverse effects.

## Evolution of the environmental right in Albania

In Albania, the right to environment has arisen during the communist regime and has been conditioned by political, economic and cultural circumstances due to the country's drastic political developments. Until the 1950s nothing can be said about the environmental right because it was not regulated by relevant legislation. Specifically, this right got into effect in 1973 with the approval of decree no. 5105, dated 30.10.1973 „On the conservation and protection of the environment“. Actually this decree was formally valid because in reality not only environmental protection measures were taken, but the reforms undertaken in the field of industry and agriculture had very serious consequences on the environment.<sup>2</sup>

The most important step taken with regard to environmental law is the treatment by lawmaker in law no. 7664, dated 21.01.1993, „On Environmental Protection“. The adoption of this law was aimed at protecting the environment as one of the main objectives for the welfare and development of society from these key strategic elements: preventing and reducing pollution of water, soil and other pollutants of any kind, preserving biodiversity by the country's bio-geographic natural base, the rational use of natural resources and the avoidance of over-exploitation, ecological rehabilitation of areas damaged by human activity or devastating natural phenomena, and the maintenance of ecological balance and improvement of the quality of life. Thus, in the scope of this law are defined the principles, requirements, responsibilities, rules and general procedures for guaranteeing protection at a high level of environment in the Republic of Albania. However, a sanctioned legal provision was made in the Criminal Code where several provisions were introduced to stop the abuse of people with the environment. Enforcement of the legal framework was made possible in a stretch and assigned to a responsible body that would guarantee the implementation of this law, and specifically it was done through the Ministry of Environment.<sup>3</sup>

With the political, economic and social changes, the environmental right went further by foreseen in the founding law of the state, and specifically in Article 56 of the Constitution, which provides that each individual has the right to be informed about the state of the environment and its protection. Whereas Article 59 / dh sanctions the obligation of the state, within its capacities, to aim for a healthy and ecologically clean environment, and the obligation of the entire society to take care of a rational use of forests, waters, pastures and other natural resources.<sup>4</sup>

In order to function at its best, it was not enough for the law to lay down the principles and scope of application but particular importance was given to how this law would be implemented by adapting to the country and the specific environmental conditions. For this reason, the law defined the way and the links through which the adoption of an activity that has an impact on the environment passes. For this reason any natural or legal person exercising this kind of activity must be provided with an environmental permit. With this permission, the state authorities charged with environmental protection aim to control environmental pollution from these kinds of activities by imposing restrictions and conditions that will predetermine the extent of pollution.<sup>5</sup>

Despite specific measures and limitations, within the framework of European family integration, remains one of the key challenges of governments over the last two decades. To become part of the EU, some legislative conditions must be met. Under the conditions of the country, a series of reforms, including political, legal and economic, should be undertaken, focusing on areas such as health, transport, economy, environment, etc. Since the environment is one of the hottest topics for

<sup>2</sup> Maho, B. "Cikël leksionesh mbi të drejtën e mjedisit", UET Press, Tirana 2009, pg. 1-2.

<sup>3</sup> Ligji Nr. 10431, datë 9.6.2011, "Për Mbrojtjen e Mjedisit".

<sup>4</sup> Neni 56, 59 i Kushtetutës së Republikës së Shqipërisë, 2016.

<sup>5</sup> <http://www.moe.gov.al>

debate at European level and not only, Albania has tried within its limited reach to follow the latest developments in this sector. In this line, the country has ratified the United Nations Convention in 1995 and the Kyoto Protocol in 2005 for the reduction of greenhouse gases in the atmosphere. Within the framework of the Kyoto Protocol implication, around 8 international conventions relating to environmental protection have also been signed: the Aarhus Convention, the Bern Convention, the Montreal Protocol, the Basel Convention, the CITES Convention. In recent years, Albania tends to play an active role in global environmental protection efforts, and this clearly demonstrates its participation in the carbon market for the reduction of carbon gas in the atmosphere.<sup>6</sup>

## **Albania's membership in international agreements and with European countries ,on environmental protection**

The United Nations Convention on Climate Change, adopted in 1994, and a number of other agreements, were the foundations for action to mitigate climate change at national and international levels.<sup>7</sup> Numerous agreements have been signed by Albania in the context of environmental protection, where the country has been active in adopting international legal practice, such as the Aarhus Convention, the United Nations Convention on Climate Change, and so on.

One of the important deals that Albania became part of was the Kyoto Protocol. In this agreement was also maintained a system of control of the enforcement of obligations. Further, it was decided to raise funds that would support developing countries within the framework of climate protection measures. The Kyoto Protocol essentially includes reducing greenhouse gases by moving to a carbon-free economy. Pursuant to this Protocol, there are opportunities to finance many projects aimed at reducing these emissions. This promotes sustainable development through the transfer of clean technologies in the country, and in the meantime crediting the reduced emission values for the account of the funding countries.<sup>8</sup>

Since 2005 when such a market started to operate and some rules and procedures were approved, the carbon began to be sold and bought. The sale for each commodity is based on the economic demand equation. The demand under these conditions is related to the need to fulfill obligations under the Protocol, concerning the states that have signed it, to which the United Nations allows, in addition to the measures they take within their territories for the application of clean technologies, even outside their territory, being cheaper when it comes to developing countries. Albania with a small territory and an inadequate industrial country, although ratifying the Kyoto Protocol, has no legal obligations and no quota to reduce greenhouse gas emissions. According to official figures from the territory of Albania, 1.8 million tonnes of carbon dioxide are being discharged, which is quite low in relation to billions of tons, of which only 1/3 of the US is discharged, which for this reason, along with India or Australia, didn't sign the Protocol.

Ratification of the agreement brought Albania not only environmental benefits but also many financial ones. The country has the chance to benefit from projects funded by developed EU industrial countries which have a high carbon dioxide reduction quota, and in this prism the country may benefit because of the low quota it has in this sector. A concrete funding is a project called *Natural Forest Recovery Assistance* and covers 25 municipalities, thus providing non-small economic benefits.

All member states have obligations in relation to the agreements, returning the share of their respective obligations to a benchmark in international climate policies.<sup>9</sup> Known notions of an international binding agreement assume that the binding nature of the obligations of the treaties is translated into actual implementation by the States and therefore equates to the effectiveness of the agreement, based on the principles of international and domestic law of the participating States.

International legislation comes into force only through the actions of sovereign states. States may stipulate that any point of agreement is „legally binding“, and in this context, the actions of each state, in the form of enacted laws, policies and regulations, are necessary to meet these international obligations. Essentially, the international classification of an agreement as „legally binding“ or politically mandatory, has little to do with what should actually be applied at the domestic level to make effective deals.

A new dimension also took the division of responsibility between countries that cause harm to each other, emphasizing the fact that in case of damage from other states, the damaged states have the right to judicial protection and to seek redress. Indemnification can be done by *restitutio in integrum*, which means restoring the status that would exist as if the forbidden act had not occurred, the full return of *status quo*, or if the reinstatement of the previous situation is not possible in whole or in part, then the state that has suffered may seek payment of an amount of money in the name of compensation for the damage.

Perhaps this is a satisfaction to the subject, but it would not be towards nature. Heavy and unmanageable injuries would hurt the beauty of the environment, but would hurt even the existence of man and other living beings.

Knowing each individual's environmental rights and obligations is important because laws provide public access to environmental information and participate in environmental decision-making. But only this, is inadequate, there must be a system of appeal at the judicial level. The right to address the court must cover not only access to information and participation but also the right to be admitted to the court when these rights are infringed. In addition to the domestic law

<sup>6</sup> <http://www.slideshare.net>

<sup>7</sup> Figer, M. "The Military, The Nation State and The Environment in The Geopolitics Reader", New York, Routledge 2001, pg. 224.

<sup>8</sup> Programi UNDP/GEF për ndryshimet klimatike. UNDP, Human Development Report 2007/2008, V/VI.

<sup>9</sup> Wang, X. Mençur, G. "Zbatimi dhe pajtueshmëria në Koventën e Ndryshimeve Klimatike dhe Protokolli i Kyotos, 11 RECIEL 181, 198 (2002).

provisions on the environmental damages complaint system, international agreements also provide for a system of genuine complaints. Referring to the Aarhus Convention, the right to go to court means that the public has the ability to go to court to seek review of potential violations of the Convention articles. In the respective provisions are provided not only natural persons, but also legal entities, such as NGOs, etc. In the relevant articles, a detailed procedure regarding the complaint is sanctioned. The natural or legal person who has sent a request for information to the public authority has the right to use the reconsideration procedures and has the right to sue against the decisions taken by the public authorities. In the legal provisions of the agreement it is stipulated that NGOs are parties with „sufficient“ interest to raise environmental claims, while for individuals it is foreseen that „sufficient“ interest is defined in national legislation. An important point is also the respecting of the procedures by member states. Everyone has the right to be heard fairly, publicly and within a reasonable time by an independent and impartial tribunal established by law that will decide on disputes regarding the rights and obligations of his civilian nature.<sup>10</sup> Thus, apart from the above, procedures are an integral part of the protection of the environment in the case under consideration, with emphasis on transparency, timing and treatment of all subjects equally regardless of their position, representation, race and nationality (in the case of natural persons).

Lastly, there has been progress in the context of environmental protection and more specifically on 24 January 2017, as a result of close cooperation with the Regional Environmental Center (REC) with the support of the German Federal Ministry for the Environment, Nature Conservation, Construction and Nuclear Safety through the „Supporting Advisory Program“ (NAP), the Albanian National Environmental Agency (KTA) presented the online Registry of Pollution and Pollution Transfer (PRTR) reporting in Albania.<sup>11</sup>

The implementation of this register and the collection of data on polluting components in the territory of Albania will increase the possibility for a more efficient assessment of the area where an environmental permit will be granted enabling the avoidance of possible conflicts with residents, and the accountability of environmental monitoring laboratories will increase as far as the accuracy and reliability of the data they generate is concerned.

## Protecting the environment in criminal terms

Albanian criminal law provides for some provisions that sanction certain acts or omissions that are punishable within the potential and real damage that can be caused to the environment. The Criminal Code provides for a separate chapter, specifically Chapter IV from Article 201 to Article 207 criminal offenses to the detriment of the environment. Referring to these provisions, constitute a criminal offense: air pollution; transport of toxic waste; water pollution; prohibited fishing; illegal cutting of forests; cutting of ornamental and fruit trees; quarantine of plants and animals.<sup>12</sup> Regarding administrative offenses, sanctions within these violations are provided for in specific laws. The difference between environmental crime and environmental criminal offenses lies in the fact that environmental crime has serious consequences for the life and health of persons, while criminal offenses have in their interior minor violations that can potentially result in non-serious damage to the lives of people within the territory in which these actions are carried out.

The problem is that Albania has not aligned legislation within the European directive. Environmental crime causes regional or global environmental damage considerably, where cross-border effects often occur. For this reason, European law has dealt with in a directive after many years of effort, later than other specific environmental areas, the criminal liability in respect of the damage caused to the environment.<sup>13</sup> In the EU envisaged directive, was provided a more detailed treatment than the domestic legislation of the community, specifying: oil spills, or the distribution of hazardous substances in air or land; transportation, storage of hazardous waste; waste disposal in inappropriate places for handling them; trade in protected species of wild flora and fauna; damage to protected habitats, etc.<sup>14</sup> The directive came as a result of environmental violations of member states, the damage of which was interstate.

## Conclusions and Recommendations

*Conclusion.* States individually and jointly make efforts and take the necessary measures to prevent, reduce and control the pollution of the environment, in one place or another, located outside the borders of their national jurisdiction. What is characteristic of all states is that often legal acts remain fictional rights (on paper), which violates the protection of environmental law and its progress.

The concept of the environment did not arise as a purely European phenomenon, but there was an intercontinental expansion. Signature of Protocols such as Kyoto, Gothenburg, etc. to reduce the emission of gases, show that the countries have considerably increased their attention to the environment, as this is directly related to the quality of life of citizens. Significant is the implementation of the signed laws and responsibilities, as well as the willingness to end the initiatives

<sup>10</sup> Article 6, European Convention of Human Rights.

<sup>11</sup> Publikim i Qendrës Rajonale të Mjedisit nr. 152: Konsolidohet sistemi i regjistrit të raportimit të ndotësve në Shqipëri, Tirana 2017.

<sup>12</sup> Neni 201, Kodi Penal i Republikës së Shqipërisë.

<sup>13</sup> Costa, A. “Environmental Crime – A Threat to Our Future”, Environmental Investigation Agency, 2008.

<sup>14</sup> Directive 2008/99/EC, On the Protection of the Environment Through Criminal Law.

that are undertaken to protect the environment. However, even with the drafting of strategies and the implementation of the steps for their implementation, there is still much work to be done in order to reflect all the problems facing the country today.

Existing legislation is not fully applied to all components and specific projections. Progress is noted in the field of justice in environmental issues. A strong gap is the lack of human resources and financial means.

In the near future, with the explosion of the rapid pace of economic development, political calculations should be able to properly manage new impulses versus expectations for a quality and healthy environment as a condition for protecting the public interest.

We must bear in mind the fact that a series of initiatives and measures need to be taken to achieve a proper position regarding the environment. In international terms, a positive diplomacy is needed on a broad international co-operation and active approach to preventing pollution sources and water protection. Harmonization of national legislation with international law on the protection and promotion of the environment in the relevant fields, as well as its strict implementation in reality, is a separate challenge for law enforcement institutions. Intensified local cooperation between neighboring countries at regional and international level, between relevant entities, for the protection of the environment and undertaking adequate and concrete measures for the protection and improvement of the environment at the state and local level (through appropriate surveillance institutions inspection) are some points that need to be taken into consideration by state structures.

On the other hand, globalization can develop global production standards. The development of environmental standards and the widespread expansion of consumer markets can lead to a progressive trend that would be reflected in global standards. Within this progressive leak, some activities that violate free competition standards might potentially be capable of causing harm to the competition as a whole. Economic globalization through unified or accepted mechanisms can change the links between the market and the government. This process exerts pressure on governments and enhances the role of markets in the context of economic, social and environmental interest. Moreover, it creates new global demands for governments to cooperate in the environmental field. This will bring convergence with oneself and pursuit objectives such as: first, determining the key links between globalization and the environment; secondly, defining problems and international multilateral agreements in areas such as finance, investment and intellectual property rights that affect environmental sustainability; thirdly, priority for reviewing policies affecting multilateral economic agreements. In this way, it is possible to analyze the incentives that play a role in trade and investment policy, the implications of which affect environmental sustainability.

*Recommendation.* At the stage of implementation of policies, strategies, plans and projects that have environmental implications, the public should be informed consistently or periodically, also based on the Constitution in Articles 56 and 59, regarding: the implementation of legal acts regulating the activity which adversely affect the environment through strategies, plans, etc.; the measures taken to protect the environment from operators, and the impacts that cause pollution from different projects; planned inspections within the framework of environmental control programs undertaken by the responsible authority;

*Conclusion.* The Conventions require the parties to ensure the right of the population to bring lawsuits in pursuance of environmental legislation that implements the criteria established by the domestic laws of the states. In Albania is already guaranteed the right of individuals, non-profit organizations, to bring legal violations of national law to both natural and legal persons (private legal entities, public legal entities). Stakeholders have the right to challenge decisions based on basic and procedural legislation. In this context, each person has the right to sue the Constitutional Court against the government if the latter does not meet its legal obligations with respect to this right.

*Recommendation.* Regarding the subjects, I recommend that individuals should have a broader range of rights to go to court with environmental lawsuits, other than legal entities that may be part of their activity environmental protection. However, the procedure is a very important part of legal certainty for a country. Procedures should be fair in terms of transparency, must be within a reasonable time, and should not be discriminatory. The ultimate goal of any administrative or judicial review process is to take precautionary measures so that no more harmful conduct occurs and the benefit of a reparation for violations in the sense of an effective harm.

*Conclusion.* Of particular importance is the approximation of Albanian legislation with that of the European Union with regard to the sanctioning of acts constituting administrative offenses or criminal offenses. There is a need to adopt a strategic plan for the development of this right in relation to the European one. The Acquis Communautaire has in its entirety the directive on environmental protection through criminal law in the foreseen detail. Albanian legislation has a number of legal provisions in the Criminal Code regarding the sanctioning of criminal offenses in the field of the environment, but has not dealt with in detail and approximated with the EU. Specifically, as outlined above, is the Environmental Protection Directive through Criminal Law

*Recommendation.* In its way to full EU membership, Albania has to adapt its legislation to the complex including the Environmental Crime Directives. Regarding the approximation of legislation, Albania needs to make steps forward by making part of the relevant legislation. The benefit of this directive is in the field of geostrategic cooperation for the development of the country in the framework of the protection and preservation of the environment at the regional level and beyond, as well as in relation to the economic benefits that the adoption of contemporary laws will take.

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# Minority Rights in Greece and Albania under the Legal Framework of the European Union

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## Abstract

*The European Union accession criteria has been subject to transformation over the years. In its origins, this organization did not have a complex accession conditions for the countries that aimed to join it, as it does nowadays. Throughout the years, the accession criteria to this Union became more detailed. On the other hand, member countries are required to adopt the “changing” international legal framework on various fields, but the traditional legal system of some of these countries cannot be challenged, and it becomes consequently “accepted”, while other countries that aspire to enter the European Union are required to fulfil all the accession criteria in order to enter the Union. For example, some countries like France and Greece do not recognize minorities, but those countries that aim to enter the European Union must pay a concrete attention towards the minorities’ rights. In this way, there can be noticed a certain “double standard” on how the European Union “treats” its candidate and member countries. Therefore, this study aims to provide with an overview on the impact that the European Union minority rights protection system interferes with the internal legal framework of the member and candidate countries. For this reason, the analysis will be focused on the examples of Greece and Albania, not only because of their status as a member and candidate country of the European Union, but also due to their geographical proximity, and some historical implications. Greece entered this union in 1981, while Albania is still a candidate country. Greece’ accession criteria into this community required only an accordance with the European Community’s standards and rules, and its steps towards minorities’ recognition are notably slow, while Albania in addition has to fulfil all the requirements regarding the Copenhagen criteria before entering the European Union. These patterns will lead to developing countries who perform better in minorities protection and developed countries that do not pay a proper attention to minorities’ rights.*

**Key words:** *Minority rights, European Union, Greece, Albania, criteria.*

## Introduction

This paper aims to analyse Greece and Albania’s attitude on the protection of minorities’ rights within the context of European Integration process, while focusing on the impact that the European Union system of human [minority] rights values has towards the internal legal frameworks of the respective countries [candidate and members].

The history of the Balkans has clearly shaped the present context of minorities issues’ in this territory. The nation-states’ formation in this peninsula brought a series of ethnic cleansing policies applied to the autochthonous population. Therefore, most of those populations that became minorities after the nation-states’ building, which at the same time were not complying with these type of states’ politics, went totally suppressed and ethnically cleansed, like it happened in Greece after the Balkan Wars (1912-1913).



Years later, after the Second World War, the formation of the European Union sought to bring peace into the “European societies”. In order to achieve this aim, it was necessary to bring these “European societies” into a harmonized political, legal and economic background. Despite the fact that the European Union was initially set up as an economic organization, its political agenda gradually enlarged while taking into consideration a series of political and social issues. The European Union accession criteria has become more complex over the years.

After the fall of the dictatorship in 1974 in Greece, the country was ready to enter the European Community. During this time, the main criteria for accession was based on a compliance with the standards and rules of this organization. The accession criteria did not include any policy regarding the minorities’ rights. While Albania is still a candidate country, and it is required to fulfil a series of conditions regarding the political, economic, and legislative issues. For those issues regarding the minorities’ protection Albania has to take several legal initiatives, despite the fact that it has made notable progress in the last years like the implementation of the law on “The protection of national minorities”. (Law no. 96/2017) It is necessary to mention a fact that despite the circumstances in which Albania has had a relatively long transitional political period from the fall of communism, its minorities have generally lived in a harmonized milieu throughout the years, and especially after the 1990s.

However, the increasing importance of international organizations like the European Union has influence Albania’s legal system as well. The European Union seeks a legal proximity with countries which aim to enter it, while some countries like Greece which is already its member since 1981 can avoid to accept the legal proximity with the Union in issues that it does not deem important, as the minorities’ rights are. Nevertheless, “Greek minority” has always been an issue in the relations between Greece and Albania, while the Albanian minority, which was created as a consequence of the Greek nation state formation during the first half of XX century, was totally suppressed by Greece after the Second World War. Therefore, today this minority does not exist for the Greek state. By its side, Greece quite often requires Albania to respect the minority rights by implementing the adequate law provisions, as seeking to convey a role model towards its neighbour country within the background of the European Union. However, Greece interference in Albanian internal affairs is not showing a role model country for what concerns minority rights, due to this country’s slow developments on minorities recognition.

In order to achieve the aim of this paper, it is important to mention first of all the definition of minority and its subcategories. Consequently, what constitutes minority for the European Union will be analysed, by mentioning the a definition of “minority” generally accepted by scholars nowadays. After this, the study will provide with an overview of the European Union legal framework and system of values on the context of minorities protection.

Considering the fact that this paper analyses two countries, Greece and Albania, first of all, there will be an analysis of Greece initiatives within the context of minorities under the system of the European Union. This analysis will follow with Albania’s position towards minorities rights in the historical and present context in which the European Union is having a crucial role. The paper will conclude with some assumptions on the European Union’s “viewpoint” towards minorities’ protection issues in the various contexts within its member and candidate countries. The summary aims to explain the reasons underlying the position of this intergovernmental and supranational organizations’ in the above-mentioned context.

## Literature Review

The system of protection of minorities’ rights in the context of European Union is and can be further analysed through various primary and secondary resources. The protection of minorities in this background [European Union] is subject to a “double standard” since some member countries of the Union do not accept to update their legal framework with the European Union’s principles which change according to the “societal” needs throughout the years, while on the other hand there are the candidate countries which aspire to enter the Union, and these ones have the obligation to fulfil every required criteria for accessing this intergovernmental and supranational organization. This fact is clearly admitted by papers prepared by the representatives of institutions of the European Union, and other authors of Greek nationality that have accurately elaborated their country’s progress towards minorities protection system. (European Parliament 2017; Grigoriadis 2008; Memisoglu 2007; Papademetriou 2012)

Another interesting point of view is conveyed in a document of an entity created by the European Commission which is the E.U. Network of Independent Experts on Fundamental Rights. In one of its papers, there is stated the most typical attitude that Greece has held towards minorities throughout the years especially since 1913, i.e. in order to exclude as many minorities as possible, Greece has identified the “foreign element” as Muslim minority, while nowadays the Muslim minority is the only official recognized minority from a “old” legal document, though still valid, between Greece and Turkey: “The Treaty of Lausanne 1923”. (E.U. Network of Independent Experts on Fundamental Rights 2005)

On the contrary, Albania a candidate country of the European Union has already implemented the Law nr. 96/2017 “On the Protection of National Minorities”, while Greece still does not have a current law on the recognition of minorities. It mainly relies on the Treaty of Lausanne (1923). In comparison to Greece, Albania has also signed and ratified other important documents on the protection of minorities as the Framework on the Protection of National Minorities. Therefore, the primary and secondary resources that are used for this study clearly convey the line that Greece and Albania have maintained and are still showing in the background of European Union minorities protection system.

## Research question, Hypothesis, Methodology

- Does the European Union hold a different approach to minorities' rights in the context of its member and candidate countries?
- Does the European Union legal system influence the national legal framework of its member and candidate countries?

The European Union holds different approaches to minorities' rights protection, within its legal framework for member and candidate countries.

This study holds an historical and present perspective of analysis. Therefore, it will be based on the collection of data: primary and secondary resources. In order to achieve the main aim of this paper, the methods that will be used are the comparative method and the inductive method. The first method concerns the fact that in order to analyse the European Union's attitude towards the minorities protection, there will be taken into consideration two comparisons between European countries, one member country is Greece, and the other is Albania, a candidate country. The second method aims to analyse the general overview of the legal framework on minorities' protection within the context of European Union, in order to arrive after this in the analysis of the reasons of the respective approaches towards minorities rights' protections.

## Minority Protection and the European Union

Being considerably important for the international system, minority protection is also one of the core values of the European Union, after the fundamental human rights protection, since its [E.U.'s] primary legal framework treats first of all the fundamental human rights rather than minorities' rights.

Before analysing the minorities' rights evolution within the European Union, it is important to define what constitutes minority in the international law. One of the main definitions that is used to describe minorities nowadays by many scholars is the Capotorti's definition. (1979) He states that:

*"A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members-being nationals of the State- possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language". (Capotorti 1979: 2)*

According to the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, there are four type of minorities that each state should recognize, if applicable. They are the national or ethnic, cultural, religious and linguistic minority. (Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities 1992: article 1, 2)

One of the first steps of the European "Union" [Community] towards minorities is seen in the "non-discriminatory" concept on nationality basis mentioned in article 17 of the Treaty of Rome (1957) of the European Community. Then, minorities' protection has received the attention of this Union in article 2 of the Treaty of Maastricht (1992). (Consolidated version of the Treaty of European Union) Since then, minority rights have gained a substantial importance due to the Copenhagen criteria.

The European Union has made steps further to improve its legal framework on the minorities' rights protection after the Treaty of Lisbon (2007). The Charter of Fundamental Rights of the European Union is a crucial document in the field of human rights, which also includes minority rights. Also, the Copenhagen criteria is an important requirement of the European Union for its candidate countries, which has been applied to the enlargements since 1993. However, the minority protection is not followed up by the Union after the country joins it, "since the European Commission loses competence on the matter of national minorities". (European Parliament 2017: 53)

The European Union has adopted and recognizes as values of human rights and minorities rights some of the main international legal acts as the European Convention on Human Rights, the Framework on the Protection of Minorities, which are documents prepared under the Council of Europe. In addition, the European Court of Human Rights has played an important role on the minorities' rights protection, since it has handled various issues concerning the minorities' rights protection. After the Treaty of Lisbon, the Court of Justice of the European Union will be more involved in the issues regarding human and minorities' rights, as a consequence of the entering into force of the Charter of Fundamental Rights of the European Union.

Its [European Union] human and minorities' rights values are based on and connected to a vast system of international and national actors and instruments as the United Nations, the Council of Europe, the E.U primary and secondary legislation, and the member states internal legislation. (see: European Parliament 2017: 26)

The European Union went a step further with the Treaty of Lisbon (2007), and the Charter of Fundamental Rights in Europe. In order to monitor the human rights in the European Union member countries, the E.U. Agency for Fundamental Rights has taken place following the Charter. This entity substituted the previous one with similar aim: the European Monitoring centre on Racism and Xenophobia. This agency releases periodically reports on the main issues concerning the basic human rights, and a certain space to these findings belong to minority issues that might rise in this context, especially to the Roma, which

constitute the main concern of the European Union as being the largest ethnic minority, whose conditions in certain countries are still problematic, like in Albania. (for Roma conditions see: Albania Progress Report 2016, 2018)

## Greece Historical Background on Minorities and their Rights' Protection under the Legal Framework of the European Union

Greece has a complex historical background in regard to national minorities. It was formed as a state through the treaty of London (1830), while it did not stop acquiring new territories from its north and east part in the following years of its state formation. After the Balkan Wars (1913), Greece had a territory which was inhabited considerably by "other" populations<sup>1</sup> rather than the so-called Helens or Greeks. Finding it very difficult to coexist with these other populations or newly formed ethnic groups, Greece tried every possible policy aiming at totally cleansing these territories by the "alien element", which would have put at risk the foundations of the newly formed Greek nation state. It was then necessary to start constructing a solid nation state with the least number of minorities.

During the exchange of populations, the Treaty of Lausanne (1923) constituted a legal act which is still evaluated as an important political and legal document in the bilateral relations with Greece and Turkey. Since Greece does not have a law that recognizes its minorities, this treaty is seen as a system of minorities protection regardless of the context and period of time in which it was prepared and implemented.

According to this document there is only one recognized minority in Greece: the Muslim minority of Western Thrace. The Muslims inhabiting this region are mostly Turks, Pomaks and Roma. Therefore, this minority is recognized on religious basis, and not a national one, even though each of them have a different nationality from each other, i.e. Turks have Turkish nationality, Pomaks have Bulgarian nationality, and the Roma are identified as another ethnic group.

The Treaty of Lausanne was prepared in a chaotic situation of the international arena. The Ottoman Empire left its dominions in the Balkans, and consequently signed the respective legal acts with the most consolidated states of that period in this territory. Greece was supported by the Great Powers, while Albania's position during the Balkan and World Wars was "misinterpreted" according to the specific geostrategic interests of the political actors. As a result, in these treaties between Turkey and Greece, the "newly formed" Albanian minority in Greece, was always excluded from these legal texts. Due to this fact, this legal text [Lausanne Treaty 1923] and the previous one signed between Greece and Turkey, the Treaty of Athens (1913), contain a legal vacuum since the Albanian population was not mentioned in none of the provisions which aimed at the regulation of the respective populations' conditions, and minorities' protection obligations. The reason for mentioning this legal vacuum concerning the exclusion of Albanians rights' protection within these legal texts is related to the fact that Albanians inhabited most of the territories that the Ottoman Empire conceded to the victorious parties of the Balkan wars like Greece and Serbia. Despite the above-mentioned facts, Greece continues to "see" the Treaty of Lausanne (1923) as an appropriate and current legal text of minorities protection system.<sup>2</sup> (Deutsche Welle, 2018)

After the World War Two, Greece had almost totally ethnically cleansed its territory. The few remaining "alien elements" in the Greek territory were continuously subject to discriminatory policies of Greek governments up to the rise in power of Mitsotakis (1990-1993). (Memisoglu 2007: 7; Grigoriadis 2008: 28; Papademetriou 2012: 28) He declared that all the discriminatory policies towards minorities would have been abolished during his governance, and important steps were taken in the background of property issues among others, as one of the most debatable issue in regard to minorities' rights context in Greece. (Grigoriadis 2008: 27, 32, 33; Memisoglu 2007: 7; Papademetriou 2012: 28) Discrimination on properties has been one of the major policies that Greece has applied to minorities that it wanted to suppress within its state territory. (see Mitsotakis declaration on admitting the mistreatment of minorities in the past of Greece: Memisoglu 2007: 7; Grigoriadis 2008: 28) Therefore, these steps, and Mitsotakis initiatives constitute an important step towards human and minorities fundamental rights' protection. (Memisoglu 2007: 7; Grigoriadis 2008: 28) Despite these important steps inside Greek territory, Mitsotakis totally denied the existence of the Cham Issue, but admitted this ethnic group's existence [an important Albanian ethnic group, part of the Albanian "minority" in Greece 1913-1945]. (see: Sadiku 2016: 70)

Another conflictual element in Greece minorities rights' protection was the Article 19 of the Greek Citizenship Code. This article put restrictions on the citizenship of non-Greek ethnic citizens like the minority of Western Thrace. The abolition of this article was deemed necessary as it might have put at risk Greece' relations with the European Union. (Memisoglu 2007: 18; also see Papademetriou 2012: 28)

Furthermore, in a press release of the Greek Helsinki Monitor in 1998, a part from assessing the abolition of this article as an important step, the need of having granted this initiative a retroactive status was considered. (Greek Helsinki Monitor 1998) However, this type of legal effect [retroactive] would have brought chaotic situations in Greece considering its historical background on minorities' treatment. In the same press release, there are mentioned the important steps that Greece took towards human and minorities' rights protection by signing some of the most important international conventions while many other ones had to still be concluded by the Greek government in the late 1990s. (Greek Helsinki Monitor 1998)

<sup>1</sup> Autochthonous population with non-Greek ethnicity.

<sup>2</sup> Referring to the visit of Prime Minister Mitsotakis in Western Thrace in 1991, and other current issues between Greece and Turkey in the 2000s, in which this Treaty is mentioned between these countries for the various issues that bind on them according to this legal act.

Greece has signed some international agreements in the field of human and minorities rights but it has not ratified some of them yet. The Framework Convention on the Protection on National Minorities, as one of the legal acts of the Council of Europe, has been signed by it, but not ratified<sup>3</sup>, unlike Albania which has signed and ratified it since 2000. (see: E.U. Network of Independent Experts on Fundamental Rights 2005: 11) In a report released by the E.U Network of Independent Experts on Fundamental Rights, it is declared that:

*“The National Human Rights Commission considers that the categorical assertion that there is no other minority in Greece than the Muslim minority of Thrace is not borne out by the facts. It would therefore be desirable that the State starts a sincere and constructive dialogue with the groups that seek recognition as minorities, based on the international conventions for the protection of human rights and minorities.”* (E.U. Network of Independent Experts on Fundamental Rights 2005: 72)

Nowadays, minorities in Greece have a more stable social and economic situation in comparison to the early 1990s, because its membership in the European Union and the participation in its political and economic programs has contributed to the creation of a better milieu for minorities as well. (see: Memisoglu 2007: 2) However, Greece is still neglecting to accept the definition of what constitutes national minorities, and this approach is not challenged neither by the international pressure nor by any specific entity of the European Union on these issues.

## **Albania’s Historical Background on Minorities and the Minorities’ Protection in the Context of European Union Integration Process**

Albania recognizes 9 [nine] minorities according to its law nr. 96/2017 “on the protection of minorities”. However, the most well-known minority in this country is the Greek minority. The Albanian state recognized this minority in 1921, during a conflictual period for Greece and Albania in their bilateral relations, but also in other multilateral relations. Greece, during the 1920s, recognized the Albanian minority as well, while on the other side it tried all the possible ethnic cleansing policies, an aim which Greece achieved after the Second World War.

However, the Greek minority status in Albania has been debatable since its official recognition in 1921. Nonetheless, it is important to mention that while Greece totally suppressed the Albanian minority in its newly formed nation state [1830-1944], in Albania during the dictatorship many fundamental human rights and minority rights were almost totally suppressed, therefore even the Greek minority was subject to these circumstances. After the fall of dictatorship in Albania, this minority tried to reacquire its rights. Following this period, Albania has made important steps towards minorities rights. Its Constitution includes in the article 20 the rights of minorities. Albania furthermore has signed the Framework Convention for the Protection of National Minorities and several other legal texts of the international system regarding this issue [minorities].

Another well-known ethnic minority, which concerns the European Union’s politics in this background, is the Roma minority in Albania. As it is in Europe, even in Albania this minority is the largest one. This minority did not have a specific recognition years ago. However, even for them, after the fall of dictatorship they could start to be organized in associations, which aimed the preservation of their traditions and integration with the rest of the Albanian society. Albania does not have a detailed statistic on their demography. The newly implemented Albanian law on minorities recognizes the Roma as one of the ethnic minorities present in the Albanian state territory. The main difference of this minority by the rest of the country is not a cultural difference, but it regards the poverty and inequalities that this minority is suffering from years, like for example the prejudices which influence most of them. The education of this minority is one of the main issues in which the Albanian government has to focus in order to find a solution. Their residences are in most of the time outside the centre of the cities; they lack most of the basic elements for a decent live. These condition puts at risk even their human dignity. Albania’s main goals for this minority are related to the education of their youth, lowering their unemployment level, which is a general challenge even for the rest of the society, and strengthening their capacities as reported in the Progress Report of the country. (2018: 31) It is important to mention that some initiatives in the regard of improving their life conditions have been made, however, the road to enhancing Roma’s life conditions is a long one.

Albania has made important progress in the field of minorities’ protections. In the parliamentary elections of 2017, national minorities were given an opportunity to participate as candidates and voters. The public broadcaster “has started to offer programs in five minority languages”, as reported in the Progress Report of 2018 for Albania. (31) The national action plan for the integration of Roma and Egyptians is continuing. There has been made some progress on the early childhood and primary education and an increased number of pupils from 2015 to 2016 has been noticed. (Albania Progress Report 2018: 31) Other fields as the healthcare and labour market have been more accessible to minorities in the last years in Albania. Nonetheless, Roma and Egyptians minorities remain still one of the most marginalized minorities in Albania. They are still discriminated by the society in terms of prejudices, as it has occurred for many years within this context. As reported in the Progress Report (2018), the vast majority of Roma and Egyptians do not have access to basic conditions of life: 48% of them do not have access to piped water, and 84% lack access to electricity. (Albania Progress Report 2018: 31)

<sup>3</sup> Greece is not the only member of the E.U. that has not ratified yet this convention, but also Belgium, France, Latvia and other E.U. member countries have not ratified it.



Since Albania's progress towards minorities' rights protection is considerably complex and detailed, there is still to be done in this context. According to Albania's Progress Report 2018, the National Committee on National Minorities "needs to be made functional", with all the necessary elements to sustain it. Despite the fact that the law on "The Protection of National Minorities" has been implemented by the state, many of its provisions still need to be concretely applied in order to improve its national minorities rights. Further steps that the Albanian state has taken in this regard is the preparation of secondary legislation in order to respond to all the issues that might arise within the context of minorities. However, the Progress Report of Albania (2016) and that of 2018, show the improvements of the country in this context, while noticing what still remains to be achieved in the short and long term.

## Conclusions

The European Union has a "double standard" approach in regard to the minority protection within its legal framework. Some countries are allowed to continue preserving the main aspects of their legal system which does not permit international norms to interfere and challenge their structures. By the other side, the European Union main aim was to preserve peace. This organization was initially created in 1951, after the Second World War was finished, and therefore it cannot change the historical background of its member countries, i.e. Greece has ethnically cleansed almost all of its territory, while having only few minorities among which: Turks, which Greek state identifies as a Muslim minority, Pomaks, and Roma which are the largest ethnic minority in European Union territory, as well. France is another example of a European Union member country, that does not recognize minorities due to its legal system principles which regard the individual as one, and does not refer to group rights, therefore there is no space for minority rights.

On the other hand, Albania and all the other countries which aspire to enter the European Union have to fulfil all the criteria as established. In contrary to Greece, Albania is a country which has not had difficulties in co-existing with other minorities throughout the years. The main conflicts that this country might have had in the context of minorities are mainly concentrated on social prejudices. On the contrary to Greece, Albania has not tried to ethnically cleanse minorities, at least it has never applied policies to its minorities, like Greece did. For this reason, minorities' issues have always been part of the Albanian state and society. If at a certain point this country has not fulfilled its obligations towards minorities protection, this fact has occurred due to the slow economic growth that Albania has had throughout the years, even in the last years.

During the last years, especially after the 1990s, when European Union put its attention towards minority protection, Greece has dealt with minorities' cases at the European Court of Justice, which is one of the main institutions that collaborates with the European Union in regard to minorities. This organization, as well, is putting more emphasis on human and minorities rights especially after the Treaty of Lisbon (2007) and the Charter of Fundamental Rights. However, the European Union legal framework on minorities is part of a larger system of the international arena.

Despite the fact that minorities protection is one of the core values of the Union, the legal instruments that it has cannot interfere considerably within the member states' internal legal systems, while by the other sides it has been easier to put major requirement on the accession criteria of the candidate countries, especially due to the increasing complexity of issues that arise due to the additional enlargements of the European Union.

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# Bankruptcy law in Albania today

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## Abstract

*It has been an evolution of bankruptcy law regulations over time in response to changing economic conditions and as well the political - economic strength of businesses in Albania. Taking in consideration that now days the number of businesses in Albania that goes bankrupt is growing, we need to focus more on the perspective of conditions that the legal system offers to resolve, this delicate issue and prevent from bankruptcy. This article aim to give an overview of the Albanian insolvency law regarding to German law, especially where we find the German principles under which the Albanian bankruptcy law in force today is based, in order to highlight the aspect in which the Albanian law requires more adjustments. This article will select as well the rights of creditors of a debtor in crisis and finally elimination of the subjects in crisis when their business continuity results not productive for the economy in general.*

*Keywords:* Albanian bankruptcy law, insolvency law, business, shortage, adjustments, economic strength

## Bankruptcy law in Albania acts harmonized in context and interdependence with other laws that affect this aspect without prejudice to its implementation

The Bankruptcy Law is also interlinked with international agreements ratified by Albania, in cases where we are dealing with a bankruptcy procedure with respect to foreign states as provided in Part III of the Law, whereby it is stated that: as long as this part contravenes an obligation of Albania deriving from the ratified agreements in which it is party to one or more states, then the requirements of the agreement will prevail (Article 172 of the Law on Insolvency). Since Albanian bankruptcy law is adapted from German legislation, it means that, in terms of the legal framework Albanian bankruptcy law applies the same system as Germany. With the development of a market economy and the establishment of clear rules, a new law was needed to reflect this situation and to fit it better. The new law shows clearly the need to adjust and to fill in on time requirements and of course to be closer to German law and to *acquis communautaire*.

The purpose of the law on bankruptcy is to establish mandatory, equal and equal rules to facilitate the settlement and collective settlement of the debtor's obligations to creditors through reorganization or liquidation of all debtor's assets and their distribution (articles 1-2 of Bankruptcy Law Nr.110/2016). It is designed to facilitate the company's rehabilitation or reorganization when such a possibility is commercially viable. For this reason, the new bankruptcy law has focused most on the procedure and principles that go through this bankruptcy procedure. This law stipulates that the bankruptcy procedure shall collectively pay the debtor's obligations through the liquidation of all his assets and the distribution of proceeds, or by reorganizing or reaching another new agreement, with the principal aim of maintaining the activity of the debtor<sup>1</sup>. Companies that are in difficult financial conditions find in the new law the best practices to be financially rehabilitated.

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<sup>1</sup> See. Neil Hannan, Cross-Border Insolvency: The Enactment and Interpretation of the UNCITRAL Model Law, Springer 2017, p.3. See also, Valbona Ballkoci, Najada Senja, Albanian Bankruptcy Law: where we stand, where we go // European Scientific Journal, Vol.11, No.22. 2015.

Regarding the bankruptcy procedure costs or bankruptcy issues, which appear as one of the obstacles blocking the procedure when the entity is insolvent, the law provides for the creation of a guarantee deposit to cover these costs. The law envisages extending the circle of subjects to which their bankruptcy effects extend, including individuals, consumers or traders and legal persons such as private and public legal entities, profitable and non-profit as well as units.<sup>2</sup> In case of bankruptcy abuses, there will be administrative responsibility, while penal cases are foreseen only in the Criminal Code as we can find as follows in the article.

## Bankruptcy Law and Civil Code

At the very first provisions of the new law we notice the connection that Albanian Bankruptcy Law has with other laws. Thus, in the explanation of the legal term of Article 3 that this law provides the term, “secured creditor” which means that is the creditor with valid rights on hostages or any other form of insurance recognized by the Civil Code or other laws according to the debtor’s property. According to the Civil Code, Part IV, Title III, provides that “the means to secure the execution of the obligation” may be: Criminal Condition (Articles 541-545), warranter (Articles 585-600), Caption and Privileges (Articles 601-607). Regarding the ranking of creditor claims, we differ from the rankings made by the Civil Code, in accordance with Article 605. According to the Bankruptcy Law, secured creditors have priority over the preferred creditors, unsecured creditors and final creditors. This law regulates the classification of creditors and their rights in Chapter II. If we do an analysis of these articles, we see that Article 38 of the the Bankruptcy Law sets out the preferred creditor whose claims stem from termination of the employment contract up to 3 months before filing a claim for bankruptcy procedure ... while Article 605 of the Civil Code provides that preference is given to loans deriving from salaries of employment or service relationships ... not more than 12 months. Here we are dealing with two different provisions regarding the likelihood of creditors’ preference. On the other hand, Article 607 of the Civil Code states: “This article does not apply to bankruptcy proceedings, provided by special law”<sup>3</sup>. But since the Civil Code has been changed, it turns out that the implementation of these norms is not a problem because they resign one another so that only one of them will be applied.

## Bankruptcy Law and Civil Procedure Code

The creditor’s request for the initiation of bankruptcy proceedings is accepted by the bankruptcy court only if the creditor proves that the debtor is in a state of insolvency. Thus, the creditor must prove the existence of a matured and unpaid obligation. According to the provisions of Article 517 of the Albanian Code of Civil Procedure it is stated: “The court executor, when commencing the execution, sends to the debtor a notice to voluntarily execute the obligation contained in the execution order, setting this for a period of five days, when the object of his is a page or obligation for food and for 10 days in all other cases “.

According to the definition given to the bankruptcy measure<sup>4</sup> by Bankruptcy Law, Article 3 point 20, we see that the assets subject to Article 529 of the Code of Civil Procedure are not part of the bankruptcy proceeding. According to this Article are exempted the seizure of the property of the debtor to the items of personal use and his family<sup>5</sup>. As a result of Articles 69 and 70 of the Bankruptcy Law, all the rights of ordinary creditors for execution to the debtor’s property end with the opening of a bankruptcy proceeding. According to the Code of Civil Procedure, the regular judicial execution of a debtor’s activities (which has not been completed by the executor before the opening of the bankruptcy proceedings) becomes invalid and cannot be continued. In this case, the bailiff must submit the assets to the debtor or the proceeds that have been made from the sale of these assets to the insolvency administrator. A bankruptcy procedure may be initiated by a debtor in a state of insolvency or in most cases the creditor of the debtor is the one who requires the opening of bankruptcy proceedings. And when a debtor has some creditor, we see that the bankruptcy procedure appears as the most efficient method of enforcing claims of creditors than the separate use provided by Part IV of the Civil Procedure Code, namely articles 510-617<sup>6</sup>. Article 7 of the Bankruptcy Law determines who is involved in the circle of subjects against whom a bankruptcy proceeding may begin. The announcements and announcements of bankruptcy court decisions (according to Article 12 of the Bankruptcy Law) are made in accordance with the provisions of the Code of Civil Procedure (Articles 128-144 of the Civil Procedure Code).

<sup>2</sup> In German law there has been changes over the last years. In that respect, it was the clearly expressed intention of the German legislature to make insolvencies more attractive for all parties involved. The 2012 reform of the German bankruptcy code is shown to have contributed towards the goal of achieving legal parity with other major European economies in the competition of bankruptcy codes, especially due to improved access to self administration and the provision of a preinsolvency umbrella procedure. See, Christian Köhler-Ma, Chapter 11 Bankruptcy German Style, May 2017.

<sup>3</sup> Ligji Nr.7850 dt.29.07.1994 “Kodi Civil i Republikës së Shqipërisë”.

<sup>4</sup> Masë e falimentimit është tërësia e pasurive dhe të drejtave të debitorit në datën e fillimit të procedurës së falimentimit, si dhe pasurive dhe të drejtave të fituara gjatë kësaj procedure, brenda territorit të Republikës së Shqipërisë ose jashtë saj, përveç pasurive që janë të përjashtuara nga ekzekutimi i detyrueshëm, siç parashikohet në Kodin e Procedurës Civile.

<sup>5</sup> Sipas nenit 529 të Kodit të Procedurës Civile në sende të përdorimit personal hyjnë: veshjet, mobilet, ushqimet, libra, vegla muzikore, mjete arti ... e të tjera deri sa janë të nevojshme për jetesën e debitorit dhe familjes së tij.

<sup>6</sup> Ligji Nr. 8116 dt. 29.03.1996 “Kodi i Procedurës Civile i Republikës së Shqipërisë”.

## Bankruptcy law and family code

Article 68 of the Bankruptcy Law stipulates that a debtor, a natural person, has the right to deduct from the bankruptcy measure the minimum of living expenses. That is, they have to fulfill the basic needs of the debtor, minor children, guardians or those who attend the school up to 25 years old. According to the obligations deriving from the legislation in force and by meaning that for a special arrangement, the provisions of the Family Code are considered<sup>7</sup>. But the obligation to feed between parents and children is found in Article 197 of this law. So as a result we can say that the debtor has the right to request the exemption from the measure of bankruptcy to the monetary value that is set for the subsistence minimum and for those expenses that are included in the obligation for food for minor and adult children.

## Bankruptcy Law and the Law on Commercial and Commercial Companies

In this law, respectively articles 190-205, we find the rules for liquidation procedures of companies<sup>8</sup>. Instead of the bankruptcy term, this law uses the term termination as well that gives to the companies the opportunity to step up the procedure to end their existence. And when a debtor under this law submits a claim for liquidation, and then there is a request for the opening of bankruptcy proceedings under the Bankruptcy Law, then the procedure of the last law must be followed by interrupting the procedure of the first law. We find this in support of Article 38, point 2 of the Civil Code where it is expressly stated: "When a person is in a state of insolvency, the provisions of the Bankruptcy Law shall apply instead of those for liquidation." While in Article 64 of the Bankruptcy Law we find the personal responsibility of a partner / shareholder as the result of failure to fulfill the obligations in the quality of the member of the board of directors.

## Bankruptcy Law and Criminal Code

Pursuant to the Law on Commercial and Commercial Companies under Article 13 states: "Persons who have been convicted by a final court decision for the commission of criminal offenses provided for in Chapter III of the Special Part of the Albanian Criminal Code for a term of up to 5 years from the term of punishment, cannot hold the functions of the legal representative of a company, cannot be a member of the board of directors or of the supervisory board, nor a representative of the shareholders in the general assembly." In the Law on Bankruptcy, we find this in Article 43 (d). On the other hand, Article 65 provides for the debtor's obligation to provide information and to cooperate by making public any situation related to the bankruptcy procedure. Also, the cases when the court decides according to Article 60 and have forbidden the administration and disposition of the property which passes to the management of the bankruptcy administrator. The meeting point between these laws is found in articles 193-196 of the Criminal Code where criminal offenses are prescribed in the field of bankruptcy. Exactly Article 193 says the term of "provoked bankruptcy: - deliberate transfer of a legal person to bankruptcy is punishable by a fine or up to three years of imprisonment<sup>9</sup>. Article 194, however, provides the definition of expression: concealment of the state of recovery - the entry into commercial business relations with third parties, in order to hide the state of bankruptcy, is sentenced to a fine or up to five years of imprisonment. Article 195 deals with the concealment of property after bankruptcy, which means concealment of property after bankruptcy of a legal person in order to avoid consequences is punishable by a fine or imprisonment of up to seven years. Finally, Article 196 refers to the breach of obligations, which means in the case of bankruptcy the violation of obligations by a legal person also constitutes criminal contravention and is sentenced to a fine or imprisonment of up to two years.

## Exceptions

Regarding the circle of subjects to which a bankruptcy proceeding may begin, Article 7, paragraph 7 of the Bankruptcy Law provides: The Bankruptcy Law does not apply to insurance companies, banks, pension funds, investment securities in value and other institutions that deposits from public or other financial institutions for which the bankruptcy procedure is regulated by a special law. Thus, this law applies to non-bank institutions, according to the legislation as provided by the legislation on Banks in the Republic of Albania<sup>10</sup>.

## Conclusions

To conclude, we can draw the following conclusions:

In this judgment, we conclude that this law needs to recognize and treat the property and contractual rights of other persons who have legal relations with the debtor in a state of insolvency. According to the Bankruptcy Law, the most important

<sup>7</sup> Ligji Nr. 9062 dt. 08.05.2003 "Kodi i familjes".

<sup>8</sup> Ligji Nr. 9901 dt. 14.04.2008 "Për tregtarët dhe shoqëritë tregtare".

<sup>9</sup> Ligji Nr. 7895 dt. 27.01.1995 "Kodi Penal i Republikës së Shqipërisë".

<sup>10</sup> Ligji Nr. 9662 dt. 18.12.2006 "Për Bankat në Republikën e Shqipërisë", Ligji Nr. 8269 dt. 23.12.1997 "Për Bankën e Shqipërisë".

principle is the principle of enforceable legislation which provides: As far as this procedure is concerned, the Bankruptcy Law applies to all other laws and the provisions of these laws will be applicable to bankruptcy proceedings, as long as they do not contradict the provisions of this law. The Bankruptcy Law guarantees protection of the personal interests of creditors in the process of bankruptcy, also removes from the circulation non-viable civilian subjects. So, we see the Bankruptcy Law as an economic protection of the subjects involved in the flow of goods and services. In this sense, for a more just and efficient implementation, in order to simultaneously assist the state's economy, it should be applied in accordance with other laws.

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# Privatising dispute resolutions and its limits- alternative dispute resolutions or state courts?<sup>1</sup>

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## Abstract

*Every government should provide to the citizens means for the adequate protection of their individual rights and freedoms. The means are the courts to which the citizens have the right of access. State has to pay for the civil justice and manage to reform the court system. Nowadays, consumers and investors around the world try to resolve their disputes in a speed and effective manner. Civil justice plays a crucial role in the life and culture of a state and provides the legal structure for the economy to operate effectively and the same time has the function of providing authoritative and peaceful resolution of justice making social justice, economic stability and social order. Today the consumers and investors are requesting an impartial and independent court to give effective solution for their internal disputes or cross-boarder disputes. States around the world are involved in deep reforms time after time, spending a lot of monies that usually are paid from the taxpayers and at the same time the consumers and investors didn't found the speed and effective solution of their disputes through a fair trial under the constitutional principles or international law. Nowadays, around the world the question arises, whether state authorities would not be more suitable guarantors of the public interest than law firms and other profited-oriented operators in the market. Alternative dispute resolution (ADR) is a mechanism, which give a solution in this direction, helping to complement the shortcomings of state adjudication. If a state doesn't manage to reform the court system then has to forget about it and to provide some consumer and investor ADR instead. Privatising dispute resolution nowadays, means to comprise the mechanism for dispute resolution alternative to state justice, referring to commercial and investment arbitration, consumer ADR, online dispute resolutions for consumers. ECtHR has found the ADR as an effective mechanism as long as has been guaranteed the fair trial under the article 6/1 of the Convention (ECHR). Recent EU legislation requires each member state to have a consumer dispute resolution body for all the consumer disputes, trying to establish the EU platform on online dispute resolution. Also, the international legal framework provides the possibility that the investors have an arbitration clause in their contract. Seems that there is a total privatization of the dispute resolution, but there is a limit indeed. ADR mechanism, even concurring the state courts still remained interfaced by the possibilities to apply for the annulment of the arbitral award or its non-recognition. Albania has invested a lot of monies in the court reform and has failed to provide an effective and speed trials to the investors and consumers. The court system is found corrupted and not effective in guaranteeing a due process. ADR is found as an effective mechanism for the foreign investors in almost of the international contracts. Also, consumers and internal investors are using the ADR mechanism to resolve their disputes. Albania is implementing a judicial reform, and is going to harmonize the legislation with international and EU legislation. In this framework, ADR is an important mechanism towards the solution of the consumer and investors disputes. But still the Albanian courts have to control on the end the ADR judgments trying to guarantee the public policy in the country.*

**Key words:** *civil justice, court, disputes, privatization, alternative dispute resolution (ADR), ECHR, EU Regulation, consumer, investor, annulment, non-recognition, public order.*

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## State as guarantor of the fair trial in the dispute resolution

### Civil justice and state courts as a public good

The state provides certain goods whose value depends upon their public provision, such as defense, security, education and health. But some of these goods can also be provided or produced by private individuals. An attempt to privatize '*intrinsically public goods*' is considered from some authors self-defeating, as the value of the goods is conditioned upon the identity of the agent producing it.<sup>3</sup> Nowadays discussion is in the terms of discussing the terms of the two forms fulfilling the functions or services such as public bureaucracy and private entrepreneurship. Through the privatization could be realized the objectives of the government in a proper way, but some authors considers the privatization a liability of the government, rather an asset, due to the loose fidelity on the part of private entities to the promotion of the public good. In this framework, some authors based on the concept of '*inherently governmental functions*' consider that some state functions are well executed and provided from the public agents rather than the private agents. In their broad discussion, they had concluded that some decisions must be made and some actions must be executed by public officials and ought not to be privatized.<sup>4</sup> Adopting laws is the job of the public entities and on the other hand, the execution of a criminal decision is still the job of another public entity. It is true that the private agents in providing certain goods are more capable than the public agents and as consequence more capable in executing the function of the state. Nowadays, is a clever solution that certain goods and services been provided from the private bodies, as long as it helps in the fulfilling of the government's objectives and in the quality of the services to the citizens, but on the other hand some goods must be provided only from the public entities.

Judiciary has to be understood as an essential element of a democratic political order.<sup>5</sup> Owen Fiss has argued that judges has the capacity to make a special contribution to the social life, which derives not from their personal traits or knowledge, but from the definition of the office in which they find themselves and through which they exercise power.<sup>6</sup> It is very important how the judges do justice. Civil justice has a social and economic significance, but the adjudication is a very important process. Judges are considered fundamentally political creatures and democratically accountable. The defense of human rights and the rule of law is a legitimate task for a judge.<sup>7</sup> Courts have the power to make binding decisions relied on the Constitution and law, which are binding for everybody, including all the other branches of government.<sup>8</sup>

The definition of Civil Justice does not include only the substantive law affecting civil rights and duties but the machinery provided by the state and the judiciary for the resolution of civil justice disputes and grievances. The administration of civil justice includes the institutional architecture, the procedures and apparatus for processing and adjudicating civil claims and disputes.<sup>9</sup> Civil justice serves a private function, in providing peaceful, authoritative and coercive termination of disputes between citizens, companies and public bodies.<sup>10</sup> The role of the government is to serve the free market economy and it does this by providing personal security, and providing a legal system for the protection of rights, most especially property rights for the enforcement of the contracts, and for the resolution of contractual disputes.<sup>11</sup> Law is a public good and everyone enjoys its fruits merely by living in a society and that an unlimited number of people can benefit from the legal principles at no additional costs.<sup>12</sup> There is a political will of the State to provide the civil remedies that the citizens realize their civil rights and claims when their private rights are infringed. Without an effective civil justice system, substantive civil laws are no more than words and that the rule of law becomes an aspiration rather than a reality.<sup>13</sup> Einstein has stated that '*Imagination is more important than knowledge. For while knowledge defines all currently know and understand, imagination points to all we might yet consider*'. Images of justice help determine the acceptability and success of the process associated with those images.<sup>14</sup> The judge should be independent, impartial and neutral. But is it possible that the State provide to the citizens an effective judiciary? Is the judiciary a monopoly of the State? According to the doctrine and to the practice, the State has been not always effective in providing the civil justice to the citizens. The reforms in providing the judiciary, appointment of judges should be driven by a notion of 'democratic accountability' that sought to achieve a balance between the need to secure the transparency of the appointments procedure, and the requirement of judicial independence.<sup>15</sup> European Court of Human Rights has found in a lot of cases a breach of article 6/1 of the Convention because of the length of proceedings, missing of the access to the Court and on the end breach of a fair trial. The right to a hearing, access to the court are crucial principles of the civil justice. Courts are designed to investigate individual grievances, and that such an investigation is crucial for protecting

<sup>3</sup> See, Harel.A, Why Law Matters, 2014, Oxford legal philosophy, p. 65

<sup>4</sup> Ibid, 66

<sup>5</sup> Gearey.A, Morrison.W and Jago. R, 'The politics of the common law- Perspectives, rights, processes, institutions', 2013, Routledge, second edition, p. 208

<sup>6</sup> Fiss(1979):13).

<sup>7</sup> Gearey. A, ... , p.218

<sup>8</sup> See, Harel. A,... p.194

<sup>9</sup> Genn.H, Judging Civil Procedure, Cambridge University Press, 2010, p. 10

<sup>10</sup> Ibid, p.16

<sup>11</sup> Capaldi.N, The ethical foundations of Free Market Societies, 20 J. Private Enterprise 30, 37(2004)

<sup>12</sup> Caplan.B &Stringham.E, Privatising the adjudication disputes, p.11

<sup>13</sup> Genn.H..., p.18

<sup>14</sup> Gearey.A, ...p.275

<sup>15</sup> Ibid, see, ..., p. 212



the right to a hearing.<sup>16</sup> To provide a fair trial or due process relied on the main principle of the access to the court and right to be heard the domestic rules of the civil procedure should be developed and reflect the standard of the ECHR and of the ECtHR. Procedural law has been considered as an essential feature of the politics of democracy and as consequence object of radically and frequently reforms.<sup>17</sup>

Some of the authors have considered that adjudication is a public good and something more than a public service but the civil system remains a private and a public good as long as the public is able to access the machinery for enforcing their rights and that the procedures for enforcement are fair.<sup>18</sup> The civil courts and judiciary may not be a public service like health or transport systems, but through the performance of this critical, social and economic function, the judicial system services the public in a way that transcends private interests.<sup>19</sup> In a society the citizens benefits from the interpretation of the law by the judges and of the resolutions of the disputes in both cases when the parties in dispute is the State and individuals or both individuals. Professor Dame Hazel Genn has considered that the machinery of civil justice sustains social stability and economic growth by providing public processes for resolving civil disputes, for enforcing legal rights and for protecting private and personal rights and to a certain extent people takes that for granting. But on the other hand he has argued that exist a degradation of the courts, which he has found related to different factors starting from the lack of the financing from the government till the development of the new profession of mediator competing the legal profession.<sup>20</sup>

Over years, the judicial system is considered slow, costly and complicated. The State not all the time is doing the best on the financing and effectiveness of the judiciary. Historically the civil courts were financed jointly by the taxpayer who paid for judges and court buildings, while the rest of the cost of civil justice was met out of court fees. In this way the costs are covered between the taxpayer and the litigants.<sup>21</sup> Nowadays, some of the states have difficult to quantify the costs for the civil justice, as long as the judiciary has been seen as one natural areas of the government activity. In some other jurisdictions has been accepted that judicial system should be provided by the government, as long as it is not possible to exclude the individuals from access to justice and these goods tend not to be produced in private markets because people can consume the good without paying for them.<sup>22</sup> Nowadays, court users are expecting that the fees income be used to improve the civil court service than to be used for the legal aid.<sup>23</sup>

States are less interested to invest in their civil justice system, meanwhile the reforms has an invoice for the budget and not always successful in simplifying the judicial system and speed up the process.

On the other hand the private market of the legal professional is offering alternative dispute resolution concurring the state courts which help to resolve in a due time and with professionalism the disputes of the consumers, commercials, and investors. This is called privatization of the civil justice.

From dispute resolutions benefits the parties in the dispute and society and this is the reason why is considered as a public good. Nowadays this public good is provided from the court and from the capable private sector. When we speak for privatization we have in mind the privatization of the state enterprises. In the economic term, privatization is much more than the simple transfer of ownership, the alteration of the rules of the squalifications and modern technology and in reality its implementation revealed on the political situations, changes and continuity in the modes of governing. On the other hand, withdrawal by the state is neither homogenous nor total. The state disengaged from the direct management, but is engaged in the management of the social realm, in modernization policies, or in the management of external economic relations.<sup>24</sup> As such, state is the main actor in supervising and guarantee the standard of the civil justice provided from the private professionals.

## Problem with the state courts

An old German saying goes: "*Before courts and on the high seas we are in the God's hands*". Civil justice system has the social purpose to provide a modern and efficient system that delivers justice and enjoys public confidence. Judges has the direct responsibility for the decisions on direct impact in the life of the parties in dispute and further citizens.

The Government has the obligation to provide the judiciary system and to guarantee the fair trial, the impartiality, neutrality and the independence of the judiciary. But, the reality is different from what the government proclaimed on the judicial system. In a lot of cases, the courts failed to provide the fair trial, and in some others provide injustice to the citizens. Usually, the public courts are supported by taxes, the court services are under-priced and the courts have little incentive to serve customers or control costs.<sup>25</sup> The trials take too long and there are not so many efforts of the courts to reduce the long process and lead the parties settling the disputes before reaching trial. The trial except being too long, is very expensive taking in consideration not only the fees of the parties' lawyers but also other expenditures that are covered from the taxpayers in the

<sup>16</sup> Harel.A,... p.214

<sup>17</sup> Gearey.A. p. 222

<sup>18</sup> Genn.H..., pp 23, 24

<sup>19</sup> Ibid, p.26

<sup>20</sup> Ibid, See pp. 181, 182

<sup>21</sup> Genn.H, ... p.45

<sup>22</sup> Ibid, p.47

<sup>23</sup> Ibid.p.50

<sup>24</sup> Hibou.B, Privatizing the state, 2004, Columbia University Press, p.47.

<sup>25</sup> See, Caplan.B &Stringham.E,... p.7

well-functioning of the justice. The problem with the civil process has to be cost, complexity and delay and the blame is laid to the layers than to the parties and to the court. Professor Dame Hazel Genn relied in his research didn't found positive the portrayal of the civil justice system. Nowadays, people like to have more access to justice and less access to the court.<sup>26</sup>

The governments try to undertake and implement reforms to solve the problems of the judiciary, but not always they realize to be successful. The reforms consists on the legal framework related to the civil process and length of the proceedings, training of the judiciary, increasing the court financing from the state, encouraging alternative dispute resolution. The states are trying to limit appeals in particular cases as much as possible and mostly lead the parties to settle the small claims and particular cases regulated by law. Also, there are some efforts to rule the disciplinary of the lawyers in civil procedures, when they contribute in the length of the proceeding. Mostly in all the countries, there is identified the need for modernization, simplification and harmonization of the legislation on civil procedure, the reduction in the costs of the litigation, promotion of the principle of the fairness, timeliness, proportionality, transparency, efficiency and the accountability in the civil justice system including the responsibility of the parties and lawyers to comply with the ethical obligations relating to truth telling, honesty and efficiency. But, usually it is common that the reforms and the policy are made in dark, as they are concluded in the absence of a quantitative or qualitative research on the functioning of the civil justice.<sup>27</sup> In some countries are spend a lot of money for the assessment of the civil justice, but that assessment has been not based on the true database and evidences and as consequence the reform has been not effective and meet the objectives. The reform to be effective should be relied not on the perception of the citizens and politics but on the caseload of the court and a professional analysis of the civil court decisions in a long period of time faced to the standard provided from the international mechanism such as the ECHR and the jurisprudence of the ECtHR.

Professor Dame Hazel Genn stated that *'In a profession where appointment effectively means appointment for life, are we clear enough about who the supreme exponents of professional judging are? Would we be able to describe in detail, to analyse those characteristic and thus refine our selection process?'*<sup>28</sup> It is true that Professor Genn is speaking for the judges in the common law system, but the problem with the judiciary and the situation of the civil justice seems to be the same in all countries around the world. Maybe, because the states failed to realize deep analyses and to limit costs in this direction, the solution has been to alternative dispute resolution.

The access to the civil courts is restricted by some factors: (i) Parties in the dispute mostly has to hire an advocate; Claimant has to pay the fees and taxes in the court; Parties in the dispute has to spent time and money before the trial and during the proceedings till the final judgment; sometimes people feel wee and find very stressful the proceedings in the court.

Nowadays, there is a clear message that litigation and adjudication are bad and disagreeable, while settlement and, in particular ADR are attractive and in everyone's interest. Some authors has considered that as a decline in trials and degradation of the public court, but some others has considered as sign of a healthier society that resolves its conflicts without the intervention of the judiciary and without judicial determination.<sup>29</sup>

Alternative dispute resolution is partly a creature of the sate, under the urge of the private actors, consumers, traders, investors. Some authors states that if state don't manage the court system, they have to forget about it and provide some other ADR instead.<sup>30</sup>

But, even the problem of the judiciary and the international recent policy on ADR, I agree with Professor Genn that we need to re-establish civil justice as a public good, recognizing that it has a significant social purpose which is important to the health of the society.<sup>31</sup>

## Privatising Dispute Resolution – Arbitration alternative to state justice

### Efficiency of arbitration over State Courts

The courts have a strong contribution to the social and economic well-being and people can take such a public good for granted. In the frame of 40 years it is evident the growth of the alternative methods for dispute resolution, creating the flexibility to the people to resolve their disputes out of the courts and mostly to withdraw the appeal of the final judgment, with the purpose to realize *de facto* their individual rights.

On a daily basis and even for mundane purchases people often waive an important right: the right to go to the court.<sup>32</sup> Mostly, the alternative method of dispute resolution tends to be used in commercial cases, insurance cases, family cases, labor cases etc.

*'Alternative'* feature of the ADR poses a threat to the monopoly of the justice distribution of modern states. Via the liberal and rational-based theories, ADR has an element of resistance that incentivizes the disputants to continue utilizing it. Parties

<sup>26</sup> See, Genn.H, Paths to Justice, Oxford: Hart, 1999, p.1

<sup>27</sup> See, Genn.H, ... pg.63

<sup>28</sup> Ibid, p. 180

<sup>29</sup> Ibid, pg.51

<sup>30</sup> Sturner.M, 'ADR and adjudication by state courts: competitors or complements' in 'The role of consumer in ADR in the administration of justice', SELP, 2014, p.29.

<sup>31</sup> See, Genn.H..., p. 183

<sup>32</sup> Ghodoosi.F, International dispute resolution and the public policy exception, Routledge, 2017, p.49

are free to opt for ADR and choose it because they feel they can 'participate' in the process of shaping justice.<sup>33</sup>

Under a Eurobarometer survey done in 2010 ('Consumer Empowerment'), almost 50% of the all consumers throughout Europe would not go to court for a sum at stake up to 500 Euro.<sup>34</sup> People find a speed, non-costly and efficient solution for their dispute. ADR is a solution found by the governments, seeking to improve the range of options available for dispute resolutions, providing cost control, stripping down of procedure and active case management.<sup>35</sup> Some authors has considered that people has more access to justice, but less justice.<sup>36</sup> Also, Professor Genn is thinking the same, and is concerned with ADR and its main product mediation, stating that: 'The outcome of mediation is not about *just* settlement, it is just *about* settlement'<sup>37</sup> He raises concern about the access to justice for individuals and about the form of the civil justice that the citizens need, which should not measured simply in term of speed and cheapness.<sup>38</sup> Harel concludes that public institutions are more accountable to the public interest than private individuals and, consequently is wrong on instrumental grounds. He found the state courts more protective of democracy or freedom than private adjudication justifying with the judicial review.<sup>39</sup>

Some other authors argument that superiority of ADR over the civil courts, it is because public bodies has not incentive to be efficient, and private entities do; and public bodies usually don't know what is efficient, meanwhile the private bodies know better. This happen because private adjudication in contrast to the public courts would be free and try to experiment all the time what the client thinks and like. As consequence they conclude that the government should respect the will of the parties for a final and binding arbitration.<sup>40</sup>

Public trial has some advantages: (i) on the end there is a binding decision, which some times becomes a binding precedent; (ii) the trial provides procedural safeguards designed to ensure a due process;(iii) judges are trained and professional; (iv) the judges are obliged to respect the legal framework and protect people's individual rights. But also has disadvantages: (i) judicial process is costly; (ii) delay till the final judgment ;(iii) potential to destroy the relationship between the parties; (iv) parties have no control over the process and the outcome; (v) parties has not the possibility to choose the judge; (vi) rigidity of the process and uncertainty of the outcome.<sup>41</sup>

A lot a reforms on civil justice in the entire world has been implemented with the purpose to divert the legal disputes away from the courts into mediation, which has been considered as a strategy that will increase the access to justice. The interest in ADR jurisdiction is group up in parallel with the failure of the courts to provide to the citizens fair trial according to the due standard. This is a possibility for the states to reduce the costs and clear the caseload of the court. Except the legal framework, in this process, the court is involved directly inviting the parties to settle the case through negotiation or mediation.

Private adjudication has a lot of benefits to the peoples because they can decide to the rules of the proceedings, have flexibility, pay less money for the adjudication. A modern and efficient civil justice system means a system that delivers justice and enjoys public confidence. ADR allows the parties to choose to settle their dispute, save costs and time, selecting the procedural rules that they consider as the most convenient, and are more amicable than the trial process. But exist also doubts in relation to 'privatization' of the adjudication. ADR are essentially private, differently from the court where it is a public hearing. Privacy is good but the justice is done in open courts. On the other hand privacy of ADR may hamper the justice and the fair trial, which used to be provided in open courts. The proceedings may turn costly, when the dispute is taken to the court *de novo*. Not all the private adjudication held to one standard, differently from the standard requested from the state court, precluding the creation of the precedent.

Apart the challenges of the ADR, nowadays people choose to file there their cases on small claims because they don't want to litigate or have not the proper budget to realize that. Traders and investors seem to feel good with the privacy and the speediness of the ADR. Also, the states are more comfortable to realize their objective on civil justice through ADR and encourage people and the courts to use such alternative forms for the resolutions of the disputes.

## Due process in the arbitration under the ECtHR case-law

People have the right to go to the court, but ate the same time they have the right to waive from the right to go to the court. People want to have access to justice, but not access to the court. They express the will to find alternative forms for the dispute resolution. People want to have access to justice, without going to the court, but they pretend to have a due process relied on the main principle of the civil proceedings which are in conformity with the legal order in state in which the decision is going to be enforced. Article 6(1) of the ECHR is apparently applicable to the courts, which are established by law, also is applicable to the international arbitration. There is a relation between the human rights and the international arbitration. The ECtHR has found that article 6/1 is applicable in the international arbitration. In the case of *Strain Greek Refineries and Stratis Andreadis*

<sup>33</sup> Ibid, pp. 52, 59

<sup>34</sup> Eurobarometer No.342, 2010, p.217

<sup>35</sup> See, Genn.H, ... pp 68, 103

<sup>36</sup> See, C.M.Hanycz, 'More access to less justice: efficiency, proportionality and costs in Canadian civil justice reform' Civil Justice Quarterly, 27:1 (2008); H.Genn, ... p. 71.

<sup>37</sup> Genn.H, ... p.4

<sup>38</sup> Ibid, p.77

<sup>39</sup> Harel.A, ...p. 227

<sup>40</sup> Caplan.B & Stringham.E, .. pp 15-16

<sup>41</sup> See, Fiadjoe.A, *Alternative dispute resolution: A developing world perspective*, Routledge, 2004, p.31, 32.

v. Greece<sup>42</sup> the Court has found that ‘... Article 6-1 applies irrespective of the status of the parties, of the nature of the legislation which governs the manner in which the dispute is to be determined and of the character of the authority which has jurisdiction in the matter; it is enough that the outcome of the proceedings should be decisive for private rights and obligations...’<sup>43</sup> and in following concluded that ‘...The arbitration court allowed the applicant’s claims in part by a decision which was final, irrevocable and enforceable both under the terms of the contract itself and the terms of the Greek law... The applicant’s right under the arbitration award was ‘pecuniary’ in nature, as had been their claim for damages allowed by the arbitration court. Their right to recover the sums awarded by the arbitration court was therefore a ‘civil right’ within the meaning of article 6/1’<sup>44</sup> In this judgment, the ECtHR established a minimum procedural guarantees to develop the content of article 6/1 of the ECHR in the international arbitration. The Court in its jurisprudence has accepted that the right to a fair trial referring to the access to justice, reasonable time, independence and impartiality of the tribunal, equality of arms is applicable also to non-judicial procedures. In the case *Lithgow and others v. United Kingdom*, the Court has concluded that with tribunal it is not to understand the court of classic kind, but also it may comprise a body set up to determine a limited number of specific issues.<sup>45</sup> Arbitration is a creature of the state delegation and is established and organized by law. Arbitrators substitute the judges, and they are obliged to provide the same standard of the access to justice as the courts do. ECtHR has made the difference between forced arbitration, imposed by law and voluntary arbitration under the agreement of the parties. In case that international arbitration is imposed by law then the parties has not the possibility to waive from the international arbitration justifying with the access to the justice. This has been concluded from the Court in the case *Bramelid and Malmstrom v. Sweden*.<sup>46</sup> In forced arbitration the Court came on the conclusion that under the Convention, ‘the State has to provide a judicial mechanism to control and guarantee the fairness and correctness of the arbitration proceedings which they considered to have been carried out in conformity with the fundamental rights’.<sup>47</sup>

In the cases when there is an agreement between the parties, the parties can’t waive from the international arbitration and raise a dispute on the denial of the access to justice under article 6/1 of the ECHR. The Court has accepted the voluntary agreement for arbitration if not concluded under pressure and constraint. However access to court is not absolute. In several cases the Court has found the right of access to court may be subject to legitimate restriction, where the individual’s access is limited either by operation of law or in fact, whether it pursued a legitimate aim and whether was a reasonable relationship of proportionality between the means employed and the aim sought to be achieved.<sup>48</sup> In the case *Deweere v. Belgium*, the Court concluded that it is possible to waive the right to hear the case before a court in civil cases.<sup>49</sup> In the case *Suda v. Czech Republic*, the Court found applicable article 6/1 concerning the access to justice not only in voluntary or forced arbitration but also of the third parties agreement to arbitrate, concluding that ‘... the applicant could not be required to institute arbitration proceedings to which he had never consented and risk that the arbitration tribunal would rule on the merits of his case’.<sup>50</sup> In this case the Court came to the conclusion that ‘no problem arise in the field of article 6 when it come to voluntary arbitration freely consented..., meanwhile when it is forced the proceedings must offer the guarantees provided by article 6/1 of the Convention’.<sup>51</sup>

The Court concluded that waive by will from access to the court is accompanied by waive of right to a public hearing. The Court has found that the public hearing is not absolute and in special circumstances is allowed.<sup>52</sup> The Court has concluded that if there is a will of the parties, the privacy of the process is accepted and there is not a breach of the article 6/1 of ECHR.<sup>53</sup> In this framework, waive of a public hearing in international arbitration has been regarded as effective for Convention purpose.

Independence and impartiality are two other essential guarantees under article 6 of the ECtHR. Such guarantees have been considered very strong safeguards under the Convention. In the case *Fragner v. Austria*, the Court concluded that ‘Independence is related to the manner of appointment of the member’s court and their term of office, the existence of safeguards against outside pressures and whether the tribunal presents an appearance of independence found that there are two requirement to be met regarding impartiality’.<sup>54</sup> Meanwhile, according to impartiality the Court has concluded that a subjective and objective requirement are to be met, meaning that the tribunal must be free of personal prejudice or bias and that the tribunal must offer

<sup>42</sup> Case *Stran Greek Refineries and Stratis Andreadis v. Greece*, no. 22/1993/417/496, dated 9 December 1994.

<sup>43</sup> *Ibid*, § 40

<sup>44</sup> *Ibid*

<sup>45</sup> See, *Lithgow and others v. United Kingdom*, (no. 9006/80; 9262/81, 9262/81, 9265/81, 9266/81, 9313/81, 9405/81), dated 24.06.1986.

<sup>46</sup> See, case *Bramelid and Malmstrom v. Sweden*, no.8588/79 and 8589/79.

<sup>47</sup> See, case *Jacob Boss Söhne KG v Germany*, (no. 18479/91), dated 2.12.1991.

<sup>48</sup> See, case *Axelsson and others v. Sweden* (no. 11960/86), dated 13.07.1990; *Momcilovic v. Croatia* (no. 11239/11), dated 26.05.2015

<sup>49</sup> See, case *Deweere v. Belgium*, no.6903/75, dated 27.02.1980.

<sup>50</sup> See, *Suda v. Czech Republic*, (no.1643/06), dated 28.10.2010, §46; *Day S.R.O and other v. Czech Republic* (no. 48203/09), dated 16.02.2012, § 33.

<sup>51</sup> *Ibid*

<sup>52</sup> See, case *Hakansson and Sturesson v. Sweden*, no.11855/85, dated 21.02.1990; *Nordstrom-Lehtinen v. The Netherlands*, (no. 28101/95), dated 27.11.1996; *Kolgu v. Turkey* (no.2935/07), dated 27.08.2013; *Day S.R.O and other v. Czech Republic* (no. 48203/09), dated 16.02.2012

<sup>53</sup> See, case *Alexon & Others v. Sweden*, (no.11960/86), dated 13.07.1990; *Day S.R.O and other v. Czech Republic* (no. 48203/09), dated 16.02.2012

<sup>54</sup> *Fragner v. Austria*, (no.18283/06), dated 23.09.2010.



sufficient guarantees to exclude any legitimate doubt.<sup>55</sup> In this sense, such guarantee seems to be unwaivable, but in the case *Suovaniemi and other v. Finland*, the Court concluded that *'the applicant's waiver of their right to an impartial judge should be regarded as effective for Convention purposes'*<sup>56</sup> In the arbitration, the parties are aware of the characteristics of the arbitrator and by free will they waive from access to court and choose access to arbitration.

Recently, another guarantee under the article 6/1 *'the right to appeal'* has been judged from the ECtHR. The waiver of a right to appeal against arbitration award is found inadmissible from the Court in the case *Tabanne v. Switzerland*.<sup>57</sup> In that case the Court found that *'The applicant had, without constraint, expressly and freely waived the possibility of submitting potential disputes to the ordinary courts, which would provided him with all the guarantees of Article 6.'* The Court found the waiver of the right to challenge an international arbitral award by the free will of the parties in the agreement. The Court has concluded that some restriction by law on the right to challenge the arbitral award did not appear disproportionate to the aim pursued, to provide flexible and rapid procedures, while respecting the applicant's contractual freedom.<sup>58</sup>

The Court considered the non-enforcement of a final arbitral judgment as a breach of the due process, meanwhile the parties agreed to waive from the access to court and the same principle it will be applied as in the case of the final court judgment.<sup>59</sup>

For the moment ECtHR has not referred to other guarantees of Article 6(1) of the ECHR, but they could be treated in the same way as the other rights in the meaning that they can't be waived in advance, although case by case the exception could be made.<sup>60</sup>

Nowadays, high cost of the arbitration and the impossibility to claim, some authors referring to the standard of the ECHR, and the case *Banifatemi, Dutco* has considered as denial of the access to justice.<sup>61</sup>

There is a direct responsibility of the state to guarantee the standard of the ECHR in the national level. It is true that the State has not a direct responsibility for the arbitrator's decisions, but the State has an indirect responsibility for the violation of the rights under Article 6(1) of ECHR and should put the restriction through law using other mechanisms to control the private adjudication and protect the public order, including the access to justice which prevail over the party autonomy.

## Arbitrations as a mechanism of dispute resolution in today's reality

### The international and European standard of ADR

ADR is found as a solution to have a speed and non-costly adjudication. The types of ADR are different, starting from negotiations, mediation, hybrid forms and finally arbitration. In the negotiation process parties are going to settle the case without the need of a third person and without spending money. Apart, in the mediation it is a third party who is requested from the both parties by will to give a solution.

Arbitration is a process in which a neutral third party or a panel of neutral parties renders a decision based on the merits of the case. The parties in arbitration are able to agree on the arbitrators, procedural rules which could be more convenient for them. The arbitration is much more amiable than the trial process. The arbitrator's award could be final and binding or advisory if the parties agree in that way.<sup>62</sup>

Also, there are some combined processes called *'hybrid process'*, which is nothing more than a combination between the mediation and arbitration. Naturally not all the mediation results in a final resolution. In med/arb the neutral third party starts as a mediator and if not result in a solution then he ceased the mediation and he become an arbitrator who then renders a final and binding decision for the parties. The other hybrid form is arb/med, where the neutral third parties under the request of the parties starts the process as an arbitrator and delivered a decision which is not shared with the parties immediately and then he becomes a mediator and attempts to facilitate a resolution between the disputants. If the parties reach a solution in the mediation then the arbitral award will be destroyed and if they are not able to reach a solution during the mediation then the decision of the neutral third party will be released to the disputants and that is binding for them.<sup>63</sup>

The parties have agreed by will to include an arbitration clause in their contract as an alternative to court to resolve their disputes. The parties to arbitration can maintain some control over the design of the arbitration process. The rules of arbitration process in some situations are set out by statute or by contract and in other circumstances the parties work together

<sup>55</sup> Ibid

<sup>56</sup> See, *Suovaniemi and other v. Finland*, (no. 31737/96), dated 23.02.1999.

<sup>57</sup> See, *Tabanne v. Switzerland*, (no. 41069/12), dated 1.03.2016

<sup>58</sup> Ibid, §§24,25

<sup>59</sup> See, case *Regent Company v. Ukraine*, (no.773/03), dated 29.09.2008; *Kin-Stib and Majkic v. Serbia* (no.12312/05), dated 20.04.2010.

<sup>60</sup> See, Ringquist, *Do procedural human rights requirements apply to arbitration-a study of Article6(1) of the ECHR and its bearing upon arbitration*, 2006, www.lunduniversity.lu.se, p.39.

<sup>61</sup> See, *Decision of the French Court of Cassation in the case of Yas Banifatemi*, dated 6.11.1998, 20.2.2001; in the case *Dutco*, dated 7.01.1992.

<sup>62</sup> See, *Fiadjoe.A.,...*, p. 27

<sup>63</sup> Ibid

to design an arbitration process, which appropriate to their dispute.<sup>64</sup> The decision of an arbitrator usually is final and binding, but may be advisory when the parties agreed that the arbitral award been non-binding and the dispute been court-ordered. In the case that the parties agreed to resolve by arbitration, the award is binding, even the parties change mind and are not happy with the final award. Arbitration clauses are separable from the main contract and the issues of the competence have been resolved in the arbitrator's favor.<sup>65</sup>

International arbitration nowadays is found as the most popular and common mechanism to adjudicate the dispute out of the court. Urged on by powerful private actors, the major trading states ratified the 1958 New York Convention. The extraordinary development of the New York Convention regime has been driven by competition among these same states for arbitral business.<sup>66</sup> The New York Convention during years has served as an international tool in providing the legislative standard for the recognition of the arbitration agreements and court recognition and enforcement of foreign and non-domestic arbitral awards. Under the NY Convention, the central obligation imposed upon States Parties is to recognize all arbitral awards within the scheme as binding and enforce them, if requested to do so, under the *lex fori*.<sup>67</sup> In this frame work, during the Conference on International Commercial Arbitration 20 May-10 June 1958 the state parties has been encouraged to uniform the national law on arbitration which would contribute to the effectiveness of the arbitration in the settlement of the dispute.<sup>68</sup> NY Convention has served as a tool for the harmonization of the legislation on arbitration around of the world and in following the various organizations drafted the Model of UNCITRAL to uniform the rules of the arbitration in commercial disputes for all the states contractor parties in the Convention. Under the Article 2 of the NY Convention, contracting states are obliged to recognize the agreements in writing under which the parties undertake to submit to arbitration the disputes. '*Agreement in writing*' includes an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams. The arbitration tribunal<sup>69</sup> has the competence to resolve the dispute, unless it finds that the agreement to arbitrate is null and void, inoperative or incapable of being performed.

Following New York Convention of 1958, in Geneva on 1961 was signed the European Convention on International Commercial Arbitration with the purpose to remove certain difficulties that may impede the organization and operation of international commercial arbitration in disputes related to physical or legal persons of different European countries. This Convention was another tool which served that many states in Europe elaborates their internal legislation embracing arbitration for the resolution of the cross-boarder commercial disputes.<sup>70</sup>

The effectiveness of the arbitration depended upon its judicialization, although the theory of judicialization was not developed with international arbitration in mind.<sup>71</sup> In the judicial model, which depends upon the construction of hierarchical authority, arbitrators render justice, at a minimum, by ensuring due process and maximizing legal certainty for present and future users of the system.<sup>72</sup> Convention for Settlement of Investment Disputes (ICSID)<sup>73</sup> is a model of the effectiveness of the mandatory procedural rules in the investment arbitration, which provides facilities for conciliation and arbitration of investment disputes between Contracting States and nationals of other Contracting States. Under the Article 25 of the ICSID Convention, the Center has jurisdiction on the conciliation and arbitration of the any legal dispute arising directly out of an investment between a State and a national of another State, which the parties to the dispute consent in writing to submit to the Center. The jurisdiction of the Center covers an unknown number of foreign investments disputes referring to the bilateral treaties between the states, rather than being conferred in a case- by- case basis. This model of investment arbitration is found effective because of the judicialization, the principles and rules applied from tribunal, more or less as the courts do, when they resolve the contractual disputes and when determine liability for compensation under investment treaties. Nowadays more competences are delegated to the investments arbitrators, who have the authority to apply the mandatory law and the arbitral case law on investments referring to the ICSID and bilateral treaties between states. There is an obligation of the states to review and renegotiate the treaties under the consolidated case law of the Center.

Under the 1958 NY Convention, an ICC<sup>74</sup> initiative, pro-arbitration states in the major trading zones have explicitly recognized the autonomy of the arbitral order as a legal system.<sup>75</sup> The ICC Rules of 1998 and 2012 are considered as mandatory procedures, centralizing the functioning of the international arbitration increasing the administrative control on the final award of the arbitrators. The recent legal framework of the ICC is competitive to that of ICSID. The intensification of party

<sup>64</sup> Ibid, pp 30, 31

<sup>65</sup> See, Sweet.Stone.A & Grisel.F, "The evolution of international arbitration"(Judicialization, Governanace, Legitimacy), Oxford University Press, 2017..p.26

<sup>66</sup> Stone Sweet.A..., p. 233

<sup>67</sup> New York Convention, 1958, " On the Recognition and Enforcement of Foreign Arbitral Awards"

<sup>68</sup> See, Final Act of the United Nation Conference on International Commercial Arbitration (E/Conf.26/8Rev.1) available at [www.uncitral.org](http://www.uncitral.org)

<sup>69</sup> The New York Convention is applicable not only on the arbitral award rendered by the appointed arbitrators for each case, but also those made by permanent arbitral bodies to which the parties have submitted. (Article 1)

<sup>70</sup> See, Article 1,2 of the Geneva Convention, 1961

<sup>71</sup> See, Stone Sweet. A,... p.21

<sup>72</sup> Ibid, .... p.33

<sup>73</sup> ICSID Convention, dated 18 March 1965, entered into force on October 14, 1966. The provisions of the ICSID Convention are complemented by Regulations and Rules adopted by the Administrative Council of the Center, pursuant to Article 6(1) (a)-(c) of the Convention.

<sup>74</sup> International Chamber of Commerce Paris, (ICC), Institutional Arbitration.

<sup>75</sup> Stone.A..., p.79



conflict has pressured dispute resolvers to construct procedures that are harmonized with the principal and rules of the trial and able to maintain the legal system effectiveness.<sup>76</sup>

Also, the European Community has stressed the importance of developing an area of freedom, security and justice, in which the free movement of persons is ensured. In this framework, the Community has adopted measures in the field of judicial cooperation in civil matters for the proper functioning of the internal market where the principle of access to justice is fundamental. The European Council in the Tampere meeting in 1999 called for alternative, extra-judicial procedures to be created by the Member States.<sup>77</sup>In this regard, in April 2002 the Commission presented the Green Paper on alternative dispute resolution in civil and commercial matters referring to the situation in European Union. As consequence, in 2008 has been adopted the Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 “*On certain aspects of mediation in civil and commercial matters*”, which is applicable only to mediation in cross-border disputes, without preventing the Member States from applying such provisions also to internal mediation process. The Directive is applicable to cases where parties agreed to use mediation, mediation is ordered by a court, or in which national law prescribes mediation.<sup>78</sup> Mostly, the mediation according to that directive has been used in commercial and consumers disputes. Consumer ADR has existed in parts of Europe for some decades, but only this decade became important at the level of European policy on dispute resolution and the Mediation Directive has served as a tool to resolve the cross-border consumer disputes, transforming the regulatory system and form an effective European approach.<sup>79</sup> In addition to the Mediation Directive, a series of regulatory measures have included references to Consumer Dispute Resolution based on the Article 114 of TFEU, which stressed the need for a high level of protection for consumers Directive 2013/11/EU (On Consumer ADR)<sup>80</sup>, followed by the Regulation No.524/2013 (ODR).<sup>81</sup> Under this Directive CDR, by 2015 all the EU member states have full coverage of CDR, building upon that an ODR platform, providing the consumers access to high quality, transparent, effective and fair out-of-court redress mechanism, without preventing the parties from their right for access to court.<sup>82</sup> According to the Article 2 of the CADR, the Directive is applicable to procedures for the out-of-court resolution of domestic and cross boarder disputes concerning contractual obligations stemming from sales contracts or service contracts between a trader established in the Union and a consumer resident in the EU through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.<sup>83</sup> Internet has created the world online trade and e-commerce, faced with the difficulties for the consumers. Consumer protection has been one of the key issues addressed in the Digital Agenda for Europe, launched by the European Commission in 2010 (COM (2010) 245), where one objective has been the improvement of ADR systems for e-commerce and improvement of access to justice on line.<sup>84</sup> According to this new EU legal system, CADR systems have huge potential to deliver not only effective, but also cheap and quick solution to the disputes between consumers and traders arising from the sale of goods and services. States are responsible for the quality of CADR system, although not requested that been organized and financed from the state authorities, but monitors the functioning of the CADR system and certificates the ADR entities. The Directive ensured that the ADR procedure is free of charge for consumers or available at a nominal fee under the control of the state and the consumers have not the obligation to be represented by a lawyer.<sup>85</sup> Some solutions are on the speed of the process, which is provided to be realized in 90 days from the date on which the ADR entity has received the complete complaint file.<sup>86</sup> In this regard, a better functioning of domestic ADR and cooperation between ADR entities, contribute, step by step, to a better performance of the redress mechanisms of consumer’s rights in cross-border situations.<sup>87</sup>

The requested standard of the ADR in the European level has not difference with that in the international level such as: independence & impartiality, transparency of the proceedings, effectiveness, legality and fairness. The minimum standard in EU concerning the Consumer ADR level following the Resolution of the European Parliament on 14 November 1996, has been provided through two recommendations, the 98/257/EC<sup>88</sup> and the 2001/310/ EC<sup>89</sup>, filling the gap left from the Recommendation

<sup>76</sup> Ibid., p.115

<sup>77</sup> See, Tampere summit of the European Council, 15-16 October 1999

<sup>78</sup> See, Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008, ‘On certain aspects of mediation in civil and commercial matters’, Art. 1(2), 2.

<sup>79</sup> See, Creutzfeldt.N, ‘Alternative Dispute Resolution for Consumers’ in ‘The role of consumer ADR in the administration of justice’, Sturner. M, Inchausti. F, Caponi.R, SELP, 2015, p. 3.

<sup>80</sup> Directive 2013/11/EU of the European Parliament and of the Council “On alternative dispute resolution for consumer disputes and amending Regulation (EC) No.2006/2004 and Directive 2009/22/EC, starting implemented by July 2015.

<sup>81</sup> Regulation (EU) No. 524/2013 of the European Parliament and of the Council of 21 May 2013 “On online dispute resolution for consumer disputes and amending Regulation (EC) No. 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), starting implemented by January 2016.

<sup>82</sup> CDR Directive, Art.1

<sup>83</sup> Ibid, Art.2

<sup>84</sup> COM (2010) 245, A digital agenda for Europe

<sup>85</sup> CDR, Art. 8(c), (b)

<sup>86</sup> CDR, Art 8 (e)

<sup>87</sup> See, Inchausti.F, ‘Specific problems of cross-border consumer ADR: What solutions?’ in ‘The role of consumer ADR in the administration of justice’, Sturner. M, Inchausti. F, Caponi.R, SELP, 2015, p.57.

<sup>88</sup> Rec 98/257/EC ‘On the principles applicable to the bodies responsible for out of court settlement of consumer disputes’, dated 17 April 1998.

<sup>89</sup> Rec 2001/310/EC “On the principles applicable to the bodies responsible for out of court settlement of consumer disputes”, dated 19 April 2001.

of 1998. The Directive 2013/11 EC sets out four minimum standards to be complied with any case if they want to operate properly in a Member State not limited to the independence and integrity, transparency, accessibility and special protection of personal data. They are not limited because there are further safeguards regarding the rights of consumers, traders and third parties entrusted with ADR to guarantee the procedures of arbitration, which I have elaborated for the safeguards of arbitration in general and are applicable to the consumer arbitration.<sup>90</sup> As consequence, the safeguards provided through the European legal system in Consumer ADR have proved a great success as an alternative to court proceedings, bringing the parties closer to find an agreement trying to reach a win-win solution what is important in the field of consumers and traders, as long their relationship can often survive beyond the conflict. This is a good example for all kind of arbitration and proves the success of the judicialization of arbitration competing the access to court, that the parties are no more interest in.

### The consolidation of minimum standard regarding ADR in Albania

Albanian Constitution provides that *'the law constitutes the basis and the boundaries of the activity of the state'*<sup>91</sup> and *'the Republic of Albania applies international law that is binding upon it'*<sup>92</sup>. Meanwhile, Article 41(2) provides that *'Everyone, for the protection of his constitutional and legal rights, freedoms, and interests, or in the case of an accusation raised against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law'*.

It is clear that the legal system in Albania provides that people has the right of the access to the court to realize the execution of his individual rights, but the parties are free by will to choose other mechanism to resolve their dispute. There is not the place to mention the history of negotiation, mediation or arbitration in Albania. Also, there is no need to repeat what is presented in the previous heads. But the domestic law since 1992, when signed the ICSID Convention and Albania was open to the free market, the resolution of the disputes through international arbitration made progress. Also, negotiation, conciliation has been one of the safeguards of the trial in civil proceedings, which guarantee the will of parties to resolve their dispute in their own and to realize an output of win-win for both of them.<sup>93</sup> The recent Civil Procedure Code in force in Albania provides that *'The judge should make every effort to settle the dispute amicably during the preparatory stage, when the nature of the case allow that.'* Mediation was regulated through the law no.9090, dated 26 June 2003 "On Mediation in dispute resolution". Today that law is abrogated, and replaced by Law no.10385, dated 24.02.2011, approximated with the Directive 2008/52/EC "On certain aspects of mediation in civil and commercial matters".<sup>94</sup> Also, the recent amendments of the Albanian Civil Procedure Code provides that *'At each stage of the trial, the court shall inform the parties about the possibility of settlement of the dispute through mediation and if they give their consent, it transfers the case to mediation'*<sup>95</sup> According to the today in force Law "On mediation in dispute resolution", the mediation applies for the resolution of all the disputes in the civil, commercial, labour and family law.<sup>96</sup> The court approves the reached reconciliation through mediation, only in case that it is not inconsistent with the law. Under the Mediation Law, mediation is based on the principle of equality of parties, confidentiality of information and respect for flexibility and transparency of the procedures and will of the parties in the process.<sup>97</sup> Also, under the civil procedure provisions, the parties have the right to appeal the decision of the mediator, giving to the court the authority to control the legal solution in the mediation process, if one of the parties do not agree and challenges the decision.<sup>98</sup>

Also the rules on the internal arbitration and international arbitration have been provided through the Civil Procedural Code of 1996. After Albania ratified Geneva Convention<sup>99</sup> and New York Convention<sup>100</sup> by the years 2000, the provisions on the international arbitration in the Code of Civil Procedure has been abrogated, because the international agreement under Article 122 of the Constitution are directly applicable. As consequence the international standard provided from the Conventions and the relevant jurisprudence is directly applicable in Republic of Albania. Usually such Conventions have been referred on the commercial international arbitration matters according to the contracts or law. Also, ICSID Convention and its jurisprudence, is directly applicable on investment arbitrations referring the bilateral treaties between the state parties in the Convention. In Albania, referring to the international and European requirements, there is a policy of conciliation,

<sup>90</sup> See, Lopez. M, "On minimum standards in consumer ADR", in " The role of consumer ADR in the administration of justice", Sturner.M, Inchaysti.F, Caponi.R, SELP, 2015, pp 138-141.

<sup>91</sup> Article 4 Albanian Constitution

<sup>92</sup> Article 5 Albanian Constitution

<sup>93</sup> Civil Procedural Code of Albania, originating law no.8116, dated 29.03.1996 and amended recently through law 38/2017, dated 30,03.2017.

<sup>94</sup> Republic of Albania has the obligation of the approximation of the internal legislation with the *aquis* in the EU.

<sup>95</sup> Article 158/ç (2) (3) of the Albanian Civil Procedural Code, amended by Law 38/2017, article 44.

<sup>96</sup> Article 158/ç (1), Albanian Civil Procedural Code, amended by Law 38/2017, article 44. The Law 10 385 "On mediation in dispute resolution" in Article 2 (4) provides the cases, but not limiting to, when the Court could transfer the case to the Mediation authority: a) civil and family cases, which involve the interest of minors; b) conciliation cases in case of dissolution of marriage foreseen in article 134 of FC; c) property-related disputes which subject matter of the lawsuit is up to All 500 000 and also lawsuits for the soliciting of the thing, denying lawsuits, and lawsuits for the cessation of the adverse effect on possession.

<sup>97</sup> Article 3(1), Law 'On mediation of dispute resolution'.

<sup>98</sup> Article 158/ç (6) Albanian Civil Procedural Code, amended by Law 38/2017, article 44.

<sup>99</sup> Law no. 8687, dated 9.11.2000 "On the Accession of Republic of Albania in the European Convention of Arbitration"

<sup>100</sup> Law no. 8688, dated 9.11.2000, "On the Accession of Republic of Albania in the Convention 'On Recognition and Enforcement of the foreign judgments of International Arbitration' "

mediation and arbitration, meanwhile the court is not found effective in the resolution of internal or cross-border disputes in commercial or investment matters. According to the progress report of 2016, *'The judicial system remains seriously affected by politicization, corruption and weak inter-institutional cooperation'*.<sup>101</sup> In this framework the justice reform aimed to increase the independence, impartiality and transparency of the country's judicial bodies, including Constitutional Court, Supreme Court, governing bodies of the judiciary and the General Prosecutor's office.<sup>102</sup> The progress reports stated that *'The budget planning capacity needs to be improved and adequate budgetary resources for the justice system ensured, in particular for the implementation of the reform'*.<sup>103</sup> In such conditions, when there is a problem with the court system, the attention of the state has to be paid to the ADR. According to the Cross-cutting strategy of the justice adopted through the DCM no.773, dated 2.11.2016<sup>104</sup>, the government is engaged in a radical judicial reform, where one of the main objectives is the consolidation of the independence and efficiency of the judiciary, but not the first but the last another objective is set up of a legal framework for the arbitration which will realized through the strengthening of the role of the mediator according to the law in force. The government, to reach the objectives as stated in the cross-cutting strategy, is engaged to budget till the year 2020 a total amount of 98,385,653.00 Euro, meanwhile for the alternative dispute resolution only 9000 Euro in the whole period. Speaking on the lack of the judiciary efficiency, there is no descriptions of the measure to be undertaken for the strengthening of the mediation, meanwhile there is nothing stating about the arbitration and international arbitration. Still today, there is not a law on internal arbitration and international arbitration, meanwhile the provision of the Civil Procedural Law remained revealed since September 2013. Referring to the progress report of 2016, there are 467 mediators in Albania against 367 in 2015, and only 63 mediators are working actively on cases and the mediation provided remains very limited, even though it increased from the previous year.<sup>105</sup> The progress report of 2018, speaking on the progress in the judicial reform and the budget spent during 2017 for the justice referring to the estimated budget and the government reports, doesn't make an assessment about the progress of ADR in Albania and the further requirements for the future.<sup>106</sup> Under the cross-cutting strategy of justice, there are not provided measures to ameliorate and to encourage as an alternative form for the dispute of resolutions. Meanwhile, in Europe is developed Consumer ADR and On line dispute resolution and found effective, under the Albania political document there is not a vision of government to introduce and develop an authority involved in the arbitration of the consumer disputes in accordance with the Directive 2013/11/EU CADR and Regulation 524/2013 ODR.

There is not clear the policy on the alternative dispute resolution in Albania, meanwhile government speaks only o a law on international arbitration and amelioration of the mediation in civil, commercial, family and labor disputes, without telling how that can be realized. The lack of the clear policy in this direction, it is because of the lack of a research on the organization, functioning and efficiency of mediation and arbitration in Republic of Albania and at the same time because the government motive to promote the ADR has been only to save money and not of the merits and success of this mechanism.

## The limits of the privatizing Dispute Resolution

### The international and European standard in the control from the state courts of the ADR.

Nowadays, as mentioned previously the success of private dispute resolution depends on the bilateral agreement of the parties, or both parties participate in the same association accepting the private adjudication and finally enforcing the final decision.<sup>107</sup> State is engaged to promote the ADR, because failed to provide an effective judiciary, to fulfill the expectation of the public on the court justice and finally to save money. As consequence, the state has another obligation to respect and enforce the final judgment resolved by ADR as provided by law. That depends on the flexibility of the internal legislation and interpretation of the international agreement ratified by the state related to the state control over the ADR mechanism exercised mostly through the courts. Exist an international competition on the matters of the ADR around the words, because of the cross-boarder dispute mostly. The Conventions in force that are applicable to the member state parties from years has served as procedural safeguards in ADR proceedings. Nowadays all kinds of the ADR have an international role, as long the online dispute resolution has been promoted, although the arbitration seems to be mostly used in the past for cross-boarder conflicts between parties. Apart the fact, that all the kinds of ADR are promoted around the world, the international law has provided a mechanism through which the private adjudication could be controlled from the internal courts. It is good, if the government respects the will of the parties in executing the contracts and the final ADR judgments, but the states have the obligation to guarantee the standard of the proceedings related to the access to justice. The famous New York Convention considers the arbitral judgments binding and there is an obligation of the state to enforce them. But on the other hand, provides to the parties the possibility of the refusal of the recognition and enforcement. In this framework, states have to apply directly the Convention or provide internal rules on the recognition and enforcement of the final foreign arbitral awards transposing the

<sup>101</sup>Progress Report 2016, dated 9.11.2016, SWD(2016)364 final, p.58.

<sup>102</sup>See, Ibid.

<sup>103</sup>See, Ibid, p. 59

<sup>104</sup>Cross-cutting strategy 2017-2020. The first cross-cutting judicial strategy has been was adopted in 2011 for a period of two years (2011-2013). For three years there was not provided from the government a political document on the judicial reform.

<sup>105</sup>See Progress Report 2016, p. 59

<sup>106</sup>See Progress Report 2018, p.19-21

<sup>107</sup>See Caplan.B &Stringham.E, ... p.16

NY Convention. Article 5 of the NY Conventions provides the grounds for the refusal of the recognition and enforcement of the international arbitral awards relating mainly to the breach of the principles of a fair trial and public order. The doctrine of the public order in arbitration grants discretion to the courts to set aside private legal arrangements, including arbitral awards, which harm the public and endanger legal order and society.<sup>108</sup> Courts around the world had reacted differently to the principle of the public policy referring to the Article 5/2(b) of New York Convention.<sup>109</sup> Such principle has been used from different courts to limit the recognition of the final awards of the private adjudication. There is a lack of a definition for the domestic and international public policy. Ghodosi cited Lalive, ‘*the concept of public policy in international private law differs from municipal public policy because of necessity and the different purposes of each legal order*’.<sup>110</sup> In his opinion, international public policy of states should not apply to the cases involving international matters.<sup>111</sup> The grounds on limitation of the private adjudication can’t be exaggerated from the domestic courts referring to the principle of the public policy. The system of the privatization of the justice promoted and developed nowadays around world is to allow people to execute their agreement to opt the courts if they desire and as consequence the public courts need to step back and simply allow the market to function.<sup>112</sup> The courts can’t surpass the will of the parties, if they agree that the final judgment be binding. Although, the public courts have the authority to decide on the recognition of a final international award concerning the grounds for refusal, but not to review that decision related to the merits. Also, the Geneva Convention provides rules on the setting aside of the final arbitral award from the domestic courts, which constitute a ground for the refusal of recognition or enforcement of that award in another state.<sup>113</sup> On the matters of the investment arbitration, ICSID Convention provides that the final award is binding, is not subject of any appeal and states are obliged to enforce it, considering the arbitrator the judge of its own competence.<sup>114</sup> But on the other hand exist the administrative hierarchy of the Center, where the review or annulment could be decided from a Committee of arbitrators appointed from the Chairman.<sup>115</sup> International investment arbitration is a public procedure and the governing law, unlike almost all commercial arbitration cases, is international law and usually people are more comfortable with that, because they can apply the international public policy.<sup>116</sup> According to the European standard, in the matters of the consumers ADR, the Directive 2013/11/EU provides that the decisions of the CADR entities are binding if the parties have been informed previously of its nature in advance and specifically accepted this.<sup>117</sup> The consumers are not prevented from the judicial proceedings, if they didn’t agree previously on the binding nature of the final arbitral award.<sup>118</sup>

It is true that the governments interfere with all the means despite the will of the parties, which destroy the free market of the private adjudication. Governments try to justify such kind of intervention with the access to justice and the protection of poor people. Indeed, referring to the European policy related to the Customer ADR and international policy of the established institutions dealing with international commercial arbitration, it is clear that the adopted legislation and rules is according to the principle of a fair trial, providing procedural safeguards to guarantee a speed, costless arbitration and mainly respecting the access to justice.

### **The limits of the privatizing dispute resolution under the Albanian law**

ADR is developed in Albania recent years, but still there is not a state policy in the promotion of the private adjudication. The Albanian legal framework on ADR is compound of the international agreements, which has been ratified from Albania and are directly applicable. The progress report of 2016, speaking for a number of 63 mediators working in practice, found that ‘*the mediation provided remains very limited, even though it increased from the previous year*’. The progress report of 2018 is saying nothing about ADR. There is no data about the domestic arbitration or international arbitration. There is no data on the recognition and enforcement of the international arbitration awards. Also, Government in its Cross-cutting Strategy of Justice 2017-2021, is saying nothing on the domestic arbitration and international arbitration, about the role of the government on the recognition of the international arbitration award and enforcement; is saying nothing about the quality of mediators and arbitrators in Republic of Albania; is saying nothing about any reform on the customer arbitration in domestic or cross-boarder disputes; is saying nothing about the building of the capacities in ADR and about the reduction of the ADR costs. Government in its cross-cutting strategy has only one objective: Set up the legal framework on arbitration, which started some years ago and was planned to be adopted and approved in the Parliament by September 2013 together with the amendments of the Civil Procedure Code. It is hard to make an assessment of the limits of the ADR in Albania, because there is no official database on the domestic disputes solved through mediation and arbitration; there is no database on the international arbitration commercial or investment. We heard on TV on the international arbitration awards delivered from the tribunal, in which cases state is a party, but we don’t know about the disputes between private parties. We have the possibility to find

<sup>108</sup> Ghodosi.F, ‘International dispute resolution and the public policy exception’, Routledge, 2017, p.62

<sup>109</sup> See, Ibid, p.63

<sup>110</sup> Ibid, p.71

<sup>111</sup> Ibid, pp.72, 97

<sup>112</sup> See Caplan.B &Stringham.E, ... p.18

<sup>113</sup> See, Article IX of the Geneva Convention

<sup>114</sup> See, Article 41, 53 of ICSID Convention

<sup>115</sup> See, Article 51, 52 of the ICSID Convention

<sup>116</sup> Ghodosi.F, .. p.103

<sup>117</sup> Directive 2013/11/EU, article 9/3; 10/2

<sup>118</sup> Ibid, article 12/1



some court decision of the Appeal Court on the recognition of the awards, but there is not enough to understand and make the assessment of the limits in the ADR. The state institutions are not collaborative in giving information, or better saying refuse to spread such kind of information. The fact, that there is nothing in the progress report about the recognition and enforcement of international arbitration award, meanwhile that is an obligation under the international agreements makes evident that there is not transparency from the government and at the same time there is not an assessment from the government in the moment they adopted the cross-cutting strategy of justice, what proves finally the missing of a vision.

Apart of above, under the Albanian legislation in force on the matters of arbitration there are limits to ADR generally and to international arbitration especially.

Regarding the mediation, Law 'On mediation' provides that *'Where the case is referred for mediation by the court, the mediator, by the end of the mediation procedure, or within time limit specified by them, shall notify them of the resolution or non-resolution of the dispute, through the submission of the respective acts'*<sup>119</sup> According to Article 158/ç (5) of Civil Procedure Code the court shall give its approval decision, but in any case it should be no against the law. The act agreement through mediation is final and binding as the arbitration decisions and constitutes an executive title and the bailiffs are responsible for the enforcement. It is clear that the court has a control on the decision of the mediator on the dispute according to the will of the parties.

In the arbitration procedures, nowadays the provisions on domestic arbitration are abrogated and still today there is not a law on the domestic arbitration. Regarding the international arbitration, under the Civil Procedural Code of 1996, amended by law 38/2017, the rules on the recognition of the foreign court decision are applicable in international arbitration, even since the year 2000 Albania has ratified the New York Convention.<sup>120</sup> According to the article 394 of the Civil Procedure Code there are provided some legal obstacles for the execution of decisions issued by foreign courts, which doesn't seem to be harmonized with the NY Convention or other international and European legislation on the recognition of foreign decision. The amended Civil Procedural Code doesn't provide some rules on the recognition and enforcement of the final awards of the international arbitration, neither has transposed the provisions of the NY Convention. Taking in consideration that according to the Article 122 of the Constitution and Article 393/2 of the CPC the international agreements prevails over the CPC, then NY Convention and Geneva Convention are directly applicable. As mentioned in the previous head, the court under the NY Convention has the possibility to non-recognize or decide on the annulment of the final award of the international arbitration. According to the Article 395 of CPC, the competent court to decide on the recognition is the court of Appeal. In Albania, nowadays there is not provided by law the annulment of a final award of an international arbitration, but the draft-law preview the right of appeal against an international arbitration award.<sup>121</sup> It is clear that the legal framework in Albania on international arbitration has provided the limitation of the privatization of the civil justice, meaning that exist a mechanism to control the decisions issued from the arbitrator that are not judges. This is good, to guarantee people on the access to justice and prevent any possible abuse from the arbitrators. But on the other hand, state has to not allow the court's abuse in the process of recognition of the international arbitration awards referring to the interpretation of the nature of recognition or annulment, and to the interpretation of the public policy under the NY Convention and Geneva Convention. There are a lot of cases, where the Tirana Appeal Court has done its own interpretation on the public policy not relied on the jurisprudence of NY Convention, or has prolong the procedures of the recognition of the final award, telling that has the competence to control the international arbitration decision and put limits to the privatization of the adjudication.<sup>122</sup> Albanian legislation has no definition of the domestic and international public policy. Also, there is not a developed jurisprudence from the Supreme Court or Constitutional Court that made such kind interpretation and definition referring to several kind of arbitration, such as investment, commercial or consumer arbitration. Judges are lazy to read and find jurisprudence of the NY Convention. Sometimes they have not the will to do it. It is an task for the lawyers to refer to the court the jurisprudence of NY Convention, ICSID and ECJ, which will help to fill the gap in the understanding of the international and European law. Also, it is a task for the state to organize research on international arbitration, and draft the strategies only relying on the database and reflect the true problems, which need the right solution.

## Conclusions

Civil justice has been considered as one of the goods that can be provided not only from the state entities. The most important task of the state adjudication is the enforcement of the individual rights speedily and efficiently, giving to the parties what is due to them under the substantive law. On the other hand, a second goal it is the development of law and legal certainty of the citizens. There are different theories about the failure of the state in providing this public good. The reality of nowadays it is that states failed to provide budget for the court and to perform long terms reforms, which guarantee an effective judiciary. People need flexibility, speed and costless process, and for sure the guarantee of a fair trial. They are more interested to access to justice than to access to court. Judiciary is now downgrading. States has accepted that, because of the fatigue with the reforms and huge invoices for judiciary. Also, states has been totally engaged in the strengthening of the ADR, which is partly

<sup>119</sup>Law no.10385, dated 24.02.2011 "On mediation in dispute resolution", article 23

<sup>120</sup>Article 399 Civil Procedural Code

<sup>121</sup>Draft-Law "On International Arbitration in the Republic of Albania", Art.45

<sup>122</sup>See , Iliria vs Republic of Albania, Pranvera shpk vs Republic of Albania

a creature of the state urged from the citizens, trying to find a speed solution with reduced costs for the dispute of the subjects. Cheaper and faster is not necessarily better. There are a lot of challenges with the ADR regarding the safeguards of the system of justice. ECtHR has accepted that the fair trial principle under Article 6/1 of the ECHR is directly applicable to the private adjudication, but on the other hand is the state that has to guarantee the due process provided from the private entities.

International and European policy nowadays is towards promotion of the ADR in civil and commercial dispute, and forget about litigation. As consequence states are requested to promote the mechanism of ADR on commercial, investment and consumer arbitration. Recently, we are speaking for online ADR, speed and costless. States should stop the old policy of the strong control to the private adjudication, but also should have a real vision on the organization and functioning of the ADR to guarantee the safeguards of private adjudication as a public service, based on a real assessment of the ADR system. Although, in parallel has to make efforts to re-establish the civil justice as a public good, that the civil courts not been in the future out of the business in fulfilling their significant social purpose on the execution of the individual rights effectively, that is as important to the health of the society.

Government policy in Albania is on the strengthening of the judiciary, doing a deep reform recently. Mediation provided remains very limited, and we don't know about arbitration. There is a strategy that has as an only objective the promotion of the mediation and adoption of the new legal framework on arbitration. That strategy seems to be drafted in dark and lack of the vision, as far as there is not a database and research on the ADR in Albania followed by a professional assessment. Now is the time for the state to think seriously on alternative dispute resolution and access to justice, meanwhile the Europe and the entire the world is finding the mechanism to fully ameliorate and creating a high standard of providing justice to the citizens through ADR.



# Russia in the Western Balkans: Montenegro, Macedonia and Serbia

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## Abstract

*The eurozone crisis has produced an increasing influence of Eastern countries in the Balkan region. Indeed the Western Balkans has been subject to growing Russian attention, particularly in the economic dimension. The present paper assessed Russian impact in Montenegro, Macedonia and Serbia. Considering the data from these three countries the strongest economic influence has been found for Serbia, a country which has close proximity to Russia not only in economic terms but also political stance, religion etc. Conversely the Russian influence in Macedonia and Montenegro has been mainly economic, while the latest has more recently taken a few steps back from Russia towards a pro-European approach. It might be claimed that the lack of vision and the uncertainty of European Union decisions in relation to the Balkans, would promote a pro-Eastern influence not only from Russia but also other countries such as Turkey and China. Nonetheless at the moment such influence seems to be mainly economic and less political.*

*Keywords:* Russia, Western Balkans, economic influence

## Introduction

During the last decade the Western Balkans has been subject to growing Russian attention. In an effort to improve and highlight its' approach in this region, Russia has been trying to build its' impact within 'the gaps' created by EU's lack of a clear expansion strategy and openness to new memberships. Moreover the lack of good governance, high levels of corruption, or poor economy in the Balkan countries have all contributed to growing Russian influence. Indeed Russian investments in the region have increased by more than 3 billion euros Russian influence as part of the overall economy in the Western Balkans has decreased only after the imposition of international sanctions after the annexation of Crimea in 2014 (Conley et al., 2016).

Nonetheless, Russian investments are concentrated in a small number of strategic sectors, such as banking, energy, and real estate. Moreover it could be stated that several Balkan countries including Serbia, Montenegro, Macedonia and Bosnia and Herzegovina are dependent on economic exchanges with Russia. Consequently governments of these Balkan countries have become sufficiently sensitive to pressures on strategic decisions that relate not only to diversification and liberalization of the energy market, but also the Russian sanctions and the expansion of NATO and the EU (Conley et al., 2016).

Analysis of the Russian foreign policy regarding Balkan countries intends to interpret and explain how Russia's foreign policy approaches directly to the Balkans in relation to the role and attitudes of the European Union. Russia's role is considered very important in terms of both economic and political impact. To summarize the present article aims to emphasize the ever-increasing role of Russia in the Balkans by considering economic and political influences in these countries.

## Russian influence in the Western Balkans

In 1990, due to the political collapse of the Soviet Union, a new consensus was crystallized, based on building of an entirely 'new' foreign policy of the Russian Federation. According to Aron (2013), Russia not only is one of the largest nuclear superpowers,

but also a superpower in other international aspects such as economic policies, military and geopolitical policies. This fact is quite apparent thanks to the concepts of foreign policy put forward by President Putin in February 2013. Along the same lines it is claimed that the ability of Western countries to dominate all world and political economies is constantly decreasing. Examples include Balkan countries, EU countries, Kosovo and Russia. In the 2000s Europe was seen as a model guide, but this can be hardly claimed nowadays. Discussions on the growing Russian political and economic power in the Balkans are becoming more prominent and one of the main elements of this discussion is the Eurozone crisis dating back to 2008. It is clear that all Balkan states are closely related economically to European Union countries, and for this reason, the financial sector is very closely related to what is happening inside the EU (World Bank, 2012).

In 2008-2009, economic intelligence units pointed out that all Western Balkan economies in transition including Montenegro, Serbia, Croatia, Kosovo, Macedonia and Albania suffered shaky economies. In 2009, real GDP declined by 5.2%, which led to an extension of the review until 2010, with the GDP average declining by 0.4%, as the largest economy in the region experienced a significant decline in GDP production. So, as far as average output in the region is concerned, it is still far below the initial levels of the crisis. (EUI, 2012).

On the other hand, EU countries have negatively impacted local economies, which has led to the reduction of foreign direct investment and export demand. While EU's policies in the region were previously appreciated, nowadays they are not very widely supported as the EU is exporting the crisis to the now-troubled states. (ECFR, 2013).

Whenever a shock or financial turmoil occurs, the first effect is related to the growing uncertainty which is exactly what happened with the eurozone financial crisis. Of course, in this context Russia did not remain silent but rather started openly challenging these states by initially trying to emerge as a credible power through its economic and political representation in Western Balkan countries (Casier, 2011). In the recent years, Moscow has encouraged all Russian companies to invest in Europe by trying to turn this region into one of the geostrategic centers and one of the preferential entry points into the Western economic zone.

Obviously, these interests of Russia in the Western Balkans are not only economic, but primarily geopolitical interests. This essentially means adopting a foreign policy driven by the winner-loser dichotomy as explained in Bobo Lo's book. (Lo, 2002). In all cases where there is a winner, there should be a loser on the other hand, zero-zero equations have been crucial in shaping Russia's approaches to the Balkan countries as one of the key regions in terms of its' projection influence. In this context, two of the geopolitical strategic powers, the EU and Russia, have challenged each other in the Balkans; indeed the European Union has always pursued its interests in the region through multidimensional policies and instruments aiming towards cooperation and mutual interest (CESS, 2008). Conversely the multipolar Russian approach, refers to the Western Balkans as an arena of Moscow's powerful nature crash in its policies. For Moscow, the most strategic region is the Balkans region, currently considering its role as one of the largest gas and oil supply countries in European Union countries (Foreign Policy of the Russian Federation, 2013)

As far as cooperation and competition reports are concerned, this is dependent on certain areas of interest as well as on the wider constellation of power (Trenin, 2007).

But the EU and Russia are not the only actors who have ambitions and are trying to extend their influence in the Western Balkans. China and Turkey, on the other hand, are acting as key players exert their pressure on development in the region, though "excluded" from European Union projects. Russia does not want a strong clash with these two rivals and wants to avoid the risk of strengthening economic policies to the Western Balkans (Blank, 2013; Mitrova, 2014). Other dimensions include the concepts of security from a different perspective of Moscow towards the Balkans, while making a reassessment of economic actions such as energy and infrastructure. Meanwhile, Russia's security issues and economic tasks in the Balkan countries have been conceived as one of the top priority issues in geopolitics. The economics of these countries reflects the interpretations of an external policy that is focused, among other things, on the benefits of economic co-operation, imposed on all the global processes (Center for the Study of Democracy, 2018).

## **Russian impact in Montenegro**

Russia's approach to Montenegro might be described as a constantly changing curve, as opposed to Montenegro's foreign policy course. As soon as the Montenegrin government expects its ambition to get closer to the European Union and NATO, Moscow's aggressiveness and pressure are noted through its economic and political mechanisms (Marovic, 2016).

Russia's Foreign Direct Investments in Montenegro represent the first aspect of Russian influence on the economy and the Montenegrin foreign policy. They FDI account for roughly one third of the country's gross domestic product, where Russia is the largest single investor in Montenegro with \$ 1.27 billion in investment (Tomovic, 2016). We can mention here one of the most important investments in the country "Podgorica Aluminum Plant" which was known for strong ties with President Putin. This aluminum factory, contributed to the economy by about 15% of Montenegro's GDP. Also according to Montenegro's official data in 2016, one-third of all foreign companies in the Montenegrin state register were owned by Russian nationals (Tomovic, 2016). The influence of Russian corporations on the Montenegrin economy will be extended to the point of making the Montenegrin economy dependent on Russian investors. Practically this impact will extend to the country's foreign policy as well (Center for Democratic Studies, 2018).

Tourism is a vital sector for the Montenegrin economy and serves as a very important generator that directly affects economic growth. Tourism based on figures represents about one-fifth of Montenegro's Gross Domestic Product, and over

54% of exports; Also Montenegro's annual revenues from tourism account for 850 million euros (Center for Democratic Studies, 2018). Another significant aspect of Russian influence in this strategic sector for Montenegro is that at least ¼ of these revenues from tourism come from Russian tourists. The figure has increased between years 2005 and 2016; e.g., the number of Russian Tourists in Montenegro has increased steadily, from 60,000 in 2005 to 316,000 in 2016. The fluctuating political climate did not seem to influence this dimension. Following the worsening political relations of the Montenegrins with Russia, and its rapprochement with the European Union and NATO, the Russian media's tendency has been to remove Russian tourists from Montenegro, despite the fact that many of these tourists have purchased property and have invested in this country (Montenegro Ministry of Tourism & Sustainable Development, 2016).

Over the last 10 years, Russians have invested in Montenegro a total of about 8.1 billion euros. Since 2006, Russia has been consistently among the three leading investors in the country, between Norway and Italy. Other major investors in this period including Austria, Switzerland, Cyprus, the Netherlands, Serbia, Slovenia, the United Kingdom, Hungary, and the United Arab Emirates (Montenegro Ministry of Tourism & Sustainable Development, 2016).

Between 2007 and 2016, an important part of the FDI inflow in Montenegro came from countries known differently as 'fiscal heaven' (Tomovic, 2016). It should be said that one of Russia's largest investments in Montenegro for the purchase of the Podgorica-based aluminum plant came from a company registered in Cyprus. Russia through its investments has contributed as far as possible and has shown its strength in the Montenegrin economy. On the other hand it is seen that the investments remain low and very little variable in compared to that of EU member states. It is clear that Russian role in the Montenegrin economy has decreased considerably in recent years, from 29.4% of total revenues in 2006 to around 5.5% in 2015, mainly as a result of the withdrawal of Moscow from Podgorica, Aluminum Factory (KAP), one of the largest companies in the country, proves this. Of course, Russia's distancing is obviously and unequivocally linked to Montenegro's aspirations to become an EU member. Therefore despite the powerful influence of Russia in this country, it seems there was no success in changing the Pro European course of Montenegro (Center for Democratic Studies, 2018).

### **Russian impact in Macedonia**

Despite the pro-Russian approach of former Prime Minister Gruevski, who had a clear ambition to strengthen Macedonia's economic ties with the Russia (especially Russian gas), this country's influence in Macedonia is not very meaningful (Stojkovska, 2012). Given the necessity of Russian gas for the Macedonian economy, it is clear why former Prime Minister Gruevski considered Russian alliance as a necessity to invest as a reliable regional partner for them by providing favorable terms for Macedonia and at the same time becoming a transit point for Russian gas in the Balkan region and beyond. But this line did not work out well since Russia choose Turkish over Macedonian gas pipeline. Apart from the oil and gas sector, it must be noted that the trade relationship between Russia and Macedonia has been growing at remarkable levels. Examples include Macedonian agricultural exports to Russia, particularly after the decision of banning agricultural goods from the EU due to the sanctions imposed on it by European Union countries (Stojkovska, 2012).

In this context, Russia created space for other producers outside the European Union, such as Macedonia, for yet another reason, which was political, as Macedonia refused to join the sanctions imposed by the EU and the United States. This decision was rated very favorably by Russia. Russian businesses have invested mostly in finding space through a direct network, investing in personal relations with the Prime Minister of Macedonia by creating preferential relations, among them we can mention "LUKOIL" one of the largest Russian companies operating in Macedonia (Stefanova, 2016). Another example is the gambling business where their owner is a Russian citizen, businessman Sergei Samsonenko, who is one of the wealthiest individuals in Macedonia, built strong ties with the Gruevski Government and its district, including powerful Macedonian businessmen as co-owner of Iskra MM company, Cvetan Pandeleski, and Orce Kamchev. And yet, Macedonia in general terms, with Russia the trade turnover ratio has not been more than 400 million euro a year, and is currently somewhere at 100 million euro. Moreover, Russian direct investment in Macedonia is only 27 million euro (in 2015), too low if we compare these figures with the direct investments of Australia, for example, which amount to 500 million Euro (Center for the Study of Democracy, 2018; Retman, 2017).

### **Russian impact in Serbia**

Unlike Macedonia and Montenegro, with Serbia, Russia has a very close political and strategic relationship which is not comparable to any other Western Balkan countries. The cooperation between the two countries is rooted in the past but also extends to the last decade with Russia's political approach to the newest Balkan state of Kosovo. The Russians' stance in Serbia's favor and clearly against the declaration of Kosovo's independence has boosted the relationship between the two countries. Of course, Serbia is proud of its political partnership with Russia, and its attitude against Kosovo is used as a strong card in Brussels and with other countries that are still undecided about Kosovo recognition (Polterman, 2014).

Relations between Serbia and Russia can also be interpreted through historical ties, but in the last ten years along with political co-operation, they are intensified especially in the economic sphere, which has culminated with several important agreements between the two countries. As far as Russia is concerned, it is determined to increase economic co-operation with Serbia in some key sectors of the Serbian economy, both in the gas and oil field, in road and rail infrastructure and in the banking sector (Energy Community, 2017).

The 2008 energy agreement between Gazprom and Serbia's largest company - Naftna Industrija Srbije (NIS) has produced significant effects on the Serbian economy (Energy Community, 2014). Large firms owned by Russian citizens are closely linked to Serbia, which controls revenues of approximately 5 billion euros, or 13 percent of the total income generated by the domestic economy. Another dimension of the influence of Russian companies is the dependence of local Serbian companies on imports of Russian raw materials such as gas, where Gazprom and Lukoil dominate the oil and fuel markets (Energy Community, 2017).

It is worth emphasizing that Serbia in this sector is almost completely dependent on Russia's natural gas imports. Not only that, but close ties between politically linked local intermediaries prevent diversification of supply and liberalization of the domestic market (Center for the Study of Democracy, 2018).

It is clear that all this influence of Russia in Serbia is not incidental; on the contrary, it has enforced its political ties and its economic presence in Serbia using the pro-Russian, pan-Slav tradition, and pan-orthodox attitudes through influences all-round Serbia, where it has left important economic and political traces (Center for the Study of Democracy, 2018).

## Conclusions

The eurozone crisis and steps back as regards the enlargement of the European Union have reinvigorated great uncertainties in all Western Balkan countries relative to the credibility of the great European project. On the other hand, it is obvious that Russia's attempt is trying to take all the advantages of the difficulties that Brussels is producing in terms of its internal and external currents. It is understandable that this scenario of Russia will be larger if Brussels is ambiguous in relation to its obligations to member countries, but mostly to aspirant-member countries such as the Balkans (Balfur & Stratulat, 2011). Otherwise, Brussels and European Union policies should be more proactive in order to avoid the West Balkans turning into a free economic and political zone for Russia, which continues to be ambitious in this geopolitical region. Any delays would create new opportunities and opportunities for non-Western countries like Russia, China and Turkey, ready to "fill" the vacancy left by Brussels (Judah, 2012).

In terms of Russian influence in the Balkans is still unclear whether this approach and this geopolitical and economic vision of Russia in the Western Balkans would be translated into power and influence in the political aspect, mainly in other countries such as Kosovo, in addition to its indisputable influence in Serbia, Montenegro, and in Macedonia, where, despite the above indicators, they have affirmed their pro-European approach to their agenda. In this context, European politicians must begin to promote in a highly active way the expansion of EU influence in Balkan countries, as the risks remain persistent, leaving the Western Balkans in a difficult position. The lack of vision and the uncertainty of the Brussels decisions in relation to the Balkans would put at risk any achievement in the region, particularly the consolidation of new democracies.

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# Protestantism in Albania: Exploring the making of a traditional religion

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Ylli Doçi

## Abstract

*The relationship of the Protestant Reformation and Nationalism in general is well established historically but discerning its influence in Albanian Nationalist Awakening is worth exploring in its connections with Albania's needs today. The typical protestant patterns of influence through publications and schools are traceable in the elements that became important in the formational period of the Albanian nationalist movement from the middle of the XIX century. An appraisal of this influence is valuable to appreciate the continuation of protestant contribution in the development of Albanian education, society and culture to consider Protestantism an established or even traditional religion in Albania with its significance for the future.*

**Keywords:** Protestantism, nationalism, modernity, education, tradition.

## Introduction

Interfaith dynamics in Albania remain praiseworthy in preserving the social cohesion of Albanian society and accommodating newcomers is also noncontroversial presuming continuation of such cohesion. If the Albanian tradition with regard to religion is inter-religious social harmony, then a traditional religion in Albania supports and facilitates such social cohesion which is related to Albanian national identity. Some would view Protestantism as a newcomer but professor Giovanni Cimbalo thoughtfully designates a different status for the protestants who have now been present among Albanians for about two centuries considering them having acquired the status of “traditional” (Cimbalo 2013). It is helpful to follow his analysis of the Protestant movement in Albania when compared to the other newer religious groups and those that first appeared in the early 1990s. Considering Protestantism today as a traditional religion among Albanians can be seen as a new development even in informed circles. Even with the recognition as an official religious community of Protestantism by the government of Albania in 2011, considering the Protestant or Evangelical Christianity as traditional is not common parlance in the general population but Albanians are generally well disposed toward this tradition for different reasons.

The role of Protestantism in Albania, better known as “Ungjillore,” deserves to be elaborated more, not only for its past contribution to Albanian nationalism but especially since it holds promise for fruitful exploration of continued valuable contribution for Albania. The numbers of Protestants in Albania with the first converts in the later decades of 1800s, have always been small by comparison with the other religious traditions present for more centuries among Albanians, today arriving only at about 1% of the population,<sup>1</sup> but this is not the only way to measure the value of a world view or tradition with its contribution for the Albanian nation. The value of the contribution of a handful of individuals is often determinative of the course of history and therefore interest in numbers often misses the point of the need to focus on the important things.

The role of Protestantism in Albania is to be seen primarily related to the protestant or evangelical community that embodies its values today in Albania but its influence may be multifaceted and coming independently from those who actually follow this tradition religiously.<sup>2</sup> Exploring some examples to illustrate the support for Cimbalo's claim that protestants in Albania by now represent an established religious community to even be considered a traditional community, we are not

evaluating the correctness of Cimbalò's claim but only exploring the value of some aspects of it. Assuming the same world and life view they follow like their predecessors and noting a more recent example of service by evangelicals in Albania, we may reasonably expect for evangelicals to remain a good influence for the well being of the Albanian nation.

## The relationship of Protestant Reformation and Nationalism

Protestant Reformation started with Luther who eventually emphasized the need for the education in the language of the people so they could read the bible for themselves and this focus on the Bible indirectly consolidated the best basis for the development of the nationalist ideals which is the development of national school education. Although the idea of the nation had started to be discerned in the emerging of some European powers, such as England, Germany, France, only with the reformation of the church and the shift in the cultural life of the European life in the form of different responses to the influence of Reformation, do we see the national idea and the power of national education in consolidating the nations.

Without fear of exaggeration we can say that almost every aspect of the modern life is a direct result or a development of the change which came about beginning with the Protestant Reformation in 1517 at the heart of the European society. Crane Brinton, the Harvard professor of history wrote: "The humanists were by no means the major architects of the modern world, nor the makers of the modern mind. Insofar as these two centuries [1450-1650] went to make us what we are, by far the most important makers were the Protestants, the rationalists, and the scientists" (Brinton 1963, 53).

If we arrive at the conclusion that Reformation was key to the impregnation of the modern world with the mentality of freedom of conscience, critical thinking, and social equality, it is easier then to discern also the important influence Reformation had on the development of nationalisms (Harrison and Sullivan 1980, One:369). The issue of definition of "nation" and the genesis of "nations," as well as the cultural and political dimensions of nationalism is a long and complicated discussion (Hutchinson and Smith 1994, 4) but, for our purposes here, we can say that there is no doubt about the central role of modernity, hence the role of Protestant Reformation in that connection, in the appearance of modern nationalisms.

With regard to the characteristics of nationalism, two of the distinguished scholars of the subject, say in their book:

"... the founding fathers – Rousseau, Herder, Fichte, Korais, and Mazzini – ... and... most subsequent nationalists [believed that] the movement brought together the vital aspirations of the modern world: for autonomy and self-government, for unity and autarchy, and for authentic identity" (Hutchinson and Smith 1994, 4).

It is this ideological understanding, which implies the freedom brought about by the Protestant Reformation as the main part of the aspirations of the modern world, that, I argue, displays the important contribution in the appearing of nationalism.

Another sign of the importance of the Reformation in the appearance of nationalism can be gleaned from the question and its answer that Anthony D. Smith presents us with:

"But why did nations and nationalism first emerge in Western Europe? The answer lies not in the rise of capitalism or the modern centralized state, nor the role of political geography emphasized by Hugh Seton-Watson, ... but in the influence of religion, and specifically of Christianity. The nation, according to Hastings, is a Christian phenomenon... (Guibernau and Hutchinson 2001, 15).

Another collection of writings on nationalism confirms the same general conviction of the connection of nationalism and modernity, which again should be seen in close connection with the influence of Protestantism or ideas related to it. In this analysis of the different views about nationalism and the time of its appearance it is concluded that there are two

"... contrasting calendars: *modernists* date their formation to the rise of modernity, in whatever form the latter is defined; *perennialists* see them as enduring, ... even millennial phenomena, certainly predating modernity. Modernism remains one of the few postulates overwhelmingly embraced by most scholars, in itself a rare achievement" (Leoussi and Grosby 2007, 18).

It is clear that just because we say "modernist" in relation to the time of the appearance of nations we cannot assume agreement for everything but minimally "... if the modernists are right there can be neither nations nor nationalism in pre-modern eras" (Smith 1991, 44).

Although Adrian Hastings is taken as an example of a perennialist (Ozkirimli 2010, 58), he is careful to differentiate "nationalism" as an ideology that he cannot consider possible before modernity. The main thesis of Hastings is:

"modern nations can only grow out of certain ethnicities, under the impact of the development of a vernacular and the pressures of the state. ... The defining origin of the nation, Hasting argues, like that of every other great reality of modern Western experience, needs to be located in an age of a good deal further back than most modernist historians feel safe to handle, that of the shaping of medieval society" (Ozkirimli 2010, 59).

This thesis seems to support even better the claim of the importance of Protestantism as carrier of modernity in its influence

related to nations and nationalism. This is so also because Hasting's thesis considers the transition of an ethnicity into nation to take place when the specific language moves from the oral phase into the use of written language, to the point that it is used regularly for producing a literature, and especially for the translation of the Bible (Hastings 1997, 11–12).

The period of great social movements that started after the Enlightenment of the XVIII century and the French Revolution, which is the time of the formation of most modern nations, is accompanied also by a wave of awakenings and expansion of Protestantism and especially Evangelicalism. This expansion is noted by historians as "The Great Awakening" around 1750's, with George Whitfield and the Wesley brothers, which lasted for about 40 years. A second similar wave started around 1800's with Charles Finney when Evangelical international missions also were intensified. According to the historian Kenneth Latourette, it seems that Protestantism experienced a great expansion during this time until the middle of the XX century when it appears to have surpassed the extent of Orthodox Christianity and was present in all the areas where Catholic Christianity was present although less numerous (Latourette 1975, 2:1018).

It is in relation to this second "wave" started around 1800s that Protestantism found its way into Albania.

## **Albanian Nationalist Awakening and Protestant influence**

It is obvious that during the period we call "the Albanian national renaissance" there were several factors at play to create that environment where different people were involved in different ways converging in their nationalist goals. Quoting from Nathalie Clayer (Clayer 2009) an Albanian student of nationalism seems to agree that there are four factors that gave birth to the Albanian nationalist movement:

"... the emergence of Western Albanology, identity searching on the part of some Arbereshe (Italians of Albanian descent), dissemination of Christian writings in the Albanian language from some Protestant missionaries, and the national movements of neighboring people in the Balkans" (Sulstarova 2015, 26).

Beside such direct influence in terms of the activities of particular people at particular times, there is also the influence of ideas which permeated the atmosphere in which nationalism emerged in the Balkans. The opening of the Ottoman lands to such influence came with the efforts to come to terms with the configuration of powers in Europe and their influence in the world in 1800s. One of the important influences in the Ottoman area including Turkey itself was the work of the British and Foreign Bible Society, founded in 1804, with its publications of the Bible and the associated efforts to start schools in the language of the people of the Empire in the Balkans.

Frederick F. Anscombe, an historian with extensive knowledge of the Balkans writes: "... ethnicity was practically irrelevant to the needs of the [Ottoman] state" adding the more debatable statement that "most of whose subjects had little cause to use ethnicity as a meaningful element of their daily identities" (Anscombe 2014, 17). This historian emphasizes the existence of ethnicities such as "Albanians," as "... propensity for stirring trouble... creating unusual situations in which 'ethnicity' could become a criterion of identity." While it is valuable to see the reality of the Albanian national identity from the perspective of the interests of the Ottoman state and others of the same mentality today which considers being designated Albanian as undesirable, for Albanians it was and remains important to emphasize the Albanian identity as the linchpin of harmonious life and prosperous prospect in the family of the European nations. With regard to this development of national identity, from its early stages of awakening, we need to appreciate the contribution of Protestantism in general and also the Albanian protestants in particular especially through highlighting the Albanian language and education.

The catalytic role of the Bible, because of its dissemination and the flexibility of use by the European scholars and linguists, is the important undeniable factor in the beginning of the Albanology from J. Ksilander in 1835 including later J.G. Hahn, Dh. Kamarda, G. Meyer (Lloshi 2012, 110–11). Lloshi writes about the Protestant publication of the Bible in 1827: "... the first New Testament in the Albanian Language ... the veritable text of the written language of one of the most ancient people of the Balkans" as such that "the quest of the European scientific study of Albanian language approached it as the most valuable and reliable source" (Lloshi 2012, 108).

More correctly, it is both the translation in the Albanian language with the facilitating of alphabets and the wide dissemination of the Bible as well as other Protestant Christian material that the Albanian language was established in the world of letters to the point that the current version of Albanian was chosen based on this broader use enabled by Protestants (Kristoforidhi 2017, Volumi 9:49).

## **Patterns of protestant influence: publishing in the vernacular and establishing schools**

Discerning the typical patterns influenced by Protestant Reformation, such as the translation of the Bible and the starting of the schools in the language of the people one should not be surprised that the Albanian protestants from the beginning are found in these fronts (Quanrud 2016). As it was with Luther's influence on German language and nationalism so it was in one sense the contribution of protestants for the Albanian school because such concerns are integral part of the Protestant idea of making the gospel available for all people while indirectly releasing all the potential of educated humanity and fostering the national ideals.

A helpful little book, *Levizja Kombetare dhe Ungjilli* by Xhejms Klark, gives the portraits of several individuals of the fledgling Albanian protestant community with their contributions to the cause of the Albanian nation seen as closely related to their specific protestant or evangelical emphasis on the importance of education (Klark 2017). Albanians even today are not aware of some important specifics that would help in their appreciation of the protestant influence. For example, they know of Kostandë Kristoforidhi as an important patriot who did so much for the Albanian language but one fact that is ignored or distorted is that Kristoforidhi became a member of a protestant church in Izmir in 1857, indicating not just simply going to church but a carefully observed and evaluated conversion from his previous traditional faith (Hosaflook 2017, 120–22).<sup>3</sup> Historians need to look more carefully in the connections and cooperation between many of the most well-known Albanian patriots with the protestants during those important formative years of Albanian national awakening as the linguist Xhevat Lloshi does incognito in writing about issues of the Albanian language mentioning how protestant representatives interacted with Kristoforidhi, Thimi Mitko or Dhimiter Kamarda (Kristoforidhi 2017, Volumi 9:18).

Albanians know of Bajo Topulli and his brother Cerciz who were revolutionaries fighting for the independence of Albania but are not aware of the evangelicals like Grigor Cilka (1875-1918) and Gjergj Qiriazi (1868-1912) who were founding members of their organization “*Per lirinë e Shqipërisë*” in 1905 together with Nuci Nacin and Mihal Gramenon (Klark 2017, 34). Albanians also know of the most important congress of Albanian alphabet in 1908, known as “Kongresi i Manastirit,” but they may not know how to appreciate that Gjergj Qiriazi was vice-chairman of that congress, and together with Cilka among the only 11 people who were chosen by this most important congress to decide on the Albanian alphabet which is the one we now use (Young 2011, 40). Gjergj Qiriazi was also vice-president of the patriotic society “Bashkimi” which was one (the one prioritized at the end of the congress) of the three societies that presented a distinct Albanian alphabet for consideration at the congress and also was the director of the press which the congress decided to establish for printing Albanian literature. It is very significant that this press, made of 17 workers was financed by Muslim patriots and was directed by the evangelical Gjergj Qiriazi.

Albanians know of Edith Durham but they are not aware of her admiration for the evangelical stalwart Sevasti Qiriazi (1871-1949) of whom she says in her book of 1914 *Twenty Years of Balkan Tangle*: “... Ms. Qiriazi (now Mrs. Dako) ... brave, very capable, so enthusiastic that deserves the highest appreciation” (Durham 1998, 344) Albania”, “edition”: “second edition”, “event-place”: “Tirana, Albania”, “author”: {“family”: “Durham”, “given”: “Edith”}, “issued”: {“date-parts”: [“1998”]}, “locator”: “344”, “label”: “page”}, “schema”: “https://github.com/citation-style-language/schema/raw/master/csl-citation.json”. Many Albanians like to follow the trips through Albania of Edith Durham who made Albania known but not many recognize that her companion in her first trip, was another Albanian evangelical named Thanas Sina (1859-1934) of whom she says: “... with him would depend the success of the travel... of whom I am very grateful... always joyful, ready to help and kind” (Durham 1998, 49) Albania”, “edition”: “second edition”, “event-place”: “Tirana, Albania”, “author”: {“family”: “Durham”, “given”: “Edith”}, “issued”: {“date-parts”: [“1998”]}, “locator”: “49”, “label”: “page”}, “schema”: “https://github.com/citation-style-language/schema/raw/master/csl-citation.json”. He became the second pastor of the church in Korca which he joined under its first pastor Gjerësim Qiriazi (Klark 2017, 39). Sina was with Pandeli Sotiri and Thoma Avrami opening the first Albanian school for boys in 1887 and became its director only six months later (Skendi 1967, 135).

## Early public recognition of protestants

Albanian Protestants were neither the only ones nor the most prominent among the many Albanian patriots in the Albanian Renaissance period, but they were a very important and appreciated factor of that formative period. Naim Frashëri and his brother Sami, our most prominent renaissance leaders who held high offices in the Ottoman government, offered indispensable help for the writings and schools of the Albanian Protestants. Their nephew, Mid'hat Frashëri, who was minister of education and communication in the Albanian government later on was also a strong supporter of the Bible Society. He wrote in 1911:

“National sentiment... is so strong as to quiet down every difference that the diversity of religions could create. Albania has never known the bitterness of religious hate; and whatever is the creed, Catholic, Orthodox, Islamic, the Albanian is always a good patriot.” Later on in a continuing writing he says: “Above all, I feel obligated to offer appropriate recognition for the contribution of the British and Foreign Bible Society, for its services toward our country and literature, through the translation of Scripture in Albanian. As a matter of fact, it is impossible to speak of the Albanian literature without mentioning the work and determination of those who for such a long time and against many difficulties have continued this noble work” (Young 2011, 48).

## Deserved recognition of protestants for the emancipation of women

The first Albanian school for girls was opened by evangelicals in 1891 under the leadership of Sevasti Qiriazi, the first Albanian woman with a diploma and the first teacher, and it became the institution that would educate the Albanian mothers of the nation that was to be liberated only a decade later. Her younger sister, Parashqevi Qiriazi, also a teacher in this school became the first Albanian woman to write school texts with her “Abetare per shkollat e para” in 1909 as well as starting the first



woman's organization in Albania "Ylli I Mengjesit" on the same year (Young 2011, 41). This movement of women started by evangelicals would have tremendous consequences for the nation but most of this contribution would be like fertilizing the land which is not obvious for those who just look at the fruit and don't know what went in the producing of that fruit.

Another patriot, Mihal Grameno has written about the first school of girls founded by Evangelicals:

"It should not be denied and never forgotten the great services that have been given to the cause [national cause] this "national nest" which was a center and a castle where gathered and were disseminated the national ideas as sparks. This "nest" was the school of girls in Korca, established by the undying national apostle Gjerasim D. Qirias, whose name, the history of Albania will write with golden letters, boasting with his works and invaluable services that he brought to the fatherland's altar" (Kuanrud 1998, 166).

This school of girls was active for over 23 uninterrupted years until 1914 when the first world war disrupted everything but its girls are known to be wives and mothers of important men of Albania: The very first graduate of this school was Polikseni Dhespoti (Luarasi), the wife of Kristo Luarasi, the first of 1028 Albanian girls to graduate from this school. Shega Luarasi was another girl who was educated here and later became one of the teachers in the school in Korca. She was the daughter of the great Albanian patriot Petro Nini Luarasi who later got married to Mina Uci and gave birth to her son Alfred, a well known professor at the University of Tirana decades later (Young 2011, 129).

The impact of Protestants in the formatting of the Albanian national consciousness may be difficult to measure but cannot be ignored. With the first publishing of the Bible in Albanian that became foundational for the cultivating of the written Albanian language as well as for the establishing of Albanology since 1827, continuing with the Albanian schools for girls since 1891 by Gjerasim Qiriaz and his sister,<sup>4</sup> and contributing in the formation of the Albanian alphabet in Manastir in 1908 followed by Instituti Qiriaz who continued to educate the Albanian girls until all the private schools were closed in 1933 when the Albanian national education was established, we have just a few significant milestones to remember. Communist regime that took over Albania since 1945 clouded these contributions in different ways, sometimes in very contradictory fashion, first persecuting the remaining Qiriazis by imprisoning the sons of Sevasti bringing her to an early death in 1949 but later making a famous movie about Sevasti and the first Albanian school of girls and giving her the award of "people's teacher."

## Recent appraisal of Albanian Protestantism

With the reinvigorating of religion again in 1991 after the fall of communism, Protestantism emerges as one of the religious traditions that is incorporated as traditional in the Albanian society (although not as well known under the name of "Vellazeria Ungjillore e Shqiperise" established in 1892 by Gjerasim Qiriaz) but more known by its founders and their contribution for the country. During the Kosovo war when the refugees flooded Albania in the spring of 1999 the whole Albanian society witnessed the Albanian Evangelical Church known as the Albanian Evangelical Brotherhood (VUSH) doing amazing work taking care of immense numbers of refugees around the clock through its volunteers. The Albanian president of that time, Rexhep Mejdani wrote in a letter to Mr. Samuel Erikson, on February 16, 2000:

"I want to express my appreciation for the evangelical believers of Albania for their commitment and service toward tens of thousands of Kosovar refugees during one of the most difficult chapters in the history of our nation. In all of the country, these believers showed their faith through works by practically applying the golden rule (of the bible), 'do on to others what you would want done for you.' In this way they showed that they are committed to continue in the tradition of men like Gjerasim Qiriaz, who lived to serve his nation with the hope that this world may become a better place."

This is the reason why professor Giovanni Cimbalo is very clear in his well researched conclusion that Albanian Protestant Evangelicals are a traditional religious entity: "We have seen already that its history [Albanian Protestantism] is deeply involved with the efforts for the emancipation of the Albanian nation; reviving and broad dissemination of the Albanian language; engendering national literacy and participating in the war for independence" (Cimbalo 2013, 244).

This protestant community now present through its churches in every city of Albania is not just simply an official religion because it is officially recognized by the government through a bilateral agreement in 2011,<sup>5</sup> but as professor Giovanni Cimbalo has shown through his study by the fulfillment of several relevant criteria: "The presence of Evangelical Brotherhood in Albania, since two centuries ago, positions it at a superior standing by comparison to the new religions arriving in the land; ... [with regard to its societal role] ... Evangelical Brotherhood ... has given undisputed contribution in fashioning of the identity and language of the country" (Cimbalo 2013, 255). What this "superior standing" amounts to, according to Cimbalo, is no less than the standing of Protestant Evangelicalism as a traditional religious community in Albania. He writes: "... moreover, now you cannot talk about four but five religious communities, ... the fact is that the concept of traditional religions in the country is reevaluated since VUSH [Protestant Evangelicals] is now lined up among them as well, present in Albania since the early 1800s" (Cimbalo 2013, 267).



## Conclusion

From Luther's Germany at the dawn of the XVI century, Protestantism, this evangelical movement, spread far and wide arriving in Albania as well in 1800s with special contribution to the Albanian nation including the first publishing of the Bible in the Albanian language in 1827. Since that beginning, and especially alongside the movement of Albanian national awakening, we see the role of Protestant Evangelicals in helping with the foundations of the written language and the establishing of the Albanian national education thus embedding their work as an integral part of the Albanian national and cultural heritage. Prof. dr. Persida Asllani, director of National Library of Albania wrote: "The determining role of the Protestant Movement in the Albanian national and cultural awakening would not have occurred without the essential overlap between their core religious principles and the spirit of illumination that engendered the Albanian Awakening" (Asllani et al. 2017, 7). Because of such contributions and through fulfilling several other sociological criteria as professor Cimbalo evaluates, Protestant Evangelicals can be rightly recognized today as a traditional religious community. That is why the upshot of this writing is that in appraising the influence of Protestantism in Albania one has reason to explore beside the bygone history of the last two centuries also the significance of the living presence of a thriving protestant community in Albania, which by remaining faithful to its ideals that have proven to be beneficial for society can reasonably be expected to continue to be a good influence for Albania in the future as well.

## Endnotes

- <sup>1</sup> The disputed census of 2011 counted Protestants only at 0.11 and there is no important point to be made in disputing this statistic here but there are internal statistics of the Evangelical Brotherhood of Albania which bring this number much higher and tangentially (not presuming confirmation of this higher percentage) even a recent very representative survey done with support of UNDP showed in the percentages of its sample of 1100 respondents (from 40 out of 61 different municipalities in the country) Protestants appearing as 1.74% of this representative sample (Vurmo 2018, 31).
- <sup>2</sup> Protestantism can become an impetus for a massive cultural change and important societal current with important life consequences as indicated by the famous study of Max Weber (Weber [1904] 2005).
- <sup>3</sup> It is not correct and actually a great disservice to the cause of truth to read what Dhimiter Beduli, indoktrinuar nga shkrimet e periudhes komuniste qe citon ("Historia e Letersise Shqipe" per shkollat e mesme. Tirane 1955, faqe 113) writes: "Si orthodhoks I mire, Konstandin Kristoforidhi, pervec perkthimit te Bibles interesohet dhe per edukimin fetaro-kombetar te femijeve orthodhokse, duke perkthyer dhe tekste shkollore fetare, sic jane: "Historia e Shkronjes Shenjteruare" dhe "Kater Katekizmat". Dhe ajo qe eshte me interesante per Kishen tone ai nuk pranon te behet vegjel e Shoqerise Biblike Britanike per perhapjen e protestantizmit ne vendin tone, perhapje e cila do te shkaktonte edhe nje percarje te re fetare, ne dem te interesave kombetare te popullit tone" (Beduli 1997, 14). In this context it is ridiculous for Beduli to consider Kristoforidhi as serving Orthodoxy against Protestantism because Kristoforidhi translated the protestant doctrine of Isaac Watts (1674-1748) in what Beduli unwittingly accepts with referring to "kater katekizmat" (Kristoforidhi 2017, Volumi 9:38).
- <sup>4</sup> The influence of the school for girls goes further than just education because it influenced the lives of the generation of the children of those girls who became influential during the preceding periods of Albanian history and the developments with establishing the Albanian state.
- <sup>5</sup> Shih: Ligji nr. 10 394, date 10.3. 2011 "Per ratifikimin e 'Marreveshjes ndermjet keshillit te Ministrave te Republikes se Shqiperise dhe bashkesise fetare "Vellazeria Ungjillore e Shqiperise" per rregullimin e marredhenieve te ndersjella, botuar ne "Fletorja Zyrtare e Republikes se Shqiperise," nr. 34, date 7 prill 2011.

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# Evaluating Public Private Partnership (PPP) collaboration in hospital sector (study case Albania)

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## Abstract

*Public-Private Partnership is an important option, which can be used both in unsafe economic times, as well as periods of well-being. There is a link between public sector needs and private sector goals. Central and local governments nowadays have to find new and innovative ways to improve infrastructure in order to increase the quality of service for their taxpayers. Public-private partnership can serve as a platform to improve the quality of services provided to citizens.*

*Over the last twenty years a model has been developed based on the creation of public-private partnerships with an aim to provide infrastructure projects in order to meet public needs. PPP is the result of efforts aimed at: a) providing funding within budget limits and public spending cuts, b) infrastructure investment as a catalyst for economic development, c) high efficiency in using resources from a private partner and rating commercial public utility, d) improving service quality and efficiency and promoting public sector management. The factors that led to PPP development at the local level throughout the world include:*

- *Using the technical, financial and innovative management capacity of a private partner*
- *Exchange of skills and knowledge between the public and private sectors*
- *Risk-based resource allocation based on the ability to manage them from the public sector and the private partner*
- *Withdrawing private capital against the collapse of inadequate public funds for financing the core tasks of local self-government*
- *An altered role of local governments, who have become organizers, guarantors and controllers instead of traditional insurers of public sector and services.*

*PPP should not be understood as the only possible option for project implementation, given its complexity for contracting and realization. There are many alternative sources of funding available. PPPs should be carefully evaluated from project prospects, benefits and public gains, the legal system and the level of economic development. PPP as a model for financing and building infrastructure and improving the provision of public services has been applied in EU member states for several years. In order to facilitate, encourage and regulate the implementation of PPP projects, many European countries have adopted specific regulations and guidelines, which constitute the legal framework for the implementation of PPPs. The adoption of the regulations was accompanied by the establishment of an institutional framework for selection, approval, contracting, recording and monitoring of results in the implementation of PPPs.*

*In practice, there is no unified definition of PPP, so there is no clear agreement on what constitutes and what does not constitute a PPP, although there are many concepts and definitions to define a PPP.*

*'Public-Private Partnership is a binding government-business contract for asset security and service delivery, which shares responsibilities and business risks amongst various partners.'*<sup>1</sup>

*'Public-Private Partnership includes the supply of private sector assets and services infrastructure that have traditionally been provided by the public sector.'*<sup>2</sup>

<sup>1</sup> An Introduction to Public Private Partnerships, British Columbia, June 2003, pg 2

<sup>2</sup> A Public Economics Perspective, Efraim Sadka 1, March 2006, pg 2

*Public-Private Partnership is a key part of the strategy to provide infrastructure that meets public needs. Taxpayers or citizens are the reason why PPPs are created, as they are the users, the ultimate financiers, even by the taxes that they pay.*

*But in addition to private execution and public investment financing, PPP has other important features:*

- *The private sector finances the construction of the infrastructure (partly or wholly) and further manages and maintains it and / or carries out activities of public interest (public services) for which it receives compensation from the public partner or from the final public service users;*
- *The public partner retains the right to define the goals to be achieved in terms of the quality of public services, public service prices and control over their realization;*
- *The relatively long duration of the PPP contract;*
- *Risk distribution, most commonly carried by the private partner. But PPP does not mean that the private partner always takes all the risk or most of the project risk.*

*While the term Privatization is used in the case of a full sale or when a specific function is passed on to the private sector and where regulatory control remains a public sector responsibility. Various basic PPP models can be flexible and modeled depending on the need for application in particular sectors.*

***Methods and Findings used for this study:***

*Peer-reviewed studies including case studies, meta-analyses, reviews, and case-control analyses, as well as reports published by non-governmental organizations and international agencies, were systematically collected through database searches.*

*The most popular publications in the field of PPPs and concessions in Albania were used as the basis of the study; further all documents and consultancy offered by KFW, IFC and other donors in Albania for the PPP sector and concessions have been selected; the selection of documents provided by the European Commission and the World Bank for this purpose. Statistical data has been collected from INSTAT and Ministry of Health.*

# The status of the non EU relativ in the free movement in UE

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## Abstract

*In the present conference I want to treat the theme related to the Status of the non EU relativ in the free movement in EU. The present theme is as complicated as current, because, today, can be implied that the effective observance of the fundamental right of free movement seems distant. In order to rebuild the general legal regime of non- EU nationals, who circulate and reside in the European Union, is necessary to determinate previously the legal porpouse and content of the freedom of movement and residence recognized by the EU treaties. In first place, given the skills associated with this fundamental right, it is possible to appreciate the features of similarity and distinguishing between the position of the citizen of a Member state and, accordingly, the citizens of a third country, not- community, as the case of Albania. In second place, the extent to which the citizens of a Member State are entitled to free movement, shows the intermediate position of the non EU citizens, who have a family relationship with the community, as the right of family reunification constitutes a projection of free movement of persons.*

*Key words: the status of the relative, concept of free movement, non- EU citizen, Albania, international law, EU.*

## OBJECTIVES

For a long time, the treatment of non-EU citizens was considered a special sector, where competences belonged to member states themselves, as it did not match the goals and objectives of the common market.

In the late 1970s, the major dimensions of the migration phenomenon have enabled community institutions to coordinate the activities of member states in order to improve the treatment of non-EU workers and also their integration and the families of the latter in the host country.

The discipline of migratory phenomena, even though formally remained competence of a member state, began to become part of the community policy fields.

The concept of free movement came up with the Schengen Agreement and its signature in 1985 and the subsequent Schengen Convention on 1990, which abolished border controls between member states, has gradually expanded to most EU member states and in some countries outside the EU.

The definition of a third-country national corresponds to the concept of a foreigner, referred to in the Convention implementing the 1990 Schengen Agreement.

Referring to article 1 of the Convention in question, it is considered “foreigner” who is not a citizen of one of the European Union member states and, consequently, also stateless persons.

However, in the case of Community law, a foreign national is also considered an EU citizen in comparison with the host Member State, other than that of the origin; as well as a national of a Member State in respect of the legislation of another Member State which discriminates against it on the basis of nationality.

For this reason, it is necessary to differentiate when talking about a “foreign” person, whether it is a foreigner or a foreign citizen of a third country.



With the “citizen” concept, in the community context, we mean a member of a community established in a particular territory of one of the member states; “Foreigner”, by contrast, is defined in a negative sense, as a non-citizen, excluded from the community.

The difference between these “two categories” of persons has not diminished considerably, considering the innovations brought about by the Lisbon Treaty, as a foreigner emigrating to the territory of a member state is seen as a competitor in the distribution of available resources. For this reason, a mistrust of local citizens is often verified and a lack of interest on the part of the institutions.

On the one hand, the situation of non-EU citizens is subject to certain norms of community law, unlike what happens to some third-country citizens who are subject to common law. On the other hand, their extraordinary rendition, with respect to the benefits of the free movement of persons, is only partial, or in any event with some special conditions, thus holding a different position from that of citizens of member

The special status of these subjects derives from domestic law, in the case of family members of the citizens of the member states, or is determined by external agreements reached between the EU and third countries.

In the case in which the family reunification has as active holder, a non-EU citizen who lives and works in an EU member state is currently regulated by domestic legislation in accordance with Directive 86/2003.

This directive is a fruit of difficult negotiations, as member states were opposed to ceding their sovereignty over immigration issues. It realizes protection of the family community not only as a fundamental right, but also as a factor that promotes the social and cultural stability of immigrants, as well as their integration into the social life of the receiving state.

This Directive sets out the main rules for the exercise of the right to family reunification. The directive tries to harmonize and realize a family reunification protection not only as a fundamental right, but also as a factor that promotes the social-cultural stability of migrants.

This directive provides that a third-country national who regularly resides in the territory of a Member State has the right to allow his family members to join, but also allows Member States to apply, under certain circumstances, a national rule that derogates from this principle.

The directive also provides that host Member States address certain special conditions to the resident, before the latter applies for family reunification.

One of the conditions is related to the period of stay of a citizen in the territory of the receiving state, a period which may not, however, be higher than two consecutive years.

In any case, the receiving State may not postpone the waiting period for family reunion for more than three years from the date of the submission of the application and the issuance of the residence permit for the applicant family members.

This directive is an important document, since the right to family reunification for non-EU citizens in the European Union is codified for the first time and constitutes the first instrument at national level that establishes an integrated legislative framework for family reunification.

Those who benefit of the right to family reunification, under Directive 86/2003, are only the third-country nationals who regularly reside in the territory of the host country with a valid residence permit, valid for at least one year, as well as refugees, regardless of from the residence permit.

In the identification of passive subjects are included as a family in essence, ie spouse, infant children and adopted children, as well as ancestors and children of adulthood.

Article 7 of Directive 86/2003 lays down the necessary conditions to be met. These conditions are an integral part of the national legislation of each Member State and constituted an obstacle to be passed before the adoption of the directive in question.

The applicant should possess:

- 1) A proper dwelling, which can be considered normal for a family;
- 2) A Health Insurance against Diseases that Complicely Completes Risks in the host member state, for the citizen and his family;
- 3) Sustainable and sufficient resources, above or at least equal to the level of resources under which social assistance can be provided in the host Member State.

These conditions constitute the standard ones that are required by Community legislation and community citizens, excluding only the condition of a real dwelling.

Regarding the economic resources, it is specified that the latter must be stable and regular, sufficient to keep themselves and their families without reaching the limit when social assistance is requested from the host member state.

For non-EU citizens this condition must be met not only at the time of applying for a right to family reunification, but also at the time of submission of a request for renewal of the citizen’s right in question or of his latters.

A non-EU citizen’s residence permit may be withdrawn or not renewed in the absence of at least one of the conditions contained in Directive 86/2003.

When we talk about the right of family reunification, the opinion immediately goes to the affirmation and the international guarantees that safeguard this fundamental right, and presiselyon the European Convention on Human Rights of 1950, and respectively Article 8 of it.

As is well known, the norms contained in this convention sanctify the right to respect for family law as a right recognized by the contracting states to anyone within their jurisdiction. There is no doubt that Article 8 of the Convention also includes the right of family reunification of foreigners.

The possibility to deduct this right from the scope of the freedoms and the subjective rights provided for in the convention provision is already authoritatively affirmed in many decisions of the European Court of Human Rights which, although not explicitly, recognize the right of family reunification not only in general, but also in particular with respect to foreign nationals.

This right, as well as other rights contained in the convention, may be considered the content of a general principle of community law, which forms part of the system of legality, and consequently, the Court of Justice of the European Union must ensure its implementation.

From the practical point of view, the above indicates that member states, in application of the directive on family reunification, are allowed to change as the typology of the conditions required for the exercise of this right and not to subject this right to any condition. These choices may also influence the various directions received from different member states regarding immigration and family reunification, and more directly the concept of the right of family reunification recognized by the legislation of the member states.

A reading of Article 7 of the directive, highlights the existence of four permissible conditions which the editors of the directive have wanted to subject to the exercise of the right to family reunification.

According to what this article contains, it is about some summary and non-alternative conditions. Also, it is about conditions that were previously envisioned by the directives' proposals.

However, there are some important changes in this regard, particularly with regard to the lack of a re-proposal in the text of Article 7 of what is set out in Article 9 point 2 of the last proposal of the directive, which reads as follows: "The conditions of accommodation, sickness insurance and resources provided for in paragraph 1 may be set by the Member States only in order to ensure that the applicant for family reunification will be able to satisfy the needs of his reunified family members without further recourse to public funds ...".

This rule is not fully transcribed in the final version of the directive, but has been altered not only in form but above all in its social economic function.

Unlike what was contained in the various proposals before the final version of Directive 86/2003, the condition to have satisfactory and necessary resources to meet the needs of a citizen of a third country legally staying in the territory of a country member and his relatives without the need to seek the social assistance of the host country concerned, in the final text of the directive in question, no longer constitutes a general assessment parameter in which the remaining conditions for the exercise must necessarily be reported of the right to family reunification.

It is thus concluded that housing and insurance against sickness may not conform to the objective that the applicant for family reunion is appropriate to meet his or her needs without the social assistance of the receiving State. But that does not mean that housing conditions and financial resources, hypothetically imposed by state acts for the adoption of the directive, may be worse than house and family allowances, provided by the Member State, to which the entry and residence requirements are directed, nor can they be the source of discrimination between legally resident third-country nationals and community citizens.

Explaining the first condition for the exercise of the right to family reunification, it should be recalled that under Article 7, point 1, letter a: "at the time of application for family reunification, the Member State concerned may ask the person submitting the application to show that the resident has: a normal resident flat for the same family in the same region and corresponding to the general health and safety standards in force in the Member State concerned."

A superficial reading of this provision makes us see and understand that it is precisely that of guaranteeing an effective protection of those state interests whose directives it intends to fulfill.

But, wanting to evaluate the legal content of this article, it can be clearly read that more than one of the conditions for exercising the right to family reunification, once again contains one of the reasons for refusing the application of entry and stay due to family reunification.

As regards, the second condition sanctioned by the directive, it is provided for in letter b of the same article, on the basis of which the Member State concerned may request that the person submitting the application demonstrate that the resident in the territory of he has «a health insurance against the disease, to include all the risks normally involved in the citizens of the host country, for himself and for his family».

In order to apply the provision in question, the concerned citizen must demonstrate the existence in his favor of insurance not only in terms of illness but also of accidents.

Whereas, with regard to the third clause required, to exercise the right to family reunification, it may be noted that this is a condition, more than the conditions mentioned above, which allows Member States to have a wide area of appreciation.

According to Article 7 point 1 letter c): «at the moment of submission of a request for family reunification, the requested Member State may require the person submitting the application to demonstrate that the resident has stable and regular resources, enough to keep himself and his family members without having to seek social assistance from the member state concerned.»

It is obvious that in the absence of objective parameters to establish the stability of resources and their adequacy in relation to the needs of the applicant (active subject) and his / her family members (passive subjects), it is the exclusive competence of the Member States to proceed with the assessment of above.

All the provisions of Article 7 result, at the same time, as conditions for the exercise of the right to family reunification, as well as the limits of that right.

In accordance with the specific legislative technique, it is difficult to establish a fourth condition for the exercise of the right

to family reunification, as provided for in Article 8 of the Directive: «Member States may require the the latter to join his family if he has been regularly resident in the territory of the host country for a period no longer than two years «is more likely to be the most restrictive condition than the other conditions for exercising this right.

This assertion is due to the fact that, in the first place, the length of the period that a citizen may be required by a Member State before the latter seeking family reunification would turn this right into an inability to exercise .

In addition, another limit to this right is indicated in point 2 of this article, where it is provided that, if the legislation in force of a Member State at the time of adoption of the directive takes into account the capacity of hospitality of the the latter may provide for a waiting period no longer than three years from the date of application for family reunification and the issuance of a residence permit for family members.

It seems that the only solution that alleviates the danger of the consequences of the provisions in question is exclusively to the will of the states themselves.

According to what is provided for in Article 13 of the Directive, the host Member State to which the entry and stay application is addressed must authorize the entry of a citizen after the application of the active entity has been accepted.

According to this principle, a full legal obligation is created for the State concerned to accelerate the visa-taking process for beneficiary persons, which, although of a strong binding nature for the Member States, only concretises in terms of the acceleration in question resulting in this way less convenient, comparing with the obligations imposed on the entry and residence of passive entities in their territory.

It should also be noted that at the moment of receipt of the visa application, in addition to what was stated above, the Member State concerned should issue the first residence permit to the family members concerned, with a validity of at least one year right rejuvenation.

We may add that the residence permit issued to the active subjects should in no case exceed the validity of the residence permit of the active subject. But it is clear that we are dealing with a little operative provision in the sense that the latter sanctions a rule that is only applicable in principle, and that difficulties in exercising family law lie above all in the prescriptive acts of directive, above all in relation to what the Member States may foresee for the period of validity of residence permits.

Moving further to the elaboration of Article 14 of the directive, it should be noted that in this article there are a number of obligations regarding civil, political, economic and social rights that are known to the family members of active subjects.

According to what Article 1 of this article stipulates, family members of the requesting subject (active) are entitled, as is the case with the latter:

- a) have access to education;
- b) have access to a subordinate or independent employment activity;
- c) have access to orientation, formation, perfection, and updating professional.

As can be seen clearly from the above list, the directive in question does not cite textually that the passive subjects of the requesting citizen are entitled to these rights, but only that they have access to these rights; not only this but also a lack of the necessary parameters to establish the exact limits of the obligations of the Member States concerned.

The importance of recognizing a family member's right, such as the right to self-employed or dependent work, results in diminished, as member states may, based on national legislation, decide on the conditions under which family members may conduct a work activity . These conditions set a limit that can not exceed 12 months, during which Member States have the opportunity to assess their internal labor market situation before authorizing a family member to pursue an independent employment activity.

Although the provision deals only with the conditions under which passive entities may develop a paid work, it is evident that it also refers to forms and modalities relating to the activities concerned.

Consequently, even in relation to these issues, it is allowed Member States to exercise their powers relatively for the latter, but at no time should go beyond what is sanctioned in Article 2, paragraph 2: «these terms impose a period of time which can not exceed 12 months anyway. «

Such a short duration may lead to the opinion that there is a redefinition of the powers of the Member States in the area concerned, but temporarily, as member states themselves during these 12 months have the right to assess the situation of their labor market , before authorizing passive entities to exercise a dependent or autonomous work activity, once again emphasizing the supremacy of what the Member States concerned decide.

So, the purpose of this article is not to limit the powers of member states, but to underline these powers in this set time period.

Further, Directive 86/2003 also deals with cases when a residence permit is issued independent of the active subject. Article 15 stipulates that if they have spent five (5) years from the beginning of their stay, for family reasons, spouse or partner and children who have reached the age of majority, they are entitled to an autonomous residence permit. The term of 5 (five) years has become part of the directive instead of the shorter period of 4 (four) years, which was part of the first proposal.

Member States may also restrict the granting of a residence permit to a spouse or partner only if the family relationship is broken or when provided for by the domestic law of the State concerned. Another very important point relates to the specific discipline of the revocation of the requirements of subjects who are beneficiaries of the right to family reunification. These conditions are dealt with in Articles 16 and 18, which constitute complex provisions in relation to the subject in question.

These are provisions that show the political will of the directive's editors, who wanted to elaborate on any issue raised for

a refusal decision and / or revocation of the request for entry and stay in the territory of a member country. What should not be surprised, apart from the fact that the refusal or revocation of a request for entry and stay in the Schengen area is inevitably and directly affecting the exercise of the right to family reunion known as a fundamental right under the framework of the legal provisions of many of the member states of the European Union.

The abovementioned articles, if systematically read and interpreted, allow Member States a broad power from the moment they authorize these States not only to prohibit the entry and / or stay of aliens or refugees in their territory, which in itself should not be overlooked, but it also allows it to proceed in a series of checks also under some assumptions regarding the conditions for accepting the entry and stay request.

Having gone through the interpretation of the provisions under Articles 16 and 18 of the Directive, the fundamental principle upon which the attention of the performers is concerned is related to the long-list character of the reasons why Member States may use as a result of the rejection of the application for entry or stay submitted by individuals wishing to exercise the right to family reunification.

The problem arises as these provisions clearly state that member states have the right to refuse a request for entry and residence with a view to family reunification or, in the foreseen cases, withdraw or refuse renewal of the residence permit for the reason in question in the following cases of point 1 of Article 16.

It is evident that the true meaning of this provision clearly indicates only the taxation conditions in which the passive entity may be refused, withdrawn or renewed the residence permit or the right of entry to the State concerned.

Moreover, the discretion allowed to Member States by the provisions relating to the revocation of the application for entry and residence is found in the provisions in question, since such member states may, in the process of assessing the request, keep in mind that the particular fact that the related marriage, the stable relationship or adoption is made after the petitioner's application for a residence permit has been issued, and may proceed with certain specific verifications if there is a valid presumption concerning a fictitious marriage, a relationship fictitious or fictitious adoption.

As regards, on the other hand, the reasons for the revocation of the application for entry and stay, it can be seen how, as in the final text of Directive 86/2003, a dual increase in the provisions was compared, compared with previous versions of the directive, and above all that the list of reasons reveals the lack of grounds for revocation due to international security.

At this point it is worth noting that even though member states have a full ruling power, active and passive subjects who exercise the right to family reunification have the right to file a recourse against the decision taken by the state concerned, the right conferred by Article 17 of the directive.

This article clearly states the right of recourse by citizens who are legitimate to file a request for entry and stay with a view to family reunification against a possible negative decision or against the decision to revoke the permit or against the decision not to renew the residence permit consequently the removal of the passive subject from the territory of the State concerned.

The positive character of Article 17 finds strength even in the absence of the obligation on the part of the State concerned to allow the applicant to remain in the process of inspection and control. But that is not enough. The positive character of the provision in question is also respected because of the lack of procedural guarantees, the speed of the proceedings and the lack of any reference to the eventual jurisdiction of the judicial authorities until the adoption of intermediate decisions, such as urgent decisions.

Family reunification means the institution which allows a foreign immigrant (an active subject) residing in a Schengen member country by a residence permit to request the entry and residence of non-EU (passive) foreign members in the country host, in order to continue or regain the unity of his family.

In elaborating the content of the right to free movement, we will take as a reference point, as we did in the above chapters, regarding the community citizens and their family members, Regulation 1612/68, which underlines a very important moment in the provisions complexes, which have been adopted by the EU institutions, in order to ensure the effective implementation of the fundamental right of free movement of persons contemplated in the treaty<sup>83</sup>.

In fact, the provisions adopted under this regulation have not presented a substantial change in the rights that belong to the family members of the active entity. By contrast, these provisions are very similar to the regulation in question.

Regarding the treatment of uncommon family members present in the territory of a Member State, the Court of Justice has ruled on various occasions that the principle of the same treatment, based on Article 7 of Regulation 1612/68, should also be used against these the last.

The family member of a non-EU third country extends all the rights and advantages stemming from the status of a Community worker, starting from the broad concept given to the "employee worker" by the case law of the Court of Justice, as well as the series of economic and social advantages accorded to the employee by regulation 1612/68 and completed by Regulation 1408/71 concerning social security.

However, all these advantages do not extend to the benefit of the family members of the family who can exercise the right to family reunification, as only the spouse and children in charge of a community citizen can exercise a work activity in the host country who have obtained a residence permit regardless of their nationality.

The recognition and further consolidation of the protection of family life in the community legal framework has represented a first guarantee of respect for the right of family reunification of non-EU citizens and refugees.

However, we must make a distinction, as mentioned above, between non-communitarian passive entities, family members of a community citizen and passive non-communitarian subjects who do not have a family relationship with entities that belong to the community legal system.

Once the distinction is made, at least in the essential terminology, we can understand the effective essence of the right



of family reunification of third-country nationals who are on a regular basis in the territory of one of the European Union member states.

As outlined above, as well as in the previous chapters, it is clear that the family of at least one community citizen is most protected in all respects, ranging from the right to free movement to the right to family reunion, rather than a family entirely made up of non-EU citizens.

Community law on family reunification does not foresee an extension of the free movement regime to family members of the community citizen but, thanks to the privileged status of family members, reserves the latter a more favorable treatment compared to non-EU foreigners.

The finality of the norm does not consist in facilitating the free movement of a non-EU citizen, but in the right of movement of family members of a community citizen.

One of the most obvious limits of the community regime for family reunification consists in the application field, as it includes only family members of the community citizen who has benefited from the exercise of the right to free movement, while the situation of the familiar of the EU citizen, which has not exercised this right, continues to be completely regulated by the national legislation of the member states.

In the area of application too narrowly, discrimination may arise as if the content of the national legislation of a member country of the European Union in the field of the right of family reunification results less advanced than what is foreseen by community norms, the citizen of this a member country that has never exercised the right to free movement can not rely on community norms, and therefore its family members, ie passive subjects, will have a less favorable treatment than family members of a citizen of another member country but also of a fellow citizen who has previously lived for a certain period in another member country other than that of origin.

## CONCLUSIONS

Our country, in the context of free movement and family status in relation to free movement, has achieved a desperate utopia for many years, such as visa liberalization in the Schengen area.

The foreigner emigrating to the territory of a member state is seen as a competitor in the distribution of available resources, and for this reason, a mistrust of local citizens is often verified and a lack of interest on the part of the institutions.

For a long time, treating third-country citizens was considered the sole competence of member states, as it was outside the common market objectives and outcomes.

By the end of the 1970s, the large size achieved by the migration phenomenon made the EU institutions coordinate the activity of member states in order to improve the treatment of non-EU workers working in their territory, favoring at the same time integrating them and their family members into the host country.

The situation of third-country citizens who are considered “privileged” lies in a position between the situation of third-country citizens of the common law and the citizens of the member countries<sup>68</sup>.

On the one hand, the situation of non-EU citizens is subject to certain norms of community law, unlike what happens to some third-country citizens who are subject to common law.

On the other hand, their extraordinary rendition, with regard to the benefits of the free movement of persons, is only partial, or in any event with some special conditions, thus holding a different position from that of citizens of member countries.

The special status of these subjects derives from domestic law, in the case of family members of the citizens of the member states, or is determined by external agreements reached between the EU and third countries

Recent developments in this regard are closely linked to the fundamental modifications that the entry into force of the Treaty of Lisbon. In conclusion, we can say that all roads lead to Rome, but before they pass from Brussels.

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# The Efficiency and the Effectiveness of the Albanian Judicial System, the Western Balkans and European Union Countries in a Comparative Context

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## Abstract

*The aim of this paper is to provide a comprehensive and comparative analysis of the effectiveness of the judicial system in Albania vis-à-vis some of the countries of Western Balkan and European Union. In order to ensure legal certainty and financial consistency in the Albanian Judicial System, it is important to respect a set of principles and rules of domestic, European and international law. Over the 28 years of post-communism and despite the political chase of the “European dream of integration” in particular through the harmonization of the legal framework, the effectiveness of the Albanian judicial system emerged as a failure of mostly due to lack of an adequate consideration of budgeting. This is also proven by the CEPEJ statistical database which indicates that Albania has the lowest budget of the Western Balkans and European Union countries. The first goal of this paper is to analyze whether the insufficient budgetary resources related to personnel and operational expenses, investments and access to justice affect the efficiency of the whole judicial system. Secondly, this research explores whether this transition towards a ‘workable’ judicial system has jeopardized the continuity of services for the people by depriving them of their entitlement to a fair trial (Article 6 ECHR) and free legal aid. Lastly, assuming that the judicial reform will improve the efficiency and quality of the judicial system, this paper will analyze whether it is flexible and reliable for the assessment of the current judicial map, indicators and statistics with a view to addressing the real challenges and propose recommendations.*

*Key words:* judicial effectiveness, financial harmonization, budget, rule of law, access to justice

## Introduction

“Effective justice systems support economic growth and defend fundamental rights. That is why Europe promotes and defends the rule of law” (Juncker, State of the European Union speech, 14 September 2016). The success of the rule of law in a democratic country cannot be ensured without fair, efficient and accessible judicial systems – or judiciary, which is the entirety of courts and judicial authorities in a state. This has been acknowledged by the Council of Europe Resolution Res(2002)12, followed by a non-exhaustive list of resolutions and recommendations on access to justice and proper and efficient functioning of courts<sup>1</sup> - which explains that the rule of law principle can be a reality only if citizens can uphold their legal rights and challenge unlawful acts.

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<sup>1</sup> In relation to access to justice: Resolution (76)5 on legal aid in civil, commercial and administrative matters; Resolution (78) 8 on legal aid and advice; Recommendation No. R (81)7 on measures facilitating access to justice; Recommendation No. R (93)1 on effective access to the law and to justice for the very poor, Recommendation No. R (98)1 on family mediation; Recommendation No. R (99)19 concerning mediation in penal matters; Recommendation Rec(2001)9 on alternatives to litigation between administrative authorities and private parties. In terms of efficiency of judicial proceedings: Recommendation No. R (84)5 on the principles of civil procedure designed to improve the functioning of justice; Recommendation No. R(86)12 concerning measures to prevent and reduce the excessive workload of courts; Recommendation No. R (87)8 concerning the simplification of criminal justice; and Recommendation No. R (95)5 concerning the introduction and improvement of the functioning of appeal systems and procedures in civil and commercial cases.

In the last 28 years, the justice system in Albania has experienced legal, institutional and moral crises. The transition from the communist regime to the era of Europeanisation effected the proper functioning of the institutions tasked to deliver justice. The Albanian governments have been struggling to implement judicial reforms in the framework of: *firstly*, the harmonisation and approximation process of laws with the *acquis commune*, *secondly*, the compliance with the EU and international toolkit of national judicial institutions and *thirdly*, the safeguard of the fundamental right to a fair trial within a 'reasonable time' in judicial proceedings in compliance with Article 6 of the European Convention of Human Rights (ECHR) and the effective execution of judicial decisions (European Commission for the Efficiency of Justice (CEPEJ), 2016:181) in conformity with the international standards for the protection of human rights. Such a struggle seemed to have only brought limited improvements despite the reforms and the overwhelming expectations for positive outcome. The harmonisation process in Albania of *ius commune* - the 'Europeanised' rules and practices of the EU countries- has itself posed a lot of challenges including the insistence on the promotion of their own procedural principles and rules by European States (Uzelac, 2012:176). Indeed, in Albania, the 'Europeanised' legal reforms have not produced much real harmonisation in particular as the EU itself instead of harmonisation has produced "a hallucinating number of European legislative acts and instruments (regulations, directives, decisions, resolutions)" (Uzelac, 2012:176).

Any government is responsible for ensuring an effective justice system so that the individuals can fully enjoy their fundamental human rights. The issue is then to determine how the effectiveness of the justice system can be measured. Bove and Elia (2017:2) identified in their study that efficiency, quality, and independence are the key elements of an effective justice system. Therefore in order to effectively measure or assess the functioning of the judiciary in Albania, the following indicators could be used: efficiency, quality and independence. Additionally, adequate resources, the right conditions in courts, as well as well-qualified staff are necessary for the good functioning of the justice system. Without a sufficient number of staff with the required qualifications, skills and access to continuous training, the quality of proceedings and decisions are at stake (2017 EU Justice Scoreboard, 2017:25).

This paper is an "input – output" analysis of empirical data on the functioning of the Albanian justice system. The problematic will be treated in three parts. Part I analyses that despite the difficulties of measurement of the quality, efficiency and independence of justice as a result of a lack of data (and political influence), and aims at ascertaining the current problems of insufficient budgetary resources related to personnel and operational expenses, and investments, and the ineffectiveness of access to justice and the issue of corruption vis-à-vis the principles applicable in any democratic society.

Part II constructs the hypothesis that the transition of the system towards and adequately functioning one has put in jeopardy the stability of providing fair proceedings especially due to the inadequate access to legal remedies and enforcement of judgments and administrative decisions as implied by the ECtHR's statistics.

Furthermore, another hypothesis will assist with identifying the interdependence of "judicial reforms versus judicial corruption" (Transparency International, Corruption Perception Index 2017) and the effects or the impact the judicial reform will have on the current judicial map, indicators and statistics in order to address the real challenges and propose recommendations. The purpose is not only to assess the quality, effectiveness and efficiency of the different judicial systems (CEPEJ, 2016) of the Western Balkans and certain EU countries, but also to identify best practices that could be applicable to Albania in accordance with the recommendations of regional and international institutions or organisations. The analytical comparison is designed to contribute to the discussions taking place for the successful implementation of the judicial reform and to steer prospective academic research.

Overall, as Uzelac (2011:106) also argued the core legal issue is whether there is a *direct connection* between the investment in judiciaries (in terms of court budgets, number of judges and their salaries) and the resulting operation of the justice system. The latter consists of strengthening judicial capacities, court independence and efficiency as well as fighting against organised crime and corruption.

## Methodology and Limitations

Methodologically, this research is based on data on the justice systems of the CoE CEPEJ reports 2002-2016, the EU Justice Scoreboard of 2016, Eurostat, World Bank, Transparency International, Progress Reports by European Commission and other national relevant reports and surveys of NGOs. There are some factors which imposed the following limitations to this research:

- Lack of updated data regarding 2017 and 2018 from the national governmental institutions and international organisations evaluating corruption and the efficiency of judicial system such as the World Bank, the EU and the CoE;
- Inexistent data on the 1st instance criminal cases between 2010-2016; pending and incoming criminal / administrative cases from 2010-2016 (CEPEJ, 2016:228); and
- Complexity of measuring the justice system efficiency both qualitatively and quantitatively .

The authors were not in a position to familiarise themselves with the most recent changes as the reform is in progress and amendments are being introduced continually (Greco, Compliance Report Albania, 2016:8).

## Evaluating an effective justice system in a comparative approach – Economic data

In order to understand and evaluate the justice system and its adequate functioning, CEPEJ (2016:5) developed a scheme on the basis of the principles identified in Resolution Res(2002)12 of the CoE. Despite the fact that the comparison of quantitative data from different countries with various geographical, economic and legal situations is a delicate task, the evaluation of the justice system in the countries of Western Balkans is based on similar elements and concerns. For instance, in Serbia, a 2017 survey conducted by the Judicial Academy Alumni Club, called “*The Opinions of Judges and Prosecutors on the Judiciary in Serbia*” highlighted that on a scale of one to five, judges rated Serbia’s judiciary 2.67 while prosecutors gave it 2.58 (Euractiv, 2017). This result is also viewed as a common perception towards the judiciary in all Western Balkans.

Although the aim of CEPEJ reports was to give an overview of the situation of the European judicial systems, and not to rank the judicial systems in Europe, a comparison can still be conducted while taking into account the similarity of the characteristics of the judicial systems: for instance civil law countries (Albania, B&H, Montenegro, Serbia, FYROM, Croatia, Slovenia, Netherlands, Italy, Greece, Romania and Bulgaria); geographical criteria (size, population), or economic criteria (for instance size of GDP; within or outside the Euro zone).

Accordingly, Bove and Elia (2017) selected the following three areas to identify an effective justice system:

- a. Efficiency of a justice system: it is measured by an indicator of the time needed to resolve litigious, penal, civil and administrative cases and the number of pending cases.
- b. Quality of the judiciary: it is captured by per capita total spending on law courts, the total number of judges and the number of quality standards that countries adopted to monitor and assess the justice system; and
- c. Independence which is measured by societies’ perception of judicial independence.

Though disputes related to the direct link between the *economic scale of a country and the efficiency of the justice system in terms of investments*, can be justified, the data collection still demonstrates large differences regarding wealth and living standards in the various countries through GDP per capita and their rank in the functioning of justice systems.

### Efficiency of the justice systems

Emster, Amelsfort and Dijk (2011) argue that an efficient and effective judiciary is based on two principles: (1) to strengthen the continuing values of independence, impartiality, integrity and professionalism; and (2) to identify and connect to the needs and problems in society. The area of the efficiency and fairness of justice requires that Albanian institutions and judiciary properly implement the European Convention on Human Rights, and in particular its Articles 5, 6, 13 and 14, as well as the relevant provisions of its protocols, the case law of the European Court of Human Rights and the relevant international legal instruments drawn up within the Council of Europe in the aforementioned area (Resolution Res(2002)12).

The transition of the system towards an adequate functioning has put in jeopardy the stability of providing fair proceedings especially because of the inadequacy of accessible legal remedies and enforcement of judgments and administrative decisions, as justified by the ECtHR cases: *Manushaqe Puto and others v. Albania*<sup>2</sup>; *Ramadhani and Others v. Albania*; *Caush Driza v. Albania*; *Shkalla v. Albania* (violation of Article 6 § 1, access and fairness; *Mishgjoni v. Albania* (violation of the right to a fair hearing); *Sharxhi and Others v. Albania* (application no. 10613/16)<sup>3</sup>). In the table below, in comparison to other countries of the region, Albania has the highest percentage of violations of Article 6 – right to a fair trial (40%) and non-enforcement of court decisions (34%), Article 13 – right to an effective remedy (39%) and Protocol 1-1 – protection of property (41%).

**TABLE 1.** Violations of by Article - ECHR 1959-2017

Country	Total number of judgements	Right to a fair trial	Length of proceedings	Non enforcement	Right to an effective remedy	Protection of property
Albania	70	40%	10%	34%	39%	41%
Bosnia and Herzegovina	56	18%	9%	34%	2%	55%
Croatia	377	26%	26%	1%	9%	9%
Macedonia	141	29%	45%	4%	7%	6%

<sup>2</sup> *Manushaqe Puto and others v. Albania* (Applications nos. 604/07, 43628/07, 46684/07 and 34770/09) Chambers’ Judgment of 17 December 2012. Pilot judgment concerning non-enforcement of administrative decisions awarding compensation for property confiscated under the communist regime in Albania. (this decision established a pilot judgment procedure – to facilitate an effective implementation by Albania of the systemic problems underlying violations of Article 6, 13 and Prot. 1 of the ECHR).

<sup>3</sup> This case concerned the demolition of flats in an Albanian coastal town, in breach of an interim or by national courts. On 11 January 2018, ECtHR held unanimously that there had been violations of Article 6 § 1 (right to a fair trial), Article 8 (right to respect for private and family life and the home) and Article 1 of Protocol No. 1 (protection of property) alone and in conjunction with Article 13 (right to an effective remedy).

Greece	963	14%	55%	1%	26%	8%
Italy	2382	12%	50%	1%	4%	15%
Montenegro	37	16%	41%	14%	11%	11%
Netherlands	160	18%	5%	0%	1%	1%
Serbia	179	16%	20%	35%	10%	40%
Slovenia	353	5%	75%	1%	75%	2%

Source: ECtHR, Statistics by State, Violations by Article and by State 1959-2017

A factor that would increase efficiency is the decrease in accumulated cases in courts and faster circulation of cases. For instance, in Latvia, the Council for the Judiciary approved Guidelines on transfer of a case accepted for review to another court to ensure faster examination of the case (European Network of Councils for the Judiciary (ENCJ), Annual Report 2015-2016:27).

In addition, the main findings of the data collection of OECD (2013) and CEPEJ (2002-2016) suggest that well-functioning judiciaries are a crucial determinant of economic performance as they guarantee security of property rights and enforcement of contracts. Security of property rights strengthens incentives to save and invest, stimulating agents to enter into economic relationships. This has a positive impact on growth through various channels by promoting competition and contributing to the development of financial and other markets.

Overall, the efficiency of the judicial system is a right of the defendant to a fair trial, but also a public and legal obligation on the Judges and Prosecutors. The work of the Court as a driving force of efficiency, should strive to ensure the principle of equality of arms, the principle of economy, the principle of transparency, and *res iudicata* (Constitutional Court Decision No. 12, dated 17.03.2014). Despite the importance of these principles, both the Supreme and the Constitutional Courts are rigid in interpreting and elaborating a detailed legal analysis that would enhance clarity of the law.

## Quality of the justice systems

The Justice Scoreboard of the EU Member States (2017:35) examines the factors that contribute to the quality of justice systems: easy access, adequate resources, effective assessment tools and appropriate standards. In The Netherlands, the restructuring of judicial map is based on the desire for quality and flexibility (Emster, Amelsfort and Dijk, 2011:8).

Accessibility in most EU countries is user-friendly as they provide online information about their justice system. The EU Scoreboard (2017:35) indicates that digitalization in courts in terms of delivering documents electronically to parties, the electronic submission of claims and so forth, contributes to speed up proceedings and to reduce costs. Furthermore, digital accessibility will have a significant effect on the work of the court considering the fact that larger shares of the justice budget devoted to computerisation are associated with better judicial performance. Given the lack of capacity of court ambiances to accommodate all the cases in a small building in Albania, digitalization of the hearings would indeed help to address this issue including through the decrease of corruption (OECD, 2013:5).

Despite improvements in the digitalization of court services in Albania, the accessibility is very limited in terms of courts' judgements for civil, commercial, administrative cases across all instances (apart from the Supreme Court and the Constitutional Court); legal aid and court fees.

While adequate levels of financial and human resources as well as appropriate training and diversity among judges, including gender balance are indicators of a high quality of justice and a successful implementation of the justice reform, data shows that in terms of financial resources of 2018, Albania has increased the expenditure on the judicial system to 30,379.390 EUR, or 13.5% compared to 2014 (CEPEJ, 2016:31; Annual Budget of 2018). However, this amount is still insufficient to adequately fill in the gap of deficiency and more can still be done.

The number of judges and supporting services in the courts were often inefficient and sometimes not good enough. One of the recent challenges regarding the availability of judges is not only in relation to cases of illness or pregnancy leave, but also the Vetting process of judges and prosecutors (Law No. 84/2016 'On vetting judges and prosecutors in the Republic of Albania'). The Vetting, as an institutional reform, can be seen as a form of '*administrative justice*' or 'lustration' or 'purging' as Roger Duthie argues in the Introduction of the book "Justice as Prevention" edited by De Greiff and Mayer-Rieckh (2007). In the same vein, Teitel (2000:8) explains that "administrative justice illustrates law's distinctive potential for restructuring the relation of the individual to the political community in the transition" (De Greiff and Mayer-Rieckh, 2007; 17-18). On the other hand, seen as a moral and integrity purification, the '*administrative justice*' has a serious high cost in Albania. The unprecedented case of the Constitutional Court remaining with 4 members out of 9 due to the vetting of judges, endangers the whole justice system as it creates not only uncertainty for all beneficiaries of the Court's rulings but also leaves an unprecedented vacuum as to how and on the basis of which promulgated rules the remaining judges could effectively deliver such rulings, in the transition period.

Increasing the number of specialised judges in criminal, civil, administrative cases, and investing more in their trainings with a view to strengthen their ability to understand the new laws of the Justice Reform and their related modalities of implementation, will make the decision making process more efficient and effective. In the table below, the number of

professional judges shows that there have been an increase from 2010 to 2014, though this is lower in comparison to Bosnia and Hercegovina (hereinafter B&H), Croatia, Serbia and FYROM.

Country	Total number of professional judges				
	2010	2012	2014	change 2010-2012	change 2012-2014
Albania	373	380	363	7	-17
Bosnia and Hercegovina	938	962	993	24	31
Croatia	1887	1932	1875	45	-57
Greece	3313	2574	2231	-739	-343
Italy	6654	6347	6939	-307	592
Montenegro	260	263	254	3	-9
Netherlands	2530	2410	2359	-120	-51
Serbia	2455	2916	2700	461	-216
Slovenia	1024	970	924	-54	-46
FYROM	664	668	629	4	-39

Source: CEPEJ 2016

The quality of the judiciary is also assessed by the monitoring and evaluation tools for court activities. Generating consistency up-to-date statistics is one of the main challenges of the justice system in Albania. However, international and local surveys of civil society organisations remain a central source for the understanding of the views that stakeholders have on the justice system. It is of crucial importance that the development of a nationwide data collection across all justice areas becomes a reality. Such a data would also influence certain standards aiming to improve the duration of proceedings and the information that is essential to the parties as to the progress of their case (EU Justice Scoreboard, 2017:36).

### Independence of the justice systems

While it is possible to compare data relating to levels of investments, in transitional countries which went through judicial crises such as Albania, the public dissatisfaction is very high. Azelac (2011:108) correctly put into question the reliability of the public perception of the justice system by stating that “Public opinion matters, but is it in exact correlation with the reality?” The perceived independence of the court and judges has been measured by different surveys. In 2016, judges, prosecutors and administration officials in the justice system are perceived as the most corrupted (ACER and SELDI, 2016:18).

**TABLE 3.** Perceptions on corruptness of public officials- most corrupted

	2001	2002	2014	2016	Change
Judges	3.4	3.2	3.5	3.5	→
Public prosecutors	3.2	3	3.3	3.3	→
Administration officials in the judicial system	3	2.9	3.3	3.3	→
Political party and coalition leaders	2.8	2.6	3.3	3.3	→
Customs Officers	3.6	3.5	3.4	3.4	→

Source : SELDI corruption Monitoring System

Officials are perceived as the most corrupted on a scale of 1 to 4, where 1 is ‘Almost no one is involved’ and 4 ‘Almost everybody is involved’. As we see from the table above, the general perception is that corruption tends to increase through the abuse of power for all the categories except for the customs officers who, in line with judges, still remain at high levels of perceived corruption. The high level of dissatisfaction is evidence that the Albanian justice system suffers from greater problems and that people have lost their confidence and trust in the justice system and the state institutions generally.

### Funding of the Judiciary: Budget

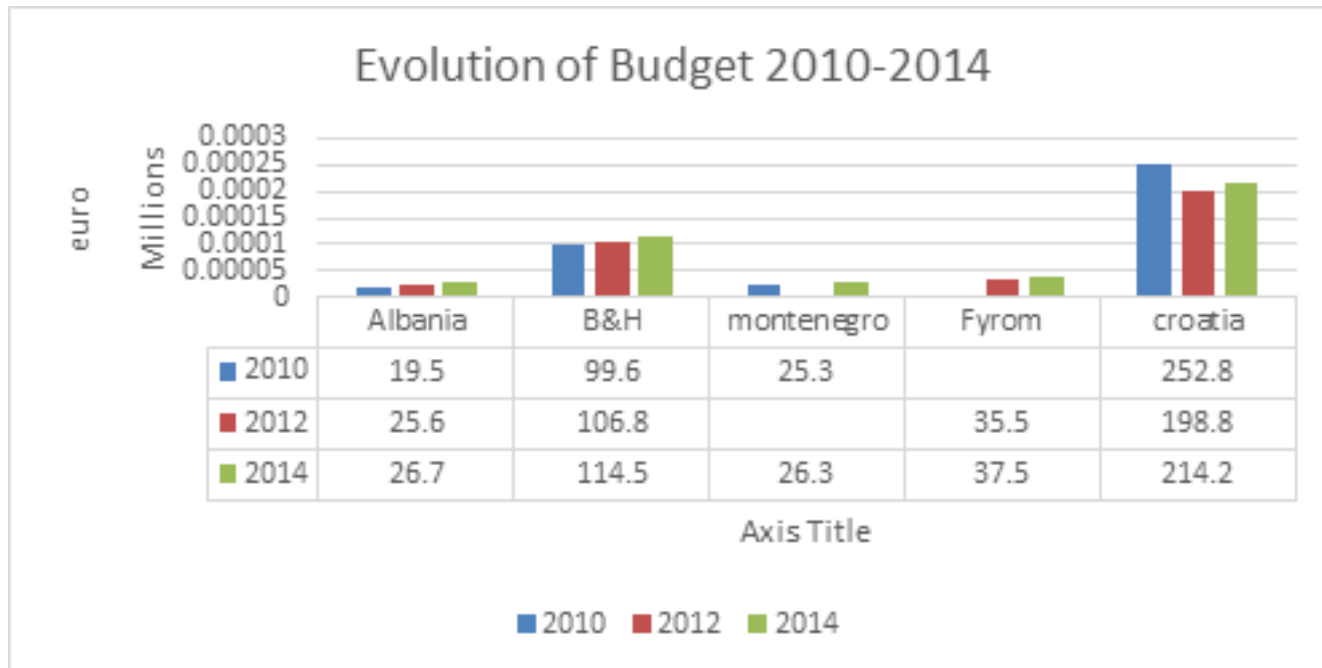
In order to analyse the budgets allocated to the functioning of justice by States, it is essential to focus primarily on the budgets allocated to the courts, the public prosecution services, and legal aid, the total of which defines the judicial system budget



(CEPEJ, 2016:17). The budget allocated to the courts covers the annual public budget allocated to the functioning of all courts, without the public prosecution services and without legal aid. It includes the budgets for gross salaries of judges and of the entire judicial staff and non-judicial staff working in courts, the computerisation or digitalisation, justice expenses (interpreters, experts, etc.), maintenance, leasing and functioning of court buildings, investment in new buildings dedicated to the courts, training and education. (CEPEJ, 2016:17)

The budget allocated to the whole justice system, integrating in particular the entire budget of the Ministry of Justice, encompasses that of the judicial system and may also include the budgets of the prison system, the probation service, the Councils of the Judiciary, the Constitutional Court, the judicial management body, the State Advocacy, the enforcement services, the notariat, the forensic services, the judicial protection of juveniles, the functioning of the Ministry of Justice, the refugees and asylum seekers services, some police services and so forth (CEPEJ, 2016:17). The evolution of the Budget 2010-2018 indicates an increase in value, however it still remains lower in comparison with other countries of the region.

**TABLE 4.** Evolution of Budget in Judicial System 2010-2014



#### Annual public budget of the judicial system compared to the wealth of States or entities 2004- 2014

CEPEJ 2016 explained that “putting into perspective the budget allocated to the judicial system according to the population is not sufficient to make a meaningful analysis of the data presented.” This is due to the fact that two states presenting similar budgets allocated to the judicial system per capita can be very different from the perspective of their level of wealth. Consequently, the budget allocated to the judicial system should be put into perspective by comparing it to a measure of the countries’ wealth, the GDP per capita. The data of 2016 indicates that Albania has the lowest GDP per capita in the Western Balkans countries, 3 439 €, followed by B&H 3 642 €, Montenegro 5 635 €, Serbia 4 672 €, FYROM 4 130 €, and Croatia 12 508 €. Meanwhile, Italy has a GDP per capita of 26 585 €, Slovenia 18 065 €, and Greece 16 243 €.

Moreover, the budget allocated to the judicial system per capita in 2014 demonstrates once again that Albania allocates only 9 € per capita to its judicial system, the lowest in the Western Balkans countries, whereas FYROM allocates 18 €, B&H 30 € - which means it invests about 3 times more in its judicial system than Albania (CEPEJ 2016:26), while others such as Montenegro 42 € and Croatia 51 € are higher.

In relation to the salaries of the judges, the 2014 data (CEPEJ 2016) categorizes the salaries of the judges in two groups: gross annual salary in € of the judges at the beginning of their career and gross annual salary in € of professional judges in the Supreme Court.

**TABLE 5.** Salaries of judges at the beginning and at the end of their career

Country /2014 data	Gross annual salary in € at the beginning of career	Gross annual salary in € at Supreme Court
Albania	8,976	14,964
Bosnia and Hercegovina	23,884	41,369
Croatia	22,740	50,073

Greece	30,159	84,540
Italy	56,263	186,637
Montenegro	20,310	25,298
Netherlands	74,000	N/A
Serbia	16,757	39,154
Slovenia	31,887	60,942
FYROM	17,252	21,454

Source: CEPEJ 2016

Albania has the lowest salaries in both levels of judges who are close to the minimum salary. It is followed by FYROM which also has lowest salaries compared to the rest of the group. Then, there is the sub-Group Montenegro, B&H and Croatia with small differences in the salaries. What makes an outlier in this group is Italy which has significantly higher judges' salaries. In Serbia, the survey by "*The Opinions of Judges and Prosecutors on the Judiciary in Serbia*" shows that judges and prosecutors in Serbia complain about low salaries; and 74% of the judges and 82% of the prosecutors highlighted heavy workload, which they say affects the quality of their work (Euractiv, 2017). These results give an interesting overview of the wealth and living standards in these countries as it has economic, social and demographic components. Though this indicator is not perfect, it nevertheless highlights, again, substantial disparities between the citizens of the states.

Overall, there is a positive correlation between the level of wealth of the States (GDP per capita) and the resources allocated to the judicial systems. Unfortunately, not only is Albania ranked as the poorest country from the list but it also has a relatively low budget. Its budgetary effort for the judicial system is proportionate. This means that a strong and wealthy economy might increase the level of judicial budget.

Despite the fact that Albania has benefited in recent years from the enormous assistance for the operation of the rule of law from the EU and other international organisations, the management of the allocated budget or the administration of the agreed budget did not increase the positive performance. Some factors that have influenced such low levels are:

1. The inappropriate political interference which prevented the courts to be financed on the basis of objective and transparent criteria;
2. The lack of monitoring mechanisms to closely observe/ check at all stages the budgetary process, and the implementation of such a budget in the courts in order to provide an effective and efficient justice system; and,
3. The shortcoming of budgetary priorities without collaboration with the relevant judiciary according to transparent criteria, in defining the most important issues that need urgent intervention/solution (for instance the right to property and Law 7501.)

## The 2017 Justice Reform – Developing a justice system with the focus on society

The Rule of Law is a concept of universal validity (Venice Commission Rule of Law Checklist, 2016:§ 9) and also one of the founding values of the EU as enshrined in the Preamble and Article 2 of the Treaty on the EU. The universal implementation of the Rule of Law was endorsed by Albania as a UN State Party in the 2005 Outcome Document of the World Summit (§ 134), in its constitution and legal framework and must be applied at all levels of public power. As a consequence, the Justice Reform should have a substantial comprehension of the core elements of the Rule of Law, particularly: (1) Legality, including a transparent, accountable and democratic process for enacting law; (2) Legal certainty; (3) Prohibition of arbitrariness or abuse of powers; (4) Access to justice before independent and impartial courts, including judicial review of administrative acts; (5) Respect for human rights; and (6) Nondiscrimination and equality before the law (Venice Commission Rule of Law Checklist, 2016:§ 18). with a view to not overly stretch the limits of this research, special focus will be given to access to justice.

### Access to justice is paramount for an effective justice system

Access to justice and proper and efficient functioning of courts are fundamental rights which affirm the rule of law (Ciccocioppo:2011). This means that every Albanian citizen has unimpeded access to the courts and that the courts have the authority to protect and defend that constitutional right (Sharp, 2016). Article 42 paragraph 2 of the Constitution provides that "*everyone, for the protection of his or her constitutional and legal rights, freedoms, and interests, or in the case of an accusation raised against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.*" The Constitutional Court of Albania in its Decision No. 83, dated 26.12.2017, § 9 stated that:

"This provision [Article 42(2) of the Constitution] sanctions the right to a trial, where the right of access, which is the right to put the court in motion, constitutes one aspect of it. The right of access guarantees to vulnerable subjects the right to address a court which will hear their claims and issue a decision after a fair and public hearing. If this

right is denied the process is considered abnormal because access to the court is, first and foremost, a key condition for realizing the protection of the individual's other rights. The rule of law cannot be conceived without recognizing individuals the right and opportunity to address the court. (See also Constitutional Court decision No.21, dated 20.03.2017; and decision No. 52, dated 14.11.2014).

It is the function and the responsibility of the judiciary whether ordinary or not (District Courts, Courts of Appeals and the Supreme Court) to safeguard the constitutional standards for a due process (See Constitutional Court Decision No. 12, dated 17.03.2014, § 30).

Applying the Rule of Law check-list of the Venice Commission (2016) to the 2017 Justice Reform raises the following questions: is there a correct and consistent understanding and interpretation of the notion of the Rule of Law? What measures are taken to ensure that public authorities effectively implement the law? Are obstacles to the implementation of the law analyzed before and after its adoption? Are there effective remedies against non-implementation of legislation? Does the law provide for clear and specific sanctions for nonobedience of the law? Is there a solid and coherent system of law enforcement by public authorities to enforce these sanctions? Are these sanctions consistently applied?

Mindful of the fact that such questions are impossible to answer given that the newly reform has not yet been implemented and results are unpredictable, the full enforcement of the laws is rarely possible. However, a fundamental requirement of the Rule of Law is that the law must be respected, duly applied and enforced. The duty to implement the justice reform implies obedience to the law by individuals, the duty reasonably to enforce the law by the State and the duty of public officials to act within the limits of their conferred powers (Venice Commission of CoE, 2016: § 53).

Surveys show that there is a significant demand for access to justice in Albania. In the UNDP survey on the access to justice in Albania (2017:9), the findings conclude that “48.7% of the population has had legal problems in the last five years, and that these have largely gone unresolved due to a lack of legal awareness in society and the underperformance of justice sector institutions”. Meanwhile, 85.7% having failed to resolve their disputes in the first phase (UNDP, 2017:58). One of the factors influencing such a failure is mainly the limited knowledge that people have of their constitutional rights and freedoms. Failure to protect these rights is not only due to legal illiteracy of those with a “low level of education, low income or vulnerable communities” (UNDP, 2017:7, 18) but also as a consequence of the lack of information from the state authorities. Indeed, the deprived culture where human rights are learned, lived and ‘acted’ for, led to “legal illiteracy, dubious attitudes on justice, and a lack of trust in the justice system” (UNDP, 2017:7). These factors indicate that not only there is a fragile framework for access to justice in Albania, but also it remains the greatest challenge facing its legal system.

Further, access to courts in Albania is costly due to courts’ fees, hiring a lawyer and corruption (bribing). There is indeed a direct connection between the level of the GDP of a population and an effective access to courts. This conjunction affirms the credibility of the hypothesis that “wealthier citizens do better in the justice system, as they are more likely to use courts and lawyers, which are fairer means of resolving disputes than other large institutions, such as the local and national governments” (UNDP:2017,69).

One of the obstacles to an effective efficient implementation of the Reform is the lack of the *ex ante* and *ex post* legislative evaluation. For instance, the delay in the organisation and function of the High Prosecutorial Council deprives the establishment of the Anti-Corruption and Organized Crime Courts and Special Prosecution Office Law No. 95/2016). Their creation against organised crime and corruption updated the judicial map in order to meet the needs and increased demands of the society and also to intensify collaboration between the courts. However, the vague functioning of the Court of Serious Crimes vis-à-vis Organized Crime Courts and Special Prosecution Office has created a legal perplexity and uttered confusion in the determination of jurisdiction of the nature of crimes.

The delay in its organization and function is an indication of the failure of the decision-making authorities to assess whether this law is implementable in practice prior to having adopted it, as well as checking a posteriori whether it may be and is effectively applied (Venice Commission of CoE, 2016: § 54).

Overall, the newly reformed judicial system can have a positive and negative impact. On the one hand, it is plausible that the reform took place despite the political influence and contradictions. As such it would be inaccurate and unusual to predict whether such a reform will be efficient. On the other hand, the implementation of the reform should be managed cautiously and be ‘effective immediately’ in order to ensure that the court system has a highly qualified, competent and well-trained workforce; court procedures should be “*simple, clear, streamlined and uniform to facilitate expeditious processing of cases with the lowest possible costs*” (National Center for State Courts, 2012); decisions of the court should demonstrate procedural fairness and the court system should be transparent and accountable through the use of performance measures and evaluation at all levels of the system (National Center for State Courts, 2012). Any delay in the implementation of the legislative reform would deteriorate the impact on the functioning of justice.

## Corruption within the judiciary

Democratisation of the Albanian society imported among others the phenomenon of illegal personal benefits. Corruption and bribery have become endemic to governmental institutions (Gilbert and Aikenand, 2015) but also the justice system. Some of the factors that have deteriorated the functioning of the judicial system is corruption, political influence, lack of budgeting and

organisation inefficiency. This was also affirmed by the former head of EURALIUS Mission in Albania, Joaquin Urias (2014) who headlined that:

“There is no doubt that in 28 years of political, judicial and economic and social transition, the missing justice has prevailed in Albania. The corruption has become systemic, being thus the rule and not the exception....I think that the whole judicial system in Albania is corrupt. In the Albanian judicial system, the fact that you know somebody or you pay, is understood as something normal. Lawyers give money to judges, judges demand money, and even prosecutors take money.”

In the same vein, Transparency International Corruption Perception Index of 2017 measured the perceived levels of public sector corruption enlisting Albania among the most corrupted countries worldwide. (Albania ranked 91, Montenegro ranked 46, Serbia ranked 77, Kosovo ranked 85, B&H ranked 91, FYROM ranked 107; while in the EU countries the worst was ranked Bulgaria 71, Hungary 66, Romania 56, Greece 59, Croatia 49, Italy 50.) This data confirms that the high level of corrupted judges indicates a moral crisis that jeopardizes the principle of justice as well as an institutional crisis which effects the efficiency of the judicial system.

Significantly, Voigt and Guttman (2013) found that high levels of corruption are significantly correlated *firstly* with low levels of investment in capital particularly foreign direct investment, and *secondly* with lower economic growth rates. Urias (2014) stated that “a corrupt person from the inside is not needed to end the corruption. All measures taken in the last years are good, but they are just a façade”. At 26% of the population, corruption levels in the Western Balkans remain high, despite the fact that local and EU efforts have resulted in a stable decline. Progress has been slow and erratic. It is not unusual for the region that achieved advancements in good governance in certain periods of time are lost to regress in the next. Specifically, in the 2014 – 2016 timeframe, corruption pressure – the primary quantitative indicator for the levels of corruption in the region – has relapsed in some countries, but the overall improvement in the region was marginal.

The reinforced EU Enlargement strategy in the Western Balkans will introduce also a new Progress Monitoring Mechanism which will seek to ensure the EU conditionality in particular in rule of law. The persistent rule of law concerns have prevented EU Member States from committing to a specific date for the Western Balkans enlargement due to the slow progress in anticorruption in the region. According to SELDI's Hidden Economy Survey (2017), “*it is evident that good governance and anti-corruption should remain central priorities across all fields of reform, to ensure stable economic development in Albania and the region. In particular, introduction of credible mechanisms for tackling high level corruption, alongside continuing technical assistance for reducing systemic administrative corruption.*”

The EU pressure for effective prosecution of high-level corruption seems to be one of the anti-corruption solutions in the Western Balkans. This will be achieved through the establishment of *an independent corruption and anti-corruption monitoring mechanism* on national and regional levels in order to provide robust data and analysis and integrate both corruption diagnostics and anti-corruption policy evaluation. Meanwhile, given that such mechanism will be implemented through national and/or regional civil society organisations and networks independent of national governments (SELDI, 2017), it is important to ensure that civil society is impartial and independent from any political influence.

Hence, judicial accountability can increase economic growth through various channels, one of which is the reduction of corruption (Voigt, 2005:27). The establishment of the High Judicial Council as an independent institution and the Special Court and Prosecution fighting corruption, set high expectations about taking extremely harsh measures against every kind of corruption of high level officials.

## Conclusion

Judicial, legislative and executive institutions are regulators and providers of an effective and efficient judicial system. Hence, these institutions should cooperate with each other for the system to function properly. “*Experience has, however, shown that in many countries even the best institutional arrangements will not work without the good will of those responsible for implementing and executing them. As such, the implementation of existing standards is therefore at least as important as the identification of new standards needed*” (Venice Commission, Report on the Independence of the Judicial System Part I: The Independence of Judges, 2010: §10).

The role of a cost-effective court plays in the society is crucial for good governance, peace, economic justice, and maintaining the rule of law so fundamental to a democratic nation (National Center for State Courts, 2012:18). Accessibility of legislation and court decision, foreseeability of the laws, stability and consistency of law are elements of legal certainty applicable to the large-scale Justice Reform which is a necessary step towards realising the vision for the Judiciary and guaranteeing the quality of justice in the future.

Effectiveness of the judicial system cannot be successful if the courts do not have the basic structural, management and administrative practices in place. As a result, securing stable and adequate funding of the judicial depends especially on the judicial map and the performance assessment about strengths and weakness which in turn could lead into the real reform.

In order to provide an independent, accessible, responsive services to people, and to preserve the principles of the rule of law, courts must provide proceedings that are affordable in terms of money, time and procedures; process cases in a timely



manner while keeping current with its incoming caseload; adhere faithfully to relevant laws and procedural rules; provide a reasonable opportunity to parties and participants in proceedings to present all necessary and relevant evidence (especially to those who have physical or mental deficiencies or lack of financial resources).

The outcome of this paper indicates that courts should be funded depending on the objective need for resources and the performance appraisal of judges and prosecutors. Indeed, the perception that the reform is being considered as a positive step forward, does not entail that higher quality and greater specialisation will be achieved automatically. The disadvantages of economy of scale in comparison with other Western Balkans countries and the failure to deliver excellent service to customers and user of the justice system should require attention. These disadvantages can be overcome only if they materialized in parallel with the increase of budget allocated to the courts, adequate restructuring of the justice system by transforming the service delivery culture and decrease of corruption.

The creation of the budget should be systemically and practically free from inappropriate political interference, so that courts are financed on the basis of objective and transparent criteria. Further, the High Judiciary Council should be closely involved at all stages in the budgetary process, and courts must be resourced to a level which provides an effective and efficient justice system. Lastly, budgetary priorities must be defined in collaboration with the relevant judiciary according to transparent criteria, and must not themselves dictate the court procedures to be followed.

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# Exploration of marketing tools for the promotion of protected areas (Albania)

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## Abstract

*Promotion and marketing are identified as main pillars to tourism sector in Albanian Government strategy 2017 - 2021. Protected Areas as a tourism destination is a new notion to Albanian citizens and stakeholders given isolation of these areas during communism regime and the decade after. This study will aim to bring light on how new tools of marketing may influence and impacts the promotion of PAs in Albania as tourism destinations and how stakeholders are engaged, accept and perceive these new marketing and communication approaches and the use of modern and digital promoting tactics. This study responds the call of researchers for further studies in developing countries for a deeper exploration in tourism industry*

**Key words:** destinations, promotion, marketing, stakeholders, tourism, Albania

## INTRODUCTION

### At a glance

*“Albania is truly blessed with spectacular natural and cultural heritage, the backbone of its tourism sector, a sector which has shown impressive growth over recent years,” UNWTO<sup>1</sup> Secretary-General, Taleb Rifai, December 2014*

Worldwide recently seems to have a reallocation of media investments away from TV, radio, print or OOH in online media. Nowadays in Albania, as per the findings of studies done by researchers and business companies, the media outlets that are internet based are considered with important role on promoting the products and services, but also other forms of communication. The internet market of ad spend in country has rapidly increased from 0.8 million euro in 2013 to 2.4 million euro in 2017 (Monitor.al 2018)<sup>2</sup> even though the online market is identified as difficult to correctly report due to the high informality. The tools of new media in country are rapidly embraced even from central and local government, public sector and their high ranking representatives. Articles suggest that in tourism industry worldwide the digital communication and marketing are leading this industry and on the recent year tourism in Albania is facing a boom in its growth. The statistics show an immense growth of the sector offering important contribution to the economy. The National Institute of Statistics (INSTAT), Republic of Albania report that 5.1 million foreign visitors visited our country in 2017, + 8.1 % more tourists than the previous year (2016) and WTTC (2018) reports that the total contribution of Travel & Tourism to GDP was 26.2% of GDP in 2017, and is forecasted to reach 28.9% of GDP by 2028. But stakeholders suggest that tourism is not a sector in a secure path yet, considering many present threats and showing the incapability of the Albanian government to rely on a steady mid-term or long-term strategy.

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<sup>1</sup> World Tourism Organization (UNWTO), UN agency

<sup>2</sup> <http://www.monitor.al/tregu-reklamave-fut-mediane-krize-televizionet-pa-fitime-online-mund-print/>

The tourism law in country has been going through many changes during the period of post-communism. The actual Tourism Law, set on Article 1 the main scope of the law “the promotion of Albania, as a touristic destination for foreigner and domestic visitors, relying on the development of a sustainable tourism”.<sup>3</sup>

## Mapping the tourism in the Albanian Economy

*“Located in the Mediterranean region, Albania could well be Europe’s last tourism secret.”* Export.gov 2017<sup>4</sup>

European Commission (June 2017) reports that Albania is experiencing a gradual economic upturn that is expected to continue in 2017-2019. Since 2014, Albania’s economy has steadily improved and economic growth reached 3.8% in 2017<sup>5</sup>. The trade balance improved thanks to the good performance of tourism. In economic development for 2016 the World Bank reports that Albania’s economy expanded 3.4% in 2016, supported by robust domestic demand. Net exports contributed 2.1 % points, driven by tourism services exports<sup>6</sup> that expanded significantly in 2016 from a relatively low base and is expected to continue performing well.

The tourism is one of the key contributors on the Albanian economy in several directions as growth of GDP, new work places, exports and investments and relative contributor on other sectors. World Travel and Tourism Council (WTTC) forecasts that Albania in a decade (2018 – 2028) can be able to turn tourism as the main contributor of the GDP.

WTTC (2018) reports the data of Travel and Tourism contribution for 2017. The direct contribution of Travel & Tourism to GDP was 8.5% of total, and is forecast 9.3% by 2028. In 2017 Travel & Tourism directly supported 93,500 jobs (7.7% of total employment) and is expected to 111,000 jobs (8.8% of total employment) in 2028. While total contribution 24.1% of total employment (291,500 jobs). This is expected to rise to 344,000 jobs in 2028 (27.3% of total). Visitor exports generated 54.2% of total exports in 2017 and is expected to go in 2028, 62.2% of total. Travel & Tourism investment in 2017 was 7.5% of total investment and forecasts to go in 2028, 8.2% of total.

Cvetkoska & Barišić (2017) findings show that the most efficient country in the period of six years (from 2010 to 2015) was Albania among all countries of Balkans studied in their research.

The government have been “aggressive” during recent years in promoting tourism regionally and internationally, and the statistics show that this strategy has offered a good result.

### *Risks and Challenges*

Yet tourism strategy path in country seems to be unclear and unsafe. “From 1990 up to date many strategies proposed by international donors have been refused or not approved, and the ones that have been considered were partially implemented due to lack of capacities, expertise or willing” said a representative officer of one of the biggest international donors in country for tourism sector.

She emphasized that the shifts government does from a strategy to a new one, costs money and extent lack of trust among stakeholders. A high ranking representative in the Ministry of Tourism and Environment (MTE) recognize the situation and claim that due to the new tourism law entered in force December 2017, a new strategy is need.

IMF (2017) reports that though Albania has benefitted from the recent tourism boom in the region, the outlook for exports remains challenging. On the other hand, European Commission (EC) reports that the services sector development contributes 70% of the gross value added. EC emphasizes tourism sector in particular is identified with significant development potential, but is impeded by a number of challenges linked to the lack of skills of tourism professionals, low accessibility of tourism services, the absence of a sustainable natural and cultural offer, etc. The measure to standardize the tourism sector, if implemented successfully, could be a driving factor for competitiveness.

The bank industry in country see a high perspective on the sector. ‘Tourism has high potential, but and a masterplan for the development of the tourism would give access to a structured development’ suggests Blanc, Frederic (2017)<sup>7</sup>. EU Delegation in Albania (2018) also seek a Master Plan for sustainable tourism in country. EU Ambassador in Albania Romana Vlahutin, underlined that “a national Tourism Master Plan is a must”.<sup>8</sup>

“The government have no official strategy for tourism yet. This means lack a clear vision for the sustainable development of sector. There can’t be marketing and promotion, if there is no strategy” said Rajmonda Lajthia, Executive Director of ATOA<sup>9</sup>

### *Domestic Tourism*

At the heart of tourism is the excitement of new cultural experiences<sup>10</sup>

The statistics from the National Institute of Statistics (INSTAT) report that 5.1 million foreign visitors visited our country

<sup>3</sup> Tourism Law, Republic of Albania [accessed February 2018] [http://www.qbz.gov.al/Ligje.pdf/turizem/Ligj\\_93-2015\\_,27072015\\_%20perditesuar\\_%202017.pdf](http://www.qbz.gov.al/Ligje.pdf/turizem/Ligj_93-2015_,27072015_%20perditesuar_%202017.pdf)

<sup>4</sup> <https://www.export.gov/article?id=Albania-Travel-and-Tourism>

<sup>5</sup> The World Fact Book – CIA [accessed March 2018]

<sup>6</sup> World Bank “Albania-Snapshot-Fall2017” <http://pubdocs.worldbank.org/en/805501507748388634/Albania-Snapshot-Fall2017.pdf>

<sup>7</sup> Blanc, Frederic, CEO, Societe Generale Albania Bank, Interview for Monitor.al Magazine

<sup>8</sup> Round table “Support to Tourism companies in Albania, organizer European Bank for Reconstruction and Development (EBRD)

<sup>9</sup> Rajmonda Lajthia, Executive Director, Albanian Tour Operator Association (ATOA), Interview with Ana Kekezi, March 2018, Tirana

<sup>10</sup> Theunissen, P., Mersham, G., & Rahman, K. (2010). Chapter 5: The New Media, Cultural Transformation,

in 2017, + 8.1 % more tourists than the previous year (2016). Monitor.al (2018) reports that the boom of 2017 from foreigner visitors and tourist may not be stable and on the other hand WTTC (2017) has defined Albania as a high risk country, as it has a poor infrastructure network in quality and quantity, a threat for the development and sustainability of tourism.

On MTE's Draft Strategy of Tourism 2018 – 2022 is identified that aiming a sustainable development in this sector leads the strategy. Though a clear direction for domestic tourism was not identified.

WTTC (2018) reports that domestic travel spending generated 24.6% of direct Travel & Tourism GDP in 2017 compared with 75.4% for visitor exports. On the other hand, Bank of Albania (2018) reports that 1.3 billion euro have been the spending of Albanians outside country, +11% increase comparing year 2016. INSTAT (Institute of Statistics, Republic of Albania), reports that 5.18 million Albanian citizens have traveled outside country, +12% comparing 2016. Figure 1 identifies a low interest of domestic visitors in cultural attractions.

**FIGURE 1: Visitors in cultural attractions 2014- November 2017**

Figure 1: Visitors in cultural attractions 2014- November 2017					
Visitors	2014	2015	2016	Nov. 2017	2017 vs 2014
Domestic	198,536	148,669	185878	202557	2%
Foreigners	156,446	238,187	282157	349390	123%
Total	354,982	386,856	468035	551947	55%

Source: Ministry of Culture, Republic of Albania, Jan 2018

The Albania Tour Operators & Travel Agencies Association (ATOA) reports that given the non-secure path the Albanian tourism is having on attracting the foreigner visitors, a proper mid-term strategy is urgent need, to attract Albanian citizens to domestic tourism. They claim that the Bank of Albania reports should be taken in consideration and proper evaluation is need, to understand how much money can stay in-home<sup>11</sup>.

ATOA concerns are connected mainly to a low seasonality of Albanian tourism, even though a high touristic potential for 365 days tourism and the potential of niche segments, to encourage and attract domestic visitors. RisiAlbania (2014 p. 4) has identified why Albania agonizes from a short seasonality. In their finding country suffers from a numerous limitations such as poor or absence of infrastructure, absence of information for market, poor customer service, and absence of the set standards, poor marketing and a touristic product that often does not meet the expectations of the customers. There is no survey on domestic tourism and efforts are needed to improve the business register (EU, 2016)<sup>12</sup>. GIZ (2016) reports that 98% of tourists who have been interviewed; have responded positively to the expectations of accommodation in Albanian Alps, but in their research is not defined either they are foreign or domestic tourists. While on the survey done for this study 64% of the respondents of Q1 answered that accommodation quality vs price is the main reason, they do not prefer to choose domestic tourism. On the Q2 survey participants on this research, 16 out of 16 responded that focus on domestic tourism should be immediate from the government and public sector and 11 out of 16 responded that government has worked far better with the promotion on foreign tourist's target. Leonard Maci said that domestic tourism will be on National Agency of Tourism (NAT) focus, but he acknowledged that yet NAT have not worked with a proper strategy or plan on this direction. He claimed that the efforts and tools of NAT during (2013 – 2017) have been focused to reach the market beyond borders, as a good economic potential.

## Internet fast penetration

During the last decade Albania has witnessed an outstanding level of access to internet. Albanian Institute of Media (AIM, 2015) identifies that the real growth of internet in Albania started after the privatization of ALBtelecom Company in 2007. The Albanian Government vision on access to internet has been a primary goal since 2010. Two main priorities set (2010) "Internet for all" and "Albania in the Internet age".

Electronic and Postal Communications Authority (AKEP) on the Annual Report of 2010 estimates that the number of families that have broadband internet access until the end of 2010 is about 110 thousand or about 13.7% of families, while it is estimated to be over 10.000 business subscribers. Based on these data, the number of broadband lines per 100 inhabitants is about 3.7%, compared to 2.5% that was by the end of 2009. AKEP(2018)<sup>13</sup> reports that the number of active users Broadband in internet from mobile networks on (Oct-Dec 2017) was around 2 million, with an increase of +20.4 % with same period in 2016 and an increase of approximately +124% vs. 2014. The number of customers Broadband accessed in Internet from fix line networks was around 295.000 having an increase of +10.6% with same period of 2016 and approximately +42% comparing with 2014. This data show the fast penetration of internet, especially the increase from mobile networks. Internetworldstats.com (2018) reports for Albania that 1.932.024 or 66.4% of population are internet users and 1.400.000 are Facebook users<sup>14</sup>

<sup>11</sup> Scan TV ,Studio Interview with Kliton Gërxfhani, Chairman ATOA (March 2018)

<sup>12</sup> European Commission, Albania 2016 Report

<sup>13</sup> <https://www.akep.al> [accessed March, April 2018]

<sup>14</sup> internetworldstats.com, statistics reported for June 2017



## Protected Areas in Albania

We aim to have the Albanian tourism in a real development industry (Blendi Klosi 2017)<sup>15</sup>

A protected area (PA) is a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values. (IUCN Definition 2008)

Albania a small sized country is very rich in biological diversity. The tremendous diversity of ecosystems and habitats supports about 3,200 species of vascular plants, 2,350 species of non-vascular plants, and 15,600 species of invertebrates and vertebrates, many of which are threatened at the global or European level (Ministry of Environment, *Annual Report 2015* Republic of Albania).

On the first Forestry Law, Republic of Albania (1923), there are clear elements that define protection and special for various species and fauna and for controlled hunting. National Agency of Environment (NAE) (2014) reports that in 1940 Kune-Vain, Lezhë was proclaimed hunting reserve and as per the IUCN definition, this one may be identified as the very first PA in Albania.

The legal, political, economic and social contexts for tourism in and around protected areas vary widely across the globe, yet there are many common elements and a diversity of experiences that can enrich the understanding of those involved (IUCN 2018).

The first law of Protected Areas in Republic of Albania<sup>16</sup> entered in force in 2002 and was reviewed in 2017<sup>17</sup> to align with the EU directives and allow to reach the goal of 17% PAs of the country territory by 2020.

The National Agency for Protected Areas (NAPA)<sup>18</sup> manages the national system of protected areas in Albania, whereas day-to-day management is delegated to 12 Regional Administrations for Protected Areas (RAPA)

As per the categories set internationally by IUCN (International Union for Conservation of Nature), in country there are actually 798 PAs extended in a total of **460,060 ha or 4.600 km<sup>2</sup>** of the country territory.

**FIGURE 2:** Protected Areas in Albania, Year 2017

Category	Description	No.
I	Restricted areas	2
II	National Park	15
III	Natural Monument or Feature	750
IV	Habitat/Species Management Area	22
V	Protected Landscape/ Seascape	5
VI	Protected area with sustainable use of natural resources	4
		798

Source: National Agency of Protected Areas (NAPA)

NAPA reports that Albania has recently made significant progress in expanding the network of PAs from 5.2% of the country's territory in 2005 to 16.02% of the country's territory in 2017. The majority of them have been designated in the category nature monument (750), but National Parks do cover approximately 210,501 ha or 46% of the total.

Stynes (1997) suggests that economic impact is part of a group of analyses that can be used to evaluate tourism in PAs (other analyses include: fiscal impact analysis, financial analysis, demand analysis, benefit cost analysis, feasibility study and environmental impact assessment). In this study, such factor is not taken in consideration given the primary aim of the study and on the other hand the gaps PAs face in this perspective. The official data of MTE provided for this research show that 6.000 euro are the PAs incomes generated for year 2015 and only 48.000 euro for year 2017. Considering the visitor statistics of NAPA, there is a discordance between data and money generated. "PAs in Albania are facing many challenges and none of them have ticketing system, except National Park of Butrint, protected by UNESCO" stressed a high ranking official of MTE.

Natura 2000 (2016)<sup>19</sup> on the assessment conducted has identified tourism as a potential risk for Albanian PAs. In their research infrastructure development for tourism purpose have been identified as a threat in 27 protected areas (50%), though at a low level. Threats from recreational activities and tourism were reported for 31 protected areas in Albania (76%).

<sup>15</sup> Minister of Tourism and Environment, Mr. Blendi Klosi, Press Statement, 06 October 2017

<sup>16</sup> <http://www.qbz.gov.al/doc.jsp?doc=docs/Ligj%20Nr%208906%20Dat%C3%AB%2006-06-2002.htm>

<sup>17</sup> Law 81/2017 [http://www.qbz.gov.al/botime/fletore\\_zyrtare/2017/PDF-2017/116-2017.pdf](http://www.qbz.gov.al/botime/fletore_zyrtare/2017/PDF-2017/116-2017.pdf)

<sup>18</sup> The Agency was established by Act of Council of Ministers, February 2015

<sup>19</sup> Natura 2000 is the largest coordinated network of protected sites in the world. [www.natura.al](http://www.natura.al)



## Marketing strategies for the PAs as Tourism Destination

NAPA since it was established on 2015 is missing a promotion and marketing strategy for PAs as tourism destinations, a high ranking official confirms.

Leonard Maci, Director of Marketing, National Agency of Tourism(NAT)<sup>20</sup> said that on the promotion and marketing strategies to regional and international markets, PAs have been promoted as a competitive advantage due to a unique experience, the wilderness, virgin landscapes, flora and fauna richness they offer. Rajmonda Lajthia, ATOA also confirms that tour operators never avoid PAs on their touristic guides, even on daily ones.

Villa Jose (2018) argues that the marketing industry has been focused — and somewhat obsessed — with digital for the better part of the last decade. The discussion and insights offered in the segmentation sections of the report, highlight the importance of using a robust segmentation strategy in order to understand visitors and potential visitors and the experiences they see (Reid 2008). “We do not have yet a marketing and promotion strategy short-term or middle-term one. The actual communication plans applied by NAPA, do not rely on a segmentation strategy or any previous research done for this purpose” said Denisa Xhoga, Communication Specialist, NAPA<sup>21</sup>.

Reid (2008) proposes that information promoting national parks is disseminated by a wide range of organizations, including protected area agencies, visitor information centers, tour operators, state tourism organizations, regional tourism organizations and corporate businesses.

NAPA has clearly identified as main target the domestic visitors. The NAPA statistics show that 2/3 of the total are domestic visitors and 1/3 are foreigners. The Agency has supported the raising awareness and promotion and in two main directions (i)Media communication and promotion and (ii) extensive collaboration with local communities of the PAs. (NAPA, Annual report 2017). NAPA reports that on 2015 there were not any information center or infopoints accesable. “Only promotion and marketing can make domestic visitors attracted to Albanian tourism. The potential our country is huge, but unfortunately albanians are not awared yet of this potential.” said Fation Plaku<sup>22</sup>

NAPA statistics reports (see Figure 3) a boom of visitors in PAs sites. NAPA reports that for 2017 statistic 62.8% are of daily visitors and the rest accomodates at least one night. The most visited category by 50% of visitors is Category II, national parks.

**FIGURE 3:** Number of Visitors in PAs

Visitors	2015	Jan-Sept 2017
Domestic Visitors	359.937	1.489.815
Foreign Visitors	112.080	552.101
Total	471.967	2.041.916

Source: National Agency of Protected Areas (NAPA)

Denisa Xhoga claims that the rangers at national level are offering free guides to visitors as a promotional tool to make them come back and spread their experience. “NAPA have no annual budget for pure advertising on traditional media or new media. These are considered up to date as free of charge promotional tools” said Denisa.

Rajmonda Lajthia, ATOA claims that the tour operators, as main stakeholder on the sector have been clear with their demands and their proposals for the development of PAs as tourism destinations, but they remain doubtful if government implement them on the strategy.

### A “cool, many to many media” for the promotion of PAs

Digital transformation is a journey, not a one off-event. McLuhan (1964) is well known for the postulate “the medium is the message”. He proposes that the media, not the content that they carry, should be the focus of study. McLuhan (1964) identified two types of media: “hot” media and “cool” media. As per the definition the author proposes, cool media, a more hearing focus, are the ones that need high participation from users, due to their low definition (the receiver/user must fill in missing information). Conversely, hot media, a more visual focus, are low in audience involvement due to their high resolution or definition. Where new media stands? The researchers suggest that new media in the way it engages it’s audiences to fill the gaps and create a fuller picture, may be defined with no doubt “cool” media.

New Media is new concept in marketing theory and developed after 1991 the www was presented to the world.<sup>23</sup> Nowadays industry seeks to gain from the advantages of two-way dialogue with consumers primarily through the Internet. Manovich, Lev (2002) proposes new media in 8 perspectives, arguing that new media is born in early 1920, differently from now, where information and technology are the basement with base on Web 2.0 technology. Törenli, (2005: 159) suggests that one of the

<sup>20</sup> Leonard Maci, Marketing Director, National Agency of Tourism (NAT), Interview with Ana Kekezi March 2018, Tirana

<sup>21</sup> Denisa Xhoga, Communication Specialist, National Agency of Protected Areas (NAPA), Interview with Ana Kekezi, March 2018, Tirana

<sup>22</sup> Fation Plaku, Travel & Tourism Influencer, Interview with Ana Kekezi, March 2018, Tirana

<sup>23</sup> The World Wide Web was invented by **Tim Berners-Lee** and **Robert Cailliau** in 1990.

main characteristics of new media, the flows of information can be possible between user groups or individual users. Piontek, Dorota (2014) proposes that new media, especially the Internet, can be defined as a channel of communication in terms of technology or as a platform of resources, co-created by all users. Piontek reveals that in new media there are three types of them: institutional (similar to the traditional model), social - the different social actors that through access to new media have become independent from institutional media agency, and individuals - each user of new media, who has the need to actively co-create them. Crosbie, Vin (2002) described on his study three different kinds of communication media. (i) Interpersonal media as “one to one”, (ii) Mass media as “one to many”, and (iii) New Media as Individuation Media or “many to many”.

This paper uses the term “new media” with the meaning which is widely accepted among researcher. Social media maybe the most well-known tool of new media is accepted by researchers to have two main concepts: Web 2.0 and user site (Rouse, 2013). Web 2.0 applications support the creation of informal users’ networks facilitating the flow of ideas and knowledge by allowing the efficient generation, dissemination, sharing and editing of informational content (Constantinides & Fountain, 2008). User generated content can be defined as information that users provide or share on a website. The information might be a photo, video, blog or discussion forum post, poll response or comment made through a social media web (Constantinides, E., & Fountain, S. J. (2008). There are still many ongoing debates and discussions regarding social media’s universal definition; as social media has been transforming and merging into the evolving development of New Media (Solis 2010).

“Lately, the marketers in Albania are mostly focused on social media comparing other tools of new media” said Elvin Civici, Online Account Manager<sup>24</sup>. Nevila Popa, tourism expert, emphasizes the usage of online tools, social media networks, blogs etc are determinative for Albanian tourism; not only as destination, but also for the foreign investments<sup>25</sup>. Rajmonda Lajthia stress the importance of social media in the promotion of domestic tourism. She claims that social media gain weight during last years, as per the high time consuming spent in social platforms. She identifies that most of tour operators in country have shifted from traditional media in online marketing, having a positive outcome. McCann Agency report that for 2017 Albanians consumed 143 minutes/day on social media and 91 minutes/day on online news portals.

## METHODOLOGY

### Methods applied

This research adopts a mixed method approach to achieving its objectives. For this research are used primary and secondary data. Piontek, Dorota (2014) suggest that in researching new media, all methods and techniques developed for examining old media, are useful, especially the quantitative and qualitative content analysis. The insights that generated from the qualitative data collected in field were highly beneficial to the process of data analysis and interpretation. Triangulating the findings provided evidence for the study to make sense of phenomenon under study (Mathison 1988, p. 15)

#### *Data Collection Tools*

Primary data are significant information to lead this research; and secondary data have been employed as valuable especially the governmental and public sector statistics, reports and data.

The following methods of primary data were employed to carry out the research:

Observation (conducted in sites of 2 PAs Divjak-Karavasta National Park, Fier RAPA & Shebenik-Jabllanicë, Elbasan RAPA in natural settings, February 2018)

Semi-structured interviews with 14 participants (9 employees/civil servants in MTE, NTA, NAPA and RAPAs; 1 official of UNDP Albania, Denisa Xhoga, communication specialist, NAPA; Leonard Maci, Director of Marketing, NAT; Rajmonda Lajthia, Executive Director of ATOA; Elvin Civici, Online Account Manager, McCann Tirana )

In deep interviews with 3 participants (Ardian Koci, Director, RAPA of Fier; Fatmir Brazhda Former Director, RAPA of Elbasan; Fation Plaku, Photographer, travel and tourism Blogger and Influencer)

Online Surveys; Q1 (109 citizen respondents); Q2 (16 respondents employee/civil servants in central and local government bodies directly related to tourism sector); Q3 (6 participants; 3webdesigners 3 online content experts), Q4 (6 participants Influencers & Bloggers living in Tirana)

Observation of Internet sites (webportals, blogs, Facebook, Twitter, Instagram, forums, photo and video sharing) (similar to netnography proposed by Kozinets, R. but simpler)

Official data and documents for this research by MTE, NAPA and NAT

### Challenges & Limitations

*Confidentiality* – Ethical considerations are critical in research. Many of participants in interviews required to protect their identity in this research. Working on central and local government make them uncomfortable to reveal their identity. This barrier may present difficulties to other researchers to understand in deep the primary data.

<sup>24</sup> Elvin Civici, Online Account Manager, McCann Tirana, Interview with Ana Kekezi February 2018, Tirana

<sup>25</sup> Interview for Monitor.al, January 2018 [accessed February 2018 <http://www.monitor.al/turizmi-ne-2018-ne-trend-pozitiv-problem-infrastruktura-2/> ]

*Time Barrier* - The surveys conducted for this research were questionnaires' sent electronically in random citizens, assuming them as potential domestic visitors. The sample of 109 respondents is considered a limited size and the Q1 maybe would have given a better result, if it would be conducted with visitors in PA's sites.

*Data analyses* - No data measurements or any research at national level was identified to support this study.

## COOL MEDIA IMPACT ON ALBANIAN PROTECTED AREAS

### Not military zones: Protected Areas as touristic destinations

*"Protected areas before '90s have been considered by state as isolated areas. Recently the government, stakeholders and community in country agreed, that access to them will assure sustainability and development to the economy and bring boost to the domestic tourism"* Lefter, Koka (2016)<sup>26</sup>.

PAs in Albania during communism regime and even in post-communism (1990-2005) have been considered as isolated areas, to be protected and conserved. "The mentality and actions of stakeholders on development and sustainability in PAs begun changing during the last decade" a high ranking official of MTE said. Recently the decision makers and stakeholders in PAs have been proactive to develop strategies toward a sustainable path for PAs along with access to tourism. Articles suggests that in developing countries the new conceptualization of tourism which incorporates sustainability and community participation as dominant elements is favorable to an alternative theoretical framework of development. A high ranking NAPA's staff claims that to fight the mentality of open access to PAs as tourism destinations have been quite a challenge to NAPA staff themselves. It is clear that promotion through all stakeholders of hospitality and tourism can give to PAs, the opportunity to grow and raise awareness on the unique experience they do offer for visitors. MTE (2018:9) in the draft national strategy reports that the product of ecotourism (where PAs are included) has increased with 10%-20% /year.

Fatmir Brazhda<sup>27</sup> emphasizes that in the early promotional activities (2013), their moto used to be "A protected area is not a military zone". "Protected areas were perceived few years ago, by administration staff itself, as isolated perimeters to guard" said Ardian Koci, Director of Elbasan RAPA 2018<sup>28</sup>.

#### *Destination Image*

Destination image has been identified as a crucial aspect of tourism, recreation and leisure (Hall, Croy & Walker 2003; Croy 2004). The greater the exposure to images of the destination, the greater the familiarity and complexity of the image held (Smith & Croy 2005; Croy & Wheeler 2007). The greater the complexity of the image, the more knowledge of the specific decision-making factors (Croy & Wheeler 2007). The formation of a positive perception is determined by evaluative components of image. In this process, from awareness, to availability, through to deciding on an evoked set, destination image is the deciding factor (Lawson & Baud-Bovy 1977; Richardson & Crompton 1988).

Given the increased reliance of tourism providers and destinations on their online reputation (Marchiori & Cantoni, 2011), it is critical for them to not only understand what drives social media promotion or effectively manage it. On Q1 survey 109 out of 109 respondents confirm that image is important getting their attention and curiosity on PAs, they haven't visited before. 109 out of 109 on Q1 visit PA sites at least 2 times in year. 84% of respondents of Q1 confirm they do further searching on internet on the site, if the image attracts them. Ardian Koci, sharing his experience said that at the very beginning the team staff were profane on social media use, and image was not their focus; but the experience improved their skills. Image is identifies as a key element on MTE Draft Strategy of sustainable Tourism 2018-2022.

Stakeholders and decision makers are working with no data or researches. On Q2 11 out of 16 responded that PAs are preferred most by foreign tourist, while the official statistics of NAPA opposes this. On the other hand 50.5% participants of Q1 respond that have little knowledge on the touristic potential of domestic PAs, but only 17 out of 109 have responded they are not satisfied or are little satisfied with what PAs offer.

### The many to many media need for domestic tourism

*"One click in your profiles, photos, videos or share from the coast, Alps, Tirana, Berat, Gjirokastra, nature, culinary or history of Albania has the a much higher impact than dozens of fairs, official meetings, or money spent f or promotion. This is a good thing that you can do to Albania, to Albanian tourism."* (Blendi, Klosi, 2017)<sup>29</sup>

'The world narrated' is a different world to 'the world depicted and displayed'. (Kress, 2003:2) *The world told* is a different world to *the world shown*. Kress (2003:2) considers that the effects of the move to the screen, as the major medium of communication

<sup>26</sup> Former Minister of Environment, Republic of Albania (2013-2017) media statement, OraNews TV Interview 2016

<sup>27</sup> Fatmir Brazhda, Former Director, RAPA of Elbasan, incl Shebenik-Jabllanic National Park, Interview with Ana Kekezi, 2018, Librazhd

<sup>28</sup> Ardian Koci, Director, RAPA of Fier, incl. the National Park of Divjaka, Interview with Ana Kekezi, 2018, Divjakë

<sup>29</sup> Blendi Klosi, Minister of Tourism & Environment, Speech during launching event of ODA, January 2018 <http://www.javanews.al/shpallet-nisma-per-turizmin-rjet-blogeresh-per-promovimin-e-shqiperise/>

and argues that this will produce far-reaching shifts in relations of power, and not just in the sphere of communication. Andreasen (2003) reminds us that social marketing met with resistance when it first emerged, blinking in to the academic world like a new-born baby. Researchers suggest that 'Social marketers' turning the power of marketing to social good, thereby compensating for its deficiencies with better outcomes (e.g. Kotler, Levy, Andreasen).

It is fact that state is orienting their vision and strategies toward new media, as a key tool to promote Albanian tourism, but how and what will be the process and roadmap seems unclear yet. 109 out of 109 respondents of Q1 consider new media tools (social media and newsportals) as very important to get information on tourism. Denisa Xhoga admits that NAPA set as a main promotional goal the focus on new media tools, considering them as a "free" tool. 10 out of 16 official of Q2 see the use of new media tools as extremely important for the promotion of domestic tourism.

Albania is facing a rapid digitization of media channels. The annual ad spending data show that Out-of-home (OOH) advertising is "disappearing" and same way the print media. Elvin Civici, McCann Tirana claims that for advertisers print media as traditional media has "dead", while the biggest journals in country merely sells an average of 1.000 copies /day. Journal print shifted their battleground in online. Albanian Media Institute (2015) suggests that Albanian news media evaluate the role of the social media as an important means to boost the audience through the referral traffic deriving from these media.

Constantinides, E., & Fountain, S. J. (2008) present the consumers with a whole array of options in searching for value products and services and finding exactly what they need and want with minimum effort, in line with the current customer desire for personalization, individual approach and empowerment. There is evidence that customer reviews posted in different forums or online communities, Web blogs and podcasts are much more powerful as marketing tools than expert product reviews (Gillin, 2007); the influence of blogs and podcasts is increasing because of the fast expansion of the audience and contributors.

16 out of 16 participants of Q2 respond that to promote their work they use mostly new media tools (social networks and online news portals). 78% of respondents of Q1 confirm that when deciding to visit a destination, they get information from social media, while 94.4% are daily users of social media with at least 1 hour access in them.

### **The cool media impact on Albanian PAs promotion**

Manovich (2001) on his research on new media states that the identity of media has changed even more dramatically than that of the computer. "The statistics confirm that new media is growing its popularity in Albania and some of its components are becoming part of the mainstream" said Elvin Civici.

The latest articles and studies from the sector report an increasing attention globally on new media tools impact in Protected Areas promotion. Sinanaj, Shkelqim (2016) on his findings on a research conducted for tourism in Vlora Region, Albania suggests that the tourist's loyalty is impacted by the elements and the platforms of social media. The role of social media in tourism is particularly significant and the impacts of social media use by tourists, destinations and tourism providers are manifold (Gretzel, 2018; Sigala & Gretzel, 2018). Fatmir Brazhda, former Director of Elbasan RAPA claim that + 90% of visitors that accessed the park, tag, post, comment in their social media accounts their experience in Shebenik-Jabllanicë National Park.

The researchers propose that new media require a shift in marketing thinking – consumers have become highly active partners, serving as customers as well as producers and retailers, being strongly connected with a network of other consumers (Thorsten, 2010).

Whether it be the traditional editor with a viewership, a micro-influencer with 5 thousand followers or a celebrity/politician with over 1 million followers, each individual has the ability to shape the industry by sharing their own opinions amongst their communities.

AIM (2015) refers that the very first social platforms Albanians were introduced was Facebook, which is actually a leading social platform in country (Socialbakers.com)

11 out of 16 of Q2 survey participants would highly recommend mostly new media tools (social networks and online news portals) to promote PAs. None of them recommended traditional media tools such as newspapers and outdoor.

#### ***Mapping Websites and social media accounts of tourism entities***

The emergence of new digital channels has allowed stakeholders to build their own "media" through which they can reach their final audience directly. Owned media, is simply defined as those channels the stakeholders own and control content for (including social, blog, etc.) has acted as a pull medium to achieve this goal and ultimately transform consumers into brand advocates and loyalists. A major challenge for Web site designers involves the functional complexity of the Web site's content. De Jong & Wu (2018) propose that functional complexity is considered when communication is intended to serve more than one goal or address more than one stakeholder group simultaneously.

The official online channels of central government bodies (MTE, NAPA and NAT) are observed in this study and confronted with the opinion of 6 professionals, 3 web designers and 3 online content experts (Q3).

6 out of 6 participants of Q3 evaluated the websites of MTE ([turizmi.gov.al](http://turizmi.gov.al)) and NAT as poor. Image is skipped and not considered as a key element. They do identify that the 2 official websites of NAT (<http://wp.akt.gov.al/> and <http://albania.al>) are not appealing, have poor content. From the observation these two websites exclude the domestic or foreign visitors as one is in English language only and the other in Albanian language only. The <http://wp.akt.gov.al/> is considered for all 6



participants as unprofessional. On the contrary, they claim that social media accounts (Facebook, Instagram, YouTube and Twitter) are professional and appealing. While NAPA's website <http://akzm.gov.al/> is identified from 6 out to 6 participants as an accurate website, but they would suggest much focus on image with higher quality photos, to motivate and appeal better a potential visitor. NAPA Facebook page as the only social account of NAPA is also evaluated as accurate but yet missing strong appeal, as often it loses focus from image.

12 RAPAs at national level do have websites and on social media Facebook accounts only

The websites of RAPA are only informative, not aiming promotion and marketing through this tool. The mapping of Facebook pages of 12 RAPAs found a correlation between the most visited PAs and the activity in their Facebook Pages.

The observation on Facebook and Instagram pages of actual Minister of Tourism and Environment (September 2017 – January 2018)<sup>30</sup> and former Minister of Environment<sup>31</sup> show that posts related to PAs or nature in general, seems more likable to the virtual community getting a higher number of likes, comments and shares, comparing other posts.

### ***Web portals as “purely online media”***

Articles suggest that alternative media was presented in the begging of 21th century from the journalists who decided to become independent from traditional media and provide to public a diverse perspective of the information from another point of view. In Albania this is a trend embraced by many well-known journalists in country as Armand Shkullaku & Andi Bushati with Lapsi.al, Rudina Xhunga with Dritare.net, Blendi Fevziu with Opinion.al, Ylli Rakipi with Tpz.al, Mentor Nazarko with Konica.al, Mustafa Nano with Respublica.al, Enkel Demi with 27.al and others. At present, the corps of “purely online media” is being shaped as one of the most dynamic in the Albanian online space, leading to increasingly frequent novelties and developments (Albanian Media Institute, 2015:18)

Denisa Xhoga and Elvin Civici claim that articles on purely online media have high impact and more credibility than paid online ad. Denisa Xhoga stress the fact that NAPA has focused her work with journalists mainly on web portals, as virtual community tends to engage and share the information. Webportals are considered for 109 out of 109 of Q1 respondents, as the fastest way to get information.. Whether 56.9% of them confirm that when deciding to visit a destination they get information from online news media. On the other hand, 16 out of 16 respondents of Q2 consider internet as the highest influencer to their work.

### ***Word of Mouth in online context***

Word-of-mouth represents a highly influential information source for potential visitors and is therefore of great interest to tourism marketing professionals.

Kotler & Keller (2007) suggests that word of mouth Communication (WOM) is a communication process for the provision of advice either individually or in groups for a product or service that aims to provide personal information. Communication by WOM is considered very effective in expediting the process of marketing and be able to provide benefits to the organization. Other researchers confirm that customers prefer to seek advices from the people who have already visited that particular destination than merely trusting the conventional advertisements from the suppliers. (Crompton, 1992; Decrop & Snelders, 2005; Gligorijevic & Luck, 2012; Hyde & Laesser, 2009; Park, Lee & Han, 2007; Seddighi & Theocharous, 2002; Woodside & Lysonski, 1989). Ring, & Dolnicar (2016) on their research found that tourists share both verbal and visual word-of-mouth content. They do suggest that stakeholders have the possibility to leverage word-of-mouth.

87.7% of respondents of Q1 trust more a recommended destination by a friend/relative rather than from other forms. 100% of them consider the online comments, posts and suggestions of their friends/familiars equal trustable as the traditional WOM. Ardian Koci claimed that +70% of domestic visitors in Divjaka National Park have been referred by a relative or friend, or a person they do follow in social media. Particularly as surveys indicate that word-of-mouth generally plays an important part in influencing visitation to national parks (Eagles & McCool 2002). 77 out of 109 respondents of Q1 used word-of-mouth sources to make destination choices.

### ***Wiki Platforms & Blogosphere***

Wiki platforms are new media tool. Albanian language has its own space and as reported by Wikipedia. The community consists of 102.780 registered users, 296 of them have contributed with at least an editing during the last months. The information on Albanian language, for Albanian tourism and protected areas from observation seem extremely limited comparing with the one offered in English language. Also many bio links provided in Albanian language section of Wikipedia are not functional.

85.2% of the respondents of Q1 use Wikipedia as 2<sup>nd</sup> source of search, after Google. Another finding was that 55.6% of respondents of Q1 were using even social media (such as Facebook, Instagram or YouTube) as searching vehicles for tourism destinations.

The largest number of blogs in Albania are created and hosted by Wordpress and fewer Blogspot platform. But it is hard to track in Albania bloggers or any blog for traveling, hospitality and tourism. Albanian bloggers and influencers are mostly focused on culinary and fashion.

<sup>30</sup> <https://www.facebook.com/klosiblendi/> ; [https://www.instagram.com/blendi\\_klosi/](https://www.instagram.com/blendi_klosi/)

<sup>31</sup> <https://www.facebook.com/lefterkokapolitikan/>



### ***Bloggers and Influencers***

Social media also support the emergence of influencers that occupy a middle ground between consumers and commercial users (Kozinets et al., 2010). eMarketer 2018, reports that for Influencers, Instagram is the clear-cut favorite and nearly 80% consider it their primary platform for collaborations. 6 out of 6 participants of Q4 members of ODA's network claimed for this study that they prefer better Instagram, while advertisers they collaborate prefer to use both Instagram and Facebook. None of them had a Twitter account.

Only 9.1% of respondents of Q1 confirmed that they were not noticing or ignoring the destination of a post done/tagged by a VIP/public person (they fan/like and follow in social media).

### ***Albanian ODA<sup>32</sup> - the bloggers' network***

A 2015 survey by Tomoson<sup>33</sup> emphasizes how influencer marketing can be highly lucrative for those brands who engage in it. Businesses are making \$6.50 for every \$1 spent on influencer marketing. Most businesses get solid results from influencer marketing, with just the bottom 18% failing to generate any revenue. 59% of marketers intend to increase their influencer marketing budget in the next year.

ODA – the Albanian blogger's network was an initiative of MTE launched in January 2018, to promote Albanian tourism. Over 200 Albanian representatives of art, culture, business from Albania and beyond borders are part of this network. "Jehoje dhe ti"<sup>34</sup> was a 60 second promoting video of the Albanian tourism that was posted firstly on the Minister Blendi Klosi social accounts, and after posted or shared by 200 bloggers. This video became rapidly a viral one. Marketers suggest that influencer marketing is about data, not celebrity deals. "We have not done yet any measurement or analyze on "Jehoje dhe ti" promotional video" acknowledged a civil servant staff of NAT.

### ***Own Media***

"It's a pity Albanians overestimate what neighbors offer. It's matter of culture and mentality.

The Albanians does not grow since childhood with the love for nature, as other citizens worldwide do. I am surprised that most Albanians have discovered their country lately, mainly from social media" Fation Plaku, 2018

Influencer marketing in travel and tourism builds on the importance of word-of-mouth in the travel context (Litvin, Goldsmith & Pan, 2008). Studies suggest that in the age of social media, consumers move from being fans to being producers of promotional content for brands, and from occasional endorsers to micro-celebrity-seeking social media influencers (Hearn & Schoenhoff, 2016).

Fation Plaku, whom passion for nature, have "transformed" him on photographer, a blogger and mostly identified as a key Influencer, while sharing his thoughts for this research admitted that he desired to make people visit the beauty of Albania nature, but he didn't know how. New media tool or "his own media" as Fation refers to his website and social media accounts (Facebook, Instagram, YouTube and Twitter) opened a real window to him. He started to share and shoot his unique moments for fun and from many years now he is doing it professional way. He also confirms that his favorite and most followed channel is Instagram.

Fation claims that this is the first time he is interviewed/approached for study purpose. Same claimed even the 6 participants of Q4. Researchers admit that there is a lack of research that investigates the travel and tourism influencer marketing phenomenon Gretzel, U. (2018).

### **PA's success stories; cheers to cool media**

Social media allow destinations to contact visitors at relatively low cost and higher levels of efficiency that can be achieved with more traditional communication tools (Kaplan and Haenlein 2010). M.E. McCombs, D.L. Shaw (2004) suggest that those topics which are the most frequently covered by the media are seen as the most important. The crossing of secondary data and statistics of NAPA "decided" on the 2 success stories of this study (see figure 4 and 5).

As the outcome of the increasing influence of tourism, natural and protected area management is evolving from one primarily focused around onsite management and conservation, to one that more broadly encompasses a greater range of holistic recreation and tourism experiences. In dealing with this evolution, national parks and protected area managers are now required to balance onsite interpretation activities with marketing and demand management activities. (Reid, Mike 2008). Natura2000 Albania (June 2016) in their assessment findings emphasize that protected area managers complained, that they are often not informed about or involved in research activities, and that researchers do not address their management priorities and needs. In the assessment is also reported, that in some protected areas in country, research has not been conducted for a long time. IUCN reveals that the continuing and dramatic increase in both international and domestic travel poses significant opportunities for managers of the globe over 100,000 protected areas.

<sup>32</sup> ODA word in Albanian language means room

<sup>33</sup> Survey 2015 "Influencer Marketing Study" [Accessed 10 March 2018 <https://blog.tomoson.com/influencer-marketing-study/>]

<sup>34</sup> Jehoje dhe ti - Echo even You – a direct appeal to the users, to make share the video, Video launched on January 2018

**FIGURE 4 :** Visitors in Shebenik-Jabllanicë National Park

Year	2015	2017
Visitors	400	13.000

Source: RAPA of Elbasan

**FIGURE 5:** Visitors in Divjak-Karavasta National Park

Year	2015	2017
Visitors	1.500	383.000

Source: RAPA of Fier

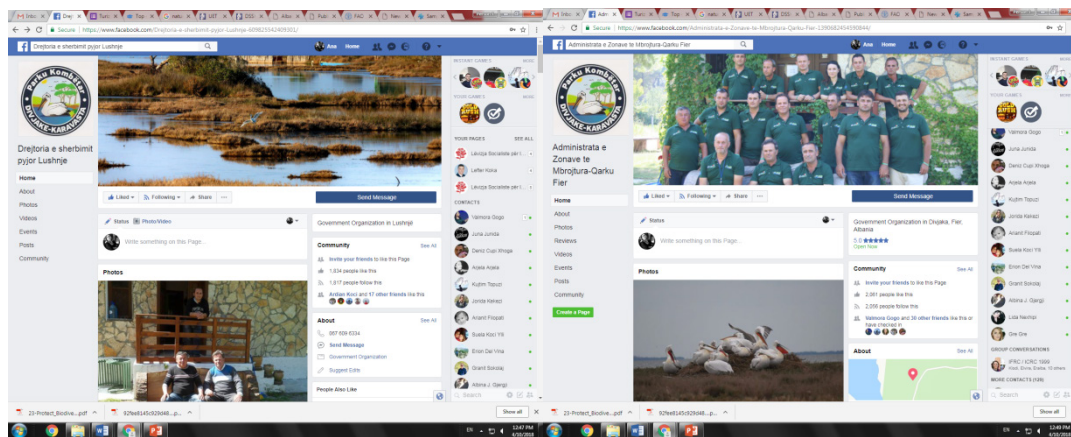
***Divjakë-Karavasta National Park – The shelter of Curly Pelicans***

Divjakë-Karavasta National Park, managed by RAPA of Fier is well known, as the Shelter of Curly Pelicans (Dalmatian Pelican). 97 out of 109 respondents of Q1 identified this PA with the colonies of curly pelican and 100 of them have visited it at least once.

On the internet mapping (online portals, TV chronicles and social media posts) done for this PA found that many journalists, government high ranking officials and public personalities, contribute the success of the Shelters of Pelicans to the passion and dedication of Ardian Koçi, Director, RAPA of Fier.

Ardian, managing RAPA of Fier for 5 years is a profound passionate, eager to attract visitors. He states that he found Facebook, as the only way to have visitors in park. On 2013 the agency of PAs was not established yet by law and PAs were managed under the sector of forestry. “In 2013 I was appointed Director of Regional Directorate of Forestry of Fier. Few visitors were coming” said Ardian. He said that the decision to open a Facebook page (see figure 6, left) was the best step ever took. “People were annoyed from tagging, but I didn’t gave up” confirms Ardian.

**FIGURE 6:** Left Drejtoria e shërbimit Pyjor, Fier (created 2013); Right RAPA of Fier (created 2015)



Source: Facebook, Screenshot 2018

Statcounter Global Stats (2018) report that, Facebook leads with 93.4%, followed by YouTube with 1.64% for April 2017-March 2018 period, social media in Albania. Ardian claim that the National Park was not visited at least once, even by citizens that live next to Divjaka. He identified Facebook as the only free of charge tool he had in power, to raise awareness of the park and make people visit the lagoon. The page he opened back time in 2013 is still active, and with the establishing of NAPA by law 2015, Ardian activated a new page (see figure 6, right). Ardian claims that it was Facebook that attracted the journalists and reporters to promote the lagoon and raised interest in tour operators.

Healy and Wilson (2015) propose that host hospitality social media experts suggest that engagement on social media improves customer service and brand awareness, but they cannot validate if it influences buying behavior. Ardian claim that behavior of visitors has radically changed. “The domestic visitors’ main attraction during 2013- 2014 was culinary, now we can clearly identify that this trend changed for good. The culinary have altered as an extension, while main motivation and hours spent from domestic visitors are dedicated to lagoon and other areas of the Park” confirmed Ardian. He aims that the park be perceived by domestic tourists as a brand.

### ***Shebenik-Jabllanicë National Park – The biggest national park***

“Shebenik-Jabllanicë National Park<sup>35</sup>, managed by RAPA of Elbasan is a new discovery to key stakeholders; media, citizens and tour operators” claims Fatmir Brazhda, Former Director, RAPA of Elbasan. The park is known in online media, as the biggest national park in country, but yet not clearly identified by potential visitors. 76 out of 109 respondents of Q1 have heard of the park, and only 22 out of 109 have visited it.

Shebenik-Jabllanicë during 2013 was on a critical stage of brand awareness, given the fact that it was a brand new National Park. “The role of media have been vital to make the introduction of our Park. On early stages, we started with a Facebook page (2013) and after that focused on local media and community” state Fatmir. In the Facebook page mapping of this park<sup>36</sup>, it shows that the authority of influencers is adopted as a tool to promote the PA. Denisa Xhoga confirmed that national TV and newspaper journalists/reporters never heard of Shebenik-Jabllanicë, when she joined NAPA in 2015. Fatmir claims that social media is crucial to attract potential visitors, but success on delivering the experience in the Park is considered decisive that visitors go back or return “Shebenik-Jabllanicë ambassadors”.

## **Conclusions and recommendations**

Zeng & Geristen 2014 call for future research into social media in tourism and in developing countries suggesting that this may provide productive research environments. This study gave some important findings for impact of new media tools in protected areas as tourism destination in Albania as a developing country, where PAs have been lately considered by stakeholders as a high potential for tourism sector.

Findings of this study opposes the finding of Gover & Kumar 2007 in global rank where they identified that the role of internet was less important than was expected considering the population sampled. In this study internet and new media tools are key players to promote domestic tourism in PAs but also to get and share information.

First conclusion is that if protected areas and especially national parks who have more potential for accommodation units and recreation activities creation, need to become knowledgeable about marketing strategies and tools, and be competitive both from a product as well as a communication perspective.

Second conclusion is that perceptions of the brand and value of PAs as tourism destinations strongly relate with the promotion on new media tools.

Another finding is that protected areas can leverage their owned media channels to speak directly to their fan base. Word of mouth in traditional and mostly on online context, have been a promoter and amplifier to spread the message and raise brand awareness of PAs. The influencers can be lucrative to PAs (destination image)- when it's done correctly and when proper measurements are done. New media is important to Albanian citizens for getting information and having a decision on their next destination

Use modern and digital promoting tactics is one of the main recommendation. New media tools are suggested given the fact that tourism is a cluster very influenced by new trends. New media tools are advice, also as cost effective ones. Suggestions from this research are new media tools are swimming in rapid change environment, therefore they do need a continuous and persistent update.

The study identified existing barriers in the tourism sector, which should be resolved by active involvement of different stakeholders. Effective marketing strategies may foster competitiveness of Albanian tourism to domestic tourists.

It should be noted that many departmental websites are quite general and do not necessarily focus on promoting particular parks, but are rather a functions tool to access the department. This often makes them difficult to navigate and not consumer friendly.

In the literature review by Hawthorne (2014), only 25% organizations measure in detail the influences social media content marketing. This study suggests that in Albania none of the governmental or public sector has done any measurement on this context. For promotion and marketing strategies on domestic tourism is important to know the needs, desires and expectations of domestic visitors, therefore researches and deep analyses are highly recommend to lead to better results and understanding.

Another recommendation as other researchers found is that a tailor-made social media marketing approach targeting specific market segments would be critical to attract potential tourists in PAs (Zeng & Geristen 2014)

The research highlights the need for further studies into the impact new media have on destination decision-making and the actual use and experience of different communication tools. It is significant to encourage investigation about the positive impact of social media marketing on the development aspects of a sustainable tourism. Further research is needed to integrate and complete the analysis with various methodologies, to deepen the impact of the new media in tourism cluster in developing countries and more specifically in protected areas.

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<sup>35</sup> In 2008 declared by law National Park

<sup>36</sup> <https://www.facebook.com/ShebenikJablanicaNationalPark/>

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# The Italian Archaeological Mission in Albania before and during World War II

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In 1924 Albania was in a very chaotic political state. After the elections of January, when Ahmet bej Zogu (1895-1961), a former Austro-Hungarian officer, educated in Military school in Constantinople (1903-August 1912), took power, there was a coup attempt against him on February 23, and the government changed in March. Ahmet bej Zogu left Albania in early June and, from June 16 Father Fan S. Noli, head of the Democratic Revolution and Albanian Prime Minister, led the government. Zogu was back in Tirana on December 24 and assumed power again. On the January 31, 1925 Ahmet bej Zogu was both President and the head of the Government.<sup>1</sup>

On the Italian side there was a long discussion and correspondence took place between the head of the Levante Scientific Mission and the director of the National Archaeological Museum of Rome, Roberto Paribeni, the head of the Italian Legation of Durres, Marchese Carlo Durazzo and Mussolini himself regarding the creation of an Italian Archaeological Mission in Albania. So it was proposed a young archaeologist Luigi Maria Ugolini to organize the Italian Mission in Albania.

Based on the documents preserved in the Central State Archives in Tirana, the official date or the first step towards the realization of Italian archaeological excavations in Albania was taken on April 12, 1924, when the Ministry of Education notified the Ministry of Interior of the visit to Albania of Dr. L. Ugolini, “well-prepared Italian archaeologist in the prehistoric studies” and “a friend of Albania”.<sup>2</sup> The Albanian Embassy in Rome had informed the Ministry of Education of his visit.<sup>3</sup>

The young Italian archaeologist, Luigi Maria Ugolini, student of the Italian School in Athens, journeyed through northern and southern Albania in April and September 1924. In this climate Ugolini twice met Mussolini at Bertinoro, once having a long conversation on the ‘belvedere’ terrace of the town.<sup>4</sup> The creation of the Italian Archaeological Mission was linked with the political propaganda of the “Roman Empire” that Mussolini wanted to recreate.

On January 6, 1925, Ahmet Zogu changed the government and declared himself the Prime Minister. Then on January 21 he was declared the President of the Republic of Albania and in 1 February the new government was created. Three years later he will declared himself the King of Albania. In 30 January Zogu asked Mussolini for creation of the friendship relations between Roma and Tirana. The Albanian government was looking to have relations with both Italian and British governments.<sup>5</sup>

Beginning in 1925 Rome wanted to have a better rapport with Albania. In March of that year an economic accord was signed between Albania and Italy and in August there was a secret pact that concluded in November 1926 with a treaty of friendship and security, known as the First Pact of Tirana.<sup>6</sup> This pact was valid for 5 years and had 5 articles, but the most important was the first one. British government approved this pact and the Greek government declared that they considered

<sup>1</sup> *Historia e Shqipërisë*, V. III (1912-1944).

<sup>2</sup> Luigi Maria Ugolini was born in Bertinoro (Romagna) in 1895 and graduated in the University of Bologna in 1921. He frequented during 1921 and 1922 the Archaeological School of Rome and in 1923 he stayed a year in Athens. It was always mentioned that he was member of Partito Nazionale Fascista (National Fascist Party) from 1924. See Zevi F. ‘L’Archeologia italiana in Albania’, *L’archeologia Italiana nel Mediterraneo* (Catania 1986) 171.

<sup>3</sup> Central State Archives, Tirana: F. 295. V. 1924, K. 4, D. 34, Fq. 1-7, P. 10, Xh 709

<sup>4</sup> Newspaper *Il Resto di Carlino*, 23 September 1924, 26 September 1924.

<sup>5</sup> *Historia e Shqipërisë*, V. III (1912-1944) 319.

<sup>6</sup> Pastorelli, P. *Italia e Albania, 1924-1927* (Firenze 1967); Roselli, A. *Italiae Albania. Relazioni finanziarie nel ventennio fascista* (Bologna 1986).

this pact as a diplomatic instrument. The French and Yugoslavian media were against it. In 8 February 1927 this pact was approved in ONU.<sup>7</sup> Before the approval of the pact, on September 30, 1926 in Livorno, was organized a meeting between Benito Mussolini and the British Minister of Foreign Affairs, Austen Chamberlain. In this meeting Mussolini was clear that he couldn't invade the western part of Mediterranean, but he understood that he might go in the South East Europe.<sup>8</sup>

On March 15, 1925 the Albanian Minister of Finance in collaboration with an Italian financial group signed the agreement of the creation of the Albanian National Bank with principal 'sede' in Rome and the name of currency: Franga (Albanian) and Franchi (Italian) were both written on them.<sup>9</sup> The financial Italian group was from the Società per lo Sviluppo Economico dell'Albania-SVEA. On May 29, 1925 Albanian government asked a debt for 40 years in 62, 7 million golden francs from SVEA.<sup>10</sup> On July 1925 Zogu gifted to the Yugoslavian government the Monastery of St Naum in the coast of Ochrid Lake and a piece of land in northern part of Vermosh region.<sup>11</sup>

In this situation the letter of Roberto Paribeni on March 15, 1925 confirmed the beginning of archaeological excavations. On October 14, the head of the Italian Legation of Durres wrote to his office in Saranda that the Albanian President had ordered local authorities to permit archaeological excavations in Feniki (Phoinike).<sup>12</sup>

But only on May 10, 1926 did Ahmet Zogu, and the Minister of Foreign Affairs, J. Vrioni, approve the agreement for archaeological excavations by Italian Mission in Albania.<sup>13</sup> The tract of the friendship between Italy and Albania began at the end of 1925 and was in effect in September, being concluded only on November 27, 1926.<sup>14</sup> The parties did not forget to note that this agreement had the same articles as the one approved for the French Mission.<sup>15</sup> Jacomoni, the Italian Consul in Albania, had a strong political interest in the archaeological agreement, because archaeological research demonstrated the ancient links between Albania and Italy and these could serve as a base for the future "convivenza" between the two peoples.<sup>16</sup>

Ugolini began excavations at the classical site of Feniki (Phoinice), the capital of Epirus, its large acropolis is seven times bigger than that of the acropolis of Athens. Ugolini was the first to undertake systematic excavations there, and he uncovered a Greek treasury of the fourth century BC, a Roman cistern, a bath-house, and ruins of temples. The two successful campaigns revealed a complex archaeological sequence and the Albanian King sent to Ugolini a letter of appreciation for the good job he was doing.<sup>17</sup> At about the same time, interest in the classical past of the country was rekindled, and the first Albanian scholars, most notably Hasan Ceka, began to explore the archaeology of their country.

The antiquities of Dyrrachium are published in 1926 from an Austrian fellow, B. Saria.<sup>18</sup> The British writer, Paul Edmond, did some trips in Albania in the period when Italian and French Missions were doing excavations in antique sites, and published a book for "the land of the eagle".<sup>19</sup> In the review of the French Mission, *Albania* a French travel Agency, Etoile, with page publicity invited people to visit Greece, passing from Dalmatia and Albania.

On November 22, 1927 was firm a tractate of "protective alliance" between Albanian and Italian Governments that was named "The Second pact of Tirana". In fact this was the same pact with the first one of 1925, but it was not any more noted the limit of time for 5 years. The new alliance was signed for a period of 20 years. Some month later, in August 31, 1928, other hidden military pacts are signed between Italy and Albania. On December 1927 Zogu approved the diplomatic relations between the Republic of Albania and the Vatican State.<sup>20</sup>

On December 30, 1927 the President of the Albanian Republic proclaimed the decree of the Convention between the Albanian and Italian Governments for Archaeological Excavations, although the Italian Archaeological Mission had already been in action for several years. Ugolini had already published a book on the archaeological survey he did in Albania from 1924 to 1926, and Paribeni had written the preface.<sup>21</sup> Two famous Italian archaeologists, Pericle Ducati and Giuglio Quirino Giglioli, immediately published long articles that mentioned this book and the activity of Ugolini and his Mission in Albania.<sup>22</sup> Another scholar, Radu Vulpe, included Ugolini's book in an historical review.<sup>23</sup>

In January 1928 Ugolini moved the excavations from Feniki to Butrint.<sup>24</sup> This great classical, Byzantine and Venetian site

<sup>7</sup> Idem, 324. See and Pastorelli, P. *Italia e Albania, 1924-1927* (Firenze 1967); Lefebvre d'Ovidio F. *L'intesa italo-francese del 1925 e la politica estera di Mussolini* (Roma 1984); Roselli A. *Italia e Albania. Relazioni finanziarie nel ventennio fascista* (Bologna 1986).

<sup>8</sup> Idem, 325-326,

<sup>9</sup> See Ratti, A. M. 'La vicende dell'economia albanese e la fortune del franco', *Rassegna Monetaria* (Roma 1936).

<sup>10</sup> Ibidem.

<sup>11</sup> Ibidem.

<sup>12</sup> Ibidem, p. 16.

<sup>13</sup> Aloisi, P. & Vrioni H. 'Il patto d'amicizia tra l'Italia e l'Albania', *Rassegna italo-albanese* Nr. 1 (Palermo 1927).

<sup>14</sup> In the Central State Archive in Tirana is preserved the article from the newspaper and the translation into Albanian. (F. II. 251, V. 1929, D. 1043, Fq. 1-3, P. 6, Xh. 1309). See also Central State Archives, Tirana: F. 263, V. 1926, K. 16, D. 212, Fq 9-14, P. 6, Xh. 679, p. 10.

<sup>15</sup> Central State Archives, Tirana: F. I. 295, V. 1925, D. 119-132, Fq. 1-6, P. 65, Xh. 1636

<sup>16</sup> Jacomoni di Sansavino, F. *La politica dell'Italia in Albania* (Bologna 1965) 30-31.

<sup>17</sup> Ibidem, p. 43, 44

<sup>18</sup> Saria, B. 'Antiken aus Durazzo', *JÖAI*, 23/2 (1926) 242-246.

<sup>19</sup> Edmond, P. *To the land of the eagle* (London 1927).

<sup>20</sup> *Historia e Shqipërisë*, V. III (1912-1944) (Tirana 1984) 329-330.

<sup>21</sup> Ugolini, L. M. *Albania Antica* (Roma 1927).

<sup>22</sup> Ducati, P. 'Albania Antica' *Resto del Carlino* (Bologna 22. VI. 1927); Giglioli, G. Q. 'Albania Antica', *Giornale d'Italia* (Roma, 1. X. 1927).

<sup>23</sup> Vulpe, R. 'Luigi M. Ugolini. Albania Antica, Vol. I, Ricerche Archeologiche', *Revista storica* (Ottobre-dicembre 1927).

<sup>24</sup> Central State Archives, Tirana, F. 263, V. 1928, Dosja 162, Faqe 1-6, Poza 11, Xh. 984. See and Magnani, S. 'Butrinto, Virgilio e l'immaginario antico', *L'archeologo scopre la storia. Luigi M. Ugolini (1895-1936), Quaderni bertinoresi*, (Bertinoro 1996) Giornata

is beautifully situated on the southern frontiers of Albania, between the Ionian Sea and Lake Butrint. Ugolini never forgot to mention the fact that the first exploration in this archaeological site was conducted in 1418 from the Italian humanist, Cyriacus of Ancona.<sup>25</sup> Butrint was undoubtedly selected as the focus of the Mission because of its Vergilian associations. The approaching celebrations intended to mark the bimillennium of the poet's birth were undoubtedly a factor in the move.<sup>26</sup> The brief sojourn of Aeneas at the city en-route for Italy was an attractive element that was well fitted to the precepts of *Romanità*. Butrint was to be one of the destinations of the prestigious 'Crociera Virgiliana', an extended cruise around many Mediterranean archaeological sites with Vergilian connections, sponsored by the Accademia Reale d'Italia. Aeneas and Butrint reinforced Italian policy on the eastern side of the Adriatic and Ionian seas, already seen as interventionist thanks to the Corfou incident in 1923.<sup>27</sup> Ugolini's professor of archaeology, Pericle Ducati, visited Butrint in 1929 and published an article in an important Italian newspaper, publicizing the activities of his "giovani amici," Ugolini, Monaco and Nuccitelli.<sup>28</sup>

Ugolini, however, utilized the Virgilian connection sparingly. His reports to the Foreign Ministry do not emphasize this factor, and his academic works concentrate on the later classical archaeology of the city. However, he did go so far as the one of the Hellenistic gates of the city, the *Porta Scea*, after the gate supposedly seen by Aeneas. His archaeological results were tremendous and included the Theater, the Asclepius temple, the Baptistery, the *stoa*, the Lion Gate and Scea Gate, Roman Baths, city walls, and the Venetian castle.

The Albanian Government was changed again in May 11, 1928. On July 11, 1928 in a letter of Mussolini for the Italian minister in Tirana was clear the order of Italian government that in the moment of the changes in Albanian constitution Italians have to protect Ahmet Zogu, the Albanian President. On August 31, was firmed a military pact between Italy and Albania. On September 1, after that was approved the constitution and the statute, A. Zogu, the Albanian President, declared the change from the Albanian Republic to the Albanian Kingdom and himself as the Albanian King, under the name Zog I. On September 5, he created the new Government and named Koço Kota, as the Prime minister. On December 1, the National Assembly was changed into the Parliament and with the new Statute the monarchy was the democratic-parliamentary system. After that the Albanian Kingdom, was known from Italy, Greece, Hungary, Uruguay and U.S.A. (15 September 1928), before being known from Great Britain, France and other European states.<sup>29</sup>

During the years 1929-1933 Albania was involved in the general post war crisis. On January 1930 the Head of Albanian Parliament, Pandeli Evangjeli, met in Rome with B. Mussolini. On March 4, 1930 the Government of Koço Kota changed and the new Government was headed from Pandeli Vangjeli.<sup>30</sup> The Government was changed again in 1935 and M. Frasheri was elected as the Prime Minister. This Government stayed in the power until November 7, 1936. Two days later the new Government was headed from Koço Kota. On January 31, the new elections approved the Government of Koço Kota.<sup>31</sup> The Balkan Pact of February 9, 1934, signed by the Balkan countries except Albania (Albania was not invited in the talks) and Bulgaria, is hard to say that was transformed in a war instrument, but it did not become a peace instrument, too.<sup>32</sup> The big problems of a small country, such as Albania, were published on September 1, in the *Revue de Paris*.<sup>33</sup>

In the beginning of 1931 in Saranda and Corfu arrived for the second visit the group of British Navy, composed with 6 big war ships. They stayed there for 10 days (17-26 January). The admiral, James, 6 officers and the son of the head of Gendarmerie, the General Sir Joclyn Percey, went down to Saranda in 21 January for hunting. The "Queen Elisabeth" stayed in Vivary and officers visited Butrint accompanied from Italian Mission who was excavated there.<sup>34</sup> The first group of British Navy, under the command of Admiral Davies, visited Durres on October 7, 1930.<sup>35</sup>

The British Navy composed from war ships "Queen Elizabeth", Anthony" and "Bryony" arrived again in the waters of Durres on July 10, at 9.30 a.m. and stayed there till 9.30 a.m. in 15 of July. The "Queen" stayed three miles distant from the port and was visited on July 12 from 300 persons and on July 14 for other 300. In the yacht "Bryony" was the Lady Chatfield, the wife of Admiral, Sir Ernle Chatfield, the commandant of British Navy in Mediterranean, and their daughters. The admiral Chatfield had the appointment with King Zog in the morning of July 14. The Albanian government organized an official dinner in the same day for the honor of Admiral Chatfield, his head, Admiral Bailay and other British in the Hotel Continental in Tirana. There were invited Italians and the commandant Silvio Montanarella, the captain of Fregata. In this reception participated the Albanian Minister of Foreign Affairs, J. Vrioni, etc.. The British Navy left Durres in the morning of July 15,

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Internazionale di Studi per celebrare il Primo Centenario della nascita del cittadino L.M.Ugolini, 59-71..

<sup>25</sup> Ugolini, L.M. 'L'Antica Albania nelle recenti scoperte archeologiche italiane', *Rassegna Italiana* (Roma, marzo 1928) 221-222.

<sup>26</sup> Zevi, F. *op. cit.*, 179. See and Ancel, J. *Le Balkan face à l'Italie* (Paris 1928) and Tittoni, T. *Questioni del giorno (Tunisia-Abisinia-Bessarabia-Libia-Jugoslavia-Albania)* (Milano 1928).

<sup>27</sup> Susini, G. *op. cit.*, 109.

<sup>28</sup> Ducati, P. *Archeologia Italiana in Albania*, Corriere della Sera (24. I. 1929). In 1937 Ugolini's popular book, and his last work on the subject, *Butrinto, Il Mito d'Enea* (Butrint, the Myth of Aeneas), was published posthumously; it referred directly to the Virgilian connection.

<sup>29</sup> *Historia e Shqipërisë*, V. III (1912-1944) (Tirana 1984) 346. See and Swire, I. *Albania, the rise of a kingdom* (London 1929); Id. *King Zogu and Albania* (London 1937).

<sup>30</sup> See and Traglia, G. *L'Albania di re Zog* (Roma 1930).

<sup>31</sup> *Historia e Shqipërisë*, V. III (1912-1944) (Tirana 1984) 362.

<sup>32</sup> See Shpuza, G. 'Albania and the Balkan Pact of the year 1934', *Studime Historike* 1-4 (1996) 37-58; Id, 'Albania between the Balkans and Apennines-1934', *Studime Historike* 1-2 (1998) 59-77.

<sup>33</sup> Martin, V. 'Petit pays, grand problème: l'Albanie', *Revue de Paris* (1<sup>st</sup> September 1932).

<sup>34</sup> Central State Archives, Tirana: F. 263, V. 1931, D. 100, p. 1; F. 263, V. 1931, D. 6, P. 6-7. See and the newspaper *Ora*, Nr. 272, 16 January 1931; Nr. 281, 27 January, 1931; newspaper *Arbënia*, N. 126, 18 January 1931.

<sup>35</sup> Newspaper *Ora*, N. 272, 16 January 1931.

and in the same date Sir Chatfield wrote a letter to the captain Silvio Montanarella thanking him for the hospitality in the first day of their arrival and the assistance during the sojourn.<sup>36</sup> In that period the British Consul was Mr. Hadwin and he stayed in Durres.<sup>37</sup>

Except the official members of the Missions that stayed in Albania for most of the time, other fellows came to visit Albania and they published either studies on different topics connected with their excavations and research or paintings. Vincenzo Ciardo was the painter who came in Albania in 1929 and painted landscapes and portraits.<sup>38</sup> Dario Roversi Monaco, Ugolini's collaborator and engineer, published an article in 1934 on the Italian Archaeological excavations.<sup>39</sup> G. Castellani (1858-1038) published an article on Albanian coinage in 1932.<sup>40</sup> Another Italian fellow, Pericle Perali (1884-1949), published a book for the earliest origins of Albania.<sup>41</sup> The architect, Follin, from R. Istituto Veneto came to Albania to study Venetian monuments and stayed in Butrint in the winter 1931. Italian fellow, E. Armao published in Rome a book about the reports between Venice and Albania.<sup>42</sup> The Venetian and Italian traces in northern Albania are the theme of a study of S. Bettini, published in a Venetian Review in 1933. Some years later he will published another article in the review *Albania* about the traces of art in Albania.<sup>43</sup> Luigi Cardini from Istituto di Paleontologia Umana di Firenze, as member of the Mission, excavated the prehistorical site near the village of Xara, 8 km distant from Butrint. M. Monti Gennaro published two studies with the sources founded in Naples on the history of Albania.<sup>44</sup> Alfonso De Franciscis, from the University of Naples, and Antonio de Luca were also members of the Italian Archaeological Mission in that period. De Franciscis wrote an article on the inscriptions of Butrint.<sup>45</sup> Giuseppe d'Amico was the restorer of the Venetian castle and other monuments in Butrint. In the same period an English baron, Geoffrey Neale Cross (1904-) published a book with the study in the Greek Constitution of Epirus.<sup>46</sup>

Meanwhile Leon Rey continued his excavations at Apollonia, the Albanian Minister of Education informed the Municipality of Fier on August 14, 1931 that Mr. Clarence Manning from Columbia University was supposed to visit Pojan (Apollonia), but no other documents are preserved concerning his visit.<sup>47</sup> Another scholar, Brühl, published two articles in the volume *Albania*, about the archaeological excavations in Apollonia in 1931-1933, for the inscription in the Agonothetes monument, and for the inscriptions of Durres city.<sup>48</sup> The mints of ancient Albania and their circulation are studied from the Italian numismatist, Lorenzo Cesano e Laura Breglia, and published in different reviews.<sup>49</sup> Another French scholar, Lemerle, published the chronic of the excavations and discovering in Albania.<sup>50</sup> The American fellow, J. Whatmough, published in 1933 the Illyrian inscriptions founded in Italy, as the pre-italic dialects.<sup>51</sup> The Venetian and Italian remains in northern Albania were the theme of a study published in the *Revista di Venezia* in 1933.<sup>52</sup>

Ugolini excavated at Butrint for eight years (1928-1936) despite many health problems. His voluminous correspondence shows his special personality and passion for archaeology. He did his best to integrate the originally politically motivated Italian Mission into the political life of Albania. Increasing marked Ugolini's final years as the director of the Mission ill health, which he neglected for the sake of continuing his work. He was in Butrint, excavating and waiting visitors, in November 1934. In a letter, dated November 10 he mentioned the visit of the English Consul of Corfu and Cefallonia and other English people and, the continued "a good faze of excavations". He was preoccupied with whether or not his funds would arrive.<sup>53</sup> There is no other information until the summer 1935, when on the August 14 Ugolini was sick and sent on short notice a telegram from Corfu "Operatomi urgenza unico rene condizioni allarmi".<sup>54</sup> A month later Italian Legation had not been informed

<sup>36</sup> Central State Archives, Tirana: F. 263, V. 1931, D. 100, p. 10-13, 18..

<sup>37</sup> Central State Archives, Tirana: F. 263, V. 1931, D. 102, p. 1.

<sup>38</sup> Ciardo, V. 'Una breve campagna pittorica in Albania', *Japigia* (Rome 1931); Id. 'Il clima pittorica dell'Albania', *Meridiano di Roma* (Roma 1940).

<sup>39</sup> Monaco, D. R. 'Rilievi e Scavi Archeologici Italiani', *Bolletino del Sindacato Provinciale Fascista Ingegneri* (Bologna 1934).

<sup>40</sup> Castellani, G. 'Albania numismatica', *Rassegna Numismatica* (Roma 1932) n. 7, 8, 9 203-221.

<sup>41</sup> Perali, P. *L'Albania e i "divini Pelasgi"* (Roma 1942).

<sup>42</sup> Armao, E. *Venezia e Albania* (Roma 1935).

<sup>43</sup> Bettini, S. 'Testimonianze di civiltà d'arte in Albania', *Albania*, I, (1939) 93-146; Id. 'Orme d'Italia e di Venezia nell'alta Albania', *Rivista di Venezia* VII (1933) 535-550.

<sup>44</sup> Monti Gennaro, M. 'La storia dell'Albania e le sue fonti napoletane', *Studi albanesi* I (1931) & Monti Gennaro, 'Due documenti sconosciuti sull'Albania, di Alfonso d'Aragona', *Studi albanesi* I (1931).

<sup>45</sup> De Franciscis, A. 'Iscrizioni di Butrinto', *Rend. Accad. Napoli XXI* (1941).

<sup>46</sup> Cross, G. N. *Epirus: a study in Greek constitutional development* (Cambridge 1932).

<sup>47</sup> Central State Archives, Tirana: F. 263, V. 1931, D. 6, Fq. 104-112, P. 6, Xh. 39, P. 110; F. 295, V. 1931, D. 79, Fq. 122-131, P. 10, Xh. 1217, P. 127

<sup>48</sup> Brühl, A. 'Fouilles de la Mission Française à Apollonie d'Illyrie (1931-1933). L'inscription du monument des Agonothetes', *Albania* Nr. 5 (Milano, Roma, Paris 1935) 43-46; Id. 'Inscriptions de Durazzo et de Tirana. Inscriptions du dépôt municipal de Durazzo', *Albania* Nr. 5 (1935) 7-42.

<sup>49</sup> Cesano, L. 'Monetazione e Circolazione sul suolo dell'antica Albania'. *Atti e mem. Ist. Ital. Di numism. VII* (Roma 1932); Breglia, L. 'Monete di Babba', *Numismatica* (1941); Id. 'Nuovi elementi di conoscenza per la circolazione monetale e la storia dell'Epiro', *Rend. Accad. Napoli XXI* (1941).

<sup>50</sup> Lemerle, P. 'Chronique des fouilles et découvertes archéologiques: Albania', *BCH* (1936) 473-474.

<sup>51</sup> Gosturani, Xh. *Historia e Albanologjise* (Tirane 1999)37.

<sup>52</sup> Bettini, S. 'Orme d'Italia e di Venezia nell'alta Albania', *Rivista di Venezia* VII (1933).

<sup>53</sup> Central State Archives, Tirana: F. 263, V. 1934, K. 4, D. 147, F. 92-98, P. 6, Xh. 1358, p.96.

<sup>54</sup> Central State Archives, Tirana: F. 263, V. 1935, D. 240, F. 1-6, P. 7, Xh. 898, p. 4.



further regarding his health and wanted more information.<sup>55</sup> We do not know how long he stayed in the hospital and when he was returned to the excavations. A telegram of March 28, 1936 noted that Ugolini was in Rome in a “Casa di cura”, in Villa Torri.<sup>56</sup>

In 1936 he was again seriously ill, and by September had left Butrint and was hospitalized in Italy. On June 7, 1936 Ugolini was in Butrinti planning aerial photos of the excavations, proposing that one of the Mission members be on board the plane. He suggested that the best hours were 9 a.m. and 4 p.m., when the light was good.<sup>57</sup> On July 8, 1936 Mr. Vrioni with a telegram from Corfu informed the Albanian Ministry of Foreign Affairs that the Prince of Greece, that was staying in Corfu, wanted to visit Butrint. On July 2, the Ministry of Interior has ordered the Prefect of Gjirokastra, Mr. Nikolla Zoi, to organize the reception and accompany of the Prince.<sup>58</sup> There are no other data about his visit, etc. but is mentioned that a lot of tourists went to visit Butrint in August of 1936 and Ugolini was still there.<sup>59</sup> On October 5, the visit of the French Minister in Tirana was announced, but Ugolini was not at Butrint.<sup>60</sup> There are not documents recording when he left Butrint for Bologna at “Casa di Cura” and in what conditions his health was, but is clear he was in very alarming state. In the night of October 4, 1936 Ugolini died in Bologna at the age of 41 years.<sup>61</sup> No one had believed that Ugolini, a very active and hardworking scholar, was in such dire physical health. His niece, Alma Buratti, told me that the physician who operated him during the First World War and did the fatal surgery, understood his hard and very serious problems. Ugolini himself entered in hospital with optimism to resolve his health problems and after that he had to go married with his girlfriend from Rome.<sup>62</sup> The death of Ugolini closed the first phase of the activity of the Italian Archaeological Mission in Albania.

The Albanian Ministry of the Interior preserves documents pertaining to a German, Werner Niemeyer, who came on June 27, 1936 to write a book on an Albanian topic, but it is not clear what type of book he wanted to write and we do not know if he ever succeeded.<sup>63</sup> On December 4, 1936 the Italian Ministry of Foreign Affairs announced that Roberto Paribeni, President of Reale Istituto Archeologico, proposed Pirro Marconi, professor of Archaeology and Art History in the University of Naples and University of Palermo, to be named the Head of the Italian Archaeological Mission in Albania, as the successor of Prof. Ugolini.<sup>64</sup> On December 22, 1936 Francesco Jacomoni di San Savino, the Italian Minister at the Embassy of Tirana, proposed the opening of the Italian Institute of Culture in Tirana.<sup>65</sup> There is a gap in the information until February 1937, when Pirro Marconi arrived to continue the excavations.<sup>66</sup> On March 27, Cont. Galeazzo Ciano visited Belgrade and signed with the Yugoslavian Primeminister, Millan Stojanoviç a pact of the friendship between Italy and Yugoslavia. On April 1937, the Italian Minister of Foreign Affairs, Cont. G. Ciano, visited Albania.<sup>67</sup> On July 17 Marconi had an audience with Ahmet bej Zogu and had with him a “cordiale colloquio”.<sup>68</sup> During the summer, Pirro Marconi did some survey in Acrocerauni and the cave of Velcia, near Vlora.<sup>69</sup>

<sup>55</sup> Ibidem, p. 5.

<sup>56</sup> Central State Archives, Tirana: F. 263, V. 1936, D. 196, F. 1-5, P. 6, Xh. 777, p.2.

<sup>57</sup> Central State Archives, Tirana: F. 263, V. 1936, D. 196, F. 6-11, P. 6, Xh. 778, p. 7.

<sup>58</sup> Central State Archives, Tirana: F. 152, V. 1936, D. 279, page 1-17

Page 1

Mbretnija Shqiptare  
Prefektura e Gjirokastrës  
Nr. 215 RES

Gjirokaster, me 6/6/936

P.T.

Ministrise P. te Mbrendeshme  
Zyres Sekrete

Tirane

Per dije, parashtrrojme se mbas shkreses Nr. 7-35/2 RES d. 5/6/936 te Komandes Qarkut ketueshem, ka mbrit ne Butrinto Arqeoologu Z. Ugolini dhe ka filluar nga germimi i germimeve

Prefekti  
(Timber+firm)

Page 5

Min. For. Affaires  
Tirane

Kerkyra, me 8. VII. 1936

Princi trashëgimtar i Greqisë qe eshte ne Korfuz ka deshire te vizitoje Butrinton ditën e hene.  
Lutemi nemnani instruksione

Vrioni

<sup>59</sup> Central State Archives, Tirana: F. 263, V. 1936, D. 196, F. 18-22, P. 6, Xh. 780, p. 21.

<sup>60</sup> Central State Archives, Tirana: F. 263, V. 1936, D. 196, F. 18-22, P. 6, Xh. 780, p. 21, 22.

<sup>61</sup> He was back from Casa di Cura Villa Toschi, where had a surgery from Prof. Gasparini, the same phisicien who cured him during the war.

<sup>62</sup> I thank very much Mrs. Alma Burati, Ugolini's niece, who lives in Forli, for the details and her mother memories about Ugolini.

<sup>63</sup> Central State Archives, Tirana: F. 152, V. 1936, D. 291, p. 106.

<sup>64</sup> Central State Archives, Tirana: F. 263, V. 1936, D. 198, F. 1-4, P. 5, Xh. 782, p. 1.

<sup>65</sup> Central State Archives, Tirana: F. 263, V. 1936, D. 200, F. 1-2, P. 2, Xh. 786.

<sup>66</sup> Ibidem, p. 4.

<sup>67</sup> *Historia e Shqipërisë*, V.III (1912-1944) (Tirana 1984) 413.

<sup>68</sup> Ibidem, p. 28

<sup>69</sup> Central State Archives, Tirana: F. 263, V. 1937, D. 244, F. 15-19, P. 6, Xh. 1000, p. 12.



On January 1938 CTI (Center of Italian Tourism) was asked to publish a Guide of Albania in English, Italian, German and French. This Guide was to be ready by the end of 1938 and was printed in the beginning of 1939. In a letter that Marconi wrote on January 26, 1938 to the Italian Minister in Tirana,<sup>70</sup> he detailed the chapters:

Geology, geography, climate, flora, fauna	6 pages	Prof. Almagià	Anthropology, demography, religion	6 pages	Prof. Baldacci
Linguistic e literature	4 pages	Prof. Leotta			
Costume e folklore	5 pages	Dr. Larusso			
Ancient History	1 page	Prof. Marconi			
Medieval and modern History	5 pages	Prof. Montanelli			
Archaeology and Arts	5 pages	Prof. Marconi			
Public works, roads, etc.	7 pages	Eng. Zanuccoli			
Economy, industry and trade	7 pages	Comm. Lombardi			
Bibliography e cartography	3 pages	Prof. Marconi			

In March 1938 Albanian King, Ahmet Zogu, approved the creation of Naples Bank (Banco di Napoli-Albania) in Albania with the administrative center in Tirana. Some days later, in April 1938, Cont. Ciano was invited in the wedding of Albanian King. During this sojourns he tried to approve a minierary concession of the Azienda Mineraria Metaliferi Italiana-AMMI. This concession was signed from Albanian Government a year later, in March 1939.<sup>71</sup>

The tragic death of Marconi at the age of 41, as he was flying to Rome, in late April 1938, interrupted his work. After his death the excavations continued in June and July under Iginio Epicoco and later that year, in accordance with a proposal by Paribeni, Prof. Domenico Mustilli from the University of Naples was named the director of Italian Archaeological Mission.<sup>72</sup>

On August 13, 1938 the King Zog, with his wife, Geraldina, and his sister, Senije, visited Butrint. They signed the visitors' book and added the date of their visit.<sup>73</sup>

On July 11, 1938 the Italian Legation of Tirana by telesspresso n. 1971,<sup>74</sup> noted that Father Fulvio Cordignano (1887-1951) was doing archaeological research in northern Albania on Byzantine and Venetian art. (Studio completo delle chiese, monasteri, castelli e rovine dell'Albania, mettendo in piena luce l'apporto di Roma e di Venezia).<sup>75</sup> An English numismatist published a book about the coinage of Damastion, the Illyrian city that was supposed to be near silver mines.<sup>76</sup>

On February 5 Mussolini decided to invade Albania. The occupation of Czechoslovakia from Germany on March 15, 1939 obliged Mussolini to have stronger position into Balkans. The definitive decision for the occupation of Albania is dated in 23 March 1939.<sup>77</sup> Mussolini intended on showing his independence from Hitler and, perhaps aiming at the formation of a new Mediterranean empire, free of German control, invaded Albania early in 1939 and, from the Albanian frontier, crossed into Greece late in 1940. Beginning on April 7, 1939, with the first day of the Italian invasion, led by General A. Guzoni, Albania was involved in the Second World War. In the same day Zogu left Albania and went to London.<sup>78</sup> On April 8 Tirana was occupied from Italian army.<sup>79</sup> After that were closed totally both French and Italian Archaeological Missions in Albania, although French Mission had already almost closed since 1938. The hiatus in archaeological research lasted a year. The outbreak of war with Greece in October 1940 found Butrint in the front line. The feeble Italian offensive of that year was repulsed and Santi Quaranta was captured by the Greek army on December 6, although subsequent intervention by German forces placed Epirus and Butrint again under Italian control. After the Italian invasion the number of publications on Albania increased. Michele Gervasio published an article for ancient Albania.<sup>80</sup> Borreli published an article about the coins of ancient Albania.<sup>81</sup>

<sup>70</sup> Central State Archives, Tirana: F. 263, V. 1938, D. 140, P. 16.

<sup>71</sup> *Historia e Shqipërisë*, V.III (1912-1944) (Tirana 1984) 417-418.

<sup>72</sup> Mustilli, D. 'L'ultimo quadriennio di attività della missione archeologica in Albania (1937-40)', *Centro studi albanesi dell'Acc. D'Italia II* (1943); Id. 'Relazione preliminare sugli scavi archeologici in Albania (1937-1940)', *Rendiconti della classe di scienze morale e storiche VI*, Vol. II (1942) 678-685; Id. 'Roma e la sponda illirica', *Quaderni dell'Impero. Roma e il Mediterraneo* (Roma 1942); Id. 'Rassegna bibliografica', *Rivista d'Albania III* (1942); Id. *La conquista romana della sponde orientale adriatica* (Napoli 1941); Id. 'Relazione preliminare sugli scavi archeologici in Albania 1937-40', *Rend. Acc. Italia II* (1941); Id. 'Gli Illiri nell'Epiro', *Le Terre albanesi redente. II. - Ciameria* (Roma 1941); Id. 'L'opera di Luigi N. Ugolini', *Rivista d'Albania* Vol. II, Fasc. 1 (Napoli 1941); Id. 'Rassegna bibliografica', *Rivista d'Albania II* (1941); Id. 'Archeologia del Cossovo', *Le terre albanesi redente* (Roma 1941); Id. 'Gli scavi Italiani di Butrinto', *Romana* (Roma Aprile 1940) 183-191; Id. 'Rassegna bibliografica', *Rivista d'Albania I* (1940); Id. 'La civiltà preistorica dell'Albania', *Rivista d'Albania* Vol. I (Milano 1940); Id. 'Gli scavi italiani di Butrinto', *Romana IV* (1940) 1-11; Id. 'Roma e l'Albania', *Conferenze dell'Ist. Sup. Orientale*, n.3 (1940); Id. 'Viaggiatori e archeologi italiani in Albania', *Romana II* (1939) 1-9.

<sup>73</sup> In the personal archive of I. Epicoco, now propriety of his grandson, Mr. Tadei, is preserved the page of visitor's book with their firms.

<sup>74</sup> Central State Archives, Tirana: F.263, V. 1938, D. 140. Fq. 135-140, P. 6, Xh. 1125, p. 138.

<sup>75</sup> See Cordignano, F. *L'Albania attraverso l'opera e gli scritti di un grande missionario italiano: il p. Domenico Pasi (1847-1914)* (Roma 1933-34); Id. *Geografia ecclesiastica dell'Albania degli ultimi decenni del secolo XVI alla metà del secolo XVII* (Roma 1934) (*Seria Orientalia Christiana*), XXXVI-4, nr. 99; Id. *Saggio di un regesto storico dell'Albania* (Scutari 1937-40).

<sup>76</sup> May, J. M. F. *The coinage of Damastion* (London 1939).

<sup>77</sup> *Historia e Shqipërisë*, V.III (1912-1944) (Tirana 1984) 437.

<sup>78</sup> He stayed in London till the end of the Second World War and after that moved first to Egypt and later in France, where he died in 1961.

<sup>79</sup> Udina, M. 'L'unione italo-albanese e sua natura giuridica', *Rivista d'Albania* (Milano 1940) fasc. 4, 425-427.

<sup>80</sup> Gervasio M. 'L'Albania antica', *Iapigia X* (1939).

<sup>81</sup> Borreli, L. 'Le monete dell'antica Albania', *Numismatica Romana* (May-June 1939) 68-73.

“We could see nothing of Europe’s old Kulturland” - Wilhelm Prüller wrote in his diary at the end of three weeks in the South Balkans-Crease people and poor, impossible clay huts and houses . . . As far as I can judge, this nation is at least two thousand years behind and lives only from its age-old, if epoch-making, cultural tradition.”<sup>82</sup>

On July 19, 1940 the Albanian Ministry of Education, asked for the Italian specialists as advisers in the office of “Archeologia e Belle Arti”, one, Iginio Epicoco for “Belle Arti” and the other, Claudio Sestieri, for Archaeology, (Ispettore nel ruolo delle Antichità e Belle Arti attualmente presso il Museo Nazionale di Napoli).<sup>83</sup> After that both Iginio Epicoco and Claudio Sestieri lived in Tirana attached in the Minisrry of Education. In Naples they organized an exhibition about Albania that was called “Oltre Mare”.<sup>84</sup> According to Prof. Selim Islami, Domenico Mustilli in his last visit at Albania in sixties told him that he have seen parts of sculptures from Albania remained in the Museum from the exhibition.

When Albania was part of the Italian Kingdom, interest in publishing studies with Albanian themes increased. In this period a Center for Albanian Studies was created near the ‘Reale Accademia d’Italia’ and the ‘Istituto per gli Studi di Politica Internazionale’, which published an Albanian Journal every three months edited by Francesco Ercole (1884-).<sup>85</sup> The Italian Touring Club published a guide book on Albania in Milan, by Luigi Vittorio Bertarelli (1859-1926) with 221 pages, geographical maps, etc.<sup>86</sup> In the same year were published maps of the Albanian coast.<sup>87</sup> Giuseppe Massani published in Rome from Il Rubicone a book with the title Albania. Of course in this book is described the glory of fascism and was mentioned that the perspective of this country and this people “ordinato e fiero. Orgoglioso del suo passato, conscio del suo avvenire” is only in the conditions of the fascist Albania.<sup>88</sup> De Franciscis, a former member of the Italian Archaeological Mission in Albania, published an article on the inscriptions of Butrint.<sup>89</sup> Giuseppe Valentini published a study on the numismatic of Albania.<sup>90</sup>

From the December 1940 to April 1941, Albania was involved to the Italian-Greek war. From that period existed a war law in Greece, considering Albania as an enemy state. The Italian King, Vittore Emanuele III, declared the king of Italy, Albania and Etiopia, came to visit Albania in May 1941. In Tirana, while he was going across the principal road, on May 17, he was shouted from a young Albanian, named Vasil Laçi (1922-1941) and this was a sign against Italian occupation. The young Albanian was condemned in Tirana by the army-court and executed in 27 May 1941.<sup>91</sup>

The Albanian Ministry of Education authorized the Italian Consulting specialist for Archaeology, Arts and Libraries, Prof. P. C. Sestieri, to go to Byllis to excavate in May 1942. They paid him with 10 000 Albanian gold franks.<sup>92</sup> Leon Rey’s old excavations at Apollonia were also re-opened by Sestieri. The Italians had always been curious on the work French did in this ancient city, although Ugolini in his first book did not described Apollonia in details since it was under French authorities. Ugolini did not forget to mention in the first volume of Albania Antica that firstly Apollonia was visited from an Italian archaeologist, B. Pace, and after that was explored from an Austrian Mission (Praschniker and Schober) and then some French archaeologists were doing some archaeological excavations.<sup>93</sup> M. Buffa published an article about the gravestone founded in Durres,<sup>94</sup> and S. Masci an article in the same review about Apollonia.<sup>95</sup>

Security deteriorated over the next two years, with the partisans active in the southern mountains. During this period Italians continued excavations in Butrint, in 1942-43 under Umberto Marchetti, who continued these excavations. The materials of the Mission were transferred, according to the Ministry of Foreign Affairs, to the Ministry of Popular Culture in Tirana, in February 1943. On March 17, Umberto Marchetti informed the Italian Legation in Tirana that it was important to create the Office, to preserve the archaeological site and its deposits.<sup>96</sup> The Italian surrender of September 1943 effectively ended all Italian concern with Butrint and with the archaeology of Albania. Italy had other more pressing problems closer to home.<sup>97</sup>

The 29 November 1944, the Liberation day of Albania, opened the new chapter in the long history of this country, the period of communism or the so called ‘proletarian dictatorship’ and, archaeology came to be organized in a very different way.

<sup>82</sup> Prüller, W. *Diary of a German Soldier*. Translated by H. C. Robbins (London, New York 1963).

<sup>83</sup> Central State Archives, Tirana: F.261, V. 1940, K. 18, D. 313, Fq. 17-24, P. 10, Xh. 2839, p. 22.

<sup>84</sup> Alizoti, D. ‘L’Albania alla mostra d’Oltremare’, *Albania* 2-3 (Roma 1940) 102-106.

<sup>85</sup> See Ercole, F. *Rivista d’Albania* (Milano 1940)

<sup>86</sup> Bertarelli, L. V. *Albania* (Milano 1940).

<sup>87</sup> Sestini, A. ‘Le pianure costiere dell’Albania’, *Bollettino della Reale Società Geografica Italiana* (Roma, Settembre-Ottobre 1940) 513-527.

<sup>88</sup> Massani, G. *Albania* (Rome 1940).

<sup>89</sup> De Franciscis, A. ‘Iscrizioni di Butrinto’, *Rend. Accad. Napoli XXI* (1941) 284-290.

<sup>90</sup> Valentini, G. ‘Saggio di numismatica albanese’, *Numismatica Romana* (1941).

<sup>91</sup> *Fjalori Enciklopedik Shqiptar* (Tirana 1985) 592.

<sup>92</sup> Central State Archives, Tirana: F. 295, V. 1942, K. 33, D. 333-343, Fq. 1-8, P. 59, Xh. 726, p.8.

<sup>93</sup> Ugolini, L. M. *Albania Antica* 1 (Roma 1927).

<sup>94</sup> Buffa, M. ‘Trovamento di un cippo iscritto a Durazzo’, *R. Alb.* IV (1942).

<sup>95</sup> Masci, S. ‘Lo scalo d’Apollonia’, *R. Alb.* IV (1943) 206-211.

<sup>96</sup> Central State Archives, Tirana: F. 261, V. 1942, D. 841, P. 2-11.

<sup>97</sup> Ciano, G. *Journal Politique, 1939-1943* V. I-II (Paris 1947).

# Tourism, gambling and sustainability: myths and paradoxes of accountability

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## Abstract

*In the transition from weak to strong sustainability (Baldarelli and Del Baldo, 2015) an important role is played by the instruments of accountability (Matacena, 2010). Especially in the tourism system the instruments to measure and to account about corporate sustainability have a fundamental function of the enterprise legitimation (Gray, 1993) in its own territory. In this paper we want analyze, from the accounting perspective, the myths and paradoxes that can be found in the tools of accountability (Gray, Adams, Owen, 2014) in the gambling enterprises (Cefaloni, 2014). The research design develops through a deductive and inductive approach. The deductive approach is based on the analysis of the literature contributions about the relationship between sustainability development and accountability in tourism enterprises (Ruisi, 2006, Baldarelli 2014). The inductive method is based on the analysis of one significant research case ( Naumes & Naumes, 2006) related to SISAL enterprise. Under the methodological profile, the empirical research is based on the analysis of the documentation obtained from the consultation of corporate website, social and environmental sustainability reports analysis. The research case analysis helps to understand the stakeholder's expectations and such reflections can be drawn in the transition from weak to strong sustainability when gambling enterprises are involved in. However, the work has the main limitation that regards the empirical approach based on a one case, which hinders the generalization of results and requires a further research step aimed at considering more cases to submit to a deepened investigation.*

**Key words:** gambling, tourist enterprises, sustainability development, accountability

## Introduction

Tourism is a complex phenomenon, whose consequences in terms of environmental, cultural, social and economic impact cannot longer be ignored. That impact is often devastating, especially in most countries in the southern hemisphere, such as: Asia, Africa and South America. In these countries the absence of adequate tourism impact rational planning cause the loss of values and traditions.

We can identify some important dimensions that can be considered for the future competitive advantages for tourism companies. On the one hand, the concept of Sustainable / Responsible Tourism emerges, going to deepen the vein of Civil Economy (Bruni, Zamagni, 2004). This concept of "holidays" does not focus solely on the need for material "rest", but it goes beyond this by adding a deep and heartfelt "recharge" concept, which the person needs to continue to perform his usual activities, both at work, both of study, etc. (Ruisi, 2006; Baldarelli, 2014).

It is a requirement that is expressed in the curiosity to enjoy a holiday in the respect of the places of destination and respect for the cultures with which the tourist come into contact, to grow as well as in the rest, even in sharing an experience full of novelty, which makes us understand the way of life of the different people of the world.

In order to establish a sustainable reception capacity, area by area, following our idea, it is necessary to address not only specific environmental problems, but also economic and cultural ones.

According to sustainable tourism, each travel should become an “immersion” in the culture that meets and became an opportunity for mutual enrichment among different cultures, feasible also through the visit of an international cooperation project carried out by the organization that makes the package.

In these aspects, the re-discovery of this dimension as a competitive advantage, especially for SMEs and It is part of the same “relational nature”(Ruisi, 2006) of tourism. Finally, sustainability in tourism is connected on the one hand with inclusiveness and accessible tourism and on the other it includes the quality of tourism services.

The second dimension, on the other hand, concerns the ability of companies to create networks that may be virtual and physical. Tourist companies are facing an increasingly competitive arena in a market that potentially widens to include the world.

The network of entities originates when the company defines the need to create cooperative agreements with other companies.

How does the presence of the gambling fit in this context and how does It affect the aspects outlined? To give an answer to the research question, in the next section, we are going to present some notes regarding the passage from weak and strong sustainability considering the eco-justice dimension that in this case we consider based on Legitimacy Theory.

## From weak to strong eco-justice and the Legitimacy theory : Literature review

The company can survive where it is legitimised by society, since, in this way, it may educate stakeholders; modify their perception of the business; direct attention towards (or distract attention away from) the negative aspects and finally, it may change external expectations (Gray, Owen, Adams, 1996, Ch. 2.6; Lindblom, 1994).

Another strand that derives from Political Economy theory by Cooper and Sherer (1984), and also by Guthrie and Parker (1990) affirms that classic Economic Policy, which originates from the thinking of Marx, is based upon conflicts between labour and capital while the State plays a role in contributing in resolving such conflicts.

To complete the thought highlighted above, for other authors legitimacy theory does not cover all aspects that may be investigated, therefore we need to pause more upon the aspects which concern the role played by the State in creating conditions suitable for the possible development of a greater incentive towards the opening up to information relating to those aspects of social accounting, (Archel et al, 2009), as we may read: “although the state is not necessary conceived as a neutral arbiter of the common good, the forces that shape state interventions are presumed to operate in a pluralistic setting. Furthermore, it is presumed that the state itself does not have ideological inclinations and material needs that predispose it towards some of those groups and not others” (Archel et al, 2009: 1287).

According to the same authors, legitimacy theory is based upon the social contract and it is legitimised to use the information which results from social accounting. Actually, in theory and in the transition from weak sustainability to strong sustainability, it is important going from contract to “pact” (Baldarelli and Del Baldo, 2017: 137) as an aspect which goes beyond the contract. As regards communication of the social and environmental variables, this is based upon social expectations of the companies and upon the aspects which concern legitimisation. Often however, there are some gaps between expectations and communication which create conflicts. Such conflicts depend on: behaviour of the media, size of the company and ownership layout. In the thought of the authors we are talking about, it is affirmed that whenever there is a conflict between company and society, the company may (strategically) put one of the following action plans into play: the first one regards the modification of the behaviour trying to fill this gap. The second action plan consists in acting upon the expectations of society without modifying its behaviour. The third action plan, instead, consists in manipulating the expectations distracting attention away from the gap. The fourth action, instead, consists in manipulating society, modifying the expectations in order to direct them towards the goals of the company. According to our point of view, the case analysed in this paper comes precisely within these two final aspects. Such aspects are “mediated” by an important ongoing trend, about which we will talk later, which enters within the dynamics that permit the transition from weak sustainability to strong sustainability, amongst which there is the “pact” (Baldarelli and Del Baldo, 2017), that goes beyond strictly contractual aspects. Regarding Legitimacy theory applied at the opening of company information towards the environment, this neutral vision of the State is not to be taken for granted so much, because many differences between various stakeholder groups persist in society (pluralistic Legitimacy theory).

Within the field of social accounting, various scholars, indeed, criticise the neutrality of the State (Patten 1992; Walden and Schwartz, 1997), they also affirm that the State does not remain neutral with respect to the common good, but it intervenes via various factors (pluralistic setting) (Archel et al, 2009: 1287).

Agreeing with this theory, the State intervenes by way of the dominant classes to legitimise the strategies of certain successful companies. They affirm that the financial statement is not neutral or a passive document, yet the numbers may be manipulated in order to orientate and to legitimise actions that are directed by power positions.

In this sense, even Political Economy Theory considers the State responsible for maintaining situations of conflict and therefore, situations of inequality (since there is no pact?) (Dillard, 1991: 9). These dynamics are inserted, from our point of view, in the transition from weak to strong sustainability (Baldarelli and Del Baldo, 2017).

Sustainable development may be defined as follows: “*The key question inherent to sustainable development therefore, seems to interest the ways through which we organise the economic system, in such a way that development is carried through without damaging the environmental heritage, upon which every present thing and any future development is based*”(Bebbington and Contrafatto, 2006: 217).



The second viewpoint is that of the company as evidenced in other works (Baldarelli, Del Baldo, 2017), to which we refer, which adapts the behaviour of its particular business to the context previously described and it is translated into a trend aimed at sustainability, which may be implemented by way of actions of differing intensity.

Sticking to the theme of sustainability, the other viewpoint instead considers the integral development of the company, where sustainability takes on connotations linked with the anthropological culture, regarding this please read: "La storia fa giustizia tanto delle costruzioni di sistemi sociali e aziendali in contrasto con i diritti della persona, quanto di quelli in cui gli individui tendono ad affermarsi senza regole e valori che ne orientino i comportamenti verso il bene comune... in questo solco si incanala l'aziendalismo italiano... Tale attenzione... non può esplicitarsi solamente in indicazioni che rafforzino nell'esistente la consapevolezza dell'esigenza di non trascurare la dimensione sociale dello sviluppo" (*History does justice just as much to the constructions of social and company systems against the rights of the person, as to those where the individuals tend to affirm themselves without rules and values which direct behaviours towards the common good... in this furrow are channelled the Italian studies of company matters ... Such attention... cannot just manifest itself in indications that currently reinforce awareness of the need not to neglect the social dimension of the development*) (Sorci, 2006: 85; Zadek, 2006; Alford et al. (ed), 2006).

Within the same strand, we find Catturi (2009) who distinguishes between the concepts of: evolution, growth and development. Evolution is defined by later states of programmed perfection (Catturi, 2009:4). So, a growth, even if it is only a quantitative one which is harmonious as well, corresponds to development, Catturi (2009:20).

As may be noted, the characteristics that sustainable development takes on are ever more numerous but we can read an evolution going on from those which are merely quantitative and concern distribution of wealth to those of a qualitative-relational and inclusive character, which are currently emerging as those which are the hardest to implement.

Therefore, in relation to the intensity with which the same sustainability we want to focus on the passage from weak to strong sustainability following the dimension of eco-justice.

Weak sustainability directed towards eco-justice consists, especially, of considering the intra- and inter-generational distribution of resources and wealth produced.

As regards "strong" eco-justice, the company is called to arrange certain rather sophisticated reporting tools and to ask to undergo a social and environmental auditing of a certain standard (Bebbington, 2007).

This logic is based on some processes that are involved in the legitimacy theory that let us to understand the dynamics to pass from weak to strong sustainability using different accountability tools.

The question that we pose is, therefore, to single out the dynamics which allows for the transition from weak sustainability to strong sustainability and in the following section we propose reflecting upon the role of accountability using the case of SISAL.

## Accountability in the case of SISAL: Methodology and results

For the analysis of the case, we use a deductive and inductive approach, (Ferraris Franceschi, 1978; Naumes & Naumes, 2006) while considering the SISAL spa case.

From the inductive viewpoint, the case will be described following the model: mission, governance and accountability (Matacena, 2010). Results will be presented of an initial piece of research that is relative to accountability documents: financial statements, social reporting and sustainability reporting. Furthermore, the analysis of websites of the companies and relative social networks has been carried out.

The case of SISAL is analysed as a research case (Naumes and Naumes, 2006) and it is interesting because: "*In a short number of years, the gambling market has grown exponentially. Total revenues have broken the ceiling of 100 billion Euro per year .... Italy holds the record in Europe and third place in the world ... 47% of the poor play and 56% of those belonging to the lower middle class ... The urban backdrops change. Food shops disappear under the pressure of shopping centres in order to cede their place to "buy gold" shops or rooms for gambling, bars become small gambling dens ... a part of the population lives as if deported and without any links to protection. In front of so many doors which are closed and which are never knocked on out of shame, remains the extreme attempt to try one's luck. Challenging destiny is all part of the human condition, but the pathological adrift is just a stone's throw away ... according to estimates, from 2 to 4% of the population*" (Cefaloni, 2014:11-1).

We decided to begin the analysis of SISAL from the social report of 2011, since it is particularly important for the time of economic and financial crisis which was slightly abating in western countries and, besides, the publication of the Social Report in 2011 is in its third year and, therefore, assumes an informative worth which is more consolidated than its initial years.

Sisal had been founded in 1946 to have sports gaming activities and it is the first Italian Company to operate in the gaming sector as a Government Licensee. In 2016, it celebrated its 70<sup>th</sup> year of activities. Progressively from the field of sport, it changed its activities to include various typologies of gambling, but we want to start with the words that appear on the web site:

"Over the years, Sisal has created a succession of popular, high-quality games, including the Totocalcio, the Totip and, more recently, SuperEnalotto and Win for Life. SISAL today is a major Italian group operating in the Gaming and Payment Services sector and in 2015 reported a turnover of about €15.1bn, over 1,700 employees and a network of more than 45,000 points of sale; manages a broad offering of on- and offline games: lotteries, betting, casino games and gaming machines; offers the public in excess of 500 payment services, through its network of retailers and over 80 partners" (www.sisal.com/eng).

The mission of SISAL is: "Sisal's widespread presence across Italy represents a social network that allows the Company to

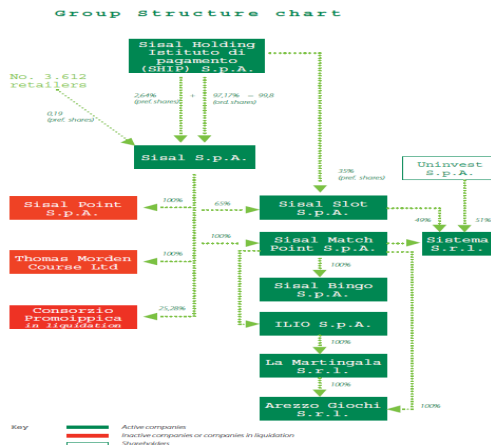


offer innovative and responsible gaming experiences. For 65 years, SISAL has played a key role in Italy’s economy, mirroring its growth and keeping pace with socio-cultural developments and the changing habits of Italians from the post-war era to date.” (Social Report, 2011: 7).

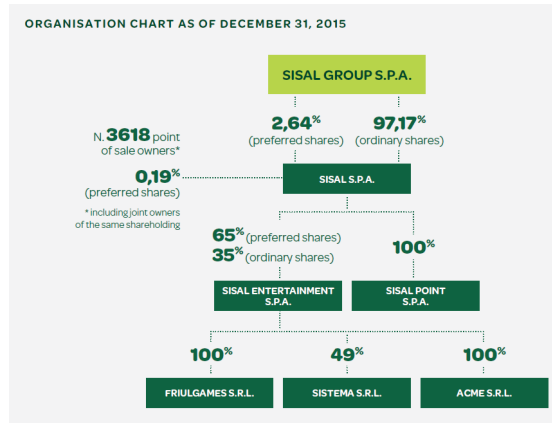
And the objective of 2011 had been: “Sisal’s aim is to become a leader in sustainability by 2016. Its ethical commitment has also resulted in the introduction of a Responsible Gaming Program, in accordance with the guidelines of the Autonomous Administration of State Monopolies and with best practice and international standards. Furthermore, as part of its stakeholder engagement, the Sisal Group has intensified its dialogue with stakeholders and has developed a reporting system – in other words, a documentation and measurement system – that allows it to ‘report’ on the activities carried out, while also encouraging stakeholders within the Company to ‘be aware’ of their actions and consciously quantify them.” (Social Report, 2011: 8)

Governance (Table 1) is developing as described: “Sisal Holding Istituto di Pagamento (SHIP) S.p.A. The Sisal Group holding company responsible for the management and coordination of companies in the group, offering more than 300 payment services with 70 partners, both private and public, authorised by the Bank of Italy to operate as a payment institution. Its registered office is situated at 13 via di Tocqueville, Milan. It is wholly owned by Gaming Invest Sàrl. The Group’s total profits in 2011 were € 13.3 billion, up by 18% compared with 2010. Sisal S.p.A. Controlled by SHIP S.p.A., this manages a network of 41,659 online merchants offering numerous games including SuperEnalotto, SiVinceTutto SuperEnalotto, Vinci per la vita – Win for Life and Eurojackpot. It also sells a wide range of third-party products and services, such as national and international telephone cards and PINs for mobile phone top-ups for all the major Italian mobile operators, as well as pay-per-view cards for digital terrestrial television” (Social Report, 2011: 15).

**TABLE 1- SISAL structure and organisation charts**



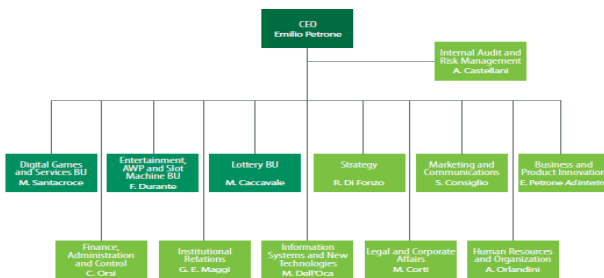
Source: Social Report 2011



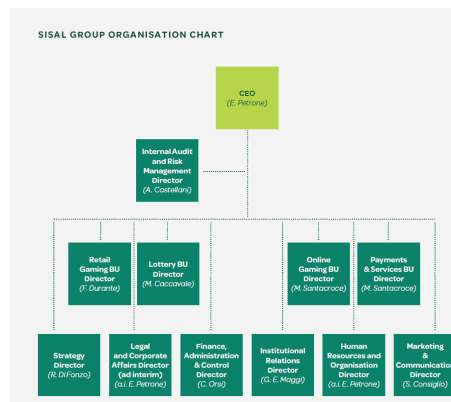
Sustainability Report, 2016

We especially underline that ACME srl which is responsible for the slot machine distribution has increased its revenues greatly.

Sisal Group Organizational Chart



Source: Social Report, 2011



Sustainability Report, 2016



Source: Social Report, 2011

On 2015 Sisal had:



Concerning financial information we can show some figures that are very interesting in underlining the development of gambling (Table 2, 3 and 4)

**TABLE 2-** Financial Statement- trend of Profit in millions of €

	2007	2008	2009	2010	2011
Lotteries	16,042	17,635	18,876	18,122	19,421
Betting and pools*	5,558	6,357	6,142	6,228	5,294
AWP (slot + VLT)	18,072	21,685	25,525	31,534	44,615
Bingo	1,753	1,636	1,512	1,954	1,850
Skill & Card Games	0	242	2,348	3,146	8,418
Total profit	41,425	47,555	54,402	60,984	79,597

Source: Social Report 2011

**TABLE 3-** Total Revenue Detail

Dettaglio raccolta totale	2013	2014	2015	2016	CAGR 2013/2016
Lotterie	17.321	17.258	17.195	18.669	2,5%
Scommesse e CPS	4.651	6.285	7.836	10.063	29,3%
ADI	47.391	46.744	48.161	49.440	1,4%
Bingo	1.664	1.624	1.598	1.702	0,8%
Skill, Card & Casinò Games	13.281	12.318	13.229	15.986	6,4%
<b>Totale Mercato dei Giochi</b>	<b>84.308</b>	<b>84.229</b>	<b>88.019</b>	<b>95.859</b>	<b>4,4%</b>

Source: Sustainability Report, 2016

**TABLE 4-** Composition of Revenues 2016 (millions of €)

Revenues (in thousands of Euro) 2016	
GNTN (Giochi Numerici a Totalizzatore Nazionale [Number Games with National Totalizator])	5,383
Gaming Machines	34,764
Horse Racing Betting	777
Big Bets Revenues	2
Virtual Races Revenues	2,444
Betting Contests	39
Online Gaming	3.159
Total	46.568

Source: Sustainability Report, 2016

The message that shines through from the very beginning concerns the highlighting of a responsible gaming, when, as we have seen a little bit beforehand, the increase in gambling has gone through the roof over the years.

That which, in 2011, was declared, and that is: “The Sisal Social Report, now in its third edition, is the Group’s main tool for reporting and communicating responsible corporate governance and social responsibility. It is, therefore, a final statement of corporate social responsibility activities addressed to all Sisal stakeholders that shows, with absolute transparency, all of the activities already carried out and the guidelines for future development. It thus represents, for Sisal, its affiliated companies and stakeholders, a public monitoring and planning tool for improving the Company’s performance” (Social Report, 2011: 9).

## Discussion, Conclusion and future steps of research

In order to answer the research questions: “How does the presence of the gambling fit in this context and how does It affect the aspects outlined?” We have highlighted certain data to underline that from a company which started its operations to introduce positive “games” in our country, it has transformed into a company which is completely different and which tries to involve all stakeholders in this process. Above and beyond what is written in the analysed documents, the presence of a “movement”, among the Italian people, which tries, from the bottom, to face this overflowing of “chances” of addiction as does the association we mentioned previously: “EconomiaFelicità” makes us reflect.

This association includes, among its various activities, the SLOTMOB campaign too which was established in 2013 to face up to the flood of compulsive gambling: “(<http://www.economiafelicita.it/slotmob/>) “The Slotmob campaign was set up in July 2013, promoted by various exponents of Civil Society, to combat the problem of legalised gambling which is inundating all Italy.”

*The gambling business is enormous in size: in 2012 in Italy € 80 bn were bet, for a net intake of € 8 bn for the Italian State. However, the social costs associated with this business are no less: more than 800,000 people at risk of addiction (GAP- Gioco d’Azzardo Patologico [Compulsive Gambling]), families destroyed, numerous cases of suicides due to too many debts, without counting Mafia involvement which launders money via Slot machine halls as well as the cases of usury which are ever increasing.*

*The State, practically, fills in the holes in the financial statement by promoting gambling through a short-term, short-sighted vision, without considering the social impact this brings. And, as usual, should the profits go into the hands of the businesses operating in this sector, the costs fall upon the general public (costs for Local Health Authorities for the care of gamblers, for the fight against crime). The idea is that a bar without a slot machine holds more space for people.*

*The basic idea is always the same: as consumers always reward the bars which chose to give Slot machines up by consuming hundreds of breakfasts and cocktails, this in order to train ourselves to vote with our pockets and to make people aware of the matter. In the end, if from today we chose to buy only in those bars that have no slot machines, the issue would already be solved: no bartender would be willing to offer a product that nobody wants onto the market. It is market logics, but used for ethical purposes.*

*To this we add gaming, any gaming, as long as it is healthy and leads to human relationship, and as long as it is not the ill gaming of the slot machines which leads to isolation and addiction. This is the reason why, in every Slotmob a table-football tournament is organised.*

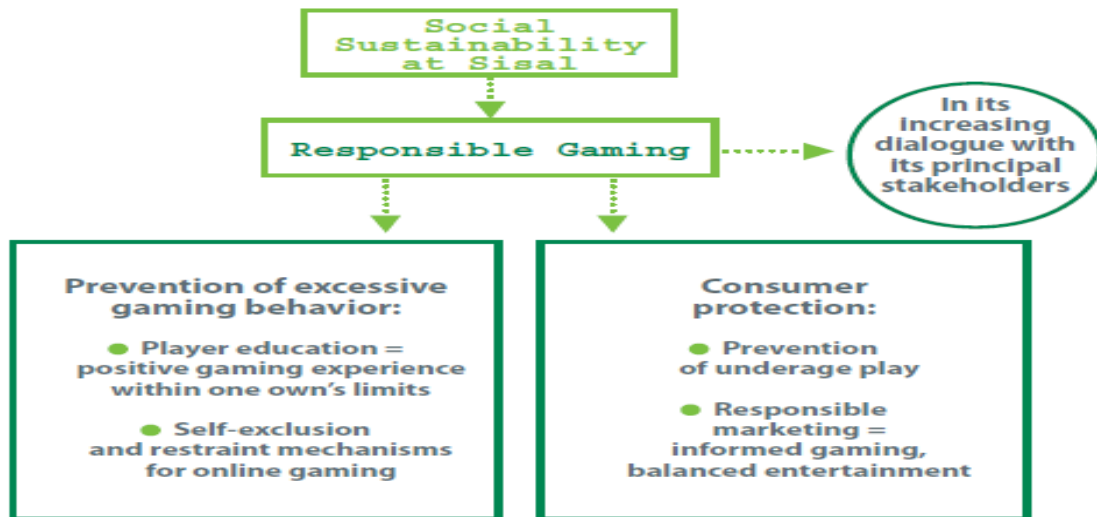
*Within the space of a few months, the associations which joined have reached nearly 90 in number and this number grows with the passing of each day and the Slotmob campaigns continue, week after week, to win enormous uptake throughout all Italy.”*

It is not our intention to analyse specifically such an association rather, take a very initial conclusion upon the role played by accountability and upon the role of the transparency of information, on the one hand, recalling legitimacy theory and, on the other, considering the transition from weak sustainability to strong sustainability especially in tourism enterprises. These considerations reflect upon the construction of an economic system which has the construction of positive, and not “pathological”, social relationships as its central aim.

Actually, the attempt at these activities puts into doubt that certain aspects highlighted in Sisal accountability documents consider every stakeholder and that a reading map of that which is “good” for stakeholders has developed, which does not correspond to the culture that emerges from the Civil Economy, expressed by the countless initiatives of Slotmob. Indeed,

these players strongly affirm that they prefer not to have slot machines in the bars where they have their coffee and that they want a “healthy” economy which places the person and not “addiction” at its core. This apparently “banal” aspect renders itself carrier of an anthropological/economic culture which questions companies like SISAL as regards the future, in that the relationship between anthropological culture and company culture is very important (Catturi, 2009) and shows that the engaging message coming from documents published by SISAL is not very effective and that it cannot totally manipulate a collective thinking towards a profit at the expense of “addiction” (Table 5).

**TABLE 5-** Social Report 2011 Accountability and stakeholder engagement



Thus, those we have named “myths” are highlighted: accountability advances a relational improvement within the economic system, between companies, and especially the presence of relational tourism towards a non-generic, but specific, common good where all “poverties” are eliminated.

We are spectators, instead, to the development of “new and silent poverties”, like that of gambling addiction, which, in the case at hand, is masked up in the points where with engaging and charming words, the mirage of «gaming» which «produces wealth» is introduced.

The paradoxes we may bring to the fore are that, through this type of accountability, maybe even any other typology: sustainability reporting and integrated reporting (Eccles and Krzus, 2010; Paternostro, 2012; Paternostro, 2012; Busco et al.(eds), 2013; Mio (ed), 2016; Del Baldo and Nesheva Kiosseva ,2017 ), an improvement of the economic conditions and the elimination of poverties is not obtained. Otherwise, social/civil phenomena, such as the Slot-mob associations, could not be explained.

To sum up, the transition from weak sustainability to strong sustainability seems impossible to us in certain sectors of business and, therefore, also the “mirage” of a pathway towards a relational tourism and re-generations activities, supported by mere tools of accountability which must be integrated and investigated carefully, in that process of eco-justice we spoke of earlier.

The case of SISAL represents an example that falls within those actions of manipulation while distracting attention from the “void”/gap. In this case, the void becomes an “abyss” of words and “misleading” information (Archel, 2009) which, at their base, have no positive relational circuits that obstacle the building of networks and relational tourism perspectives.

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# The main factors affected the insurance market in Albania and their impact on increasing voluntary insurance premiums

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## Abstract

*This paper analyses the insurance market in Albania, including its problems and ways of solutions. First of, it will be a briefly introduction of the market structure and the historical accomplishments of its segments, in order to identify the most dominated one. The insurance market is generally known as one of the most fundamentals divisions in financial market, as a whole. Insurance market development in Albania has started fairly late, compared to other countries in the region and consequently has not got the same performing as other financial institutions (banking system). Specifically, there are only nine companies which operate inside our country territory, which simultaneously compose the entire Albanian insurance market, offering both main services (life and non life insurance). The purpose of this paper is to determine the factors that have contributed to the increasing of voluntary insurance premiums based on simple regression analysis of the factors, as well as identification of the problems that have accompanied the market over the years.*

*Research question raised is: Which are the main factors that have affected the increase of gross written voluntary premiums insurance in Albania?*

*Hypothesis: The main factors that have influenced the development of the insurance market have been, the gross domestic product (GDP), low and regulation and also insurance lifespan.*

*Methodology: Based on the literature review of the insurance market are being analyzed the main factors that influence on the growth of market insurance through a graphical and factor analysis.*

**Key words:** market insurance, economic factors, rule of law, premiums insurance

## Introduction

In this paper we analyze the insurance market. The insurance market is part of the financial system and as such, it deals with the process of insuring individuals and businesses. Albanian insurance market is dominated by the Albanian capital of 80% and the rest is owned by the International Financial Corporation (IFC) and European Bank for Reconstruction and Development (EBRD)<sup>1</sup>. This paper, first of all, is focused on the structure of the insurance market, its insurance division of compulsory and voluntary insurance. Also, particular attention will be given to the structure and division of voluntary insurance, voluntary life insurance and voluntary insurance of non-life seeing their progress over the years and how it has performed. Afterwards we analyze the main factors of development of this market such as; *economic factors* (GDP, inflation rate and unemployment rate), *institutional factors* (rule of law, political stability & absence of violence, government effectiveness and control of corruption) and *demographic factors* (total dependency ratio, life expectancy and level of education). We will also take a look at the performance of the insurance market over the years, to see how they have changed the number of contracts premiums, comparing them with previous periods. Another important issue in this paper is to have a look at the current situation of the insurance market. And finally we have analyzed the insurance market issues, as poor performing indicators. The problems

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<sup>1</sup> Source: Financial Supervisory Authority (AMF)

are many, but the solutions are various. The insurance industry in Albania is newly discovered and as such, still fragile and dominated by compulsory insurance, so it requires to be monitored supported and also to be subject of policy guidelines that will make sure its further progress.

## Literature review on insurance market

Insurance company's activity includes financial intermediation and risk transfer<sup>2</sup>. Financial services offered and the possibility of transfer of risk by insurance companies has an impact on individuals and businesses as well, as these are "clients" with whom the insurance companies can not operate without them. Consequently we can say that insurance companies play a role in financial stability as they cover or provide services and ensure "calm" to individuals and businesses. In general, insurance companies have three basic functions. First of all, insurance companies offer protection to individuals and businesses by transferring risk to those institutions that have the ability to manage risk through a payment called "risk premium" (Lorent, 2008).

Secondly they improve the allocation of resources fairly between individuals and businesses so as to reduce the risk (Lorent, 2008). Thirdly, they diversify risk by selling a number of contracts to individuals but also to businesses by reducing the possibility of suffering losses all at once (Lorent, 2008). The first model to explain the demand for insurance was studied and developed by Yaari (1964). Demand for products is dependent on the life expectancy of an individual, his tendency to bequeath his wealth and a part of the income channeled to retirement (Yaari 1964). This indicates that the insurance demand is dependent on the income of the individual and also the prices of products. However there are several factors that influence the insurance demand. Some theoretical researches have concluded that economic factors, institutional and demographic ones can affect the insurance demand.

In an article published by Peter HAISS & Kjell Sümegi (2008), is explained that economic growth has a significant impact on the insurance demand, since this indicator determines the income growth for individuals and potentially increase insurance demand. Also, Beck & Webb (2002) have determined the economic factors that have an impact on the insurance demand. On the other hand it is indicated that demographic factors and education do not have an effect on the consumption of products of insurance companies. Another research study shows that the development of the insurance market is determined by legal factors (Esho 2004). Rule of law and the influence of the authorities have a positive impact on the development of the insurance market. Legal environment brings calm to investors, assuring them protection and, consequently, bringing a high level of financial intermediation and economic growth (Porta 1997).

Some key factors that have had an impact on increasing insurance demand and gross written premiums are grouped into three main categories:

**Economic factor:** Gross domestic product (GDP), interest rate, inflation rate, unemployment rate.

**Institutional factors:** Impact of law, control of corruption, political stability and absence of violence.

**Demographic factors:** total dependency ratio, life expectancy, level of education.

## Description of the insurance market situation in Albania

In the years 1999-2004, the insurance market in Albania was dominated by five insurance companies with 54 branches and 560 agents throughout the Republic of Albania<sup>3</sup>. During these years, this market was extended in several countries in the region, such as Kosovo, Macedonia and Greece<sup>4</sup> (Source KMS). A special importance in the history of insurance in Albania occupies the presence of international financial institutions, who are partners and supporting Albanian companies operating in the Albanian insurance market. As a partner of INSIG JSC is IFC, Vienna Insurance Group is the partner of SIGMA JSC, Aspis Group is the partner of JSC INTERALBANIAN and Uniqa Group Austria is a partner of SIGAL (Source: AMF).

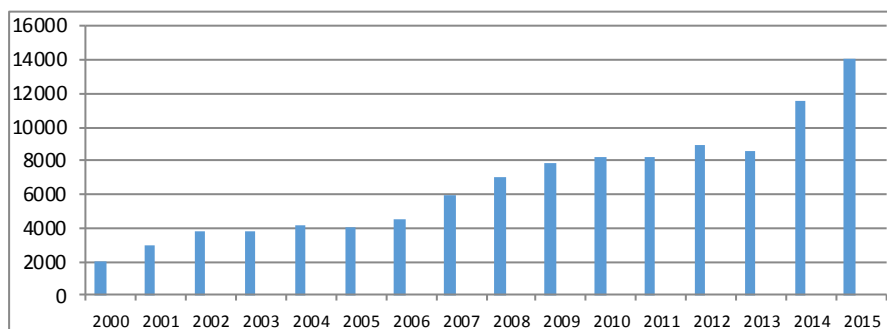
The creation of the Financial Supervision Authority (FSA) in October 2006 served primarily to consolidate and unify all regulatory functions and supervision over financial activity of non-bank, which before was performed by three supervisory authorities, insurance authority, securities and private pensions once. FSA came as a new reality in the insurance market, bringing more professionalism, safety and coordination within this market<sup>5</sup>

<sup>2</sup> Peter Haiss and Kjell Sumegi (2008): "The relationship between insurance and economic growth in Europe: a theoretical and empirical analysis." [https://www.researchgate.net/publication/5146162\\_The\\_Relationship\\_Between\\_Insurance\\_and\\_Economic\\_Growth\\_in\\_Europe\\_A\\_Theoretical\\_and\\_Empirical\\_Analysis](https://www.researchgate.net/publication/5146162_The_Relationship_Between_Insurance_and_Economic_Growth_in_Europe_A_Theoretical_and_Empirical_Analysis): visited 06.06.2016

<sup>3</sup> Source KMS

<sup>4</sup> Source KMS

<sup>5</sup> <http://amf.gov.al/pdf/publikime2/periodik/arkive/sigurime/Fjalimi%20E.Guxholli.pdf>

**GRAPH 1: Written Gross Premium during 2000-2015 (in million ALL)**

Source: FSA

**TABLE 1: Written Gross Premium during 2000-2015 (in million ALL)**

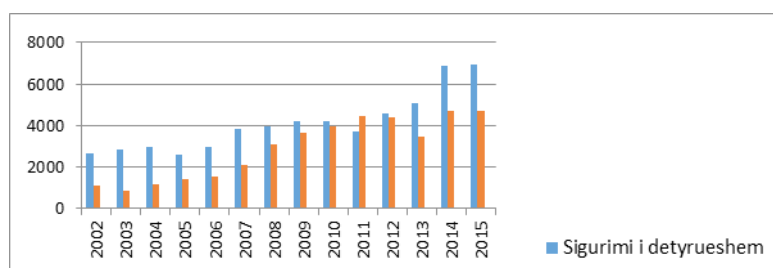
Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Sum	2,017	2,967	3,804	3,755	4,151	4,011	4,542	5,948	7,076	7,877	8,207	8,215	8,922	8,538	11,596	14,073

Source: FSA

In 2015, gross written premiums reached the figure of 14.9 billion ALL or about 21.3% more than a year ago (Source: FSA). This shows an increase in premiums, but although an increase of gross premiums in 2015, again this market is dominated by the mandatory insurance premiums, while voluntary insurance are still fragile, occupying a very small part in this market.

### Structure of market insurance in Albania

In the Albanian insurance market currently operate nine insurance companies (Sigal Uniq Group Austria JSC, JSC Sigma, Interbalkan JSC Intersig JSC (Vienna Insurance Group) Atlantic JSC JSC Albsig, Insig, and Ansig Eurosig JSC JSC) which operate in the non-life insurance and three companies operating in the life insurance (Insig sha, sha Sicred Sigal Uniq Group Austria-life JSC). In general, insurance companies offer a wide range of products, covering all classes of clients, offering almost every kind of insurance, except ATLANTIC JSC Company that does not offer some types of products. Albanian insurance market is a market that has been having a dynamic development after 2000, as the revenue generated, but also by its importance in the local economy, but of course and in the variety of products that are offered to all individuals and businesses to ensure their assets, transferring the risk of losing their assets to insurance companies against a signed contract and pay a premium. The structure of the market is divided into voluntary insurance and compulsory insurance, where the most important part of the market is occupied by compulsory insurance

**GRAPH 2: Structure of market insurance during 2002 – 2015 (in million ALL)**

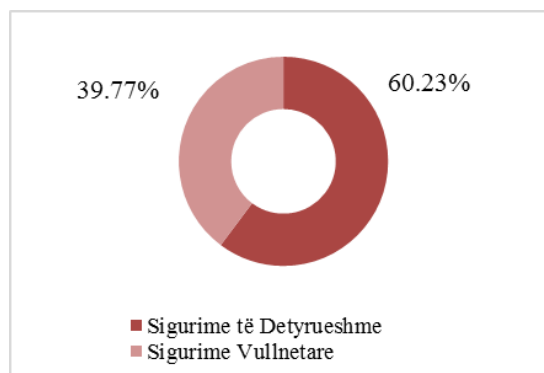
Source: FSA

**TABLE 2: Structure of market insurance during 2002 – 2015 (in million ALL)**

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Mandatory insurance	1,545	2,088	2,675	2,865	2,968	2,576	2,970	3,868	3,995	4,191	4,243	3,727	4,578	5,083	6,903	6,919
Voluntary insurance	472	889	1,128	890	1,183	1,435	1,530	2,080	3,078	3,686	3,964	4,488	4,372	3,455	4,693	4,710

Source: FSA

**GRAPH 3:** Structure of market insurance in percentage in 2015 (%)

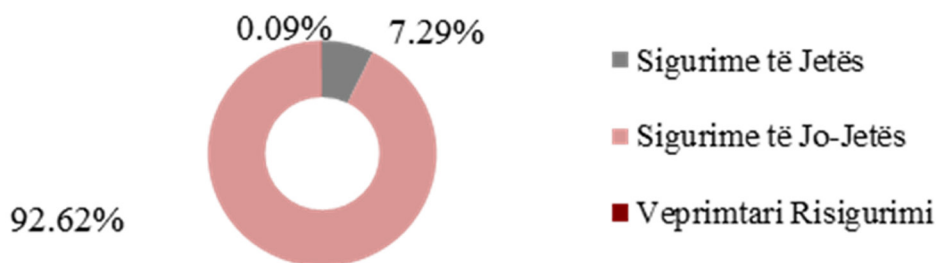


Source: FSA

*Compulsory insurance:* are those insurance that are required by law by the Albanian legislation and therefore they are subject to scrutiny by the relevant state authorities. Compulsory insurance included three police motor vehicle insurance, liability insurance to third parties the so called TPL, green card, and border police. Compulsory insurance for 2015 took a weight of 60.23% of the total insurance are increased by 7.01% compared with 2014 (Source AMF). Another factor that should be mentioned is the fact that compulsory insurance occupies the most important part of the gross premiums written by insurance companies.

*Voluntary insurance:* are those insurance that are not required by law, but individuals and businesses provide “assets” to transfer their risks to insurance companies. This transfer is done through a contract of insurance, the insured pays a set “fee” called “insurance premium” in exchange for keeping this contract. Although this market has been widening, we can say that this part of the market is still fragile and there is a lot of work to get where they need. This market is important as it constitutes the most important part of the analysis of this study. Referring to reports and data of the Financial Supervision Authority (FSA) this part of the market occupies 39.77% of total premiums and as it is clear that there is a certain disadvantage to the rest of the market that are compulsory insurance. Voluntary insurance in their structure divided into:

**GRAPH 4:** Voluntary insurance structure for the year 2015



Source: AFS

### Measures of factors through regression analysis

In this section we analyze all the factors that have contributed to the development of insurance market. It will be measured through analysis regression of all factors that have had an impact on the insurance market. The second part, it will lay several problems encountered by the insurance industry, to have the opportunity to better understand that where has ceded this market. Regression analysis will take each of the variables one by one and they will be analyzing versus variable Y (Voluntary insurance). In this analysis, are considered key elements who briefly explained as follows. R-Squared is the determination coefficient, which shows the relationship between the variables X and Y. This coefficient takes a value between 0 and 1, where value 1 shows a strong relationship between the variables. P-Value shows for each element test the hypothesis 0 and the coefficients are equal to 0 (has no effect). If the P value result less than 0.05 indicates that hypothesis 0 falls. Standard deviation is a measure of the forecasts accuracy. The standard deviation is the square root of the average volatility. The regression line is a line that minimizes the sum of squares of deviations of the forecast.

**TABLE 3:** Variables and the value for each category

Variables	R Squared	P Value
GDP	0.834974379	0.0000019
Inflation rate	0.00023912	0.956379977
Unemployment rate	0.002445277	0.86107
Rule of law	0.82864565	0.0000024
Political stability and the absence of violence	0.6592336	0.00023664
Governance efectivity	0.7450867	0.00003408
Corruption control	0.18085499	0.11404
Lifetime	0.832475	0.0000021

Source: Authors

Gross domestic product (GDP), is one of the factors which influences the development of the insurance market. Various studies have shown that GDP is a key economic indicator that affects the insurance market. Analyzing R square of GDP, shows that it resulted in a very high value close to 1 (R square = 0.834). Such high value indicates that GDP is a very important point variable contributing to voluntary insurance changes. Also this value of determination coefficient shows almost 83% of the changes occurred in voluntary insurance explained the changes that have suffered GDP. The lower the P value, very close to 0, indicates that this is a very important variable for changes to the dependent variable. Inflation rate in turn is a variable which is presented completely different in value relative to GDP. Inflation rate as an independent variable versus voluntary insurance results with R square almost 0 and a high P value.

All these results show that the inflation rate is not the best variable to explain the changes that occurred in variable Y, since only 5% of changes are envisaged by this variable. The unemployment rate results with an R square value very close to 0. This tells that this variable has almost negligible impact to the changes that may incur dependent variable Y, voluntary insurance. This finding is also confirmed by P value which results in substantial numbers. Rule of law is a fundamental factor for the insurance market anywhere in the world, there is no exception for our country.

It is clear rule of law in our country there has been an upward trend based and the analysis done, this variable tells that there is an important role in the changes occurring in the dependent variable Y, as the coefficient of determination of R squared has resulted very close to 1, exactly the R-squared is 0.828. This result accompanied by P values, which resulted close to 0. The effectiveness of governance is another indicator that we analyzed in terms of its impact on the change of voluntary life insurance. Looking at the table, this variable has a determinant coefficient of 0.7450, so it is almost close to 1. This value tells that this variable has had its impact on the change of variable Y which is the subject of analysis. The impact of this factor has been not so much important like the other variables such as GDP, the rule of law. This variable by reference and the table shows that there was a fairly low impact, not to say that there is no impact at all. The coefficient of determination R square of this variable is showing that 0.180 has had a negligible impact on the change of voluntary insurance.

Also to reinforce this understanding, we can see that the P value has a high value, which shows that the impact of this variable on the variable Y is trivial. The lifetime variable has high impact on voluntay insurance. With regard to this variable is made to refer the analysis that is presented in the table, we can see quite clearly that the impact of this variable X to change the voluntary insurance is very important. The coefficient of determination R square is worth 0.8324, and also for variable P value close to 0, which shows that this variable has a very important impact in changing variable Y.

### **The issues of the insurance market as an obstacle to its further development**

The Albanian insurance market is a market that has been growing steadily over the years, but even so it is facing various problems. FSA has emphasized that this market has a great potential in order to further development. The great economic-political-social-demographic changes have brought a very dynamic life that has increased uncertainty in people's lives. This calls for the necessity of financial incentives (Kadri Morina). One of the issues FSA points out is economic growth. Indeed, economic growth is a key factor that affects the growth of voluntary insurance premiums but also the overall market performance. It does not only contribute to the upward growth of premium rate, but also affects the welfare of individuals. Consequently, an economic growth encourages citizens to secure their businesses but also their lives as an investment in their future and of their families' too.

A very important factor related to the insurance industry poor performance is the damage/premium ratio. The damage/premium ratio indicates how much the damages paid by the companies in relation to the total premiums should be. More specifically, this report tries to focus on the minimum and maximum limits between this indicator should fluctuate. A model to measure this report is the IRIS test. This model shows that the damage/prim ratio should fluctuate between 50% and 80%. The current ratio in which the insurance industry is found is 35.25%, 1.18% less than in the previous period. Evidently, this report is below the minimum limit. One of the reasons why this ratio is low consists on market liberalization, like for example the change of tariffs for motor vehicles which led to a deterioration of the report.



Another reason that explains the low odd ratio outcome is the method that insurance companies use to identify, report, evaluate and execute the past events' damages. This phenomenon occurs because of the companies' authority over the damage's evaluations process after certain occurrences which conflicts the clients confidence toward the process. This phenomenon affects psychologically the client as well as the reputation of the company has in public. Consumer education is a key factor related to the development of the insurance industry. Developing a training and education program aims to inform the customer and other stakeholders. FSA places emphasis on organizing various seminars focusing on informing and educating consumers about the insurance market, its functions, developing the product understanding and services that this market offers as well; but also informing over the advantages the insurance process provides which consequently makes it possible to expand the basis of premiums as a whole. It also gives the customer the opportunity to understand how to transfer the risk to these insurance companies.

The lack of new products. According to the FSA, launching of new products by insurance companies tends to bring these products closer to the customer's requirements by making them preferential. Also, expanding the products bid in the market will fuel the competitiveness of the companies, encouraging them to offer sufficient product to the benefit of the consumer. This will affect the diversified market and a wide range of products and services where the customer can have more choices. The addition of new products by insurance companies tends to bring these products closer to the requirements of the consumer by making them preferential.

Referring to the FSA, an increase in the products offer will fuel the competitiveness of the companies by encouraging them to offer as much product close to the benefit of consumers. This "tactical" brings a guarantee to market growth. Also, this alternative increases the credibility of consumers for insurance companies for the entire market as it is an added value for its development. All things considered, this part of the Albanian financial industry is facing various problems. One way for this market to develop further, the participants in the market should all contribute, in order for this market to move forward and achieve its full potential.

## Conclusions

The insurance market is part of the financial system and as such, it deals with the process of securing individuals and businesses.

The Albanian insurance market is dominated by Albanian capital by mass 80% and the remaining part in this sector is owned by the International Financial Corporation (IFC) and the European Bank for Reconstruction and Development (EBRD).

In the Albanian insurance market operate 9 insurance companies.

Based on the literature, the economic factors affecting the voluntary insurance market are: GDP, interest rate, unemployment rate.

Various studies indicate that institutional factors such as rule of law, political stability, and lack of violence, government effectiveness and corruption control affect the demand for voluntary insurance.

Many studies and research work show that demographic factors such as total dependency ratio, life expectancy and education level may have an impact on the demand for insurance policy.

Based on the statistical analysis made, it comes out that the main factors influencing voluntary insurance are:

GDP, as an economic factor has contributed to the growth of insurance, the analysis shows that this factor has 83.2% impact on the demand for voluntary insurance.

Rule of law is an institutional factor that has influenced the demand for voluntary insurance, which affects 82.8% of voluntary insurance.

The latest indicator that has affected the demand for voluntary insurance is the longevity that is part of the demographic factors. It turns out that life expectancy has affected voluntary insurance by 83.2%.

### ***Issues that have accompanied the insurance market:***

Economic growth- indicates opportunities for developing and enhancing the insurance market as it contributes to boosting the consumers surplus and potentially gives the entrepreneurs the incentive to insure their businesses and people to insure their lives against further misfortune.

Damage/Premium correlation. The ratio shows the covered damages in relation to the total amount of premiums should be.

Public education goes into alignment with the insurance industry development. Various seminars are frequently organized in order to provide public with the necessary knowledge related to insurance market functioning, its products and services and its benefits as well, which will contribute to the expanding of the insurance policy purchasement.

The rage of new products launched from the insurance companies tends to bring products closer to the consumers' requirements by making them preferential. The product enlargement will also fuel the competitiveness among companies, encouraging them to offer as much product to the benefit of the consumer.

The addition of foreign companies to the market is a bigger guarantee for consumers but also increases the security of consumers for the insurance market.

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# The issues of FDI -s in Albania during transition

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## Abstract

*The topic selected was oriented from the current issues in the field of investment and the impact they have on economic growth. An old saying implies that “Invest in real estate in places where everything or at least much of the resource is sold much cheaper compared to other countries “. This June of 2017 we accomplished for 27 years that Albania is open to foreign investors. But after 27 years there is no question that we are better compared to what we were in foreign investments (FDI), but what is being discussed is that Albania continues to be at the lowest level of IHD in Region. Research shows that FDI has been a very important factor in economic production in CEE and SEE countries during the transition years. The strong link between FDI and GDP is evidenced by two facts: FDI inflows -that have a positive impact on the country’s economic strength and high levels of GDP are a major motivator for higher FDI flows. The final conclusion also explains one of the reasons for the different model that has followed the development of FDI in SEE and CEE countries. This research conducts an empirical study, contributes to the analysis of FDI and economic growth issues currently faced by our country. In the study, an econometric method was used to reveal efficient and credible empirical findings on the cause-and-effect relationship of FDI -growth in the last two decades. For the economic growth series (g) there are data for 17 years, where the last year is 2016. The empirical findings suggest that the absorption of FDI is positive and statistically significant for the country’s economic growth. For each unit of FDI increase the impact on the country’s economic growth will result in 3.88 unit. The most important recommendation suggests that trade policy makers in Albania should apply FDI-absorbing policy, based on multilateral agreements, to achieve lasting long-term growth. This can be achieved by removing barriers related to FDI in the context of improving the investment climate in Albania.*

**Key words:** FDI, economic growth, investment climate, absorbing policy, agreements

## Entry

Researchers show that FDI has been a very important factor in economic production in CEE and SEE countries during the transition years. The strong link between FDI and GDP is evidenced by two facts: growing FDI inflows have a positive impact on the country’s economic strength, and high levels of GDP are a major motivator for higher FDI flows. The final conclusion explains one of the reasons for the different model that has followed FDI development in SEE and CEE countries.

Both groups of countries have moved ahead since the 1990s when they came from isolation. However, SEE macroeconomic indicators are still weak and the institutional structure is still not very efficient. CEE countries have made progress towards their integration into the European Union, they have attracted higher FDI inflows, and are now returning to the FDI source abroad. On the other hand, in Southeast Europe, investors have reacted to instability and lack of development by not favoring these countries as opportunities investment.

The evidence shows that during the years 1992-2004, South-east European countries have benefited from foreign capital flows and the expertise in this field is only sporadic and very limited. The main FDI flows in these countries are related mostly to privatizations. The foreign capital is invested mainly in the processing industry, financial services, telecommunications and

commerce, and is largely originating from EU countries. The whole region offers rich sources of tourism, although in this area FDI remains very limited (with the exception of Croatia).

About Albania we can say that, the 15 years of transition have been characterized by a number of crises that have had a major impact on the country's economy. However, despite this fact, in recent years, Albania has witnessed a significant GDP growth, low inflation and exchange rate stability.

## Research issue

Albania enjoys great opportunities for attracting FDI in different sectors (both in the processing industry, agro-processing, agriculture, tourism and other services).

Nevertheless, it ranks among the countries with the lowest holdings of foreign capital within the region, recording lower levels of FDI than its real opportunities.

Foreign investments during these years have come mainly as a result of the privatization of small, medium and large enterprises, with a greater concentration in the industries. In Albania, the private sector accounts for 80% of GDP. Foreign investments have been low in terms of the above-mentioned regional standards but rising. The countries with the largest investments in Albania are Greece and Italy.

The low level of FDI inflows and FDI stocks evidences the fact that there are still large barriers to investments. The small domestic market size compared to some of the countries in the region and the problems inherited from the past can be considered as a barrier, yet they are not the main problem facing foreign investors.

As analyzed in the last part, the main obstacles to FDIs in Albania are related to the overall political and security developments in the country; with the unsustainability and inadequate progress during the transition process and structural reforms; corruption and unfair practices; poor physical infrastructure conditions; frequent changes in the regulatory framework; administrative obstacle; as well as the massive existence of an informal economy.

So the specific objectives of this study related to the research issue are:

- To empirically investigate the relationship between the FDI and growth rate in Developing Countries.
- To establish whether FDIs has any significant effect on economic growth in Albania.
- To suggest policy measures in FDI inflows management in line with the findings of the study.

**MAIN HYPOTHESIS** of this research project is:

“Any attempt to raise the FDI inflows , will result in a higher rate of economic growth “

## Literature review

A strong reason to motivate a firm to create production facilities out of its country instead of exporting its own products or contracting a domestic interchange would be the prospect of big gains. The features that need to be the host country to generate higher earnings for the firm and determine its decision to invest abroad are many and varied, and have been thoroughly analyzed in literature.

An important theoretical contribution to this matter has been given by Porter (1990) “the theory of diamond” (diamond theory) based on four factors defined as the determinants of the country:

- Factor Conditions - Factors of production include natural reserves as well as those created as skilled worker or infrastructure.
- Natural-demand requirements of the country for good and services as well as the level of buyers;
- Affiliated and supporting industries, market existence of other suppliers or industries closely related to that investment;
- Strategy, structure and rivalry of the firm, competition of domestic firms and the conditions for the creation, organization and administration of the company.

These four “diamond” factors, together with the role of government in the economy and the role of occasional events, promote or prohibit the creation of competitive conditions for intercourse.

Generally speaking, the determining factors that influence the choice of place where multinational companies decide to invest can qualify in two categories: related to the country of origin and associated with the host country. The variables associated with the country of origin are factors that make the investment abroad more attractive than it is in the country due to the current conditions of the country. The factors associated with the host country make the investment in that country more attractive than the possibility of investing in any other country. In literature, the factors associated with the host country are those who have attracted more attention.

In the World Investment Report 2002, UNCTAD presented an Inward FDI Performance Index (FDI) index to evaluate the success of FDI countries. According to this report, countries with high levels of this index may have exceptionally welcoming



regulatory regimes, are well administered in the macroeconomic direction, or have a very efficient and cost-effective business environment. They can also offer other competitive incentives such as: a prosperous, growing economic prospect, natural resources, better research and development skills, advanced infrastructure, good financial support, and good organization of supply. They may be privileged for entry into countries favored for export to large markets. On the other hand, there may be a lack of convergence, weak policy structures and other weaknesses in their economies (UNCTAD, 2002).

Government policies have a significant impact on FDI. Indeed, rich and developed countries governments make significant efforts to encourage foreign investment from their companies in order to provide opportunities to use natural resources or increase exports machinery and equipment at the same time, generate capital inflows that improve the balance of payments. Meanwhile, governments of more developed or developing countries may work towards policies implementation that offer FDI inflow incentives, but it is even more important to focus on improving comparative comparisons of their countries by improving their macroeconomic position towards other competitors.

The determinants and factors influencing the FDI have changed over time. The FDI towards developing countries has shifted from market demand to resource-efficient (vertical) demand of FDI's. Developing countries should attract FDI through:

- Better labor market conditions, which do not only mean labor force at a low cost, but also productivity, flexibility and suitability of labor force in the host country. As a result, the country should provide relatively capable and educated workforce (meaning that the country should have an adequate education system)
- Institutional structures. In addition to favorable tax rates, public administrations should be flexible enough to encourage investors. The institutions themselves should be flexible and the necessary documentation and registration procedures are less complicated for foreign investors.
- Market size. The market place of a host country can not be measured by its population. There may be other significant factors, affinities and links with other related countries, existing competition in the host country and others .

## Methodology - Analysis of the Empirical model for the evaluation of FDI's in Albania

Data on these variables are from the Bank of Albania. Used data are secondary data (time series data) to empirically study the effect of independent variables ,in the dependent variable economic growth, based on data for the period 1999 to 2016.

In assessing the impact on GDP in Albania it has been used the linear regression model. This link was statistically significant. Based on the tests carried out, we conclude that the tests do not change and are in the coagulant and co-integrated at the 5% level of importance. Based on the data obtained from the model, it results that the distribution of the common probability of these variables does not change when shifted in time. Also average and variance are also expected not to change over time. The F figure shows that the whole model is important. The result shows that all explanatory variables are statistically significant in explaining economic growth, thus FDI's having a positive impact on economic growth. Consequently, a change in the explanatory variable such as an increase in FDI leads to an economic growth. Tests carried out reinforce the idea that the model is good and entitles the appellant to interpret interpretations of parameters near variables according to the degree of reliability.

Relationship of the dependent variable with the independent variable results statistically significant because 86% of variance of the dependent variables is explained by the independent variable and the probability of the error is 0.008 many times less than 0.05. This connection turns out to be very strong and in full compliance with economic logic.

Dependent Variable: G

Method: Least Squares

Date: 06/21/17 Time: 10:39

Sample: 1999 2016

Included observations: 18

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	0.673395	1.057990	7.167736	0.0010
FDI	3.878009	1.29E-09	-3.012365	0.0083
R-squared	0.661898	Mean dependent var		4.913889
Adjusted R-squared	0.522016	S.D. dependent var		2.977935
S.E. of regression	2.452025	Akaike info criterion		4.736144
Sum squared resid	96.19880	Schwarz criterion		4.835075
Log likelihood	40.62530	Hannan-Quinn criter.		4.749786
F-statistic	9.074345	Durbin-Watson stat		1.060558
Prob(F-statistic)	0.008264			

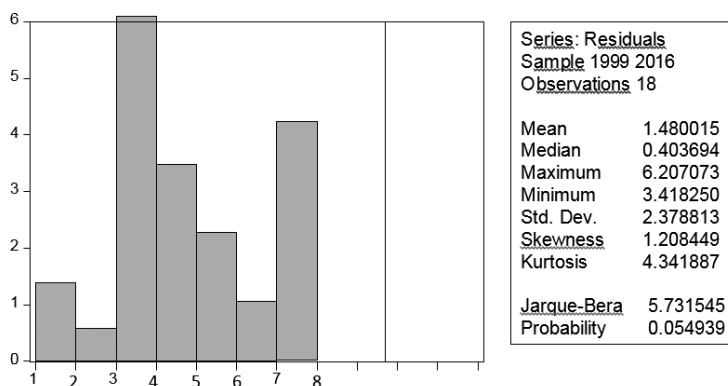
The autocorrelation test, Durbin-Watson, is 1.060558, so it does not have to worry about the problem of autocorrelation because it is an indication that autocorrelation is present. If some of the information in the table above, namely from the Coefficient and Prob. column, regression can be written with the respective parameters and the statistical probability of each of the following:

Akaic information criterion is positive but of little value indicating that the model is relatively convenient. The Schwarz criterion also has a small value.

$$\Delta g_t = 0.67 + 3.88\Delta FDI + \varepsilon_t$$

The following table gives an idea of the quantitative variables included in the conceptual analysis made above. Descriptive statistics summarize information about the mean, medium, maximum, minimum, asymmetric coefficient (skewness) and kurtosis, normal distribution statistic (statJarque-bera) associated with the probability of this statistic, number of data.

For the economic growth series (g) there are data for 18 years, where the last year is 2016. Its average is 1.48. The maximum value is 6.2%, whereas the minimum is 3.41%. From the figure above, we see that the term of the remainder has a non-systematic distribution. This makes us think that the term of the pattern remains normal distribution, thus reflecting one of the qualities of a good model. In fact, the relevant test reports that this term of waste is normally distributed, as long as the probability of the Jarque-Bera statistic is 5.73 greater than 3.41.



The chart below compares the actual values and those generated by the model for the series g. The close association between them reports on good model health and for a high explanation of the first variation of g by the independent factor. Such a term of the term of remnant creates the impression that it is normally distributed. This impression is confirmed by the normal distribution test.

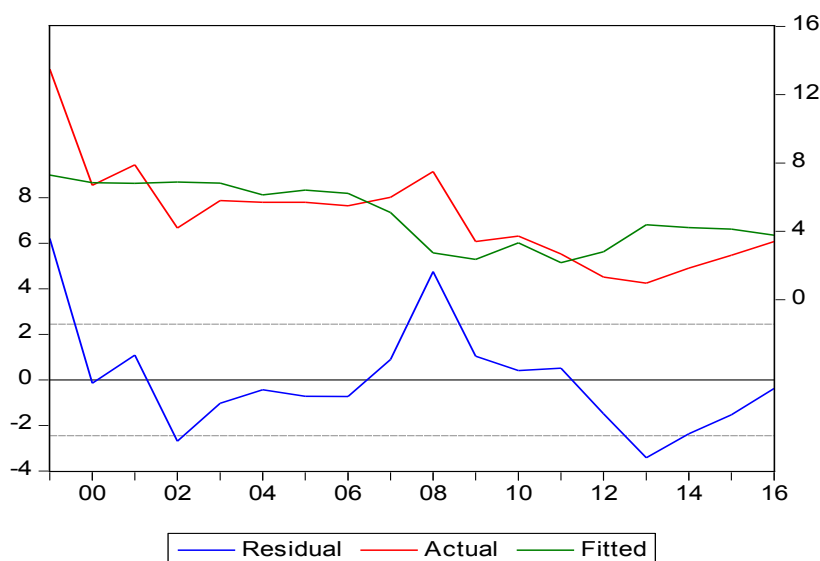
Date: 06/21/17 Time: 10:41

Sample: 1999 2016

Included observations: 18

Autocorrelation	Partial Correlation	AC	PAC	Q-Stat	Prob	
.  **.	.  **.	1	0.269	0.269	1.5293	0.216
.  *.	.  *.	2	0.154	0.088	2.0647	0.356
. * .	. ** .	3	-0.173	-0.255	2.7843	0.426
. ** .	. * .	4	-0.213	-0.142	3.9550	0.412
. ** .	. ** .	5	-0.340	-0.224	7.1478	0.210
. ** .	. ** .	6	-0.341	-0.254	10.637	0.100
. * .	.  .	7	-0.095	0.033	10.934	0.142
.  .	.  .	8	0.063	0.037	11.076	0.197
.  ***.	.  **.	9	0.353	0.225	16.047	0.166
.  *.	. * .	10	0.176	-0.084	17.434	0.165
.  *.	. * .	11	0.139	-0.094	18.429	0.172
.  *.	.  *.	12	0.081	0.100	18.825	0.193

. *   .	.   .	13	-0.070	-0.051	19.180	0.118
. **   .	. *   .	14	-0.224	-0.101	23.689	0.150
. *   .	.   * .	15	-0.155	0.131	26.561	0.233
. *   .	.   .	16	-0.099	-0.028	28.310	0.229
.   .	.   .	17	-0.024	-0.058	28.522	0.239



Part of the health of a model is also control over the “diseases” of heteroschedasticity, serial correlation and autocorrelation. All three statistics that help investigate heteroschedasticity report its absence. So the model does not suffer from the “disease” of heterosis.

The LM test reports that for at least 95% security level, serial correlation is not present in the model. This proves that the model is good

The bottom end of the table is filled with the inferior model of autocorrelation. The fact that autocorrelation coefficients are within the intervals indicates that it is absent. Moreover, the probability of the -Q statistic is greater than 10%, indicating its absence in the model. All three tests reinforce the idea that the model is good and entitles the appellant to interpret interpretations of parameters near variables according to the degree of reliability.

## Conclusions

The liberalization of Southeast European markets has stimulated and intensified cooperation between numerous European countries in various branches of industry. This development has attracted various well-known companies in Europe to relocate the production of domestic products especially to eastern european countries. We take the example of Germany, for example, as a powerful state, which has long since shifted the production of many products to countries such as Poland, Czech Republic, Croatia, Hungary, Greece, Russia, Portugal, Slovenia, Macedonia, Bulgaria , and finally Albania. The ever-increasing international competitiveness, political changes, as well as other disadvantages such as high salaries in the country, high electricity prices, very high environmental protection taxes force many firms in Europe to use the Contract Processing strategy, which is otherwise known as the passive mode, in the country where they operate, are known as active mode firms. Albania with its legislature creates good conditions for foreign investors.

In addition to this, Albania offers other advantages which are mentioned in this paper as:

- a suitable geographic position, which provides favorable links with European countries.
- free and skilled manpower
- quiet political situation in the country
- low production costs.

The active processing enables the processing of various non-domestic goods destined for re-exportation in the form of ready-made products in the country of origin. - Changes in the world markets many firms adapt by taking strategic and operational measures such as: - Providing production materials - Providing quality in the place where it will be operated with the active regime - Securing a viable market position - Ensuring stability of the price- Quality assurance of personnel. These measures are necessary in attracting foreign investors. The correct implementation of all procedures, customs, compliance with applicable law, local culture, political stability in the country give more security to foreign investments . Of course, the

Albanian state benefits: Foreign investment enhances the prestige and the name of Albania in Europe, the creation of new jobs leads to the reduction of unemployment, the adaptation of new technologies to further developments in the field of research and science.

## Recommendations

Albanian authorities should do their best to improve the business environment, with the aim of increasing FDI inflows. One of the most important measures that can be taken by the government to promote foreign investment is the removal of FDI related barriers in order to improve the investment climate in Albania and its perception by foreign investors.

A policy problem that affects not only FDI is corruption. In order to facilitate foreign investment, an important measure would be to eliminate unnecessary regulations (which create spaces for bribery and corruption). Other regulations should be more transparent and responsive.

The legal framework needs to be strengthened, not only in terms of legislation, but also in its implementation and transparency related to it, with regulations and procedures.

Reducing the size of the informal economy would help not only improve the macroeconomic economy but also eliminate the biggest barrier to legitimate business that is unfair competition.

Infrastructure (including electricity and water) needs a solution, in order to stimulate foreign investment in Albania. Increasing public investment in infrastructure is not the only resort; there can be a tendency towards attracting foreign projects in this field through the provision of special incentives.

Regarding the legal framework on taxes, Albania has already signed bilateral agreements with more countries regarding taxes. However, in order to attract more foreign investment, these agreements should be extended to other countries that play an important role in international markets, such as Western European countries (such as United Kingdom) and the United States .

Finally, the Albanian Government can encourage the development of special geographic areas within the country, which represent areas with great investment opportunities in the country, trying to make the whole country more attractive. Such areas are industrial or tourist areas (such as coastal areas). The development of these areas may require large investments and resources, however pilot projects may initially be initiated which can be implemented in broader terms after their operation.

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# Papunësia si faktor i paqëndrueshmërisë shoqërore në rajonin e Pejës

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## Abstract

*Papunësia! Fjalë e konsumuar aq shumë nga të gjithë por pse?? Ndoshta pasi mund ta krahasojmë me një "kancer", që nënkuptojmë që ngadalë të shkatërrojë të gjithë ekonominë dhe të krijojë paqëndrueshmëri shoqërore, problemi është që kur e vërejmë demin është shumë vonë, tani ka eskaluar pa e vërejtur ne. Kjo temë më ka zgjuar kureshtjen duke e parë që njerëzit si qenie janë shumë kompleksë dhe të pakuptueshëm. Çështja qëndron në faktin që një gjë thonë dhe në mënyrë krejt të kundër veprojnë, me vetë dëshirën e tyre. A është ky rezultat i pamundësisë për të zgjidhur gjërat apo jemi të gatuar në këtë mënyrë. E shtrova këtë problem për shkak se rezultatet e hulumtimit me tregojnë një gjë kryesisht familjet e rajonit të Pejës dhe Istogut përbëhen prej pesë deri gjashtë anëtar, dhe në çdo familje dy deri tre persona nuk punojnë edhe pse janë të aftë për punë. Por paradoksi më i madh është që përkundër rrogave të ulëta në Kosovë në krahasim me standardin e jetesës, 57% e të anketuarve kanë deklaruar që janë të kënaqur me punën që e punojnë dhe nuk pretendojnë që ta ndërrojnë atë. Vetëm 38% e të anketuarve punojnë në punë për të cilën janë të kualifikuar. Kjo na tregon që edhe përkundër që punojnë punë që nuk korrespondojnë me fushën e studimit të tyre njerëzit janë të kënaqur me punën që bëjnë. Si rrjedhojë e papunësisë së lartë dhe ofertës së ulët të punëdhënësve popullata është shumë e kënaqur nëse gjen ndonjë punë pa marrë parasysh çfarë pune është ajo. Kjo pastaj shpie deri drejt paqëndrueshmërisë shoqërore që po manifestohet me shumë probleme dhe stres.*

*Key words: Papunësi, vetëkënaqësi, Kosova, stresi, paqëndrueshmëria*

## Hyrje

Një nga problemet që më së shumti haset është papunësia, që është një term që është konsumuar shumë nga të gjithë pasi është sëmundja më e keqe ekonomisë. Mirëpo papunësia nuk mund të zvogëlohet nëse nuk rrezikojmë rritjen e inflacionit. E sidomos për çështjen e Kosovës, ku 30 % e popullatës llogariten si të pa punë. Duke u nisur nga ajo që i papunë është personi i cili është i aftë për të punuar dhe ka dëshirë që të punoj, por i cili nuk mund të gjejë punë edhe përkundër që është duke kërkuar punë. Nga kjo që u tha pra papunësia është kur rezervat humane nuk janë duke u shfrytëzuar. Papunësia e lartë nënkupton rënien e produktit kombëtar bruto (GNP) aktual nën produktin kombëtar bruto potencial.

Duke u nisur nga ajo që ne jemi qenie njerëzore të lidhur me emocionet tona dhe kjo ndikon që shpesh pakënaqësitë e punës të barten në shtëpi. Që shpie deri te krijimi i stresit më të lartë brenda familjes dhe shoqërisë. E sidomos nëse jemi person i pa punë dhe jemi duke kërkuar punë por askush nuk na angazhon me arsyetime të ndryshme. Papunësia ka pasoja të mëdha negative në aspektin psikologjik, pasi individ i cili nuk gjen punë fillon që të humb vetëbesimin gjë e cila ndikon në rritjen e stresit dhe bën që këta individë të bien në depresion, duke shkaktuar paqëndrueshmëri familjare.



## Qëllimi dhe objektivat e studimit

Qëllimi i këtij punimi është që të tregojë se papunësia ndikon në paqëndrueshmërinë shoqërore. Për shkak të papunësisë punëtorët ndihen shumë të diskriminuar pasi detyrohen që të punojnë punë të cilat nuk korrespondojnë me profilin e tyre të shkollimit, njëkohësisht për të njëjtën rrogë punojnë edhe shumë punë tjera të pa përfshira në kontratë. E gjithë kjo si rezultat i papunësisë së madhe dhe pamundësisë për të përzgjedhur punë.

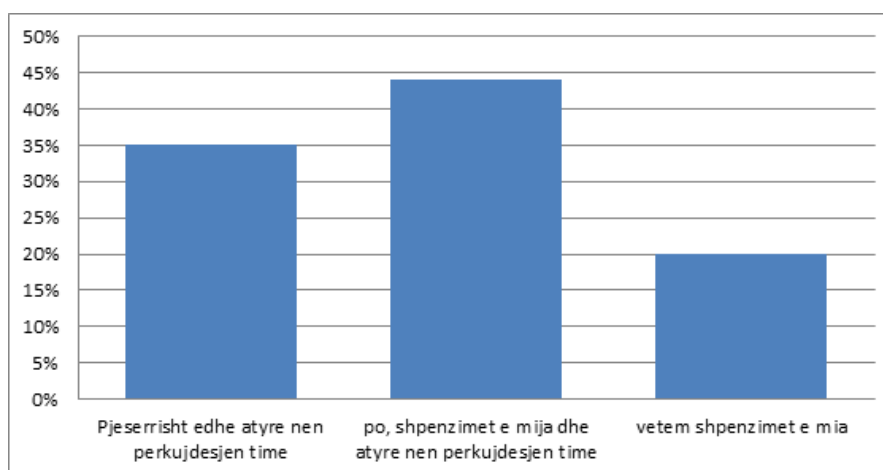
## Pyetja kërkimore, hipoteza dhe metodologjia e punimit

Ka metoda të ndryshme të hulumtimit të cilat të mundësojnë që kërkuesit të dalin tek rezultat të cilat i dëshirojnë dhe njëkohësisht të krijojnë sqarime rreth polemikave dhe paqartësive të ndryshe me këto metoda hulumtuese. Qëllimi dhe hipoteza e këtij punimi është që të hulumtohet se a shkakton papunësia paqëndrueshmëri shoqërore. Për të kryer këtë hulumtim më është dashur që të krijoj një pyetësor të cilët janë shpërndarë me ndihmën e studentëve. Përmes këtij pyetësori unë kam arritur që të grumbulloj të dhëna që më mundësuan që të sqaroj këtë dilemë. Pyetësorët janë shpërndarë në mënyrë të rastësishme, pasi qëllimi i studimit është që të kemi rezultat sa më të sakta.

## Analizë, interpretim të dhënash

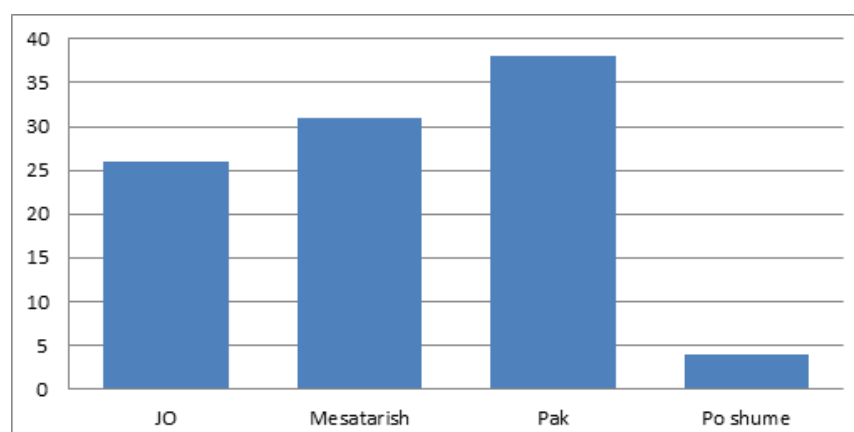
Hulumtimi i bërë përfshin Rajonin e Pejës ( Pejë, Istog) ku janë intervistuar 200 persona, më poshtë janë paraqitë rezultatet e hulumtimit.

**FIGURA NR. 1:** Pyetja: “A mund t’i mbulonit shpenzimet tuaja dhe atyre nën përkujdesjen e juaj?”



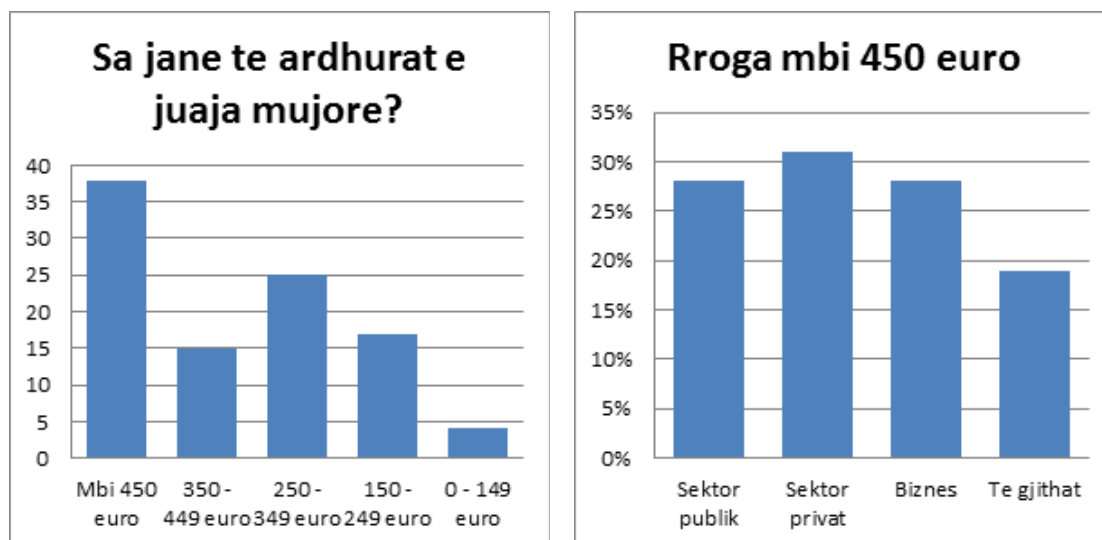
Nga grafiku shihet që 35 % i mbulojnë pjesërisht shpenzimet e tyre dhe personave që kanë nën përkujdesje, kurse 44% arrijnë që ti plotësojnë të gjitha kushtet edhe plotësimin e të gjitha shpenzimeve të tyre dhe njëkohësisht edhe atyre që janë nën mbikëqyrje të tyre, 20% nga të anketuarit kanë deklaruar që me rrogën e tyre mund ti mbulojnë vetëm shpenzimet e tyre.

**FIGURA NR. 2:** Pyetja : “ Nga të ardhurat tuaja a arrini të kurseni?”



38 % të anketuarve arrijnë që të kursejnë pak kurse 31 % arrijnë që të kursejnë mesatarisht dhe 26% nuk arrijnë që të kursejnë fare. Kjo ndodh si rezultat pasi 38 % të anketuarve kanë rrogë më të lartë se 450 euro. Ku 28 % e personave që kanë rrogë mbi 450 euro janë persona që punojnë në sektorin publik, 31 % në sektorin privat, 22 % në biznese dhe 19 % nga të anketuarit punojnë më shumë se një punë ( 11 % punojnë edhe në sektorin publik dhe atë privat, kurse 8% punojnë në sektorin publik dhe në biznese vetanake). Kurse tek të tjerat janë përfshi si pensionet, ndihmat e ndryshme si remitancat etj.

**FIGURA NR. 3:** Pyetja: " Sa janë të ardhurat tuaja mujore?"

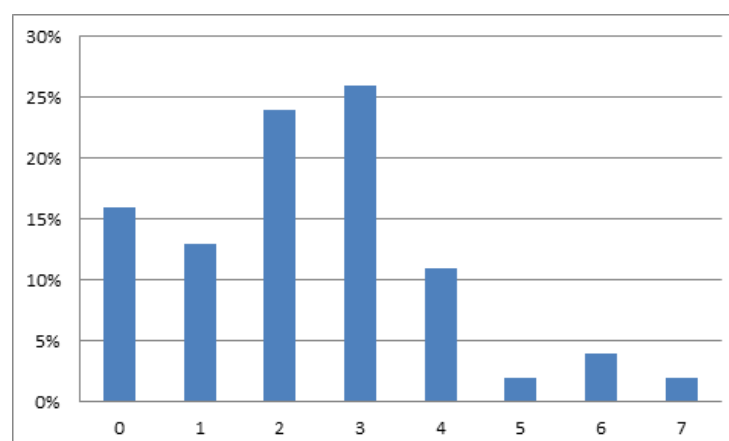


**TABELA NR. 1:** Numëri i anëtarëve të familjes dhe sa nga ata janë të aftë për punë

Nr. I anëtarëve në familje	Nr. I pjesëmarrësve	Anëtarët e aftë për punë	Ne %
2	2%	2	2%
4	27%	2	16%
4		4	11%
5	50%	2	8%
5		4	29%
5		6	12%
mbi 6	21%	2	1%
mbi 6		4	5%
mbi 6		6	8%
mbi 6		mbi 6	7%

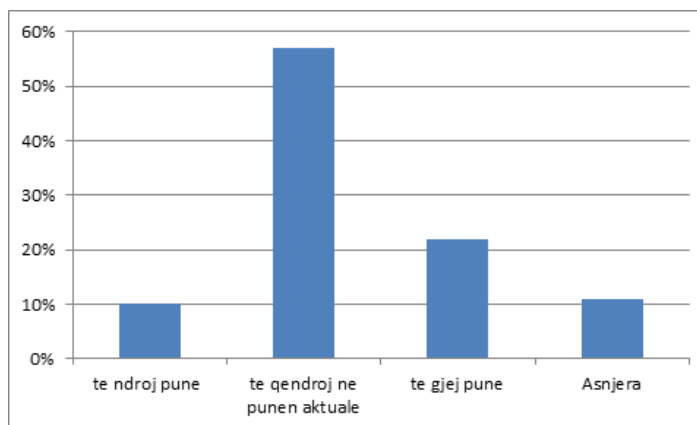
Nga tabela shohim që kryesojnë familjet me pesë anëtar pasi 50% të anketuarve janë familje pesë anëtarsh dhe që katër anëtarët e familjes janë të aftë për punë.

**FIGURA NR. 4:** Pyetja: " Sa anëtar të familjes suaj janë të papunë?"



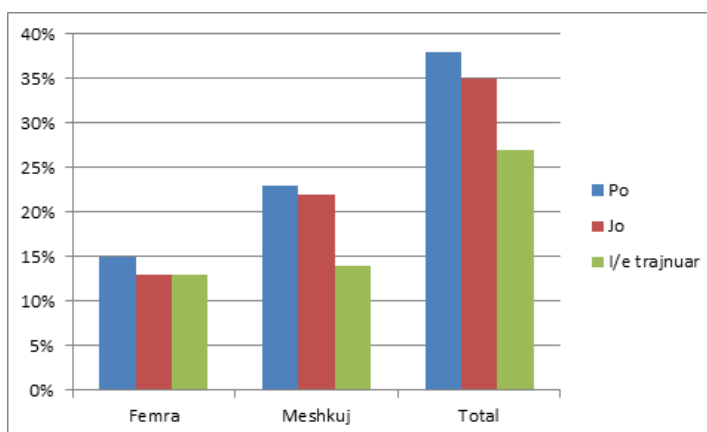
Nga grafiku shohim 2 respektivisht 3 anëtarë të çdo familje Kosovare janë të papunë. Pasi nga anketa ka dalë që 28 % e të anketuarve kanë deklaruar që kanë 3 anëtarë në familje të cilët janë të aftë për punë mirëpo nuk janë duke punuar pasi nuk kanë gjetur punë ende në Kosovë. Kjo na lë të kuptojmë që numri i të papunëve brenda një familje në Kosovë është i lartë. Duke u nisur edhe nga ajo që moshë e cila është më së shumti e atakuar nga papunësia është ajo në mes të 15 deri 24 vjeç. Kjo le të kuptohet që pse kjo kategori është më e lartë dhe shkaqet për këtë janë të shumta si: shkollimi, vetëbesimi, paaftësia, mungesa e praktikës, pesimizmi, jo perspektiva etj. Mungesa e vendeve të punës që në Kosovë çdo ditë janë duke u pakësuar po shkakton edhe migrimin e të rinjve drejt shteteve të zhvilluara drejt një jete më të mirë. Pasi pasiguria për një të ardhme me punë është një nga shkaktohet e migrimit që ndikon edhe në rritjen apo rregullimin e papunësisë.

**FIGURA NR. 5:** Pyetja: "A jeni të interesuar të gjeni punë apo të ndërroni punën aktuale?"



Nga grafiku vërehet që 57 % e të punësuarve dëshirojnë që të qëndrojnë në të njëjtën punë ku janë duke punuar. Vetëm 10 % e të anketuarve deklarojnë që do e kishin ndërruar punën në të cilën janë duke punuar, kurse 22 % të anketuarve deklarojnë që ju pëlqen të gjejnë punë. Në fund 11 % kanë deklaruar që nuk e preferojnë asnjërën nga opsionet e ofruara. Këto përqindje tregojnë qartë që personat e punësuar të cilët janë anketuar nuk mendojnë që të lëvizin nga organizata ku janë duke punuar pasi nuk kanë ndonjë perspektivë tjetër që do të gjejnë një vend tjetër më të mirë. Shtrohet pyetja: a është kjo si pasojë që vendi ynë ka dalë sistemi socialist kur një i punësuar nuk ka kërkuar punë deri në daljen e tij në pension? Apo është si rezultat i mos pasjes së alternativave të tjera pasi kërkesa për punë është mjaft e lartë ndërsa oferta shumë e ulët? Apo është thjesht që këta punëtorë janë të kënaqur me punën e tyre aktuale dhe nuk shohin për alternativa të tjera. Për të kuptuar këto pikëpyetje do e shikojmë grafikun e radhës që i korrespondon pyetjes "Puna juaj është ajo për të cilën jeni të kualifikuar?"

**FIGURA NR. 6:** Pyetja: "Puna e juaj a është ajo për të cilën jeni të kualifikuar?"



Nga përgjigjet e anketuarve del që 38 % e tyre deklarojnë që janë të kualifikuar për punën që janë duke e kryer. Nga 38% i anketuarve 15 % prej tyre janë të gjinisë femërore dhe 23 % e anketuarve janë të gjinisë mashkullore. Kurse 35% të anketuarve kanë deklaruar që puna që kryejnë nuk korrespondon me kualifikimet e tyre. Nga 35 % i të anketuarve 13% janë femra dhe 22 % janë meshkuj. Kjo pasi në shoqërinë shqiptare mashkulli është edhe bartësi kryesor i shpenzimeve familjare, gjë që shpesh i shtyn ata që të kryejnë edhe punët që nuk korrespondojnë me kualifikimet e tyre dhe nuk kanë kohë për të përzgjedhur punët që ju përshtaten. Në fund 27% të anketuarve kanë deklaruar që janë të trajnuar për punën në të cilën punojnë, por kjo nuk do të thotë që puna që kryejnë korrespondon me kualifikimin e tyre edhe përkundër që janë të trajnuar për atë punë.

## Konkluzione/ Rekomandime

Në fund mund të konkludoj që “ kanceri “ i ekonomisë së vendit edhe i shpresës njerëzore është papunësia. E cila ndikon në shkatërrimin e ekonomisë dhe lë shenja të rënda që vështirë mund të rregullohen apo riparohen.

Si rrjedhojë e papunësisë së lartë dhe ofertës së ulët të punëdhënësve popullata është shumë e kënaqur nëse gjen ndonjë punë pa marrë parasysh çfarë pune është ajo. Kjo pastaj shpie deri drejt paqëndrueshmërisë shoqërore që po manifestohet me shumë probleme dhe stres.

Krijimi i vendeve të punës duhet të jetë në fokus të politikave dhe strategjive të zhvillimit të Kosovës. Kosova duhet që të mundohet më shumë që të tërheqë më shumë investitorë duke ju krijuar një klimë më të përshtatshme të zhvillimit të investimeve të tyre. Pasi kjo formë është shumë e nevojshme për uljen e nivelit të papunësisë në vend. Së pari duhet që të shihet se ku po çalon politika investive në Kosovë, çka po i pengon investuesit që të investojnë në Kosovë dhe duhet që këto të meta të rregullohen në mënyrë që të rriten investimet dhe njëkohësisht me këtë rritet edhe mirëqenia e qytetarëve.

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# In-line water safety systems based in wireless sensor networks

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## Abstract

*Living in the modern times is becoming more challenging every day. Industrial wastes, pesticides, toxins used from the humans are becoming a real threat for their health. In all this closed cycle the most important is to secure the air and water purity. All the wastes go in the water that we drink and this happens every minute and every hour. Public health threats are major incentives encouraging the development of new technologies for in-line monitoring systems that can optimize operation of the large scale supply networks, prolong service life, evaluate performance and improve the security of water supply to customers. The purpose of this paper is to contribute toward improving the water purity, testing and monitoring the resources where we get the water or in other words the in-line monitoring and control of the water systems. In this paper we study, design and test a new protocol of communication between toxin detecting sensors. This system is going to help with monitoring of water sources in order to signal any change in the toxicity threshold. The protocol makes possible the communications between sensors covering a wide area ensuring the quick and efficient communications with the monitoring centers and updating their respective databases. On the other hand the database entries over a threshold value will cause an alarm for stopping filling water from the respective spot, until the parameters become normal as a result of automated systems interventions. In this protocol only few nodes will hold the communication within a mini cluster of sensors, giving the possibility for good quality and low cost communications. Those mini clusters can be fixed or moving depending from the kind of the water source.*

**Key words:** *Wireless sensors networks, GPS, actuators, wireless sensors protocols, ad-hoc networks, hierarchical schemes, etc.*

## Introduction

The purity of food, air and water is the biggest concern for everyone in the planet since the more we use the industrial and technological benefits the more conscious we become for their waste's influence in our resources purity. But even knowing the importance of the water safety, the investments from governments are inadequate and mostly go for collecting hydraulic data usually to control the status of pumps, valves and pipes. On the other hand the number of continuous data collections locations is small in number and usually the purpose of their collections is the maintenance or the billing (e.g. data from Automatic Meter Readers, AMR). As for the water quality sampling generally is done through the so called grab samples (single point in time) taken in special locations which are even rare in number.

## Wireless Sensors for In-Line Water Monitoring

Many problems and situations raise the need for Real time Water monitoring such as: High water toxicity and pollution throughout the world, communications quality, information delay and security, infrastructure, range of surfaces surveyed and communication cost. These are serious challenges for the research community and raise the need to use new sensing ways and communication control techniques.



There exists a lot of work previously done in this field. In [1] paper the authors consider how to sense the quality of the pipes, monitoring their condition, but they don't consider monitoring the quality of water and further more considering the water quality in the source. Recently monitoring the water quality in the source is taking more attention from the research community.

Usually the drinking water quality measures are determined to respect the World Health Organization (WHO) [7] guidelines for drinking-water qualities. The standards for drinking water quality parameters require that the microbiological, chemical and indicator parameters must be monitored and tested regularly in order to protect the public health. When from the samples received results a contamination problem the contamination warning system (CWS) launches a public warning about the threat. But at this point it might be too late. Maybe the contamination starts at the source and it would be much more effective and less harmful to detect the problems right there. But it would be more economical, safe and manageable if this testing would be in-line, in the rivers and reservoirs.

## Previous Research in Water Quality Monitoring

As we mentioned before, the government investments are usually directed toward monitoring the water systems *in the populated areas*.

But most of the problems would be resolved if the water monitoring would happen *at the source*. The earliest detection would cause less harm to humans and the possibility to fix it would be higher. Knowing the importance of in-line water monitoring recently it is a lot of work done in this area. Here we can mention the work of researcher group from the Valencia University.

In [2] the group of researchers use sensors network to detect the river pollution. They focus their work mainly in nitrates water pollution without considering *the heavy metals detection* and moreover the water quality in the sources. They use *only a few points* and the communication is overlapped which causes delays in information collection.

**In [4] the authors consider monitoring the drinking water system by using sensor that detect mostly bacteria (e-coli) and the sensors are placed in a small area.**

In [5] the authors consider that sensors will be connected to the Internet, but this is not possible always especially in the case of water sources that are found in rural areas. Also there are Safety problems. On the other hand the sensor nodes used to collect data are static. This means that the data will be collected only from few points as a result the conclusions about the water quality in the large area might be wrong. The existence of the large areas makes it costly to cover with sensors. One of the possible solutions to this problem might be the use of moving sensors as we propose in this work. As by our protocol sensors will be organized in groups and they move towards the flow.

## SafewaterComm protocol's qualities

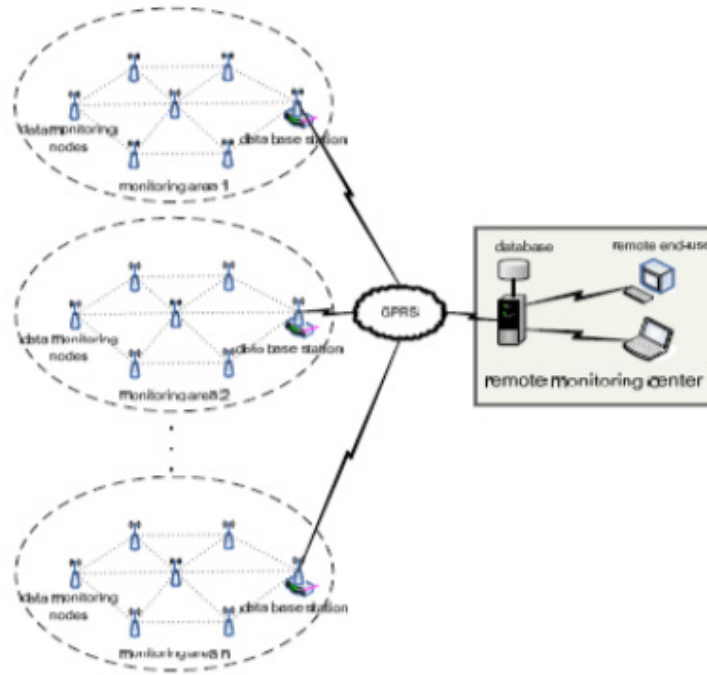
We think that we should monitor the water before it enters the pipes, because is safer and less costly. In this way we prevent the use of toxic water from both water companies and populated areas.

In the other hand we will monitor the water during the flow, creating in this way a detailed view of everything that goes in it. The sensors are organized in groups that move towards the water flow recording data during the tunable time slots. The data will be collected from a certain sensor in each group. A similar scheme is used for sensing air pollution in Dubai area [7]. But in this work they suppose the urban area has communicating infrastructure and each node communicates with a base station. In our protocol the sensors will communicate with the Cell Center creating a wireless ad-hoc communication protocol. Their data will be forwarded to the central data base and be updated according to the data acquisition rate. This protocol prevents spreading of the problem in the case when a higher toxicity than the threshold will be detected. In a later time the respective services informed by the collected data in the central data server will take care of the problematic area. This will be part of the control and actions decided by the respective companies.

As by this protocol sensors will be organized in groups and they move towards the flow. The hierarchical protocol saves cost in the point of view of the need for more complex sensors only for the centers. The moving clusters of sensors represent nodes of an ad-hoc network with a hierarchical 2 level communication scheme.

Most of the previous papers take in consideration the use of the wireless infrastructure (fig.1). SafeWaterComm protocol considers the ad-hoc wireless network created from the wireless sensors that transmit the information between the sensor nodes.

**FIGURE 1.** Water environment Monitoring System based on WSN

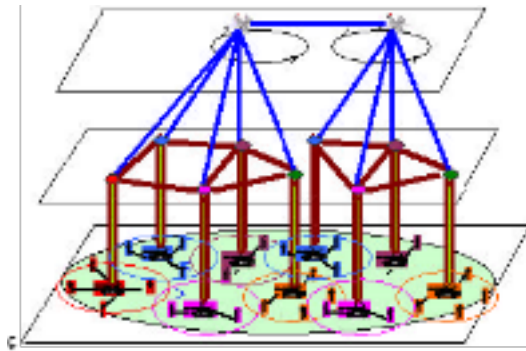


In the case of SafeWaterComm protocol the role of the base station is played by the head group sensor which will have more processing power than the other nodes. Our approach is based in our previous work on intervehicle communication protocols adapted and developed for water safety sensors communications. The river area is divided in virtual cells (fig.2) and their sensor nodes density is changeable. This is related to the area specifics or to a certain critical moment. For example for urban areas or points where the water safety is doubtful, it will be important to have more data, which means more sensor nodes and a fine grained study is needed.

**FIGURE 2.** Sensor distributed in the river area.

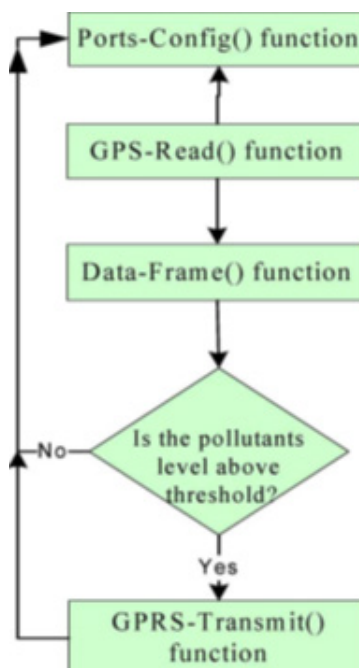


In this protocol we use a virtual infrastructure created from distributed sensors. As we mentioned before the nodes density is tunable and as a result the levels of hierarchy of this infrastructure are tunable, too. We use a hierarchical communication scheme in order to have a low cost approach. This can be explained as in figure 3, where the 3 levels of the hierarchy correspond to the three planes. At the bottom we have the first level. Each sensor represents a simple sensing unit that transmits to the sensing neighbor with a higher scale of hierarchy (called Cell Centers). Then, the second plane is the second level of the hierarchy created from all the Cell Centers. Here each node represents a sensing unit that has a certain number of neighbors (less than a certain number  $M$ ). Each one of them is a cell center for the first level and is located somewhere in the center of the cluster. The third level of the hierarchy is created from the centers of the previous level.

**FIGURE 3:** Multi-level hierarchical ad hoc sensors network

### Data flow and quality control in SafeWaterComm protocol

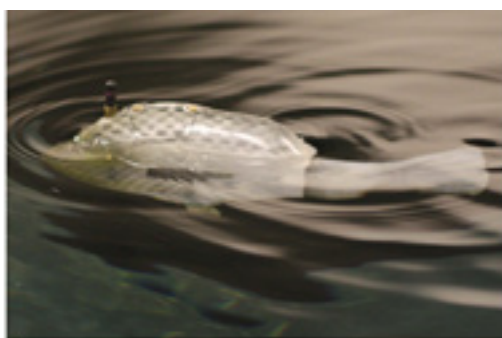
As we mentioned before the data flow corresponds to the hierarchical scheme of our communication protocol. The data collected from sensors will be transmitted from the GPRS together with the GPS data giving the current node position. The cell center will forward the data set from all the nodes included in its cell to the next hierarchy center till they reach the sink. After that moment the data set will be transmitted to the data center. The traffic in the network will be of a lower load if the nodes transmit with a lower rate. The algorithm that gives more intelligence to the nodes and less traffic load to the network selects the data set and transmits only the data which is above a threshold. (fig.4). The threshold value can be changed or tuned depending on water quality requirements or toxicity situation severity. On the other hand the density of sensors inside the cells is changeable. This can be completed by using the sleep-awake scheme depending on the situation, weather, season etc. The data flow selection algorithm, the sensor sleep-awake scheme and the data collection rate are tunable giving a lot of flexibility to the protocol functioning in order to contribute to a minimal power consumption and network load. A flexible Virtual Infrastructure is created and maintained to enable scalable and effective communications. In each cell we select one node to connect and manage the communications with all the nodes of that cluster which will be considered as Cluster Head or a Cell Center(CC). The hierarchical distribution of cluster Heads will be transferred to the hierarchy of their costs. This structure enables the optimization of the routing process. Depending from the technology used the Cell Center is placed from the designers group or is self-chosen and is located approximately in the geographical center of the cell in order to have same communication distance from the other nodes. At a certain rate each node updates the data from the GPS, which gives the Coordinates  $(x,y)$  for each node at a certain moment(fig.4). Then the higher ranked nodes transmit the data along to each-other using them as intermediate communications points and finally transmit the data to the gateway connected to the Internet, toward the Information Management System (IMS), that can be a data center connected to the Water controlling centers that might be of a local or national rank. On the other hand those centers decide about the active nodes distribution modifications in real-time

**FIGURE. 4** Data flow selection algorithm

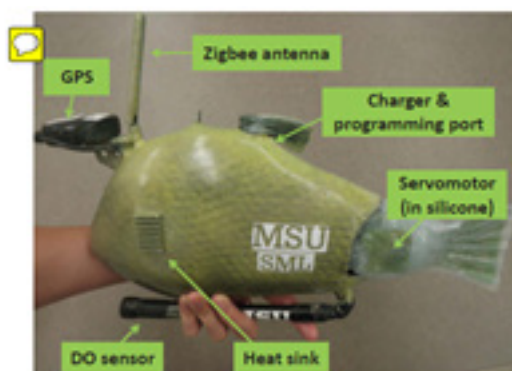
### Mixed Sensor-Actuators fleet architecture

In the case of SafeWaterComm protocol both strategies might be used, having fixed or moveable sensors. Especially for large areas it will be more convenient to have moveable sensors or actuators. The group of sensors to describe a certain area of the water source will be considering as a patrolling group. The cell members choose a center that will behave for a certain time interval as a Base Station. In the case when one node has more processing power than the others, this will behave as a cell center. Every node has its geographical position given by Global Positioning System (GPS). The moving set of sensors moves following the water river natural flow or with a different speed if a certain actuator is used. A very similar equipment created by the research team in Michigan State University (MSU) is robotic fish (fig.5) and (fig.6) can be used as the center of a certain configuration. The benefits of this architecture is related to the minimum number of sensors used for data collection at a certain moment but having the data from the whole area in a certain time period after the whole sensors' fleet describes it. (Fig 5) The patrolling set can have a different number of sensors or several sets can patrol the river large areas. In (fig6) a more detailed actuator's (robotic fish) scheme is shown and the sensors set can be incorporated in it (fig.7). The sensors nature is related to the analysis and control requirements depending from the guidelines given from the National Water control Center for the certain river area in a certain moment. For this model, we propose a packed Sensing Box to be used in Cell Centers that includes: a microcontroller board with add-on sensors, a peripheral GPS receiver, and a cellular modem. The unit will be connected to the robotic fish that would provide the power supply needed to operate

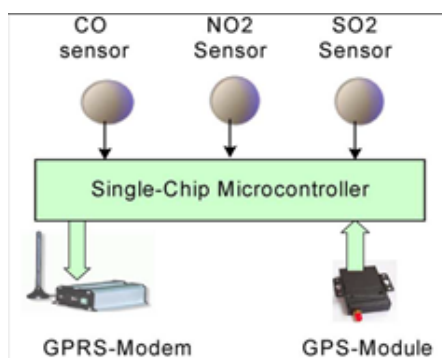
**FIGURE 5.** The robotic fish



**FIGURE 6.** The MSU fish and sensors incorporated



**FIGURE. 7** Several sensors incorporated with the robotic fish



## Mixed Standards Benefits

The communication protocols might be IEEE802.11 mixed with Zigbee. It is known that Zigbee can be used for short distances. For this reason we can use Zigbee for all communications inside the cell, or as we can say for all communications in low levels of hierarchy. But for communications between the Cell Centers of different levels of hierarchy we can use IEEE802.11. This way we can save the batteries life. ZigBee represents a high-level communication protocols used to create personal area networks built from small, low-power digital radios. ZigBee is based on an IEEE 802.15.4 standard. Though its low power consumption limits transmission distances to 10–100 meters, depending on power output and environmental characteristics, can be increased by using intermediate nodes or mixed protocols.

ZigBee is typically used in low data rate applications that require long battery life and secure networking (ZigBee networks are secured by 128 bit symmetric encryption keys.) ZigBee has a defined rate of 250 kbit/s, best suited for intermittent data transmissions from a sensor or input device.

## Protocols Benefits and future work

SafeWaterComm protocol is an ad-hoc wireless sensors' communication protocol designed to be used for in-line water monitoring and control especially in large areas before that the water gets collected. As we mentioned before this will save the cost of filling toxic water and will increase the water safety. The protocol that we propose is efficient and gives the possibility for studying, monitoring and controlling large areas water surfaces having the possibility for a fine grained data collection. The number of collecting points increase but this doesn't cause increase of communication network load, as we use a hierarchical scheme. The fact of using hierarchical communication scheme brings several benefits, as: a) low cost for the hardware. Only the Cell Centers need to have more complex design, memory and transmission power, b) Low network load as it will be less communication toward the gateway. There are few centers that hold most of the communication with the sensor nodes. For the case of several levels of hierarchy there are mostly Center-Member communications, only few of second level of hierarchy communications and even less of the third one, c) Low consumed power and latency. d) More data collected as there are more sampling points, more locations visited from the moving sensors fleet. The hierarchical scheme ensures more flexibility on data collecting rate, data collection points and less processing power for most of sensors excepting the cell center which can ensure less power consumption.

On the other hand the possibility of using mixed sensors actuators scheme increases the collecting points and also gives the possibility of having a more limited number of sensors by using a moving patrolling set architecture. The cost saving analysis simulations comparison of this architecture will be part of our future work

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# The implementation of e-government in Albania

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## **Abstract**

*The flow of information is essential for effective governance and managing the day-to-day business of government services. Government work is very information intensive. The production of most government services consists of creating and communicating information. Every aspect of a person's public life generates information. Each tax payment, license renewal, birth, death, marriage, land purchase, and so on generates data that is collected, processed, stored, communicated, and analyzed by most governments. All of this information is the basic ingredient for governments to govern, manage its resources, provide services, and account for its performance. Database processing in Albania and public use of information is at an early stage of development and is still considered as future potential expectation for a better governance. Decentralization and strengthening of the local autonomy; as well as participation of the citizens in local governance, today is a challenge to afford. Political programs of governments have not considered a priority the information management systems in Albania, especially in Public Administration, yet. Having secondary considerations, the information systems in local and central level are still not integrated and incomplete. This study examines issues caused by the missing of technology as a tool for a better governance and looks at some ways to turn into efficiency the information systems in Albania.*

*Key words: e-government; information systems; database processing; citizens*

## **Introduction**

Governments are turning to new technologies to enhance service delivery to their citizens, and thus improving citizens and state relations. The e-government initiatives are focusing on renewing their administrative structure and processes. Additionally, these Governments are trying to provide government information and services online for fast delivery and cost effectiveness. E-government concept is becoming a significant decision-making and service tool at the municipal, regional and national government levels. The vast majority of users of these government online services see significant benefits from being able to access services online. International experience and major international programs – to identify ways of ensuring that the digital revolution will benefit the population of the whole world – have demonstrated that electronic government and governance can make an invaluable contribution in creating digital opportunities for the public. An increasing number of countries and international organizations are realizing the benefits of e-government in the economic, social and administrative sector. The drive to implement e-government has resulted in the formulation of many e-government visions and strategies, driven by their own sets of political, economic and social factors and requirements. The missions and objectives incorporated in these e-government strategies focus on a variety of goals, from online service delivery to the modernization of public administration and the competitiveness of national economy. The aim of this paper is to highlight the results of up to now achievements of e-government in Albania, as an important tool to increase citizens' participation and benefits and to explore interesting implications for policy makers and public authorities in order to maximize the public benefits from a good implementation of e-government in Albania.

## Electronic Government in Albania

Albania is still fighting against its 50 years build up centralized system in this long transitional period. Networking is limited to international organizations and a few government institutions. Technology as a tool for better governance and quality management is almost missing at the local level, while the Government of Albania is strongly committed to proceed to the local government decentralization reform. Database processing and public use of information is at an early stage of development and is still considered as future potential expectation for better governance. However, several Internet provider agencies are established and there is clear public benefit out of its use showing a great midterm future rush to be part of the world network age. Given the rather low incomes for most of the people, access to technology for most Albanians is rather difficult. Recent growth and poverty reduction strategy underway in Albania presumes investments in education and health sector, a way that would provide Albanians with better tools and make them more productive and prosperous. The electronic government is a long process that goes through stages such as electronic information dissemination through a web presence up to the total transformation of the governance through the process of offering reliable, secure, easily accessible, public services online with an active participation of citizens and businesses. The “e-government for Development Initiative”, announced in April 2002 at the International Conference “e-government for Development” in Palermo, promoted the start-up and the implementation of e-government projects in the beneficiary nations, including Albania. The Project was launched in the beginning of 2005, and is closely linked with the Gov. Net Project; it focuses on technical assistance in establishing a Government E-mail system, an intranet and deployment of the existing systems and databases on top of the Gov. Net. A training component was established to assist with improving capacities of the key IT staff in the line Ministries to ensure security and reliability of the Gov.Net.

## Some of the achievements of e-government in Albania at central level

Electronic Government in Albania is still in its early stages and some of the achievements so far are:

- The government network GOVNET, made possible through the support of UNDP and European Commission, that is operational. Thanks to this project, the Ministries, Departments of the Albanian Government and two public service organizations (altogether 18 institutions) are interconnected through a high speed fiber optic network that has enabled the use of the following programs.
- Medium Term Budgetary Planning, Management of Human resources by the Department of Public Administration.
- Electronic system of the Ministry of Justice that enables court related background check for the citizens.
- The information system for 14 border crossings has been completed;
- The creation of up to date civil registry by means of computerization of the records is in action. All the ministries now days have their own websites and an electronic database that display the laws and regulations, latest relevant activities for the ministries, strategic documents by enabling the dissemination of the information electronically. The publication of the official gazette and the legislation as well as offering an electronic service regarding court related background check for the citizens. In the process of the computerization of the SAA implementation performance and legislation harmonization, particular attention should be given to the continuous improvement of the information technology related systems. This will make possible the “online” services regarding the integration process. With the support of GTZ, an information system has been established that provides prices for agricultural products, mainly fruits and vegetables in some of the country’s biggest markets such as Tirana, Korçe, Fier etc. The data is processed and then uploaded in the website of the Ministry. This system is not digitalized and does not offer online service. The efforts made so far towards the electronic dissemination of the information have had a positive impact with respect to an increased governance transparency. The government has undertaken a far reaching reform program that aims to increase transparency, fight against corruption and accountability. The government is paying special attention to the creation of an infrastructure for an information society and especially equipping the citizens with identity cards and electronic passports. The National Agency for the Information Society has carried out an evaluation of the existing IT infrastructure within the central administration and identified areas of improvement. Although progress has been made toward the electronic government a number of problems and needs require further improvement:
- Increased awareness and knowledge across the public administration regarding the importance of the information technology in the process of electronic government and good governance;
- Improvement of the information technology infrastructure in the public administration;
- Standard definition with the aim of increasing effectiveness at work and lower operational costs;
- Increase of information technology capacities and human resources and their continuous upgrading of the skills.

## Public Services

Public services and their effective distribution have a great impact on the economic and social development of a country. During the transformation process into a knowledge based society that a country undergoes, it is very important to offer those services effectively, promptly and in a transparent manner in line with the needs and demands of the citizens and businesses.

- Public and electronic procurement. The new law on public procurement allows for electronic procurement. The electronic procurement platform is a web based application that enables the automating of procurement activities for various line ministries and contracting authorities. This system allows transactions among Albanian public institutions and national as well as international business community. It also provides a secure, efficient and transparent preparation and administration of all the documents related to public procurement, avoiding thus the paper delivery of the documentation and ensuring a secure data workflow during the process. The Electronic Platform is a point of access that offers business opportunities for Line Ministries and Contracting Authorities. Economic Operators can use the services offered to locate offers as well as participate in the entire process electronically.
- The project for the computerized system of the public finances (treasury system), state budget and the debt system, financed by the World Bank and the State Budget has already been completed. The formulation and amendments to the anti-money laundering legislation as well as the upgrade of the Information technology. The Financial Supervisory Authority was established with the aim of risk management by focusing on identifying, gauging, prevention and early elimination of main potential risks that threaten market performance. Progress has been made towards oversight of the insurance market, private pensions and securities. Nevertheless further information technology improvements are required with respect to creating a reporting and oversight platform for the insurance market and private pensions. A Financial Stability Advisory Group has been established with the aim of coordinating all the activities in this field.
- General Directorate of Taxation has introduced on-line methods for the declaration and payments from the largest taxpayers. According to the results of a poll on big businesses conducted by IDRA, 24% of businesses outside Tirana and 9% of those in Tirana use as their primary source of information the website of the General Directorate of Taxation. Meanwhile the percentage of the businesses that download the declaration forms from the website is 4% which reflects the low level of confidence.
- In the Customs Authority “ASYCUDA” system has facilitated the real time data processing customs declaration, accelerated the processing of cargoes, improvement of the revenue control and offers updated, reliable information for the trade of goods and merchandise. This project was financed by the European Commission Delegation in Albania, through CARDS Program. This system has already been implemented in 17 customs branches and two customs border crossings. In 12 customs branches and two customs border crossings the communication with the Customs Headquarters is carried out on-line and for the remaining five customs branches communications is conducted through email. The system ensures the processing of up to 99 percent of the transactions nationwide. Some of the advantages offered by the system are; the automatic processing of customs declarations from the moment of registration up to the moment of payment, the unification of customs procedures across all the branches, direct access between the branches and the headquarters, electronic checkout of transit goods, higher data processing capabilities and statistical report generation, automated risk analysis and many more built-in functions.
- In the healthcare field (e-health) the Ministry of Health has already commenced working on the creation of an information system for the Management of Healthcare Statistical Package in cooperation with the Institute of Healthcare Security and the Management of Healthcare Activity is being extended to include Primary Service thanks to funds allocated in the year 2008 budget. An integrated national healthcare system is envisaged and will be made possible with the support of World Bank. Despite those efforts a lot needs to be done with respect to offering healthcare service through electronic means or e-health.
- In the Culture Sector (e-culture) According to the forecasts in the medium term budgetary plan, the Tourism Ministry has planned the installation of an internet network for all the subordinated institutions as well as personnel training in order to improve services and information exchange. At the same time the creation and classification of the national heritage stock, movable or immovable, state or private owned; network connection of all the institutions charged with managing cultural heritage, as well as customs branches with the aim of making the information available to the experts and control the transfers of the cultural heritage of the immovable property; creation of an integrated network of guides for the cultural tourism, widely available for public use.
- In the Employment sector, thanks to a project financed by the Swedish government, the establishment of information technology system for the employment in the Tirana and Korça region has been made possible. This system allows the employers to post job openings and makes it possible for employees to search them.

## Education and knowledge

There are 465.000 primary and secondary school students and 65.000 high school students in Albania. There are approximately 2.900 primary schools and about 522 high schools. This amounts to an average of less than a primary school per village and a little more than one high school in every commune. In the course of the IT master plan implementation there are 732 currently functioning computer labs in schools out of which 353 were built in the year 2008. In 37 high schools there are two computer labs; 18 schools use the internet service arranged for independently. Currently there is one computer for 45 students. Another very important project, the “Computerization of high school student’s records” was also completed in 2007. This allows the creation of a comprehensive database including all the students’ records. The computerization of the “Primary/ Secondary schools” is intended to be completed by 2009.

For the high school system 2000 digital projectors and 2000 Laptops were purchased, with the intention of using the equipment in mobile labs for teaching additional subjects. All the universities have currently their internal computer networks

and the internet service is arranged for independently. Computer equipment in a large number of universities is scarce and worn out. A teleconferencing project among the universities has already been envisaged through the cooperation of SEM (science and education ministry) Italian Cooperation and specialist involved in scientific research. This network will provide them with the means for information exchange in scientific research for domains across the board. The IT project for schools is a core component of the major initiative that the Government has embarked on to include Albania into the digital age. The computerization of the schools is at the epicenter of the development and this will further support Albania's aspirations to be integrated in European Union by ensuring higher standards in education. Teacher's training with respect to the teaching techniques based on the use of information and communications technology, as well as updating of the curricula is part of this program; The government is also engaged in the inclusion of information technology students in development, training or internship programs within the public administration. The steps that have been planned and undertaken till now will contribute towards the achievement of important objectives:

- Establishment and installation of the necessary infrastructure for the development of the information society (IT-schools);
- Inclusion of the IT knowledge in our education system;
- Creation of an encouraging and supporting environment for the sustainable development of the information's society in schools and universities;
- Inclusion of all the scientific and research potential in the IT realm;
- Creation and development of comprehensive human communication networks and especially research and scientific ones in the context of global society.

### **Public and business IT education**

While great efforts are being made in the e-schools program more remains to be done for the dissemination of information and communication technology among businesses and public at large. They will benefit from the advantages that the technology has to offer and at the same time become an active part of information based society. The following endeavors are being made:

- Significant increase of the number of IT publications for the citizens;
- Presentation and harmonizing of the e-education standards;
- Structural development and content enhancement as well as boosting IT education for all levels;
- Promote modern and flexible education methods based on IT, long term learning, distance learning, short term learning etc;
- Sustainable development of the academic research network as one of the pillars of an effective and updated action plan of the education institutions at a national and international level. Efforts will be directed towards offering online services for the consumers and provide the means for them to present claims that they have for goods and services to state institutions for the consumer protection by offering at the same time consultation electronically (e-consultation). This process will be conducted in cooperation with Information Technology professional association, consumers association, Chamber of Commerce etc. The progress made up to now, regarding the increase of the number of internet users, demonstrates among other things an increase in the level of awareness of the public with respect to the benefits and possibilities offered by the IT. By the same token an increase has been experienced in the use of the information and communication technology especially by large businesses. Nevertheless the internet penetration remains at low levels. One of the reasons is the low level of IT knowledge as well as the benefits that the use of the information and communication technology has to offer. The measures taken for the introduction of IT related learning in the education system should be associated with education plans for the population at large that in one way or another would turn it into a wider user of information or electronic services. The education of small and medium enterprises (SME) should be given a special importance due to the benefits and opportunities that the IT has to offer. The obligation to bestow special interest for the education of small and medium enterprises, is based on the special role that the SME sector has for Albania, bearing in mind that especially the role of the micro-enterprises is considerable given the fact that they employ 77% of the workforce. While the micro and small enterprises employ 59.8% and contribute 63% of the sales, when you add the contribution of the medium enterprises, the total sales number of SME is 79%, thus constituting the very basis of non-agricultural economic sector in Albania.

### **Implementation related problems**

The implementation of e-government must be considered in national and local level. In national level the responsibility for the implementation components will rest on ministries and relevant institutions, while in local level the responsibility for the implementation will belong to local public administration. Cooperation between the civil society and private bodies is relevant in this case. There are several core factors that have been identified in UN reports on ICT and have also been discussed in various forums advising developing countries in ICT and e-government projects.



**TABLE 1:** Factors impeding an enabling e-government environment in developing countries

Core Factors	Symptoms	Consequences
Institutional Weakness	Insufficient planning Unclear objectives	Inadequately designed system Cost over-runs
Human Resources	Shortage of qualified personnel Lack of professional training	Insufficient support Isolation from sources of technology
Funding Arrangements	Underestimated project costs Lack of recurring expenditure	Unfinished projects Higher maintenance costs
Local Environment	Lack of vendor representation Lack of back-up systems/parts	Lack of qualified technical support Implementation problems
Technology and Information Changes	Limited hardware/software Inappropriate software	System incompatibility Over-reliance on customer applications

The implementation phase requires translating commitment into action at both levels, national and regional. The big challenge will be bringing national strategies into overall development and governance practices. Whereas governments traditionally guarantee a certain level of quantity, frequency, scope and quality of government services while citizens passively receive these services, the digital advances of the global information revolution challenge these conventional means of governance. The penetration of the Internet into the public domain accelerated technological progress, triggered by the ability of the Internet to disseminate information and eliminate borders and distances. Another implementation factor is dislodging people from their culture. The empowerment of public servants is a key part of the overall culture change (Tupper, 2001).

### Citizen Involvement

In the business environment, the end users are involved directly or indirectly in the development of a product. In the e-government environment, the private sector should play a bigger role in its development to ensure greater progress. The community should be involved in bridging the digital divide, through the setting up of community Information Technology centers which will enable the citizens to have easy access. If the private sector and community are not in the equation, there will be no progress in the digital divide in e-government. It is the function of each government and developing country, in particular, to take the initiative in understanding the barrier to uptake the needs and expectations of the citizens or community. This, plus the improvement and communication of available facilities online, will have an increase in the usage of e-government. Additionally, the governments must rethink their strategies and focus on the mechanism of delivery and also create citizen impact which can be done by reorganizing online service delivery around customer intentions.

### Challenges and opportunities of e-government in Albania

The e-government processes and systems often mean facing new kinds of challenges, and in particular developing countries have many barriers to overcome. Once governments commit to strategies transforming their governance processes, significant challenges and opportunities will arise during their implementation. Confronting these challenges directly can be a means to turn these difficulties into new opportunities. In general it is worth while to consider the following concerns in the e-government initiative:

- **Infrastructure development:** All countries implementing e-government have struggled to develop a basic infrastructure to take advantage of new technologies and communications tools.
- **Law and public policy:** The application of ICT to government may encounter legal or policy barriers. Legislatures must ensure that laws are updated to recognize electronic documents and transactions. They must take proactive steps to ensure that policies support rather than impede e-government.
- **Digital divide:** Class, race, ethnicity, geography and other factors could lead to groups of people being disenfranchised. In many countries, content must be provided in more than one language or dialect. E-government must also address the needs of those who are illiterate.
- **E-literacy:** Even in areas where access to technological infrastructure is nearly ubiquitous, there are still marginalized groups who are unable to make use of ICTs because they are not e-literate. E-government programs will have to take special steps to include people who are not e-literate.
- **Accessibility:** Governments must serve all members of society irrespective of their physical capabilities. Online services will have to be designed with appropriate interfaces – this may have significant cost implications.
- **Trust:** To be successful, e-government projects must build trust within agencies, between agencies, across governments, and with businesses, NGOs and citizens.
- **Privacy:** Privacy is one of the most important issues facing the Internet. Governments must be responsible custodians of the enormous amounts of personal information they hold.
- **Security:** Security is costly, but must be addressed in the design phase, as security breaches can shatter public trust in

e-government.

- Transparency: Government transparency should be embedded in the design of ICT systems.
- Interoperability: Rather than adding new systems on top of outmoded legacy systems, e-government planners should develop systems and record formats that work together and across departments.
- Records management: New technologies are being created to help manage information. Governments have unique needs in this field.
- Permanent availability and preservation: Historical documentation is of special importance for governments.
- Education and marketing: E-government services are only useful if people know about them. Education and outreach programs will be needed.
- Public/private competition/collaboration: Issues of public vs. private collaboration and competition are already part of an international debate on governance.
- Workforce issues: Human resources must be structured and managed with e-government goals in mind.
- Cost structures: While planning and budgeting in a changing climate is difficult, governments should seek to invest in sustainable programs that can produce savings.
- Benchmarking: Governments must regularly evaluate the progress and effectiveness of their e-government investments to determine whether stated goals and objectives are being met on schedule.

How have citizens benefitted from this reform? The E-Albania.al portal, is not only useful to Albanian citizens. It serves as a single window through which even foreign visitors can get information about the services offered by the Government of Albania, as well as other relevant information including a calendar containing important dates, emergency contacts and news. The portal represents the image of Albania in Europe and for this reason the content is published in Albanian and English Language, too.

## Conclusions

In this paper, we have delineated some of the factors that may influence the implementation of effective e-government in Albania. The major factors that may influence the implementation of e-government include, but are not limited to: education, change of culture, change in attitudes, applying the business model and involving citizens (customers). One factor alone cannot solve the e-government problem but the synergy of all the factors will facilitate the implementation of effective e-government in Albania and delivery. The implementation of an e-government strategy is not a process of linear change, leading continually to the improvements expected by the theory. In highly complex societies, the interaction of processes such as culture, geography, politics, economic attainment, globalization, participation in international organizations, can interact in unexpected and uncertain ways. These challenges should be realized, understood and addressed by e-government strategies in order for their vision to be implemented and to contribute as highly as possible in the process of economic, social and technological development.

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# Ownership and its importance

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## Abstract

*In this writing is treated the ownership as a natural and important law to be sanctioned in the Constitution and various legal acts, to regulate its relationship on the whole with all its elements and especially in relation to the possessor, so the lawful owner of the property.*

*Key words: The ownership, property law, sanctioning, real law, importance*

The property is one of the most important real laws for any legal system and therefore has been disciplined by the legislation of all the state formations starting from antiquity as it constitutes one of the most important economic and legal categories<sup>1</sup>. The establishment of the institute of the ownership, as one of the oldest legal institutes has its beginnings with the creation of the Ownership Law. The Ownership Law is one of the most important legal institutes of the Civil Law<sup>2</sup> in general and of the items law in particular.

From the Latin “Proprietas” comes from “Propius” and means “the right to enjoy and dispose items exclusively, within the limits and under the supervision established by the legal regime”. From a historical study of this law we notice that there is no complete definition of the Property Law, this comes as a result of the changes in the meaning of the notion of property in different legal systems and its many dimensions<sup>3</sup>.

Ownership means the Real Exclusive Law<sup>4</sup>. Other real laws like that of the “joy or guarantee over the items of others” are partial and exclusive powers<sup>5</sup>. The ownership can be tangible and intangible, it can belong to one or several owners. Due to the unlimited nature of the subjects, which are obliged to avoid its violation, the ownership is called “absolute law”. The ownership as a law, according to the Roman Law enables its holder to possess, use, exploit and dispose the item within the limits set by the Law<sup>6</sup>.

If we take a look in retrospect in the field of law and go to the genesis of justice, in the Roman Law we would notice different categories of the property laws and we can not say that there is a *prior* notion of the “ownership”. However, different types of property have been identified in the Roman Law, one of which is the private property, as a law that guarantees to persons, through the non-interference of any third party, the full disposition of the items.

With regard to the private ownership, the power deriving from this law was called *Dominium*.

Under the Roman Law, the owner of his property was the God.

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<sup>1</sup> Canaj, E. *Respect for fundamental rights and freedom in Albania as an integration criterion. Again (and still) on property law*, Jus&Justicia, no. 8 pg.93-103.

<sup>2</sup> Veliu, S., *The Property Law as a fundamental constitutional law and its legal protection*, Doctorate, UET, Tirana, 2016, pg. 1

<sup>3</sup> Talamanca M., (1990), *Institutions of the Roman Law* Giuffrè, Milano.

<sup>4</sup> Maho B., (2013), *Acquisition of the ownership over real estate*, UET Press, Tiranë.

<sup>5</sup> Madhi E., (2008), *Ownership protection and jurisprudence*, Tirana

<sup>6</sup> Gjata, R., (2010) *The Civil Law*, Tirana, ALBPaper, pg. 42.

The Ownership Law is one of the most important human laws<sup>7</sup>. Its importance has dictated the need to create tools and to build mechanisms of a protective character against the violations that may be caused by individuals and from different countries<sup>8</sup>. This legal protection exists in our country as well, without a doubt, with its characteristics<sup>9</sup>.

The Ownership Law is characterized by several elements such as the unity, free action and the property character, absolute and that of items.

Unity, because it is related to certain entities, so the law of ownership is unique and when the authorizations are enjoyed by many entities, because they can not change the content of the ownership.

Free action, because the Ownership Law has in its essence the freedom to dispose the item, as a characteristic of the absolute law, it enables the individual to take the item with him everywhere, if he has illegally taken possession of it. In this way, with the return of the item, only the actual exercise of ownership over the item continues. This is otherwise called the rational law. The notion of "property" has an autonomous meaning. It should be noted without a doubt that the domestic law is not the only one that protects the law of ownership or "the property". This notion is defined by other international acts and instruments, by acts of universal character as well as by the law at the regional level, acts that will be treated in the continuation of this study.

The ownership and the laws over it occupy a central position in any legal regime<sup>10</sup>. The ownership is a legal institution of economic, social and political importance<sup>11</sup>. In addition to being a social relationship, it is also a civil-property legal relationship<sup>12</sup>. The owner behaves with his item in the way he wants, excluding any other person who interferes in his behavior, as long as this behavior is not contrary to the law and the laws of others<sup>13</sup>. The Ownership Law is a very important fundamental law in a democratic state.

The article 41/2 of the Constitution provides that: "The property is acquired by donation, inheritance, purchase and any other classical way provided in the Civil Code". The constitutional guarantee is also the prescription of the possibility and the form of interference in the property law. The Ownership Law appears as an important factor in our post-communist society due to the transformations in the property system that accompany and characterize the transition of these societies<sup>14</sup>. One of the constitutional provisions stipulates that: "*The economic system of the Republic of Albania is based on private and public property, as well as the market economy and the freedom of economic activity*"<sup>15</sup>. The notion of ownership is first and foremost an expression of the economic asset, because, at its core, is the evaluation of the material goods by a certain person. Everyone is the direct possessor of his freedom and laws from the moment he is created as a being<sup>16</sup>. The human laws are fundamental principles, without which people cannot live as human beings with dignity. Adhering to them makes possible the full progress of the individual and society<sup>17</sup>.

The ownership is a relationship which has, at its core, the absorption of goods that may be the product of nature or human labor. When this relationship is regulated by the legal norms, it becomes a legal relationship which is regulated and protected by the Law<sup>18</sup>.

The rights that characterize the Ownership Law are: the law to possess, to enjoy, to freely dispose items within the limits set by the Law. It is a law of universal character. It is the law that the owner enjoys over his item, to behave in the way he wants and to exclude any other person from the law of ownership of this item<sup>19</sup>.

However, this law recognizes its limitations, which must be determined by the Law. Various states, through their legislation, have made the legal definition of the content and limits of the ownership laws. The regulatory and controlling role of the state, to enable stability in the ownership relations, is high and comprehensive, but nevertheless the state will should not be unconditional<sup>20</sup>. It should take into account the norms of the international law and international mechanisms in the field of human laws protection, as well as the regional ones, especially the KEDNJ (European Convention on Human Laws).

The Ownership Law has a dual character, enabling a precise definition, as a law of a purely civil character or as a law in a purely social sense. The western European countries emphasize mainly the law of ownership, while the countries of the former socialist camp, its social character. The Ownership Law has been closely linked to the economic and social policies of

<sup>7</sup> Veliu, S., *The Property Law as a fundamental constitutional law and its legal protection*, Doctorate, UET, Tirana, 2016, pg. 10.

<sup>8</sup> Qafa, A., (2017) *The Property Law*, Tirana.

<sup>9</sup> Veliu, S., *The Property Law as a fundamental constitutional law and its legal protection*, Doctorate, UET, Tirane, 2016, pg. 11.

<sup>10</sup> Talamanca M., (1990), *Institutions of the Roman Law* Giuffrè, Milano.

<sup>11</sup> Brokoski A. & Du Plessis P., (2000), *The Roman Law*, UET Press, Tirana.

<sup>12</sup> Maho B., (2013), *Acquisition of the ownership over real estate*, UET Press, Tirana.

<sup>13</sup> Gjata, R., (2010) *The Civil Law*, Tirana, ALBPaper, pg. 42.

<sup>14</sup> Maho B., (2013), *Acquisition of the ownership over real estate*, UET Press, Tirana.

<sup>15</sup> See the Article 11 1. The economic system of the Republic of Albania is based on the private and public property, as well as on the market economy and the freedom of economic activity. 2. The private and public property are equally protected by the law. 3. Restrictions on the freedom of economic activity may be imposed only by the law and only for important public reasons.

<sup>16</sup> Gjata, R., (2010) *The Civil Law*, Tirana, ALBPaper, pg. 42.

<sup>17</sup> Talamanca M., (1990), *Institutions of the Roman Law* Giuffrè, Milano.

<sup>18</sup> Delo Mecani (2008) "Land ownership" Maluka Tirana

<sup>19</sup> There are two views on the meaning of the ownership law: a. Theory of the rights, where the definition of the ownership is made based on the unity that exists between the owner and his rights. b. The second theory summarizes the notion of ownership starting from the unity of the totality of the owner's powers.

<sup>20</sup> Nuni A., Hasaneziri L., (2008), *Lectures on ownership and inheritance*, Tirana.

various states, a fact which has also led to opposition from the international observation in this framework<sup>21</sup>.

The law of use is the opportunity to enjoy an object in accordance with its purpose, and includes the possession and enjoyment of the item. It is not yet possible to make a complete classification of the principles for the use of property, but the law may be limited by taking into account the public interest. This law gives the property owner the exclusive right over this property.

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<sup>21</sup> Brokoski A. & Du Plessis P., (2000), *The Civil Law*, UET Press, Tirana.



# The city as the home of society: a brief theoretical presentation on the city as the object of study of the classics of sociology

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Gentian Kaprata

## Abstract

*Albania set up the school for the creation of Albanian architects and urban planners only during the communist regime. The work and contribution of these specialists would be “imprisoned” by two basic conditions that came from the totalitarian monist regime: the treatment of urban science as an administrative technique that focused on physical design and avoided the social context; and student training on the nucleus of the ‘civil engineer’ that precluded the preparation of new planners with sociological and philosophical knowledge. Both of these limiting barriers, especially the second, will affect even today the processes of making and rebuilding cities, considering the city as a mathematical and physical concept and not as an existential and social concept. This mentality has produced great damage, in many aspects during the years of transition, in the way of development of Albanian cities and the urban and environmental quality of life of the citizens. Unlike the ‘socialist city’, today’s city seeks to place the individual and society at the core of its development. Today’s city must be developed ‘for the citizen and by the citizen’ and the exclusion of sociological quantities between citizens and groups, in the development processes leads us to failure. In this sense, this article aims to open a “reconciliation door” among the extensive knowledge of today’s design expertise, with the “forgotten” philosophical and sociological essence of the science of making the city. y. We will introduce the ‘city as the home of society’ from the approach of the fathers of sociology, such as Karl Marx, Max Weber and Emile Durkheim, and the treatment they have given to the city, as an urban-rural dichotomy. Although from different sociological approaches, Marx from conflict theory and Weber and Durkheim from functionalist theory, all three authors view the creation of the industrial city very positively for human society. For them, the creation of the industrial city also created the urban and modern society, very different from the traditional rural society, and this undoubtedly has fundamental influences on the way the ‘physical city’ develops.*

Keywords: city, urban planning, Albanian socialism, urban-rural dichotomy, Karl Marx, Max Weber, Emil Durkheim

## Introduction

Urban planning as a science that studies the city was consolidated in Albania during the years of socialism (Faja and Alimehmeti, 1983; Faja, 2008). It was this reason that urban planning as an autonomous science in Albania took a different direction from that in the countries where this science was born and developed long ago. Elements of city planning in Albania have existed since before the Second World War (WWII). Many major Albanian cities, especially Tirana, Durres, Korca, Shkodra and Vlora, have developed Urban Plans designed before or along the WWII. But these Plans were generally drafted by foreign authors, mainly Italian (Faja, 2008; Imami, et al., 2008; Kotmilo and Kotmilo, 2017). After the end of the WWII, a group of communists took power and thus political Albania sided with the countries of the “Socialist Camp” (Vullnetari, 2007). Political Albania took the path of socialism and in this sense economic and social Albania were defined (Biberaj, 2000; Gjuraj, 2015).

Urban development during the 46-year period was led by the socialist state and was inspired by the principles of the method of socialist realism in urban planning “national in form and socialist in content” (Faja, 2008, pp. 15). Albanian

urbanism of the communist period was treated as a political and ideological method to oppose foreign influences or examples coming from capitalist countries (Misja and Misja, 2004; Kotmilo and Kotmilo, 2017). The construction design system and urban planning has been centralized and fully state-owned, as have all sectors of social and national development (Faja, 2008). The communist government attached special importance to planned development, which relied on central planning and urban planning as management techniques (Misja and Misja, 2004; Imami et al., 2008; Kotmilo and Kotmilo, 2017). Kotmilo and Kotmilo would underline that “the state had all the rights in defining the functions and services in the territory” (Kotmilo and Kotmilo, 2017).

In this clearly and definitively defined political context on urban development, any discussion other than approaches other than that defined by the communist regime were excluded and condemned (Kolevica, 2004). It was completely understandable that a country that did not allow discussions on political and social issues from different approaches than those dictated by the government, would see urbanism only as a geometric interpretation of its policy once defined in the five-year plans (Kolevica, 2004; Faja, 2008). Like design practices, academic practices accepted urban planning as an ‘administrative technique’, losing its important dimension as a social and political science (Imami et al., 2008).

The school of urban planning in Albania is based on the school of civil engineering and in this sense, it could not equip the students of that time who are today’s professionals, with extensive theoretical and philosophical knowledge (Imami et al., 2008). In this sense, Dharmo would point out that “urbanists more than ‘philosophers’ of creating [social / urban] spaces, have been technically correct, but ‘cold’ to reading and interpreting [social] contexts” (Imami et al., 2008, pp. 43). This led to the fact that urban space was treated as a mathematical and physical concept and not as an existential and social concept “where two basic psychological functions of man, orientation and identification arise” (Imami et al., 2008, pp. 43). For Dharmo in 2008, this “geometric game” and “game of distances”, avoiding the philosophical and sociological content of urban planning, brought the great urban damage suffered by Albanian cities in transition.

In this article we will aim to open an introductory “door” in the forgotten sociological dimension of urban planning. To do this, like anything aimed at valence originality, we will go directly to the “source”. We will address the origins of a science widely known for more than two centuries in the Western world, urban sociology. In this sense, we will make a brief presentation of the birth of the science of urban sociology as an autonomous scientific discipline. Next, we will turn to the classics of sociology, or the fathers of sociology, who contributed to the creation of the first concepts of the ‘city’ as a social and cultural interaction.

As we will see later in this article, the fathers of urban sociology saw the ‘city’ as a dichotomy of the ‘village’, and this was the first “paradigm” that further evolved into today’s “urban-rural continuum”. Although from different sociological approaches, Marx from conflict theory and Weber and Durkheim from functionalist theory, all three authors view the creation of the industrial city very positively for human society. For them, the creation of the industrial city also created the urban and modern society, very different from the traditional village society. However, this writing will not go beyond the framework of an initial and brief presentation.

## The birth of urban sociology as a science

Territories adapted for development, those in use, inhabited and in human control have evolved along with the evolution of the human being and human society throughout history. They were the product of individual and group interventions, even before the first cities were created. Urbanization processes and cities have always attracted the attention of scholars in various fields, including sociologists, who have been interested in studying the meaning of the concept of ‘city’ and ‘urbanization’ in their social aspects (Halilaj, 2017; Muçaj, 2013). In general terms, aspects that sociologists are interested in include the population, the relationships that are created within it, social groups and their formation, movements, institutions, organizations, links of cooperation or competition that exist between these entities (Muçaj, 2013, pp. 185; Shtëpani, 2007).

Muçaj in 2013 would underline that they were “the first sociologists, those who laid the foundations and created sociology, in their first works presented the way they conceived this new discipline [sociology]” (Muçaj, 2013, pp. 195). For Gjuraj in 2003 ‘One of the first sociologists is Auguste Comte who is considered the founder of sociology’ (Gjuraj, 2003, ppp. 19-20), and sociology as a new discipline tried to understand social forces as well as social and political changes in 19th century Europe. The beginnings of sociology can be traced back to the 18th century “in France with Montesquieu, in Scotland with Miller, Smith” (Gjura, 2003, pp. 211).

It was the Industrial Revolution of this period that changed many aspects of social life, such as “way of life, industrial production, the birth of new cities, etc.” (Gjuraj, 2003, pp. 19). According to Gjuraj in 2003, as a direct result of the French Revolution and the Industrial Revolution, another kind of society was born in Europe, what Gjura would call the “capitalist industrial society” (Gjuraj, 2003, pp. 35). Old socio-political relations based on agriculture, feudalism, religious belief, handicrafts paved the way for a new order based on industrialization and urbanization (Halilaj, 2017; Shtëpani, 2007). Feudal power and authority were challenged by the birth of an industrial society (Gjuraj, 2003) and urbanized living in the city (Shtëpani 2007).

Gradually, several sociological disciplines were formed, such as rural sociology, sociology of religion, sociology of culture, urban sociology and others, which created their specific concepts and theories (Muçaj, 2013). According to Muçaj in 2013 “This process is clear in the formation of urban sociology” (Muçaj, 2013, pp. 195). Thus, like any sociological discipline, urban

sociology began to create its specific concepts and theories and gradually the layer of sociologists dedicated to urban sociology, who were called urban sociologists (Muçaj, 2013; Halilaj, 2017). According to Muçaj in 2013, the city is a completely internal “social system”, complete in every part. The first sociological ideas and thoughts on the city were given in the 19th century when the process of industrialization began accompanied by the phenomenon of urbanization in its complexity and the strengthening of the urban model (Muçaj, 2013, pp. 189; Halilaj, 2017).

Urban sociology includes four major blocks of study interests which Muçaj would present as: “the economic dimension of the city”, in which each city is presented as a location of economic activity and services; “Political dimension and social structure of the city”, in which social classes and strata are created; “Cultural dimension” in which different cultures and subcultures are confronted and syntheses or divisions are produced; “Ecological dimension of the city” in which man creates certain relationships with the natural and biological environment and the city influences his body and personality (Muçaj, 2013, ppp. 189-190). Muçaj in 2013 would present the two traditions of urban sociology, first the American one which included American, English and other Anglophone sociologists and secondly, the European-continental one where the profiles of French, German and Italian sociologists are distinguished.

The American tradition is associated with the creation of a “school at the University of Chicago which proposed a theory based on city studies and concepts and principles derived from the ecology of animals and plants” (Muçaj, 2013, pp. 196). Whereas the European-continental tradition, which is several decades older, has contributed to the debate “on the antithesis of traditional and contemporary society, for the respective antitheses of spatial manifestations, rural community and industrial city” (Muçaj, 2013, pp. 196). Which means that its basic role of this tradition has been the interpretation of the city in rural-urban dichotomy, as a place where modernity and its social and cultural characteristics are presented (Halilaj, 2017). According to Halilaj in 2017, both traditions would contribute to the study of the city in three basic sociological theories, which Gjura in 2003 described: the conflict perspective, the functionalist perspective; and that of symbolic interaction (Gjura, 2003, ppp. 48-55).

The most valuable role would be played by three figures, “Karl Marx, Emile Durkheim Max Weber (Gjuraj, 2003, pp. 20). Halilaj maintains the same assessment in 2017 when he underlined that “the classics Marx, Durkheim and Weber had put their stamp” (Halilaj, 2017, pp. 41), and also Muçaj listed them as the authorities of sociology (Muçaj, 2013, pp. 196-206). The basic ideas of these authors are related to the transformation of society from a traditional society to an industrial society (Gjuraj, 2003, pp. 20; Muçaj, 2013; Halilaj, 2017). This was the first approach of urban sociology to urbanization and the rural-urban relationship, which we will see from the point of view of the three colossi of sociology, who “are the greatest employers of sociological thought .... are the train that must take each, because the multi-urban station is positioned by them and anyone can select the line in which he believes or the destination in which he tries to reach” (Halilaj, 2017, pp. 30).

## **The city as the ‘excellent’ country that develops two antagonistic classes in anticipation of the inevitable revolution**

One of the fathers of sociology is without a doubt the scholar Karl Marx, who has strongly influenced the world with his theory of class conflict (Halilaj, 2017, pp. 31). According to Gjura in 2003, not only sociologists, but also economists, philosophers, political scientists and even historians claim that Marx remains a direct contributor to their disciplines. Unlike other sociologists of his time, but also of later times, Marx was more interested in changing society than simply explaining it. He was in favor of modeling a more practical philosophy, which would serve to transform that social reality that was required to be studied and understood through sociology (Gjuraj, 2003).

Marx would aim to argue that capitalism, as a means of social organization and concentration of power, would eventually be replaced by socialism. According to him, the bourgeoisie and the workers are in inevitable conflict between them because they are in a ‘conflict of interests’ because one class owns the means of production while the other only works but owns nothing (Muçaj, 2013, pp. 206; Gjura, 2003, pp. 37). The notion of labour, values and surplus values, historical dialectics and critique of capitalism, are just some of the concepts and themes which together constitute what is called ‘Marxist Philosophy’ (Gjuraj, 2003, ppp. 39-40; Halilaj, 2017). Marx emphasized that production relies on the interaction of labor, land, raw materials, capital, technology, which together constitute the ‘forces of production’, and the ways in which these forces interact bring about special kinds of social relations, which then divide society into class (Gjuraj, 2003, pp. 38).

For Marx, the city is an excellent place of ‘civilization’, in which the population is concentrated with its needs, means of production and capital, while rural areas are characterized by the isolation of social entities (Muçaj, 2013, pp. 206; Halilaj, 2017). This was the essential contradiction that Marx looked at in the relationship between traditional rural societies and industrial societies of cities. According to Marx’s theory, village-town opposition begins with the transition from barbarism to civilization, from tribal order to the state, from local limitation to nation. With the birth of the city, there is a need for administration, police, taxes, etc., ie the need for political organization (Halilaj, 2017, pp. 31). This would lead to the creation of social classes in the industrial society of the city which are in open conflict between them because of what Marx would define as unequal relations in capitalism (Gjuraj, 2003, pp. 39).

For Marxism, the internal conflict of interests in the relations between the two classes of the industrial society of the city brings about the ‘dynamics’, or the birth of one thing from the other that produces social change (Gjuraj, 2003). Marx saw the city as a hotbed of class organization of society and social emancipation that would bring revolution as the only way to free

the workers from poverty and oppression brought by the capitalist system and a better society (Halilaj, 2017; Gjuraj, 2003). Even for Muçaj in 2013 “For Marx and Engels, the basic concept is that of conflict, especially between social classes, in order to liberate them. The evolution of human society, according to Marx, has become possible due to the struggle of social classes” (Muçaj, 2013, pp. 206).

At this point Muçaj would agree with the assessment of Gjuraj and Halilaj that according to Marx, urbanization is a natural result of the development of the productive forces, and will serve to support that development. Marxism rejects the rural and separates it from its understanding of the city, because according to him, urbanization has saved a considerable part of the population from the life of traditional rural society (Gjuraj, 2003; Muçaj, 2013). If capitalism in the last two centuries is dominant in urban space, for Marx, the last point that urbanization will reach is the socialist city.

According to Marxism, socialist cities were to be developed from “*The abolition of land property and the implementation of all land leases for public purposes, to heavy progressive taxes on income, the abolition of all inheritance rights, the centralization of credit into the hands of the state, centralization of means of communication and transport in the hands of the state, expansion of state-owned factories, land improvements in accordance with a common plan, free education for all children in public schools, gradual abolition of the distinction between the city and the rest of the country*” (Marks and Engels, 1983, pp. 56). However, we know in practice the socialist city we built in the years of the communist regime, 1945-1991, and we can attest that they became far removed from the urban, social, cultural, political and environmental ‘paradises’ projected by Marxist philosophy. (Kolevica, 2004; Misja dhe Misja, 2004; Faja, 2008; Kotmilo dhe Kotmilo, 2017).

## The city as the centre inhabited by the society of rationality

Max Weber is also an icon of sociology who addressed the issue of urban-rural dichotomy from a sociological point of view. Weber’s most direct contribution is his book ‘City’ published in 1922 with the original title ‘Die Stadt, Tubingen’, in which he introduces the meaning and categories of the city as different from the village. In the introduction to this book Weber would introduce that “By their character the definitions of ‘city’ may be very different, but they all have one thing in common and it is exactly what the city represents in itself (at least realistically), a closed settlement and not one or several houses located far from each other” (Weber, 2008, pp. 3).

According to Weber, there is no clear, definite and single definition that exists for the city, but in the urban sense “when we say ‘city’ we mean an inhabited centre” (Weber, 2008, pp. 3). From a sociological point of view, in the inhabited centre ‘city’, the houses are very close to each other and it is so large in extent that it lacks the specific connections of the neighbours with each other (Weber, 2008, pp. 3). From an economic point of view the city is a settlement where the inhabitants in the vast majority are not engaged in agriculture, but in crafts and trade. The hallmark of the city is undoubtedly the ‘bazaar’ (or the market). Its presence should not be sporadic but regular, with the exchange of goods within the population, as an essential part of income and meeting the demands of the population (Weber, 2008).

According to Weber “In the economic sense for a city we can only talk when the local population produces itself and finds most of the daily demand in the market of the country where most of the food products are produced by the local population or the population of the districts that produce them to sell in the market” (Weber, 2008, ppp. 4-5). In general, this is the meaning that Weber gave to the city, with the aim of presenting the difference that this inhabited centre has with the village. A great help of Weber, was the categorization of cities, which according to him were divided into industrial cities, commercial cities and consumer cities (Weber, 2008, pp. 8).

In his work, Weber contrasted the society of ‘feelings’ as he called the traditional village societies and the society of ‘rationality’, as he called the metropolitan societies of the late 19th and early 20th centuries (Muçaj, 2013, pp. 196). It was the time when tradition was replaced by rationality while Europe was being industrialized by accepting the capitalist economy (Gjuraj, 2003, pp. 46), and consequently was being urbanized. This would bring a strong change in the rural-urban relationship with strong migration dynamics in this regard (Halilaj, 2017), while in the social dimension appear a new way of life for citizens, various government agencies, large businesses and bureaucratic organizations (Gjuraj, 2003).

Weber advertises the organizational forms of the modern city, considering the economy and especially trade as the basic sector. The city for Weber is an economic space, where after production trade and consumption appear because in the city are concentrated the control functions of the economic system (Muçaj, 2013, pp. 196; Halilaj, 2017). Focusing on the sociological treatment of economic dimension in urban contexts logically leads to the acceptance of rationality (Muçaj, 2013), and Weber in his analysis focuses on the fact that this economic aspect of the city affects the individual. Rationality in urban industrial societies marks a higher efficiency than the feelings of traditional rural societies, and Weber emphasized the fact that individuals are already seen as reasonable and motivated actors (Weber, 2008).

The role of the individual in creating social and historical events remains central, and the meaning he gives to his actions forms the basis of any sociological explanation of these actions (Gjuraj, 2003, pp. 46). On these meanings, Weber presents a fundamental difference between the typical action of traditional-rural society, based on irrational characteristics, and the action of contemporary industrial-urban society based on rational calculations (Gjuraj, 2003, pp. 62; Muçaj, 2013). For Weber social action manifests within a social context, and society is a plurality of individuals interacting together and in the process they exert a great and reciprocal influence on each other’s behavior. On the other hand, for Weber, a concern that came from industrialization accompanied by urbanization was the rise of bureaucratic organizations, which he saw as a serious threat to the freedom of the individual (Gjuraj, 2003).



Referring to his book 'City', for Weber the city is a stable market settlement, while in his work 'Economy and Society' "he showed that the dimension that characterizes the city is the economic exchange with its social and cultural consequences" (Muçaj, 2013, pp. 197). According to Weber, "Living together in a village develops feelings in relationships between individuals, which can be in a negative or positive direction" for example, in traditional rural areas commercial logic prevailed according to the principle 'between brothers is not traded' (Muçaj, 2013, pp. 197). In contrast, urban industrial culture is ruled by two types of rationality in action, firstly it is oriented by material or profit purpose, and secondly, it is oriented to pursue a value of ethical or religious type. In fact, according to Weber, rational action in accordance with a goal is what determines the logic of the market economy (Muçaj, 2013, pp. 197).

## The city as the home of the organic solidarity society

Emil Durkheim is another classic of sociology who contributed to the treatment of rural-urban social dichotomy. His work will be considered as a classical foundation for the functionalist school of sociology (Gjuraj, 2003, pp. 44; Muçaj, 2013; Halilaj, 2017). He analysed the structural changes that accompany modernization, in two of his important works as 'Division of labour' and 'Professional ethics and civic morality' (Muçaj, 2013, pp. 198). Durkheim's concerns were related to how societies can maintain integrity and coherence in modernity, an era in which traditional social and religious ties are fading as new social institutions begin to flourish.

Durkheim focused on the social structure of the city, while the key concept through which he tries to understand the relationship between individuals within a society is 'social solidarity' (Halilaj, 2017, ppp. 53-54). For Durkheim society is like the human body, where all the organs are connected and dependent on each other. All parts must function well for the overall health and well-being of the whole. The functioning of social institutions, such as family, school, religion, political order, economy, etc., for Durkheim aims to "provide common rules, laws, customs, obligations, attitudes, values and a climate of opinions, which can exercise control over individuals and groups, as well as to ensure a normal coexistence" (Gjuraj, 2003, pp. 44).

Durkheim's ideas remain an asset of sociology, and have been quite the opposite of those of Marx, which remain more of an asset of politics. If for Marx the basic concept was that of conflict between social classes in order to liberate them, Durkheim's analysis focused on the idea of 'cohesion-based solidarity' (Muçaj, 2013, ppp. 205-206; Gjuraj, 2003). According to Durkheim although individual life derives from collective life, the individual is at once both the creator and the product of society. Society relies on common values and norms, which when adopted and implemented constitute the process that Durkheim would call the 'socialization process', and when these values and norms are shared by individuals in society, they form the 'social structure'.

In his scientific contribution Durkheim analysed the problems of urbanization and modernization focusing especially on the forms of organic solidarity, as he would describe it, which appeared in industrial societies where demographic density and civilization go together. In contrast to pre-industrial societies, where the individual develops his life in a fragmented system where relationships are limited within very narrow frameworks, in contemporary industrial societies social life expands, multiplies and generalizes. The number of individuals interacting with each other increases progressively with the division of labour which, according to Durkheim, is proportional to the moral density or dynamics of society (Muçaj, 2013, pp. 198; Halilaj, 2017).

Referring to Halilaj, Durkheim thought that after the division of labour everyone should depend on everyone to do their jobs, and the complexity of the division of labour, where many different people specialize in specific professions, increases the interdependence between them (Halilaj, 2017, pp. 54). Like Marx, Durkheim regarded the city and its evolution in the historical processes of industrialization as a 'brilliant event' for modernization, but unlike Marx, Durkheim focused more on the unity of society. "He introduced two types of social solidarity: mechanical solidarity and organic solidarity" (Gjura, 2003, pp. 42; Halilaj, 2017).

Referring to Gjura in 2003, but also Muçaj in 2013 and Halilaj in 2017, for Durkheim "mechanical solidarity represented traditional societies, which appear entirely cohesive, as people are more or less the same" (Gjura, 2003, pp. 42). In traditional rural settlements the societies are small, there is a low level of division of labor, and they rely on very simple work technology. Because everyone is engaged in agriculture and uses the same tools, participates in the same social life within the same culture, they share almost the same values. It is these approximate values that keep society united (Gjura, 2003; Muçaj, 2013). According to Durkheim in traditional societies, where this kind of solidarity prevails, social ties derive from the similarities between individuals in society and the totality of common beliefs and feelings "averages them" (Muçaj, 2013).

In contrast, the "organic solidarity" of modern industrial city societies encompasses people performing specialized work, using much more complex work tools. Although people share some common and the same values, they do not always agree on other values, but, despite this, these societies also stand together (Gjura, 2003, pp. 42). This is because urbanized industrial societies do not base solidarity on similarities but on differences, and "this set of differences [roles at work as a result of division of labor, opinions, cultural affiliation, etc.] seems to Durkheim the foundation of cohesion for society" [ Muçaj, 2013, pp. 199). Individual members of urbanized societies are less associated with collective cooperative behaviours and tend to differentiate themselves from others, but remain even more dependent on each other (Muçaj, 2013) because the failure or success of an individual reflects on the performance of others (Gjuraj, 2003).



“Organic solidarity,” according to Durkheim, develops through the interdependence of specialized groups in society, because they are different and have different statuses and roles at work and in society, urban individuals are forced to exchange goods and services among themselves. For Durkheim, this is a sign of reorganization and not of social disorganization (Gjura, 2003; Muçaj, 2013). Urban society based on organic solidarity, in Durkheim’s observation, showed a “perfect accord between parts of society characterized by the autonomy of its subjects” (Muçaj, 2013, pp. 200). The severance of kinship ties through migration to urban centers, ensures the breaking of traditional control (Gjura, 2003; Halilaj, 2017). Referring to Muçaj, “Durkheim’s position points out that the value of differences is an essential element of social cohesion” and “It [his analysis] is of interest for the foundations of social integration in industrial-urban communities and shows that the development of division of labour can produce cohesion, if the right conditions are created” (Muçaj, 2013, pp. 200-201).

## Conclusions and recommendations

Elements of planning and planned development of Albanian cities have existed since before the WWII, but only during the communist regime, in the years 1945-1990, Albania set up the school for the creation of Albanian architects and urban planners. The political Albania of this period, and consequently logically Albania of economic and social dimension was included within the “Socialist Camp” and this would lead to the development of cities to be based on the method of principles of socialist realism. The work and contribution of urban planning specialists in the processes of making and rebuilding cities would be “imprisoned” by two basic political and ideological conditions that came from the totalitarian monist regime. These restrictions were exercised both in terms of exercising this activity in the socialist period, and in the academic process of shaping young urban planners, and were: treating the science of urban planning as an administrative technique that focused on physical design and avoided the social context; and student training on the nucleus of the ‘civil engineer’ that precluded the preparation of young planners with sociological and philosophical knowledge. Both of these limiting barriers, especially the second, will affect even today the processes of making and rebuilding cities, considering the city as a mathematical and physical concept and not as an existential and social concept.

Among many other factors, which are not addressed in this article, the separation of the concept of “physical city” from the concept of “sociological city”, and bypassing the latter in dealing with the ‘making and remaking’ of Albanian transition cities, has been one of the factors of damage that these cities have suffered. This mentality has produced great damage, in many aspects during the years of transition, in the way of development of Albanian cities and the urban and environmental quality of life of the citizens.

Unlike the ‘socialist city’, today’s city seeks to place the individual and society at the core of its development. Today’s city must be developed ‘for the citizen and by the citizen’ and the exclusion of sociological quantities between citizens and groups, in the development planning processes leads us to failure. In this sense, this paper sought to help open a “reconciliation door” between the extensive knowledge of today’s design expertise (the physical city of urban planners) with the “forgotten” philosophical and sociological essence of the science of knowing the city society (the social city of urban sociologists). The knowledge gathered from urban sociology would not have any essential value if they do not serve the urban planners in their important task of developing a city that serves the citizens and developed by them.

Although, we tried to make the presentation of the ‘city as the home of society’ from the approach of the fathers of sociology who also contributed to urban sociology, such as Karl Marx, Max Weber and Emile Durkheim and the treatment they have given to the city, as an urban-rural dichotomy, it must be admitted that this writing has its limitations. These limitations, in the first place, have to do with the time limit of writing. It must be admitted that the science of urban sociology has evolved greatly over time, from the classics of sociology (the theoretical approach of which we presented in this paper) to contemporary authors.

In this context, we recommend that in-depth studies of the relationship between the ‘physical city’ and the ‘city as the home of society’, are necessarily to be carried out in the future by researchers in the sociological sciences and territorial and urban planning. The temporal focus of these studies may be broad, but addressing the approaches of contemporary urban sociologists, and the themes of the transition from the ‘urban-rural dichotomy’ to the ‘urban-rural continuum’, would be more fruitful. This is because the demographic and urban dynamics that Albania is going through in the years of transition, but also those integrating into the EU, have the necessity of recognizing contemporary social phenomena. Only in this way will the technical expertise be able to understand, and in this sense precede, the behaviour and interaction of the society and of the various social groups that consist it, with the territory in the future.

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# Identiteti ynë kombëtar është formuar, si pajtim dhe refuzim ndaj mjedisit kulturor që e kushtëzoi

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Hazbi Lika

## Abstrakti

*Integrimi evropian si projekt politik natyrisht ka dhënë dhe vazhdon të japë impaktet e veta në sfera të rëndësishme të jetës së këtij komuniteti shumëkombësh që e popullon kontinentin e vjeter. Sfera ekonomike, ajo institucionale, vendimarrja dhe legjitimiteti janë tëma debati të përditëshme dhe ka hulumtime shkencore në këto fusha pasi janë më të ndjeshme dhe të prekshme në jetën e këtij komuniteti. Studimet për këto çështje janë të matshme dhe empirikisht të provueshme. Kurse në lëmin e kultures, këto studime janë hapa prapa dhe ato që pak janë, janë të vështira për tu verifikuar dhe për tu provuar si të verteta, pasi operojnë në sferën apstrakte të mendimit dhe të perceptimit. Nëse në aspektin ekonomik, kostoja dhe përfitimet e integrimit të Shqipërisë, maten në njëfarë mënyre dhe përkthehen në shifra, nëse sovraniteti i shtetit tonë tkurret në raport me numrin e vendimarrjeve që u transferohen institucioneve të BE-së, shtrohet pyetja se çfarë ndodh me ne në aspektin e identitetit tonë kombëtar? Më tej kërkohet të dimë se a do të pasurohet më shumë në kuadrin e integrimit, identiteti ynë kulturor, apo do të kemi më tepër penalitete për shkak të integrimit? Në aspektin identitar, sa dhe si do jetë kjo kosto për shkak të këtij koperimi politik? Po përfitimet dhe favorizimet si do t'i marrim konkretisht? A do të jetë identiteti ynë më i imunizuar nga trendet kulturore të Globalizimit duke qënë brenda BE-së, apo do të bëhet lehtësisht më i prekshem? Pra e thënë ndryshe kur të pyetemi nesër se e ndjemë veten më shumë shqiptarë dhe më pak evropian, apo më shumë evropian dhe më pak shqiptarë, kush do të jetë përgjigjia? Këto janë çështjet që ngenë aksin kryesor të kësaj kumtese dhe që premtoj tu jap përgjigje, pa çka se kjo përgjigje në këte kumtesë do të ngelet brenda stadiit hipotetik, dhe me siguri kërkon një studim më të thelluar.*

*Fjalët kyçe- Identitet kulturor; Bashkim Evropian; Ideologji unifikuese; trend global; sovranitet kombëtar.*

## Hyrje

Ky studim do të vendoset në hullinë e vet, nëse fillimisht do të përpiqemi të shpjegojmë se c'kuptojmë me fjalën identitet, pastaj të përkufizojmë me pak fjalë identitetin evropian dhe të formulojmë qasjet tona për identitetin tonë kulturor.

Me identitet nënkuptojmë veçantitë apo tiparet që ka një send, të cilat nuk ndeshen si të tilla në sendet e tjera. Në gjirin e shoqërisë njerëzore çdo hallkë e saj ka identitetin e vet, i cili mund të jetë fizik, moral, kulturor, juridik e politik. Kështu për shembull, njeriu, si qenie humane dhe shoqërore, ka tipar themelor identitetin fizik, në vështrimin antropologjik, ka veçori personale që nuk ndeshen të gjitha së bashku tek qeniet e tjera: emri, mbiemri, vendlindja, datëlindja, atësia, amësia, seksi, lartësia trupore, ngjyra e lëkurës, e flokëve, e syve, defektet fizike dhe kohët e fundit shenjat e gishtërinjve ose shenjat biometrike. Në të njëjtën kohësi qenie shoqërore ka edhe identitetin e vet kulturor e qytetar, me të cilin nënkuptohen: gjuha amtare, një memorie historike e përbashkët, disa simbole me të cilët identifikohet, përkatësia etnike, deri diku qytetaria shtetërore, (pasi kjo e fundit është subjekt i ndryshimeve të shpeshta), në disa raste (por jo kurdoherë) edhe përkatësia fetare (në rastet kur manifestohen me të, sentimente etnike). Njëri, si qenie humane, ka një prirje natyrale të dyfishtë: të jetë identitet në vetvete, por në të njëjtën kohë, kërkon që të identifikohet më një entitet shoqëror sa më të madh brenda një territori të kufizuar, me një memorie historike dhe mite origjine të përbashkëta, një kulturë popullore dhe publike të standartizuar, ku

ushtrohen të njëjtat ligje të pashkruara, brenda një mobilimi ekonomik dhe territor të përbashkët, me të drejta dhe detyrime ligjore të njëjta për të gjithë anëtarët e kolektivit. Me pak fjale, këtu mbahet deri diku përkufizimi klasik për identitetin kombëtar. Kjo mënyrë perceptimi e konceptit të identitetit në përgjithësi, dhe atij kombëtar në veçanti, natyrshëm shtron pyetjen; a mund të flasim për identitet kulturor evropian? A ka Europa sot një identitet të vetin që është i veçantë nga të tjerët? Nëse po, për çfarë lloj identiteti bëhet fjalë? Nëse jo, pse nuk ka një identitet të vetin? Pasi të qemtojmë keto çështje, do hulumtohet më tej për ti dhënë përgjigje pyetjes: po identiteti ynë kombëtar, është apo nuk është evropian, apo është disi si lara-lara (manifeston njëherësh tiparet e qytetrit perendimor dhe lindor)? Pastaj do të rrekemi për ta thelluar më tej përgjigjen në funksion të përmbajtjes së identitetit tonë brenda projektit politik evropian? Në vijim vjen pyetja: a do ta dobsojë apo do ta forcojë identitetin tonë në kuadrin e këtij projekti?

## Qëllimi i studimit

Qëllimi themelor i kësaj kumtese është të provojë aq sa më lejon natyra e këtij punimi faktin se integrimi i Shqipërisë në Europën e Bashkuar do të ofrojë avantazhe dhe përfitime identitetit tonë kombëtarë, po penalitete, ku dhe si konkretisht? Në vijim të kësaj logjike do të konstruojmë aksin qëndror ku ngrihet dhe parashtrahet në rrafshin teorik, hipoteza që pret të verifikohet: Shqipëria në Europë me përfitime dhe penalitete në sferën e identitetit kombëtar.

Sigurisht hipoteza kryesore do të provokojë nën/hipoteza të kësaj natyre; 1- Shqipëria e integruar në Europë dhe më demokratike do të jetë më shumë e prirur për të fortifikuar identitetin e vet etnik; 2- Shqipëria më pak sovranë për shkak të qënurit pjesë e institucioneve të BE-së, do të jetë po aq e kufizuar për të ushtruar sovranitetin e vet në funksion të mbrojtjes së identitetit kulturor? 3- A do të dimë në mënyrë komode kulturor të identitetit tonë kombëtar brenda identitetit evropian? Këto nën-hipoteza që ngrihen, por që nuk mund të marrin përgjigjen e plotë brenda kësaj kumtese, natyrshëm shtrojnë hullinë e studimit drejt kuptimit të nocionit-identitet, për të zbritur pastaj drejt kuptimit të identitetit evropian dhe atij kombëtar. Që të pretendojmë për të ezauruar më tej këtë pohim, në fillim do rrekemi për të ofruar panoramen e debateve kryesisht të autorëve tanë rreth çështjeve: a ka Europa një identitet të vetin kulturor? Po identiteti ynë është, apo shitet me tepër si evropian?

## Korniza e debateve mbi identitetin tonë kombëtar dhe raportet me atë evropian

Nuk do të merrem në këtë kumtesë me debatet e studjuesve të huaj që ndjekintrendet e integritit evropian të fokusuar kryesisht për të ardhmen e Europës kulturore, këtu do të ofrojë disa qasje të autorëve shqiptarë që janë marr me çështjet e identitetit tonë kombëtar në raport me identitetin evropian. Ky do të jetë materiali ku unë do të mbeshtesë analizën dhe interpretimin tim, në favor të hipotezës që ngre dhe mbroj.

Fusha e këtij debati është e gjërë dhe ka ndez polemika të gjata ndër autorë tanë, por unë do të fokusohem vetëm në komponentin identitar të kultures. Jo se nuk është diskutuar edhe mëparë një çështje e tillë gjatë tranzicionit shqiptar, por personat që e hapen këtë temë nuk kishin influencë të konsiderueshme në opinionin publik shqiptar. Debati ndizet kur shkrimtari I mirnjohur I. Kadare boton esenë e tij; “Identiteti Evropian i Shqiptarëve” dhe kjo menjëherë provokoi reagimet e Akademikut Rexhep Qose në Kumtesën e tij “Realiteti i Shpërfillur” I. Kadare në vepren e tij në mënyrë kategorike pranon se Europa ka një identitet kulturor të saj dhe në themel të këtij identiteti vendos krishtërimin Përendimor. Kadare i ka qendruar vazhdimisht kësaj linje dhe e mbron këtë në mënyrën e tij, duke e lidhur identitetin tonë me identitetin evropian me anë të krishtërimit. Kadare në esenë e vet me titull “Identiteti Evropian i Shqiptarëve”, (botuar nga “Onufri”, Tiranë 2006), i vë një theks të tepruar komponentit fetar, qoftë i krishterë, qoftë mslyman, kur flet për identitetin shqiptar të shekujve të kaluar. Ai pohon se për një kohë të gjatë, identiteti kombëtar shqiptar u gatua duke patur si komponent fenë e krishterë. Me këtë komponent fetar, shqiptarët sipas tij, kishin një identitet të plotë “evropian”. Por më vonë, (po sipas tij) me pushtimin osman të Shqipërisë, kur feja islame e diktuar nga Perandoria e Gjysmëhënës, për interesat e saj politike zëvendësoi fenë e krishterë si përbërëse në identitetin kombëtar të shumicës së popullsisë shqiptare, identiteti i tyre “evropian” u dëmtua. Në një farë mënyre, Kadare, këtu del kontraditor me vetveten, pasi në një rën anë komponentin fetar (në këtë rradhë krishtërimin) e shikon si element substancial në ngjizjen e identitetit kombëtar, në anën tjetër, religjionin islam e quan si deformues të genit që mban identitetin kulturor të kombit tonë. Ndryshe mendon Rexhep Qose. Në polemikën me Ismail Kadarenë, pikëpamjet e veta në këtë çështje i ka parashtruar në tri broshura të botuara njëra pas tjetrës – “Realiteti i shpërfillur”, “Ideologjia e shpërbërjes”, “Të vërtetat e vonuara” (Toena 2006). Edhe Rexhep Qose pranon se dikur identiteti kombëtar shqiptar ishte gatuar duke patur si komponent fenë e krishterë. Ai pranon gjithashtu, se feja islame u përqaftua nga shumica e shqiptarëve gjatë shekujve të sundimit osman. Por, ndryshe nga Ismail Kadare, ai ngul këmbë se fetë, ritet, dhe sektet fetare pa dallime (islamizmi, ortodoksia, katolicizmi), ndërhyjnë në identitetin kombëtar të shqiptarëve duke u integruar aq thellë, sa edhe në ditët tona janë përbërës të tij. Në këtë pohim, Qose qëndron më afër logjikës së studjuesit duke ju ruajtur retorikave populiste. Edhe studjuesi Aurel Plasari në vepren e tij “Rrembimi i Europës” pohon se Europa ka një identitet të vetin dhe këtë e lidh me krishtërimin në përgjithësi. Për këtë Plasari shkon edhe më tej duke jureferuar poetit dhe mendimtarit Paul Valery në esenë e tij me titull: “La crise de l'esprit” të pranuar deri diku si Manifesti Evropian. Sipas Valerysë: Europa egziston aty ku zotron ndikimi i besimit të krishterë, i botës latine dhe i letërsisë helene. Pra sipas tij: as bota greke vetem, as ajo latine vetem,

pa krishterimin nuk kanë mundur të konstitujnë Europen. Nuk le pa cituar edhe poetin gjerman Gete që mendonte se çfarë e bashkon Europën është kultura dhe çfarë e ndanë, janë idetë politike. Plasari, shkon deri aty sa edhe themeluesit e Europes së Bashkuar i konsideron politikanë dhe mendimtarë me orientim dhe besim të krishterë si; De Kasperin, Adenaurin, Shuman, Monnet, Speaak. Po sipas Plasarit: -është fakt që shekuj me rradhë kultura europiane ka qënë e frymëzuar nga Shpirti i Shenjtë dhe nga shpirtërorësia e krishtere; fakti që demokracia sipas parimit bergsonian ka një thelb ungjillor dhe ka si forcë shtytësë dashurinë e tij<sup>1</sup>. Po sipas Plasarit, Europa nuk është thjesht konstrukt gjeofizik, por piksëpari është strukturë kulturore dhe është blatur nga fryma ungjillore ku e bën Europen të ketë një identitet të vetin. Plasari nuk pohon se nëç` raport është identiteti ynë kombëtar me historinë e krishtërimin dhe me islamizmin, vetem se aprovon hipotezën ngritur nga studjues të tjerë; "krishtërimi është bërë në Europë si refuzim i islamit". Nuk mendon kështu studjuesi i historisë Kristo Frashëri. Pikësë pari, Kristo Frashëri e përjashton religjionin si element të rëndësishëm të identitetit kulturor, dhe rrallë e pranon si element të tillë, vetem në rastet kur ky religjion reflekton sentimente etnike, si p.sh tek polaket dhe irlandezet të qënurit katolik plotëson më shumë identitetin etnik të tyre. Frashëri në polemikën e tij; "Të metat e debatit Qose- Kadare" botuar në vitin 2006 në shtypin e asaj periudhe, mbron pikpamjen sekontinenti evropian, nuk ka një identitet kulturor dhe qytetar të përcaktuar. Ai përbëhet nga një larmi identitetesh kulturore dhe qytetare kombëtare, nga të cilët asnjëri nuk mund të përfaqësojë identitetin kulturor dhe qytetar të Kontinentit. Edhe në këtë rast, identiteti kulturor dhe qytetar i çdo kombi evropian është në raport me atë që do të ishte identiteti kulturor evropian, si pjesa me të tërën. Shkurt, Europa si kontinent, nuk ka asnjë identitet të mirëfillt kulturor e qytetar të saj. Nëse nga kjo pikëpamje duhet të flasim për një identitet të mirëfillt kulturor e qytetar evropian, -shprehet Frashëri- këtë duhet ta kërkojmë tek mungesa e një identiteti të mirëfillt evropian. Edhe Jurgen Habermas në librin e tij: "Ah Europë" përkthyer nga gjermanishtja në Shkup 2011, mendon që Europa sot nuk ka një identitet të vetin, dhe i quan të kota rreket për të krijuar një identitet të përbashkët kulturor evropian, pasi Europa as nuk e ka patur as nuk e ka një identitet të mirëfillt të vetin, dhe po qe se këtë do ta kërkoje sot kur aspironhet ky projekt i madh politik, kjo do të ishte një shantazh semantik për një numër popujsh që janë në margjinat e qytetimit përendimor evropian dhe shpreh besimin se Europa e Bashkuar shumë shumë mund të krijojë një opinion të përbashkët evropian dhe jo një identitet të vetem dhe kjo është e pamundur, pasi i mungon baza historike. F. 110.

## Retorikat populiste janë të pa mjaftueshme për të përcaktuar identitetin tonë kombëtar

Ka disa përkufizimeve që rëndom përdoren për ti dhënë kuptim përmbajtjes së kombit dhe këtyre u shtohet edhe këndvështrimi sociologjik, ku nacionalizmin e paraqesin si vizioni më potent i ideologjisë, për manifestim të identitetit individual dhe kolektiv. Nëvoja për të manifestuar identitet kolektiv dhe individual i jep identitetit konstrukt social dhe e bën -veten- të dallohet nga -të tjerët- dhe në të njëjten kohë të identifikohet në grupime sa më të mëdha. Ky aspekt psikologjik dhe social i bën që kombet, pavarësisht orientimeve kulturore, kanë një komponent unikal në themelet e tyre. Ndonëse në disa pikpamje duken uniform nuk është se janë të njëjtë të gjithë. A. Smith dhe E. Kondure janë përpjekur të bëjnë klasifikimin e llojeve të nacionalizmave sipas orientimeve kulturore. Që të dy bien dakort për faktin që nacionalizmi është product i rrethanave dhe përvojave historike të popujve të ndryshëm dhe për këtë arsye kanë klasifikuar dy lloj nacionalizmash: nacionalizmin Perendimor dhe ate Lindor.

Pavarësisht se të ty modelet duket sikur kanë emertim toponim, në fakt janë me orientim kulturor dhe mbahen brenda këtyre përkufizimeve. Modeli i kombit Perendimor, ka një qendër territori, një komunitet politik, sistem ligjor të përbashkët, barazinë e qytetarëve para ligjit, dhe një shoqëri civile. Përkundrajt këtij ngrihet modeli Lindor i kombit; "Ky lloj kombi nisët nga konstrukt gjenologjik, është më tepër i prokupu për përmbajtjen etnike dhe lidhjet kulturore, thekson elementet popullore dhe folklorike, kërkon pa fund rrënjët e folkut, traditat, zakonet, gjuhën, religjionin, ritualet, rizbulon intelektualët urban, si filologë, historianë, folkloristë etnografë, linguistë etj.

Në një farë mënyre këtë lloj klasifikimi do ta marrim me rezervë dhe është lehtësisht i atakueshëm, pasi ndarja midis këtyre nacionalizmave nuk është si me thikë, dhe aq më tepër për faktin se entitetet etnike nuk është se linden dhe mbeten kategori statike. Ato kanë përjetuar periudhat e transformimeve dhe transfuzioneve të formës dhe të përmbajtjes në kohë dhe në hapsirë, kanë patur dhe kanë ciklet historike dhe "biologjike" të zhvillimit. Për këtë arsye, ndodh që tiparet e njërit mund të shfaqen tek tjetri dhe anasjelltas, por deri diku një përkufizim i tillë qendron dhe ja vlen të bësh qasje korrekte ndaj tyre.

Duke ju referuar përkufizimit klasik të dhënë nga dy autorët e mësipërm, nuk mund të shmanget kurioziteti se në cilin entitet etnik qëndron nacionalizmi ynë? I përkasim nacionalizmit Perendimor apo atij Lindor, apo një llojentiteti që shfaq here tiparet e njërit dhe herëtiparet e tjetrit? Në fakt ka patur dhe ka qasje ndaj këti fenomeni kulturor të entitetit tonë, ku studjuesë tanë e të huaj janë marr me çështjen; "Shqipëria midis Lindjes dhe Perëndimit". Por kjo a do të thotë se ne si entitet i shfaqim përgjysë këtë dy lloj nacionalizmash? Apo shitemi si Perendimor kur në fakt për arsye historike, nuk e fshehim kollaj karakterin Lindor? Apo tëndëncat për tu arratisur nga Lindja i quajmë të mjaftueshme për tu vetquajtur Perendimor? Me siguri, kjoqumtesë nuk zotron hapsirat e dhura për ta provuar plotësisht këtë, pasi duhet të merren në shqyrtim rrethanat historike që kanë prodhuar dy llojet e kombeve në dy gjysmat e Europës dhe kryesisht në Ballkanin ku ne jetojmë. Kështu të mundohemi të jemi korrekt me ato realitete historike që kanë influencuar dukshëm për të determinuar natyrën e kombit tonë. Për hirë të vertetes një debat i tillë mbi përmbajtjen e kombit tonë, ka fillësuar tërësisht në mjediset intelektuale dhe akademike shqiptare dhe ende ngjall dhe frymëzon debat sa herë që shkenca çlirohet nga utilitarizmi dhe komercializmi

<sup>1</sup> Aurel plasari "Rrembimi i Europes" f. 84 shtëpia botuese 55 - 2005



politik. Këto “zënka”, fillojnë e gërvishtin “shkelqimin” oriental qysh në periudhën e Rilindjes Kombëtare kur perandorisë otomane i kërkohej të dorëzonte Ballkanin Përendimor. Çfarë ndodh në këtë periudhë? Fati i Shqipërisë nuk vendosej më nëpër “mexheliset” turke, por në kancelaritë e Europës. Në të njëjtin kohë dotë jetë edhe orientimi politik i lidhshëm të kohës. Dhe më tej...? Elita intelektuale dhe politike e vendit u hedh menjëherë në “sulm” për të shëndërruar gjithë përmbajtjen e identitetit tonë kulturor. Në traktatin politik dhe filozofik të Sami Frashërit “Shqipëria ç’ka qënëç’është dhe ç’dote bëhet” hidhet baltë mbi kombin turk – “ç’janë turqit? Një kombi egër, të ardhur nga shkretëtirat e Azisë së Veriut, me nga një hosten në dorë. Këta me egërsinë e tyre zunë më të bukurat vende të botës dhe të qytetruar; dhe si irropen dhe i dogjen, po i mbajnë sot në të njëjtën egërsi, nën një varfëri dhe në një tirani që tmerron gjithë botën”. Në anën tjetër, himnizon vlerat dhe qytetrimin europian. Ndërkohëqë inxhijtautor, pak më parë kishte shkruar traktate himnizuese dhe admirohej në mexheliset turke si ndër hartuesit e enciklopedisë së atij kombi. Nuk rrinte pas edhe Naimi në veprën “Historia e Skenderbeut” ku mbi kombin turk lëshon epitete denigruese. Ndërkohë edhe Çajupi jepte kushtimin me vjershat e tij për tu çliruar nga robëria shumë shekullore turke. Po në këtë linjë pothuajse ishin gjithë Rilindasit deri tek Pashko Vasa ose Vaso Pasha në thirrjen e tij të famshme: “mos ndigjoni kisha e xhamia; feja e shqiptarit është shqiptaria” (që në fakt mbante dy emra, njërin për karrierë dhe tjetrin si Rilindas siç thotë I. Kadare në veprën “ardhja e Migjenit në letërsinë shqipe” Në këtë mënyrë gjeopolitika diktonte gjeokulturën. Shpetimi nga Lindja orientale, dhe orientimi nga Përendimi, gjente shpjegim në një metaforë gjeografike që rëndom përdorej në atë kohë; “dielli që lind anej nga perëndon”.

Në periudhën e mëvonshme pas pavarësisë në vitet 30-të, vijonky debat, por më i ekuilibruar. Sintagmat themelore- Oriental apo Oksidental?; “Shqipëria midis Lindjes dhe Perëndimit;” Shqipëria Kopësht Shkëmbor në Jug-Lindje të Ballkanit”, tregojnë se kushtimet e Rilindjes filluan të zëvendësohen më sintagmën edhe- edhe. Në këtë kohë periudha ishte më e ftohtë dhe analizat filluan të thellohen në sferën kulturore. Orientimi politik në këtë periudhë ishte thellësisht përndimore, por ndjesitë e identitetit filluan të përzihen dhe nisen të reflektojnë reminishenca kulturore. Në aspektin konstitucional- kemi monarki kushtetuese, institucione parlamentare dhe qeverisja bëhej me parimet dhe principe kushtetuese europiane. Zogu në sjelljen politike dhe në stilet e jetës mudohej të shfaqej plotësisht përendimor duke u munduar të fsheh çdo gjë që ishte orientale. Në periudhën e sundimit komunist ndonjë kishte ndonjë bëlëzim të vogël, nuk pati qasje të tilla. Pas viteve 90- sloganet politike “E duam Shqipërinë si Europë” u pritën me brohoritje nga të gjitha qarqet intelektuale dhe akademike me përjashtim të atyre që ishin indoktrinuar nga ideologjia zyrtare e kohës. Çdo gjë lindore u bë e pshtirë dhe e neveritëshme. Përsëri Shqipëria hynë në një inkubator tëri ideologjik duke e shpjeguar të kaluarën e vet dhe të ardhshmen vetëm si pjesë e sferës përndimore, dhe ashtu ndjehet “mire” deri nga vitet 2000 kur historiani Hysamedin Feraj dhe publicisti Abdi Baleta bëhen zëdhënës të një rryme nacional- islamike duke provokuar qasje të ndryshme ndaj fundamentit tonë kulturor në përgjithësi dhe duke arritur deri tek figura e Skenderbeut. Kjo siç u tha edhe më lart terhoqi në debat edhe figura të tjera me peshë në jetën publike dhe akademike. Studjuesi Aurel Plasari nësenë e tij “Vija e Tëdostit rishfaqet nga duhet t’ja mbajnë shqiptarët” I vendos shqiptaret para dilemës pa dhënë ndonjë orientim të qartë kulturor. Në këtë shkëmbim bën analizë historike, por pa u lodh për llojin e identitetit tonë kombëtar. Në vitin 2006 nis polemika Qose-Kadare pas botimit të esesë së I. Kadarese; “Identiteti Europian i Shqiptarëve”. Nga perudha e Rilindjes Kombëtare e deri me sot Shqipëria përjeton një realitet të dyfishtë që në të shumtën e rasteve del si kontradiktorë dhe përjashtues të njëri-tjetrit. Gjatë Rilindjes e deri në fillimet e Luftës së Dytë Botërore, elita drejtuese e vendit u mundua dhe arriti, aq sa arriti, të ndërtojë perspektivën politike të kombit tonë drejt sferës përndimore, pikrisht mbi një popull që kishte shkuar i akomoduar politikisht dhe kulturalisht në lindjen bizantine dhe në Orient. Në 50 –vjeçarën e rregjimit të E. Hoxhës përsëri elita drejtuese e vendit (politike dhe intelektuale) e mori dhunshëm kombin tonë për ta bërë pjesë të sistemit politik lindor duke u munduar të shkatërrojë atë substancë kombëtare me identitet përndimore. Në këtë kohë, çdo gjë Përndimore sipas propagandës ishte e huaj dhe e dëmshme për shëndetin e kultures sonë kombëtare. Pas viteve 90-të gjithë kapitali politik dhe intelektual iyni investohet në funksion të përfshirjes së Shqipërisë në Projektin e Europës së Bashkuar. Europa e Bashkuar është e vetmja alternative politike për vendin tonë sot, dhe të shpikësh alternativë tjetër është marrëzi. Dhe nuk ka asnjë të keqe pse të gjithë fokusohemi për të ngritur prespektivën tonë brenda projektit politik europian. E keqja është se këtë prespektivë të Shqipërisë e ngrejmenë mënyrë retorike dhe populiste pa qasje korrekte dhe shkencore në definimin e identitetit tonë kulturor. Kjo është kontradita e thellë që na mundon sot. Identitetin politik shtetror tonin e njëjtësojmë me identitetin kombëtar. Kombi dhe shteti janë të ndërthurur me njëri-tjetrin, por janë edhe identitete të ndryshme. Kombi është nocion kulturor, kurse shteti dhe qeverisjet janë nocione politike. Këto dy të fundit influencojnë për ta orientuar një komb drejt një qytetrimi, apo një tjetri, por nuk është e thënë që mund të transformojnë gjithë përmbajtjen kulturore të identitetit të tij. Edhe rilindasit si romantik frymëzuan dhe ngjallën shpresën që populli t’i kthej sytë nga Oksidenti, dhe bën mjaft punë në këtë drejtim, por kombi ynë për shumë arsye historike, një pjesë të mirë të trupit dhe të shpirtit i kishte në Orient. Edhe gjatë sundimit të E. Hoxhës elita drejtuese e vendit u mundua ta përfshi vendin tonë në sferën sllavo-bizantine, por ajo çka u arriti ishte thjeshtë njohje dhe afrim në nivel elitash, jo pajtim kulturor kombësh. Kështu perspektiva europiane sot le të na ndihmoi ne për të bërë dhe plotësuar komponentin e kultures përndimore qëna ka munguar kaq shumë, por kjo nuk do të thotë që ne e bëjmë më mirë identitetin tonë në raport me Europën duke fshirë ato elemente që me ose pa hir janë bërë pjesë e thellë e këtij identiteti.

## Identiteti ynë në marrdhënie me të tjerët

Kur flitet për nacionalizmin bëhet fjalë për të eksploruar një nocion me të cilin identifikohet kulturalisht një komunitet njëzëror. Kombi del si entitet kulturor dhe vazhdon pafundësisht procesin e bërjes së identitetit të vet. Tendënca e natyrshe e këtyre entiteteve është e dyfishtë njëkohësisht; edhe kërkojnë të dallohen nga grupimet tjera, duke thënë se jemi ndryshe,

por në anën tjetër kërkojnë të njëjtësohen me grupime sa më të mëdha. Kjo është një prirje natyrale e qënies humane që është zhvilluar vazhdimisht dhe e ka zgjeruar bazën e identitetit të vet nga rrethi i ngushtë fisnor deri në nivel kombesh apo qytetrimesh siç shprehet Hantingtoni. Edhe ne si komb, nuk mund të përjashtohemi nga kjo prirje e natyrshme, dhe si I tillë një anë kërkojmë të jemi konstruktivë çështje gjeneologjike, (pëllazgë, ilirë, shqiptarë) kurse në anën tjetër mundohemi të shpjegojmë se I përkasim sferës së qytetimit Perëndimor apo Lindor. Për këtë arsye mjedisi intelektual dhe politik në Shqipëri për periudhën që bëhet fjalë, (nga Rilindjes e deri më sot) ushqen polemika për të definuar përmbajtjen kulturore të identitetit tonë. Përveç kohës së rregjimit të E. Hoxhës, në pjesën tjetër, shumica dominuese e elitës drejtuese të vendit mundohet ta shpjegojë kuptimin e identitetit tonë brenda suazës së identitetit kulturor evropian. Mirpo sintagma; “identiteti evropian I shqiptarëve” deri më tash përkthehet si njëjtësim I përkatësisë sonë me identitetin kulturor evropian dhe si refuzim I identitetit lindor. Të thuash sot që shqiptarët kanë identitet evropian kë bërë mire se shpall një broshurë propagandistike me stil retorik dhe utilitar, por nuk është e thënë se ke shfletuar historinë e kombit tonë me rigorozitet shkencor. Pse ngre këtë pohim? Duke ju referuar Kristo Frashërit dhe shumë studjuesve tjerë evropian si Ernest Gellner, Jürgen Habermas, Anthoni Giddens etj, Europa nuk ka një identitet vetëm kulturor, bile Habermas shkon deri aty sa thotë është e pamundur të bëhet. Edhe themeluesit e Europës së Bashkuar kuptuan pas disa dekadash se projekti politik I tyre, do të ishte I qëndrueshem po të ishte nisur punanga Europa kulturore. Kështu, kur Europa deri më sot nuk ka krijuar identitetin e vet kulturor, nuk kemi pse ne të mjaftohemi me veten duke u identifikuar me të. Megjithatë nuk është e rëndësishme për këtë kumtesë identiteti evropian, por I rëndësishem është fakti se ne bejmë identitetin tonë përendimor si refuzim total të elementit lindor ku elementet e këtij të fundit me mënyra të dhunëshme, ose të natyrshme kanë depertuar në brëndësi të jetës shqiptare. Megjithatë edhe perceptimilindor ngelet mjaft ipa qartë kur merren në shqyrtim këto çështje. Kërkojmë të “arratisemi” nga Lindja, por përsëri nuk shpjegojmë se për cilën Lindje bëhet fjalë; për Lindjen ish komuniste që shtrihet kryesisht në entitetin sllavo-bizantin, apo për orientalizmin me fundament kulturor islamin, apo te dyja përnjehërsh? Të mohosh gjithçka lindore nga cilado Lindje që të vijë nuk mjafton për të përcaktuar dhe formatuar veten ngapakëpamja e identitetit. Vetja bëhet duke pohuar atë që e kedhe të mundohesh ta transformosh në funksion të perspektivës tënde kombëtare. Kështu t’I ikësh botës lindore ku dominoi sllavo-bizantizmidhe me vonë komunizmi, përveç të tjerave do të thotë të mohosh realitetin gjeografik dhe administrativ që natyrshem kanë influencë në bërjen e komponentit kulturor në një entitet të caktuar. Po ashtu, të braktisësh lindjen orientale në mënyrë populiste, do të thotë të shprishësh substancën që ka bërë religjionin shpirtëror për komunitetin më të madh në Shqipëri prej 4-5 shekuj. Për arsye madhore, fati i Ballkanit do të vihej nën administrimin shtetror bizantin dhe më vonë nën sundimin otoman, dhe kjo bëri që shqiptarët gjatë periudhës së mesjetës hershme dhe të vonë t’I largohen krishtërit perëndimor. Studjuesi Aurel Plasari e dëshmon kështu këtë fakt; “Në viset arbërore largimi prej sferës shpirtërore e mendore latine që pati zotruar gjatë mesjetës është zhvilluar nëpërmjet dy procesesh; mbajtjes me kishën lindore dhe muslimanizmit. E gjëjmë të regjistruara më sëmiri këto procese prej relatorve të Papatit që popullsinë shqiptare e regjistrojnë në tre ndarje: latine (shqiptarët katolik), skizmatikë (shqiptarë të lidhur me kishën lindore greke dhe sllave) dhe turq (shqiptarë të muslimanizuar<sup>2</sup>. Se nëç`shkallë kishin arritur këto procese fjala vjen në territorët e Kosovës mësohet nga relacioni I Shtjefen Gaspërit, I cili me 1671 numëronte në Dioqezën e Shkupit vetem 2.169 katolik arbër që kishin mbetur<sup>3</sup>. Siç e ka llogaritur edhe S. Driza në vitet 70-të të shekullit XVII nuk kishin mbetur as edhe 1% e popullsisë së Kosovës latine<sup>4</sup>. Plasari shkon më tej. Regjimin komunist të E. Hoxhës nuk e shikon si doktrinë politike, por si ideologji që ishte ngritur qëllimisht për të refuzuar Krishtërimin Përendimor dhe si një mënyrë për t’I ndarë përfundimisht shqiptarët nga ky qytetrim. Dhe sipas tij, po të studjohet me kujdes gjithë sistemi ideologjik I Enver Hoxhës do të kuptohet se antieuropianizimi I tij do të gershtohej me një kompleks latent antikristian. Plasari mundohet ta provojë këtë supozim duke cituar Hoxhën që I dukej rast I pa precedent për një diktator ateist kur në një fjalim të tij lartësonte Islamizmin dhe denigronte Krishtërimin: “E verteta është se Kur’ani është më i plotë dhe më i pastër se Bibla e izraelëve dhe Ungjilli I të krishterëve”<sup>5</sup>. E pa besueshme për gojen e një marksist-leninist, ateist-shprehet Plasari. Megjithëse është e vështirë të besohet se sistemi komunist I E. Hoxhës ka qënë projekt politik dhe ideologjik, për të ndarë përfundimisht shqiptarët nga qytetrimi përendimor. Relatorët e Papës deshmojnë një fakt, ndonëse mund të kenë bërë gabime të vogla në shifra, nuk mund të themi se nuk thojnë të verteta që njihen mirë nga studjuesit. Ne mund të mblidhemi për t’I kthyer kokëposhtë ato shifra, por nuk mund të mohojmë një të vertetë që perandoria e bizantit dhe më vonë ajo otomane e vendosen nën presion elementin shqiptarë, kështu që identiteti ynë gjatë asaj periudhe historike është krijuar në marrdhënie me ta (marrdhëni do të thotë qoftë si refuzim qoftë si pajtim me ta). Nuk është korrekte dhe shkencore (e di që nuk u shkon përshtat retorikave të romantizmit nacionalist) të pretendosh që identiteti ynë qëndron vetëm në ato elemente të kultures sonë që kanë ngele të paprekura dhe të pa deformuara nga ky presion I madh. Në sferën kulturore është e paimagjinueshme ta ruash kaq të imunituar elementin tënd identitar, në një mjedis kaq kompleks social. Teoritë e imunitetit janë të shëndetëshme për retorika populiste, por jo argument shkencor shëndoshë. Identiteti (kolektiv dhe personal) behet dhe plotësohet vetëm në marrdhënie me të tjerët, jashtë këtij konteksti nuk mbahet. Nuk I mjafton vetvetja për të mbijetuar, por vetëm duke hyrë në marrdhënie me të tjerët, qoftë si refuzim, qoftë si pajtim. I duhet domosdoshmerisht; - I ndryshmi; I kundërti, me të cilin do të masë, të plotësojë, dhe të krahasojë vlerat me të. Ky proces sociologjizimi është I domosdoshëm për identitet personal dhe kolektiv kështu që është e mira që edhe ne, ta shikojmë në këtë këndvështrim formimin e identitetit tonë.

<sup>2</sup> Aurel Plasari “Rrembimi I Europës” f. 32 shtepia botuese 55 viti 2005

<sup>3</sup> Po aty, faqe 33

<sup>4</sup> Po aty, f.33

<sup>5</sup> Po aty faqe 40

## Konkluzione

Nga fillimet deri më sot Bashkimi European lexohet dhe përkthehet si projekt politik rajonal dhe nuk ndigjojmë sirena prej tyre që të alarmojnë për të prodhuar domosdoshmërisht një ideologji unifikuese mbi të cilën do të qëndrojë ky projekt politik. Bashkimi European nuk është as si Roma e vjeter, as si Bizanti dhe as si perandoria osmane, por bashkim vullnetar popujsh që mundohen me mirkuptim të ndërtojnë të ardhmën e tyre të përbashkët. Deri më tash nuk kemi ndigjuar nga lidershpi zyrtar, as nga institucionet e BE-së shantazh semantik për uniformitet kulturor, as rrafshim të identiteteve etnike. Zyrtarisht preambula e traktatit të Bashkimit European shprehet në ligjeratë të drejtë:

“Bashkimi European do të respektojë larminë e saj të pasur kulturore dhe gjuhësore dhe do të garantojë ruajtjen dhe mbrojtjen e trashëgimisë kulturore të Evropës

“Bashkimi do të garantojë përballë kushtetutës barazinë e shteteve anëtare si edhe identitetin e tyre kombëtar që është integruar në strukturat e tyre themelore, politike dhe kushtetuese, përfshirë edhe në autonomitë lokale dhe krahinore.

“Në kuadrin e kësaj kushtetute dhe pa asnjë lloj paragjykimi, pa përjashtuar asnjë klauzolë të veçantë, do të ndalohet çdo diskriminim në fushën e kombësisë”.

“Njerëzit e Evropës, duke krijuar një bashkim më të ngushtë midis tyre, ndodhen përpara alternativës për të pasur një të ardhme paqësore të ndërtuar mbi vlera të përbashkëta. I ndërgjegjshëm për trashëgiminë e tij shpirtërore dhe morale, Bashkimi u themelua mbi vlerat universale të dinjitetit njerëzor: lirisë, barazisë dhe solidaritetit; (Bashkimi) bazohet në parimet e demokracisë dhe të shtetit ligjor; (Bashkimi) e vendos individin në qendër të aktiviteteve të tij, duke krijuar për të (konceptin) e qytetarisë së Bashkimit dhe duke krijuar një hapësirë lirie, sigurie dhe drejtësie. Bashkimi kontribuon për ruajtjen dhe zhvillimin e këtyre vlerave të përbashkëta; ndërkohë respekton larminë e kulturave dhe trashëgimnive të popujve të Evropës, si dhe identitetet kombëtare të shteteve anëtare, gjithashtu organizimin e autoriteteve të tyre publike në shkallë kombëtare, krahinore dhe lokale; synon të promovojë zhvillime të balancuara dhe të sigurojë lëvizjen e lirë të personave, shërbimeve, të mirave materiale, të kapitaleve, si edhe lirinë e banesës. Tani për tani është e nevojshme të forcohet mbrojtja e të drejtave themelore nën dritën e ndryshimeve shoqërore, progresit shoqëror, zhvillimeve të teknologjisë dhe të shkencës duke i bërë më të theksuara në këtë Kartë.”

Duket qart se përmbajta e traktatit nuk ka asnjë klauzolë për diskriminim kombesh për shkak të identitetit kulturor të tyre, bile shpreh maksimalisht mbrojtjen për minorancat etnike. Bashkimi European nuk ka vendosur ndonjë kriter apo standart për përmbajtjen kulturore të kombeve që aspirojnë BE-në, por anëtarinë e kushtëzon nga standartet demokratike të një shteti dhe niveli i demokracisë funksionale. Nuk pëngon anëtarimin, gjuha, feja, ideologjia, e shkuara dhe tashmja historikë e vendit tonë, por ne na lënë jashtë dyerve të BE-së, retorika politike bizantine, feudalizmi politikoriantal, sundimi fanatik i pushtetit, dhe pse jo, në njëfarë mënyre edhe historia jonë që ju ka dashtë disa herë të bëhet vitrinë e “hishme” për politikanët. Kështu, ne me të drejtë aspirojmë të bëhemi pjesë e këtij projekti madhështor politik, dhe shpresojmë të përmisojmë qeverisjen duke e transferuar një pjesë të saj tek institucionet mbikombëtarë të BE-së, por Europa e Bashkuar nuk ka lançuar ndonjë projekt madhor kulturor që ne domosdoshmërisht na kërkohet të përshtatim identitetin tonë, deri në njëjtësim me identitetin European. Aq më tepër kur Europa vetë e vuan sot krizën e identitetit në aspektin kulturor dhe një pjesë mirë studjuesve e shikojnë të pamundur projektin politik të bashkimit mbi një identitet të përbashkët kulturor. Dhe në logjikën e principeve kryesore mbi të cilat janë hartuar traktatet themeluse të BE-së, siç cituam pak më lart, ne si komb kemi avantazhin e madh pasi BE-ja potencialisht është hapësirë e mjaftueshme lirie ku gjithë popujt, të mëdhenjë dhe të vegjel, zotërojnë mjete juridike dhe politike për të promovuar trashëgimninë kulturore dhe historike të vendit të tij. Pse duhe që ne të vihemi në panik për të zbuluar medomos rrënjët tona të identitetit vetëm në truallin e krishtëritim Përendimor kur Europa e Bashkuar nuk e kërkon këtë? Europa nuk ka proklamuar ndonjë projekt unifikimi kulturor me fundament të krishterë, kështu që nuk ka arsye pse intelektualët tanë, të bëhen kasnecë të parakoheshëm të një projekti të pashpallur. Edhe nëse ndodh një gjë e tillë, nuk na lypet ne kontributi për atë projekt. Ne do të na kërkohet që brenda këtij projekti të maksimalizojmë përfitimet dhe të shfrytëzojmë gjithë resurset për të plotësuar boshllëkun që është krijuar trashëgimisë tonë kulturore dhe historike për shkaqe ideologjike (totalitare, apo fetare). Europa e Bashkuar është një avantazh i madh për ne sot, pasi ka brenda saj resursin e pasur të lirisë dhe potencialisht të favorizon që të bësh identitetin etnik pa komplekset historike të shkuarës dhe pa depression kulturor nga lart. Identiteti ynë kulturor në fillimet e veta kishte konstruktin e vet pagan, vishet më vonë me petkun fetar të Krishtëritim Përendimor, nën administrimin perandorak të Romës dhe nën autoritetin papnor, plotësohet (si refuzim dhe pajtim) me krishtërimin Lindor në administrimin bizantin dhe po kështu reagon ndaj administrimit osman dhe qytetrim islam.

Po ta konceptojmë identitetin etnik si diçka të mbyllur dhe të fortifikuar në vetvete, duke menduar se i mjafton vetja, do të mundohemi të shpjegojmë kuptimin e tij duke ju vjedhur vetes për tu fshehur njëherë në një qytetrim, njëherë në një tjetër (siç rëndom kemi bërë), asnjëherë pa e deshmuar plotësisht veten. Ndryshe ndodh po ta konceptosh identitetin etnik si koncept që zhvillohet brenda një procesi të hapur, asnjëherë i përfunduar plotësisht, por gjithnjë në kërkim dhe me bindjen shkencore se identiteti është here realitet historik apo antropologjik, herë është kuptim i negociuar. Po t'i referohemi kësaj logjike shkencore nuk ka arsye pse ne ti qasemi me inferioritet intelektual projektit politik të Bashkimit European. Përfundimisht identiteti etnik nuk është vetëm realitet antropogjik apo konstrukt gjeneologjik, por entitet kulturor që është produkt i një procesi të gjatë dhe dizenjon profilin identitar të tij në këtë trajektore historike. Secila epokë dhe qytetrim la nuancat e veta brenda nesh dhe identiteti ynë ashtu siç ka aspektet e vetes, krejt të veçanta, ashtu do të reflektojë në të njëjtën mënyrë ato nuance kulturore që për rrethana historike u ngjizën thellë brenda identitetit tonë. Ata që kanë hartuar projektin politik të Bashkimit European, i kanë ditë mire se ne këto gjëra.

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 Sulstarova .E. Arratisje nga Lindja

# Rishtë që solli ligji nr.9901, datë 14.4.2008 “Për tregtarët dhe shoqëritë tregtare” në lidhje me pozitën e administratorëve dhe ortakëve në shoqëritë tregtare

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## Abstract

*Law No. 9901, dated 14.04.2008 “On Entrepreneurs and Companies”, is one of the most important normative acts of legislative reform that has taken our country to accommodate the legislation-keeping with the “acquescommunitare”, in particular in trade area in order to process this legislation as effective in the full-functioning of companies. In terms of this law one of the most important institutes is its regulation of the legal position of administrator and partner, rights and obligations they face society and third parties as well as cases in which they are legally responsible. In previous legal framework in the field of commerce problems in the judicial hoods had shown the impossibility of good management companies, when an obstacle in this regard become abusive or actions contrary to the interests of society as administrator and one of the partners of the company. Already in recent legal changes that have been made, the emphasis is placed not on strengthening its administrator and partner (granting immunity to an immunity), but in strengthening and ensuring the continuity of the company. This does not mean that they are sitting administrator rights and a partner in relation to the society in which they belong, but that is strengthened control indicators and legal responsibility they hold in relation to the interests of society they belong to. In this way are open and continue to resolve administrative disputes where dozens of special focus busy lawsuits whose object expel a member and administrator actions and behaviors that conflict with the interests of society. Court jurisprudence in this area is diverse and there is also analyzed in relation to legal changes pertaining to the law cited above.*

## Hipoteza kryesore e punimit

Ligji nr.9901, datë 14.4.2008 “Për tregtarët dhe shoqëritë tregtare”, ka përmiruar dukshëm vënien para përgjegjësisë administrative dhe civile të administratorit apo ortakut, në mbrojtje të interesave të shoqërisë.

2.Ligji nr.9901, datë 14.4.2008 “Për tregtarët dhe shoqëritë tregtare”, garanton intersat e ortakëve në minorancë, si në nisjen e procedurave që kanë objekt shkarkimin e administratorit përgjegjës ashtu edhe në kërkesat që kanë për objekt largimin nga shqëria dhe likuidimine kuotës.

## Pyetje kërkimore

1. Cilat janë mekanizmat ligjore dhe procedura që ndiqet për shkarkimin e administratorve që kanë shkelur ligjin dhe statutin e shoqërisë.
2. Cilat janë mekanizmat ligjore dhe procedura që ndiqet për ngritjen e padive civile ndaj administratorëve përgjegjës.
- 3.Cilat janë mekanizmat ligjore dhe procedura që ndiqet për vënien para përgjegjësisë civile të ortakëve që kanë shkelur ligjin dhe statutin e shoqërisë.



Ne baze te ligjit nr.9901, datë 14.4.2008 “Për tregtarët dhe shoqëritë tregtare”, organ I dytë më I rëndësishëm si nga kopetencat ashtu edhe veprimtaria që ai luan në të gjitha shoqëritë tregtare, janë dministratorete, pro duhet theksuara se roli I tyre është më I ndeshur pranë SH.P.K-ve dhe Sh.a.

Administratorete perbejne organin ekzekutiv te shoqerise, nje ekzekutiv te forte, te pajisur me kompetenca vendimmarrese. Kompetenca e tyre eshte nje kompetence e pergjithshme ndryshe nga kompetencat e Asamblese te cilat jane percaktuar shprehimisht ne ligji. Kompetencat e tyre vendimmarrese shtrihen ne te gjitha veprimet e administrimit te veprimtarise tregtare te shoqerise per te zbatuar politikat tregtare te shoqerise, politika te vendosura nga Asambleja e Pergjitheshme, pikërisht ky përbën një nga dallimet thelbësore midis tyre.<sup>1</sup>

## Pergjegjesia e administratoreve

Regullimi më pozitiv i bërë në ligjin nr. 9901/2008 “ Për tregtarët dhe shoqëritë tregtare” është shkaqet me procedura që duhet ndjekur për shkarkimin e administratorëve. Asambleja e Pergjitheshme, mund t'ishkarkoje ne cdo kohe administratorete e SHPK. E njejta situatë është dhe per administratorete e sh.a , ata mund te shkarkohen ne cdo kohe nga organi qe i ka zgjedhur. Shkarkimi I administratorit nuk është I vetmi akt me karakter represiv ndaj tij. Në rast se me veprimtarinë e tij administrator në kundërshtim me ligjin dhe sattetin I ka shkatuar një dëm shoqerise, kjo e fundit jo vetëm ka të drejtë ta shkarkojë në bazë të rregullave të se drejtes civile te kërkojë dëmshpërblimin përkatës ndaj tij. Ne baze te nenit 95/6 “ Për tregtarët dhe shoqëritë tregtare”, shkarkimi i administratoreve kerkon votim me shumice te zakonshme. Per me teper statuti nuk mund ta heqe ose kufizojte drejten e ortakeve per te shkarkuar administratorete ne cdo kohe.

Sa me siper do te thote qe rregulli i shumices se thjeshte per te shkarkuar administratorin nuk mund te ndryshohet ne statut, p.sh. duke vendosur nje prag me te larte. Kjo dispozite synon mbrojtjen e te drejtave te ortakeve, dhe perpiqet te mos lejoje administratorete te behen teper te fuqishem, cka përbën edhe një nga ndryshimet ligjore më pozitive të ligjit ligji 9901/2008.

Nje pyetje qe lind eshte shkarkimi i administratorit ortak, nese ky i fundit do marre pjese ne mbledhjen e asamblese ne rast se do shqyrtohet shkarkimi i tij?

Nese do i bejme nje interpretim te ngushte nenit 89 dhe 148 te ligjit, administratori qe zoteron kuotat ne shoqeri nuk kufizohet per te votuar kur ne rend te dites se mbledhjes eshte shkarkimi i tij, pasi ne kete nen flitet per vleresimin e veprimtarise se tij si ortak dhe jo si administrator. Por duke pare parimet e pergjithshme te ligjit dhe frymen e tij mendoj se do ishte ne konflikt te paster interesi ndaj nuk duhet te marr pjese ne votim. Shkarkimi i administratorit hyn ne fuqi menjehere pas votimit. Per rrjedhoje, regjistrimi ne QKR ka vlere vetem deklarative por kjo nuk cenon aftesite e administratorit per te perfaqesuar shoqerine para te treteve per aq kohe sa nuk eshte bere regjistrimi ne QKR, por vetem kete te drejte te tij.

Procedura e shkarkimit të administratorit të një sh.p.k-je, kalon në dy faza, ku faza e parë është njoftimi që njëri prej ortakëve I drejton Administratorit të shoqërisë për të thirrur Asamblenë ose Këshillin Mbikqyrës dhe për të dikutuara në lidhje me rsyet e largimit dhe faza e dytë është thirja e kësaj mbledhje kur Administratori nuk e ushtron të drejtën për të thirrur Aasamblenë mbi bazën e kërkesës të njëerve prej ortakëve.

Arsyet e shkarkimit të administratorët qoftë edhe njëri prej ortakëve me këtë cilësi, kanë të bëjnë, me mungesën e angazhimit në bazë të kopetncave që e detyron statuti i shoqërisë si dhe ligji nr.9901, dt, 14.04.1998 “Për tregtarët dhe shoqëritë tregtare”<sup>2</sup>.

Asambleja e Pergjitheshme apo Këshilli Mbikqyrës që ka të drejtë të vendosë për shkarkimin e administratorit, thiret nga administratorët ose nga ortakët që përfaqsojnë të paktën 5% të totalit të votave në Asmblene e Pergjitheshme. Këta të fundit nuk kanë të drejtë ta therasin Asamblenë drejtpërdrejt, por mund t`i drejtojnë administratorëve një kërkesë me shkrim, përfshirë postën elektronike, për të thirrur Asamblenë e Pergjitheshme dhe ose përfshirjen e cështjeve për të cilat Asambleja duhet të marë vendim, përfshirë edhe shakrkimin e tyre<sup>3</sup>.

Një nga risitë më thelbësore të këtij ligji është quorumi i nevojshëm që kërkohet me qëllim për të inicuar shkarkimin e administratorit (vetëm 5 % ose më shumë), quorum I nevojshëm për zhvillimin e mbledhjes nga na e Asamblesë( ortakët që zotërojnë 30 % e kuotave të të gjithë shoqërisë ose më shumë), si dhe vendimarrja për shkarkimin e administratorit (50 % plus një të antarëve që zotërojnë 30 % të kuotave të gjithë shoqërisë ose më shumë).

Në ligjin e mëparshëm ishte e pamundur të shkarkohej një administaror nga Asambleja, në rast se ortakët që e ndermernin një qëllim të tillë nuk zotëronin më shumë 50 % të të gjithë kuotave të të gjithë shoqërisë<sup>4</sup>.

Pas procedurës të sipërcituar, që vendimi i marë nga Asambleja të ketë fuqi juridike ndaj të tretteve, duhet cuar për regjistrim në QKR degën përkatëse. Për sa i përket personit që duhet të mbajë procesverbalin e shkarkimit të administratorit ligji nuk vendos ndonjë formë të posacme sikurse është akti solemn i mbajtur nga noteri, ai nuk përjashtohet por nga ana tjetër edhe mbajtja e procesverbalit nga një prej punonjësvë të shoqërisë nuk e bën as procesverbalin dhe as vendimarrjen të pavlefshme.

<sup>1</sup> Shiko nenin 95/3 pika a ligji 9901/2008

<sup>2</sup> Në bazë të nenit 81/c të ligjit 9901/2008.

<sup>3</sup> Nenin 82/2 të ligjit, 9901/2008.

<sup>4</sup> Neni 84 i ligji 9901/2008.

Pergjegjësia e administratorit ndaj shoqërisë nuk lidhet vetëm me shkarkimin e tij sikurse analizuam më sipër, por ai mund të vihet para përgjegjësisë civile për dëmet që ka pësuar shoqëria si rrjellojë e mos permbushjes të rregullt të detyrave të caktuara në ligj ose në statut. Kështu, në bazë të nenit 98/2,3,4 dhe nenit 163/2,3 të “Për tregtarët dhe shoqëritë tregtare”, administratori mund të shpallet përgjegjës në rast se nuk i përmbahet detyrimeve të vendosura ndaj tij me ligj. Vendimi për të ekzekutuar paditë kundër administratorit merret nga Asambleja e Përgjithëshme. Kjo kërkon shumicën e zakonshme të votave të antarëve të pranishëm. Është e rëndësishme të nënvizohet se administratori i cili është dhe ortak i shoqërisë nuk mund të ushtroje të drejtën e tij të votimit në rast se Asambleja e Përgjithëshme vendos se ndaj tij duhet ngritur padi.

Asambleja e Përgjithëshme është kompetente për të përfaqësuar shoqërinë kur ngrihen padi kundër administratorëve. Sipas ketyre dispozitave ligji sqaron se shoqëria përfaqësohet në gjykim nga një përfaqësues i emruar nga Asambleja e Përgjithëshme, pra nuk janë administratorët përfaqësuesit e shoqërisë në Gjykatë.<sup>5</sup>

Një nga veprimet apo mosveprimet të cilat i shkaktojnë një dëm të madh shoqërisë është mos deklarimi i të ardhurave reale që ajo ka nxjerë gjatë një viti fiskal me qëllim shmangien e detyrimeve financiare karshi shtetit. Në një situatë të tillë dëmi real me të cilin mund të përballë shoqëria, për të paguar në favor të shtetit shkon shumë më tepër, sesa detyrimi financiar i papaguar. Në rastin e një subjekti tregtar i regjistruar në QKR dega Korçë, për shkak të veprimeve dhe mosveprimeve të organeve të tij drejtuese kishte shfaqur hapur shpërfillje ndaj autoritetit shtetëror në pagimin e taksave dhe tatimeve, pasi ishin ezauruar të gjitha ndërshkimet me karakter administrativ, u pa se rruga më e drejtë ligjore që duhej ndjekur ndaj tij, ishte fillimi i ndërkjes penale, parshikuara nga neni 181 i K.Penal ‘Për mospagim të taksave dhe tatimeve’ si dhe ligji nr. 9754, dt. 14.06.2007 ‘Për përgjegjësinë penale të personave juridikë’. Në bazë të provave të administruara në senacë gjyqësore, nga ana e Gjykatës shoqëria u deklarua fajtorë dhe si dënim kryesor ndaj saj u dha ai i mbarimit të personit juridik<sup>6</sup>. Mbase ky vendim i Gjykatës mori formë të prerë, Prokuroria pranë Gjykatës të Rrethit Gjyqësor Korçë nisi një tjetër procedim penal ndaj administratorit të shoqërisë për veprimet dhe mosveprimet e tij të cilat i sollën një dëm të rëndë interesave të Shtetit dhe të vetë shoqërisë.

Pyetja që shtrohet në këtë rast është, kur për të njëjtin fakt dhe të njëjtat rrethana, çështja është gjykuar njëherë me një vendim të formës të pererë, ku është penalizur me mbyllje të aktivitetit ekonomik, shoqëria tregtare X, a ka më vend për përgjegjësi ligjore për organet e personit juridik që tashmë ka mbaruar (ka vdekur juridikisht)? Përgjigja që une mendoj në këtë situatë faktike dhe juridike është se nuk mund të jepen dy dënime me karakter penale për të njëjtin fakt. Ishin pikërisht mosveprimet fajtorë të administratorit të shoqërisë X, cka ndikoi në mbylljen e vetë shoqërisë, dhe nuk mundet të merret më në përgjegjësi penale as administrator dhe as Asambleja e Përgjithëshme në cilësinë e organeve të personit juridik, (që tashmë ka mbaruar pasi është ndërshkuar me mbyllje penalisht), në këto kushte kur nuk ekziston më juridikisht vetë shoqëria si person juridik që të mbajë përgjegjësi penale si mund të ekzistojë i mëvetsuar një nga organet e saj për të mbajtur përgjegjësi penale.

## Largimi dhe përjashtimi i ortakut

Në përputhje me legjislacionin tone, por edhe atë të vendeve të BE, është pranuar gjerësisht fakti se një shoqëri tregtare është një kontratë dhe, si e tillë, ka praninë e të gjithë atyre elementeve që parashikohen në legjislacionin civil për kontratat<sup>7</sup>.

Ligji parashikon se ortakut ka të drejtë të largohet nga shoqëria dhe kuota e tij të likuidohet nëse ortakët e tjerë ose shoqëria:

- kanë kryer veprime në dëm të tij;
- nëse është penguar të ushtroje të drejtat e tij;
- nëse shoqëria i ka ngarkuar detyrime të paarsyeshme;
- apo për shkak të tjera, që e bëjnë të pamundur vazhdimin e ortakërisë.

Sa më sipër është e kuptueshme, për arsye se një ortak nuk mund të detyrohet të qëndrojë në shoqëri atëherë kur ai pengohet të ushtroje të drejtat e tij, kur i janë ngarkuar detyrime të paarsyeshme, apo për shkak të tjera të arsyeshme.

E drejta e largimit të ortakut nga shoqëria është pare si një e drejtë, në vecanti, e ortakut në pakicë për tu mbrojtur nga vendimet e Asamblese se ortakëve me të cilat nuk është dakord, ose të cilat ndryshojnë në thelb kontratën/marreveshjen e themeilitimit të shoqërisë.

Kodi Civil Italian njihet të drejtën e ortakut që është në pakicë të largohet nga shoqëria nëse ka ndryshime thelbesore të kontratës së themeilitimit<sup>8</sup>.

Sipas nenit 101/2 të ligjit ortakut duhet të njoftojë shoqërinë me shkrim dhe të parashtrijë shkaqet e largimit. Ligji nuk parashikon detaje nëse akti i njoftimit do të jetë shkresë e thjeshtë, leter rekomandë apo akt noterial. Në këto rrethana shkresa

<sup>5</sup> Neni 92/1/3 dhe 151/1/3 i ligjit 9901/2008

<sup>6</sup> Në vendimin nr. 41-2013-3382 (261) dt. 26.07.2013 të Gjykatës të Rrethit Gjyqësor Korçë, ndër të tjera ajo arsyetonte “...pasojat e rënda të ardhura nga kryerja e kesaj veprë penale duke patur parasysh vlerën e konsiderueshme të borxhit tatimor prej 70.178.000 të krijuara, nga ky person juridik për sistemin tatimor shqiptar, megjithëse i pandehuri është gjobitur 47 here ai nuk ka shlyerë asnjë gjobat e vena ndaj tij duke treguar mosperfillje ndaj ligjit dhe rritje të të metejshme të detyrimeve financiare karshi shtetit. Në këto kushte, dënimi me i efektshme si për ndërshkimin e personit juridik përgjegjës ashtu edhe për efekt parandalues është ai i mbylljes të këtij personi juridik...”

<sup>7</sup> Doktrina këtu është unanime shiko; Ferri “II contratto di società commerciale” pag.208, G. Ferri “La società come contratto”, pag. 259 (referencat janë dhënë më lart).

<sup>8</sup> F. Galgano “Diritto Commerciale, Le società” pag. 333.

do jete e thjeshte per aq kohe sa ligji nuk parashikon forme te vecante te saj.

Largimi nga shoqeria sjell disa pasoja, sic jane nderprerja e marredhenieve me shoqerine, rimbursimi i kontributit qe ka dhene ortakut qe largohet ne kapitalin e shoqerise, nderprerja e pjesemarrjeve ne mbledhjet e asamblese etj.

Njoftimi per largim i'u drejtohet, administratorit ose administratoreve te shoqerise si perfaqesues te kesaj te fundit.

Sipas kuptimit te nenit 101/3 te ligjit, administratori duhet te therrase menjehere mbledhjen e Asamblese se ortakeve pra, si rregull, periudha nga momenti i njoftimit te ortakut per largim dhe deri ne momentin e mbledhjes eshte nje afat kohor shume i shkurter, pasi ligji e detyron administratorin te therrase *menjehere* mbledhjen per te vendosur nese ortakut do t'i likuidohet kuota, si pasoje e largimit per shkaqe te arsyeshme. Në rast se ortakut nuk është dakor me vendimin refuzimit të Asamblesë apo me mënyrën e likuidimit të kuotës ai ka të drejtë t'i drejtohet gjykates me padi, ku objekti i padise do te ishte likuidimi i kuotes se paditesit në masën përkatëse<sup>9</sup>.

Ne ligj nuk flitet se si do kryhet likuidimi i kuotes, procedurat dhe afatet e ketij likuidimi.

Per likuidimin e kuotes nevojitet qe te behet dallimi midis vleres se kapitalit themeltar te shoqerise dhe pasurise se shoqerise (kapitalet e veta).

Vlera qe i atribuohet te gjitha kontributeve te ortakeve perben kapitalin themeltar te shoqerise<sup>10</sup>, kapital qe duhet te dallohet nga kapitale e veta te shoqerise, ku me kapitale te veta do kuptohet gjithë pasuria e shoqerise qe krijohet gjate aktivitet te saj.

Per sa i perket vleres se kuotes ajo percaktohet ne baze te gjendjes pasurore te shoqerise ne ditën qe verifikohet nderprerja e marredhenies. Duke qendruar tek e drejta e likuidimit te kuotes, ky likuidim duhet te behet ne proporcion me pasurine e shoqerise, ashtu sic rezulton sipas bilancit te fundit, domethene te vleres qe ka kapitali i shoqerise ne momentin e largimit te ortakut.<sup>11</sup>

Rimbursimi i vleres se kuotes do te kryhet nga shoqeria, nga mjetet qe disponon ajo vete, ndaj dhe shumica duhet te jete e kujdesshme me vendimmarrjen, pasi largimi i arsyeshem i ortakut sjell dhe nje privim te shoqerise nga nje pjese e pasurise se saj<sup>12</sup>.

Përvec mundësisë të ortakut për të kërkuar likuidimin e kuotës sikurse shpjegova më sipër një nga ndryshimet pozitive të ligjit ligji 9901/2008 është edhe përjashtimi I ortakut, likuidimi i kuotës të tij apo edhe shpërblymimi i dëmit që ai mund t'i ketë shkaktuar shoqërisë. Perjashtimi konsiston ne zgjidhjen e pjesshme te marredhenies se shoqerise, pavarisisht nga vullneti i ortakut i cili perjashtohet<sup>13</sup>.

Perjashtimi presupozon qe eshte verifikuar nje fakt ne situaten e ortakut, qe e ben te papajtueshme qendrimin e tij ne shoqeri. Ne disa raste vleresimi i papajtueshmerise behet drejtperdrejt nga ligji, ne raste te tjera nga vullneti i ortakeve te tjere. Nga ana tjeter, perjashtimi eshte parashikuar gjithmone ne mbrojtje te interesave te ortakeve te tjere, nuk eshte si largimi i ortakut qe trajtuam me lart.

Sipas nenit 102 te “ Për tregtarët dhe shoqëritë tregtare”, perjashtimi behet ne baze te nje vendimi te zakonshem te asamblese se pergjithshme, e cila mund t'i kerkoje gjykates perjashtimin e ortakut, nese ai nuk ka shlyer kontributin e tij, sipas parashikimeve te statutit, ose nese ekzistojne shkaqe te tjera te arsyeshme per kete perjashtim.

Sipas ligjit konsiderohen shkaqe te arsyeshme per perjashtimin e ortakut, por pa u kufizuar ne to, rastet kur ortakut:

- a) me dashje apo me pakujdesi te rende i shkakton deme shoqerise ose ortakeve te tjere;
- b) me dashje apo me pakujdesi te rende shkel statutin ose detyrimet e percaktuara me ligj;
- c) perfshihet ne veprime, te cilat e bejne te pamundur vazhdimin e marredhenieve midis shoqerise tregtare dhe ortakut; ose
- d) me veprimet e tij demton ose pengon ndjeshme veprimtarine tregtare te shoqerise.

Perjashtimi vendoset me shumice te zakonshme. Ligji parashikon se Asambleja, me ane te nje vendimi te zakonshem, i drejtohet gjykates per perjashtimin e ortakut.

Sa me siper, me perjashtim te rastit kur statuti parashikon nje shumice me te larte, vendimmarrja per t'iu drejtuar gjykates per perjashtimin e ortakut eshte shumice e thjeshte.

Asambleja i drejtohet gjykates me padi, ku pale e paditur eshte ortakut i cili kerkohet te perjashtohet.

Ne kete rast ligji nuk parashikon si perfaqesues te Asamblese se ortakeve administratorin e shoqerise, por perdor termin asambleja e ortakeve. Asambleja eshte e lire te caktojë nje perfaqesues me prokure, pra qe nuk eshte administrator. Ne kete kuptim zgjidhet rasti kur ortakut qe kerkohet te perjashtohet eshte edhe administrator i shoqerise.

Paditesi (Asambleja që vepron në emër të shoqërisë) mund te kerkoje, gjithashtu, dhe mase per sigurimin e padise. Gjykata, ne varesi te rrethanave, kur e vlereson te nevojshme dhe te justifikuar, mund te marre nje mase per sigurimin e padise, duke pezulluar te drejten e votes se ortakut qe kerkohet te perjashtohet, si dhe te drejtat e tjera qe rrjedhin nga zoterimi i kuotes se shoqerise.

Ligji dhe pikerisht neni 102 i tij, nuk parashikon likuidimin e kuotes se ortakut te perjashtuar. Madje vete ortakut nuk ka te drejte te kerkoje likuidimin e kuotes nese perjashtohet per shkaqe te arsyeshme. Po cfare behet me kete kuote, kontribut te ortakut ne shoqeri?

<sup>9</sup> Neni 101/4 i ligji 9901/2008.

<sup>10</sup> “Gli impreditore e le Societa” F. Ferrara, F. Corsi, fq. 279.

<sup>11</sup> “Po aty, fq. 620.

<sup>12</sup> Për më tepër shiko vendimin nr. 10182, date 13.12.2011 të Gjykatës të Rrethit Gjyqesor Tirane

<sup>13</sup> Galgano, F. Diritto commerciale, Le societa, fq. 85.

Ligji nuk përmban dispozita të cilat të rregullojnë këto situata, pra se çfarë bëhet me kontributin e ortakut të përjashtuar. Në Gjykatën e Rrethit Gjyqësor Tiranë janë shqyrtuar shumë çështje duke u aplikuar dispozita e mesipërme për përjashtimin e ortakut, ku qëndrimi që është mbajtur nga trupa gjyqësore të ndryshme ka qënë i ndryshëm pro dhe kundër likuidimit të kuotës të ortakut të përjashtuar .

Personalisht, mendoj se, si në rastin e largimit të ortakut për shkak të arsyeshme, ashtu dhe në rastin e përjashtimit të ortakut për shkak të arsyeshme, duhet të kryhet likuidimi i kuotes. Në rastin e përjashtimit, ortakut i përjashtuar duhet të ketë të drejtën e rimbursimit të kuotes së vet në të njëjtat kushte si dhe në rastin e largimit.

Shoqëria mund të kërkojë shpërblimin e demit nëse i ka ardhur dem nga veprimet ose mosveprimet e ortakut që largohet nga shoqëria (neni 102/4 i “Për tregtarët dhe shoqëritë tregtare”). Në paragrafin 6 të kësaj dispozite parashikohet se, nëse shoqëria ngre padi për shpërblim dem, ortakut ka të drejtë të kompensojë çdo shumë që do të kishte të drejtë ta përfitonte në çilesinë e likuidimit<sup>14</sup>.

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<sup>14</sup> Neni 92/2 i dhe 151/2 ligjit 9901/2008

# The Stability of Money Supply in the View of Monetary Unification

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## Abstract

*This study is focused on the effect of the money unification process of Albania and mainly in the effect of this process into the money supply. During the recent discussions about integrating our country into the European Monetary Union, a money illusion was conceived without taking into the consideration the rational effects of this process into the savers of the economy. Beyond this illusion— after analyzing the advantages and disadvantages of the unification process— this paper aims to look up into the main obstacles this process bears; for instance this article carefully observes the misalignment issue of inflation and exchange rate after the possible currency conversion in Albania. The main indicators on which our analysis is based are: money supply, interest rates, targeted inflation, GDP and velocity of money velocity. Further this paper aims to examine the relationship between money supply, GDP and targeted inflation. Based on this study we drive these following issues to a solution on the reference of Fisher's Quantitative Theory of Money. Based on an empirical analysis, we expect to find a controversial behavior of money supply after the currency substitution. This research paper opens a new lieu of discussion in terms of academic and decision making debates.*

*Keywords:* Euroization, Money supply, GDP growth, Targeted inflation, Albania, Financial system

## Introduction

During the last decade, Albania has exposed itself to euro, apart of its local currency Albanian Lek (ALL). Many transactions are done in euro. Therefore, Albania can be considered as a dual currency countries. This paper is focused on the effects that dual currency countries have on the macroeconomic factors such as real GDP Growth, inflation and monetary base growth.

This study is organized as follows: in the second section there is literature review part where the relation and effects of euroization on the macroeconomic factors are shown; third section shows a macroeconomic perspective for Albania; the forth section shows an empirical evidence about the relationship between euroization and monetary base growth and inflation.; the fifth section is a result analysis; the study ends with the conclusion section.

This study aims to give a clear overview of the effects of using dual currency. Firstly, the study aims to give a clear frame on the theoretical effects of euroization in the Albanian economy; secondly the study aims to empirically analyze the effect of euroization into the macroeconomic factors such as inflation, exchange rate and real GDP growth; thirdly the study aims to give some recommendation regarding euroization level in Albania. What is the impact of a dual currency country on the monetary policy?



## Data and Methodology

This study covers a twenty one year time frame of yearly data from Albania. The variables taken into analysis are euroization of deposits, euroization of credit, inflation level and economic growth. The analysis is computed using a multiple regression analysis, where the level of GDP and inflation is the dependent variable and the M2 growth and euroization of deposits and credit is the independent variable.

## Literature Review

We want to study the effects of partial euroization on GDP growth and inflation in Albania. Early literature considered “euroization” or “dollarization” as a phenomena in terms of “currency substitution” (Quispe, Agnoli, 2002).

There are two methods of euroization, or dollarization, partial and full. Full euroization exists when the Central Bank of a country adopts a foreign currency and eliminates their national currency. This phenomena is more widely spread in Latin America countries. (Quispe, Agnoli, 2002). In our region Kosovo has adopted full euroization as well.

Partial euroization exist when individuals in a country take rational measures to protect their purchasing power of their money and exchange them for a foreign currency. Partial euroization is observed more in countries where there is macroeconomic de-stability and high inflation. Although euroization in Albania has increased in spite a period of normal inflation and macroeconomic stability after 2000. (The reasons for increased level of euroization are studied more in-depth by Manjani, 2014).

### The effect of euroization on Economic Growth

We are very interested to know the effects of euroization on our economic development, the transmittal mechanisms of these effects and how policy makers can respond. In her study on the issue Eduards and Magendzo (2001) states that “We also find that dollarized nations have had a lower rate of economic growth than non-dollarized ones”.

Different conclusion are reached by Castillo (2006) where their findings suggest that “...increased dollarization is positively associated with economic growth. Dollarization has a stronger impact on inflation. Data suggests that dollarization significantly reduces inflation.” We are interested in knowing how euroization impacts Albanian’s economic development and inflation and what should be the policy responses.

### Measuring partial euroization

Going back to our topic, how much is Albanian economy “euroised” and according to Bank of Albania, we have three kinds of Euroisation: Firstly, it is the assets’ euroisation, which is measured as the ratio of deposits in foreign currency total deposits. Typically, deposits in foreign currency stand at 48% of total deposits in Albania. Secondly, it is the liabilities’ euroisation, which is measured as the ratio of loans in foreign currency with total loans in Albania. This indicator speaks for a high level of euroization, as it currently stands at 67.5% of total loans. Thirdly, it is the euroization of transactions, which is measured as the total number of transactions in foreign currency, out of total transactions in the economy. This is the hardest to measure because it’s not possible to measure all transactions by all individuals and the currency they use thus there are only estimates.

### Advantages of adopting Euro, as a single currency

The prevailing opinion in both academic and political area, is that the advantages of euroisation for a short term period are profoundly evidenced, especially in developing countries, where the aspiration to join the European Union is greater. Upon joining the monetary union through the use of the single currency, the exchange and interest rate shocks will be eliminated.

### Reducing transaction costs

These kind of costs, even though presenting a loss to the banking balance sheet, do practically affect countries with an import-oriented economy. The implementation of a single currency reduces transaction costs that materialize in the form of appreciation or depreciation of the currency.

### Reducing the interest rate

Application of such a stable currency would bring lower interest rates. The rapid and significant reduction of interest rate would encourage investment growth, and as a consequence, it would bring a positive impact on fiscal policies and towards reducing the cost of public debt. Naturally, the effect would be more sensitive in countries where the central bank pursues a policy of real interest rates.

## **Reducing the exchange rate fluctuations**

Monetary unification would eliminate possible pressures on exchange rates and, consequently, prices (inflation) would be more stable. Given that a currency operating in a wide market would be adopted, its exchange rate would not be affected by the domestic market parameters.

## **Effects on inflation**

There appears to be a consensus on the effects of euroization on inflation. Most studies conclude that partial dollarization, which is similar to euroization, significantly reduces inflation (Castilo, 2006). Similar conclusions are reached by Eduardo and Magendzo (2001) stating that: "Our findings suggest that inflation has been significantly lower in dollarized nations than in non-dollarized ones". However partial euroization can be a risky position for a country. Countries like Russia and Turkey say a drastic devaluation of their currency together with inflation. This devaluation of their local currency was due to the flight of the capital and dumping of the national currency as well as rational expectations for higher inflation. Expectations for higher inflation have contributed to increased euroization or dollarization adding to the effects of exchange rate volatility and more inflation.

## **Disadvantages of adopting euro, as a single currency**

When analyzing "euroisation" as a phenomenon, we need to examine the costs it bears to the economic and monetary system of our country. In all economic literature and discussion papers on possible disadvantages of applying a single currency, the Central Bank takes the central role at the stage.

## **Money Supply Shock**

A very strong negative impact is considered the insufficiency of foreign exchange reserves in euro. Euroisation as a process charges a high cost bill to our economy, which does not seem to generate the amount of necessary money reserves to implement euroisation.

## **"Elimination" of the Central Bank's role**

If we consider applying a single currency, euro, most of the basic and substantial functions of the Central Bank of Albania would "disappear". Through euroisation, countries accept losing the independence of the monetary policy, by removing Central Bank's instruments for implementing monetary policy.

## **"Seigniorage" Cost**

Since the feudalism times, it was the ruler's right named "seigneur" to issue coins; therefore this process is called seigniorage. It is defined as the difference between the nominal value of each currency issued and its printed value. The cost of printing money is insignificant compared to its nominal value. Consequently, incomes generated from seigniorage are considerable. But, as a result of euroisation Albania would issue less local currency (ALL) if not at all, thus reducing this source of incomes, which is estimated to be up to 5 per cent of Albanian state budget. Therefore, rejecting the Albanian Lek means no more rights to benefit from this source. Duraj (2008) has concluded that its cost, referring to the period from 2002-2008, is on average 1.73 per cent of the GDP. Duraj observed a downward trend of its weight in government budget revenues through years. In fiscal terms, this income for Albania, during the period 2000-2008 was only 0.44 per cent of the GDP and actually stands at 1.92 per cent of fiscal revenues. In terms of opportunity cost, the seigniorage income was at about 1.85 per cent of GDP. Therefore, euroisation would be, and has been, so an expensive process for Albania.

## **Lender-of-last-resort**

Central bank acts as lender of last resort for commercial banks. In terms of euroisation of Albania, the Bank of Albania will lose the possibility to act as a lender of last resort.

## **Structural Costs**

An important cost to be considered is the process of adapting the appropriate structures and mechanisms established for managing the euroisation regime, which is an unfamiliar process for our country.

### Negative Effects of partial euroization on banks and bussneses

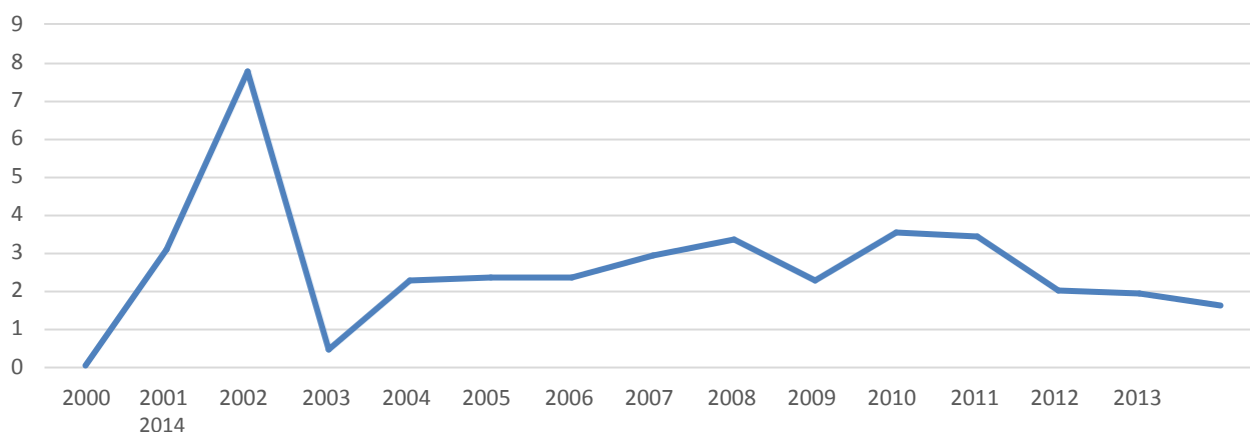
There are negative effects on banks because the asset and liabilities euroization exposes them to the exchange rate risks. (Kokenyne, 2009).Businesses face the same problem, and in addition their transactions, at least a good part of them, are in a foreign currency but their taxes and balance sheet must be prepared in ALL.

### Brief Analyses of anti-deflationary policies

According to the World Bank the Central Banks have injected \$8 trillion in the world economy since the start of the last financial crises. The purpose of this massive growth of mony supply is to escape the vortex of deflation, grow consumption and reach the targeted inflation of 2 – 4 %. Reaching this target seems harder in some periods of history and difficult in some others. During the 1970 inflation in USA reached double digit figures but after the 2008 Great Recession maintaining inflation target seems a difficult task.

There may be different reason but mainly they have to do with the “liquidity trap” (Hicks, 1937 and Krugman, 1998) as interpreted by the Keynesian model of money markets.Krugman, a Nobel Price Laurate in 2008, explains the liquidity trap as “that awkward condition in which monetary policy loses its grip because the nominal interest rate is essentially zero, in which the quantity of money becomes irrelevant...” (Krugman, 98).Despite the massive growth of money supply deflation vortex continues to be a danger for the European and American economies.Reported data on Eurozone inflation for August 2015 were at 0.1%, practically a flattening which means that prices were not changed. Similar trend appears to happen in Albania. The 2014 inflation recorded historical lows (except for 2001) of 1.63% with downward trends. The same trend has been observed through 2015 recording figures well below that of the targets of BoA.

**TABLE 1:** Inflation Trend in Albania during the period 2000-2014



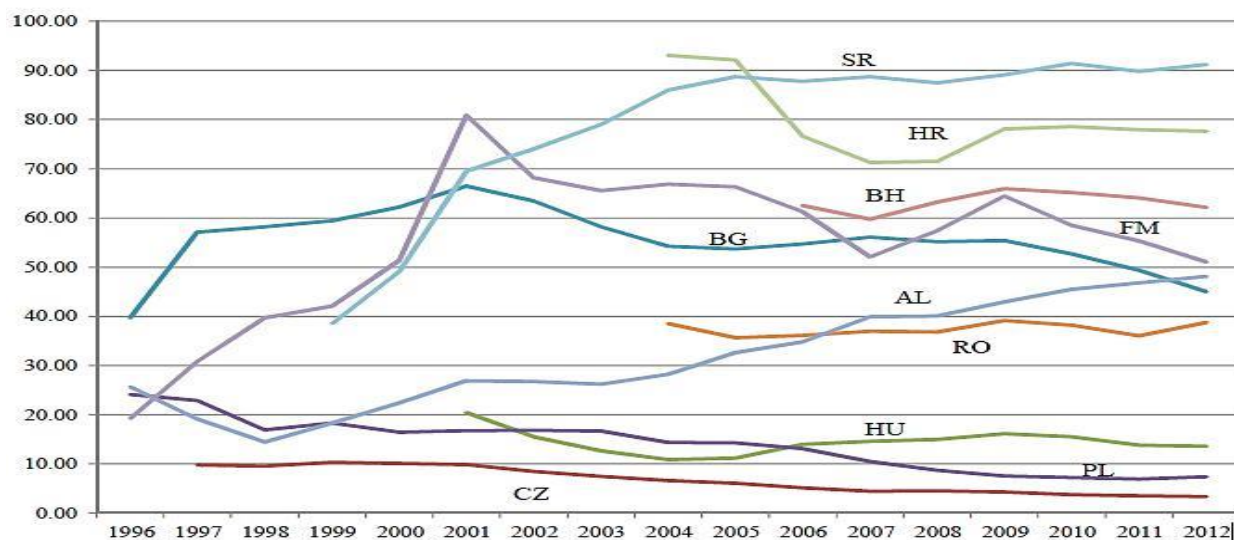
Source: Authors

In the Bank of Albania yearly report it was argued that mid-term inflation was within the BoA’s objectives.”Average yearly inflation for the period 2007 – 2011 was 3.1%, very close to the midterm objective of the BoA. This level of inflation has supported the dynamic, positive economic growth, which in yearly average for the mid-term was at 4.7%. In the meantime the average interest rate for ALL was at 5.6%. (Raporti Vjetor BSH, 2011)

This analysis doesn’t mention the fact that these results were achieved thanks to expansionary budget deficit. This assessment is supported by the IMF in the yearly conclusions in 2012. The IMF concluding statement, issued on October 2012, says that “since the onset of the global crisis in 2008, Albania has avoided a sharp fall in output and maintained banking system stability, thanks to a fiscal stimulus...”. (IMF, 2012)

TABLE 2

The figure shows aggregate shares of deposits in foreign currency (in %) for private households (and non-profit organizations) in the 10 countries covered by the OeNB Euro-Survey over the period 1996-2012. Source: National central banks.

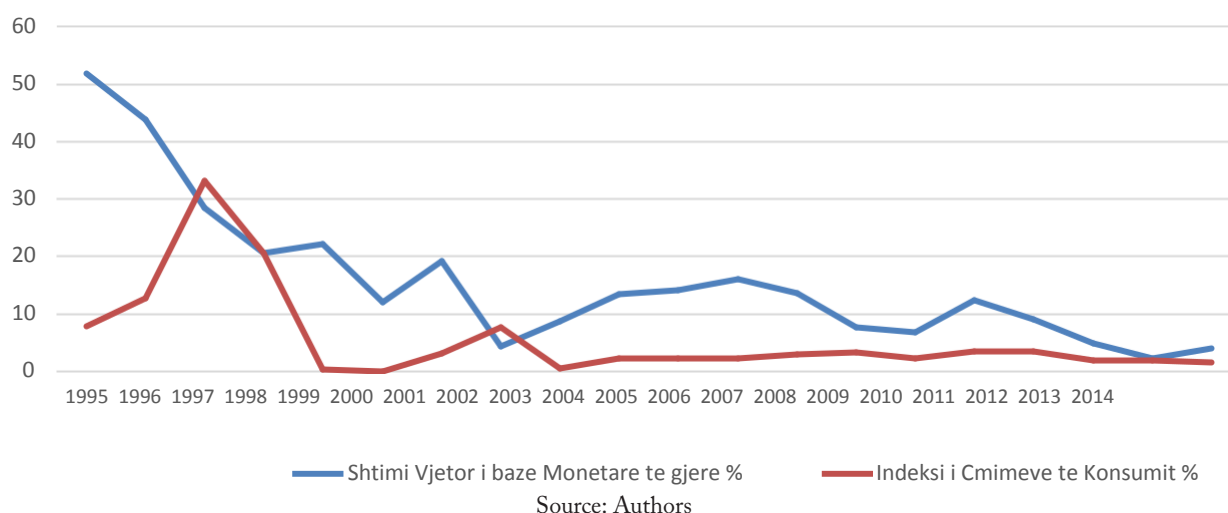


Average inflation for the period 2010 – 2014 was 2.5% with a downward trend. The goal of this study is analyze the effects of euroization on the monetary base, inflation and economic growth. Albanian is one of the countries with higher levels of euroization compared to other countries in Eastern Europe. (Dvorsky et al, 2007, Brown et al, 2014) and euroization continues to grow. In his study Brown (2014), reports a 20% increase in the level of euroization of family and NGO deposits compared to 2007.

This development is accompanied with lower levels of inflation, well below the targeted level of 3% (+1%) (Bank of Albania).

As shown in the graph below there is an overall decrease in the consumer price index (CPI) in Albania. There has been a stable trend from the year 2003 to year 2014. While the monetary base has faced a more stable increase during the period from 1995 until 2014.

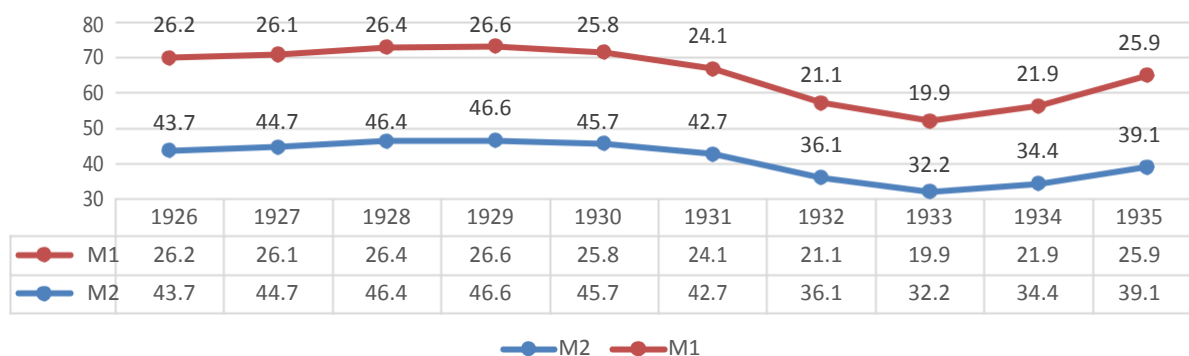
TABLE 3 Consumer Price Index and % and monetary base expansion



### Experience from the History of the Great Depression

Monetarists Theorists maintain that reasons of the prolonged crises in the US, and the world, are due to the sharp decline in the monetary supply. Monetary Supply declined by as much as 30 percent. It practically put the brakes on the economy. The real economy contracted by as much as 40%, deflation was 25% and unemployment rose to 24.5%. Another fundamental was affected greatly. Money supply, M1 and M2, fell by about 30%.

**TABLE 4: Money Supply Trend in Albania**



Source: Historical Statistics of United States

Milton Friedman says: “The contraction is - a tragic testimonial to the importance of monetary forces... Different and feasible actions by the monetary authorities could have prevented the decline in the stock of money... [This] would have reduced the contraction’s severity and almost as certainly its duration (Friedman, Schwartz 1963, pp. 300-01).

Money Supply exercises its pressure on the real economy through deflation. The Monetarist believes that in the short run prices fall but not as fast as the money supply effectively reducing money supply.

The American FED learned its valuable lesson. Ben Bernanke would say on Milton Friedman’s 90<sup>th</sup> birthday “I would like to say to Milton and Anna: Regarding the Great Depression. You’re right, we did it. We’re very sorry. But thanks to you, we won’t do it again.” (Bernanke, 2002). Thus the FED monetary policy in response the last Great Recession was “great” as can be seen from the chart below:

**TABLE 5: Adjusted Monetary Base 2002-2014**



Source: Federal Reserve

**A brief history of economic policy**

One can say that the 40’, 50 and 60’ were the Keynesian years. It went so far that Nixon declared with confidence that “we are all Keynesians” (Friedman, 1965). ‘70s and ‘80s were a resurgence of neoclassical school of thought spearheaded by Milton Friedman with his Quantitative Theory of Money. An important role was played by George Lucas with his Nobel Prize paper on Rational Expectations. Philips curve brings more employment only when inflation is not expected. If rational agents of the economy expect inflation they will adjust the prices (wages) and higher money supply, in the long run, leads only to inflation and sometimes can even lead to higher unemployment.

Friedman suggested that growth of the monetary base should be done at a fixed rate every year. His famous saying that “inflation is always a monetary problem” and that “We don’t need a Fed, I have, for many years, been in favor of replacing the Fed with a computer, would print out a specified number of paper dollars” to augment the money supply. “Same number, month after month, week after week, year after year.” (Murdock, 1999). ‘90s and ‘00s softened the Monetarist dominance because velocity of money, V, was unstable and raising questions about the relationship of inflation with money supply. (it is outside the scope of this study to consider the merits of criticisms and the responses).



As we will see below this relationship between money supply and Albania holds true for Albania but because of the euroization money supply has not had its full effect on inflation. This summary serves as a prologue to the next point as we discuss the case of Albania.

## Theory and Model

### Quantitative Theory of Money for a dual currency country like Albania

QTM states that: "... if a change in the quantity of (nominal) money were exogenously engineered by the monetary authority, then the long-run effect would be a change in the price level (and other nominal variables) of the same proportion as the money stock, with no change resulting in the value of any real variable." (McCallum, Nelson. 2010)

The QTM is expressed as a mathematical identity in the form of:

$$M*V = P*Q. \quad (1)$$

In other words: GDP of Albania =  $M*V$ .

So according to this identity, by taking  $V$  as stable BoA needs to print money at the speed the GDP grows plus the targeted inflation.

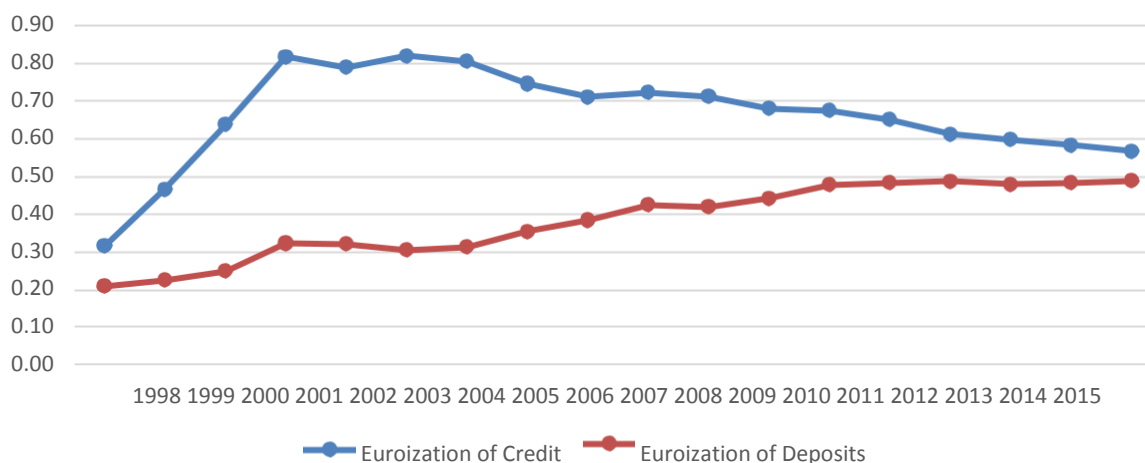
If GDP grows at 3% a year and the targeted inflation is 3 percent a year than BoA needs to print 6 % more money, increasing the monetary base by 6%.

This theory does not predict a state of being like Albania's where about 50% the economy is based on FC. If euroization, or dollarization, was 100% than BoA would have no leverage on the money supply. On the other had if euroization was 0% the money supply would be under BoA's control. (There are other factors that influence money supply besides the ability to print money but this analyses is beyond the scope of this study.)

The research questions of this study is if the increase of the euroization has any effect at all in the economic growth and inflation. If euroization does affect these indicators than we ask how? Does money supply serve as a transition mechanism for the effects of euroization onto GDP growth and inflation?

First let's look at Albania's euroization of credit. Our time series shows a staggering levels of partial euroization of credit and deposits as seen in the table below:

**TABLE 6:** Euroization of Credit Deposits



Source: Bank of Albania

There's no official data on the euroization of currency holding by the consumers but some studies have suggested that the figures are above 50% (Narazani, 2013).

These data suggest that in excess of 50% of the money supply used to fuel the economy is already in FC.

The adjusted Fisher's identity for such country would be:

$$(DMB + FMB)*V = GDP \text{ of Albania} \quad (2)$$

Where: DMB = Domestic Monetary Base, FMB = Foreign Monetary Base,  $V$  = velocity, times money changes hands in a year.

The relationship between DMB and FMB is such that foreign currency monetary base is a percentage of the domestic monetary base.

$$FMB = x * DMB \quad (3)$$

Where x = a quotient that express the relationship between FMB and DMB.  
In this case we can change in Phisher's identity as:

$$(DMB + x * DMB) * V = GDP \text{ of Albania} \quad (4)$$

This identity can be simplified to take the form as below:

$$DMB * (1 + x) * V = GDP \text{ of Albania.} \quad (5)$$

This conclusion is very important for monetary policy. It states that if the GDP grows at 3% and BoA's goal is to have 3% inflation than:

Monetary Base increase = 6% (1 + x).

This formula (5) implies that if money supply in Albanian Lek is equal to Foreign Currency, or x = 1, GDP growth is predicted to be 3% and targeted inflation is 3% then than BoA needs to increase monetary base by:

Monetary Base increase = 6% (1 + 1) = 12%.

This is a very important conclusion and we are going to test it using the long term relationship between M2 and Inflation as well as a bivariate function of the influence of credit and deposit euroization on inflation and GDP growth.

As suggested and supported by many studies, we expect to find a strong positive relationship between inflation and M2 and a negative relationship between euroization (of deposits and credit) and inflation. The data on the relationship of these variables in the case of Albania, supports those studies that conclude with a negative relationship.

Monetary Base and Inflation– An Econometric Model

A simple linear regression model is used. First we want to discuss the relationship between Money Supply, euroization of deposits and credit.

GDP growth =  $\beta_0 + \beta_1 * M2\%Growth + \beta_2 * \%CreditEuroization + \beta_3 * \%DepositEuroization + \epsilon$

Results of the analysis with OLS model

GDPgrowth = 0.277 + 0.31 \* M2%Growth - 0.14 \* %Cr. Euroization - 0.33 \* %Dep. Euroization

**BOX 1: Regression Output**

<b>Model 1: OLS, using observations 1998-2014 (T = 17)</b>				
<b>Dependent variable: GDPGrowthPerc</b>				
	<i>Coefficient</i>	<i>Std. Error</i>	<i>t-ratio</i>	<i>p-value</i>
const	0.277***	0.0706899	3.9207	0.0018
PercDepozitavene	-0.327***	0.108008	-3.0344	0.0096
FC				
M2growthyear	0.306	0.174523	1.7579	0.1023
PercKrediseneFC	-0.144**	0.0611528	-2.3604	0.0345
R-squared	0.789059	Adjusted R-squared	0.740380	

Both the percentage growth of deposit euroization and credit euroization are statistically

important. While the effect of M2 growth in this model is not statistically important if M2 effect on GDP growth is studied alone it will affect GDP growth with a coefficient  $\beta_1$  of 0.69

\*M2growth and R<sup>2</sup> of 0.56 and statistically important even at 1%

These results differs somewhat from the QTM which predicts that changes in the monetary base in the long run increase inflation be the same percentage. This difference is explained by our model of adjusted QTM for dual currency country. Our model explains that the mechanism as summed below:

- A country has a shock on Money Supply
- Euroization of the economy grows
- The economy and money supply finds a new equilibrium
- Monetary base should grow taking into account the new equilibrium

It is also important to notice is the negative effects of euroization on GDP growth. Our study suggests that because policy makers have failed to take into account the negative effects of euroization on money supply the monetary policy has been tighter than suggested by QTM. This tight monetary policy has exerted deflationary pressures and has negatively influence GDP growth.

## Euroization and Inflation

The second econometric model we want to look at is the relationship between euroization of deposits and credit, M2 growth and inflation.

We use a similar model with multiple regression analyses using the OLS. Now we want to study inflation as dependent variable and keep euroization of deposits and credit as well as M2 growth, "ceteris paribus".

$$\text{Inflation} = \beta_0 + \beta_1 \text{CreditEuroization} + \beta_2 \text{DepositEuroization} + \varepsilon$$

Our model shows that euroization of credit is negatively related to inflation. A six percent increase of credit in FC lowers inflation by 1%, with  $n = 17$  and  $R^2 = 0.35$ .

### BOX 2: Regression Output

#### Model 10: OLS, using observations 1998-2014 (T = 17)

##### Dependent variable: Inflationconsumerpricesann

	<i>Coefficient</i>	<i>Std. Error</i>	<i>t-ratio</i>	<i>p-value</i>
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The study shows that this is important at 5%. While the percentage growth of deposit

const	0.199***	0.0612014	3.2629	0.0057
euroizationPercDepozitavenehasnegativeeffects on-inflation.122 it 0is.108604notstatistically-1.important1269.				0.2787
FC				

This was predicted by the mathematical identity of Fisher adjusted for dual currency country.

PercKrediseneFC	-0.176**	0.0798073	-2.2157	0.0438
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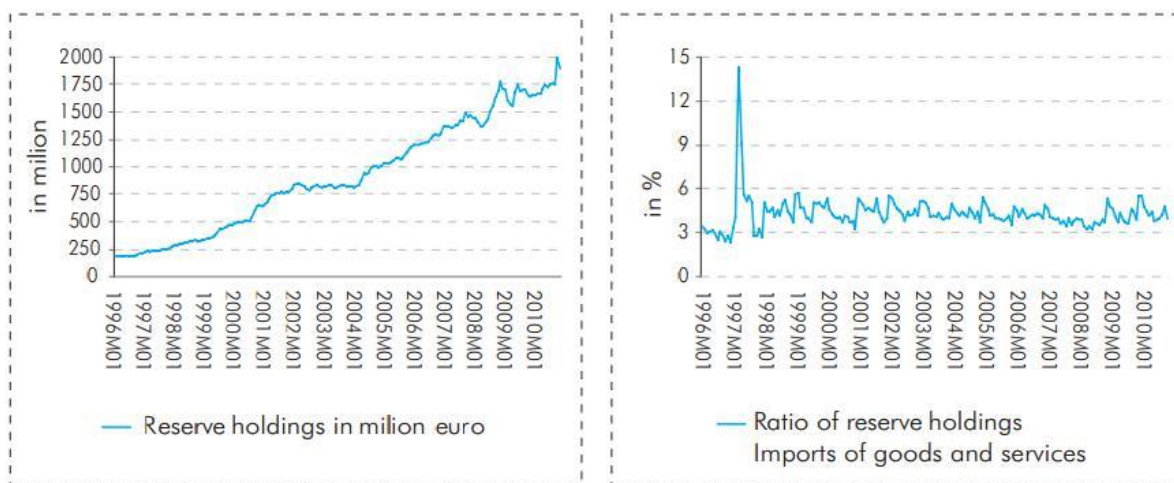
Why would this phenomena appear? After some shocks in the economy, and economic shocks happen for different reasons, the structure of monetary base is changed and the economy creates a new equilibrium. The Central Bank must take into account the new reality where the economy has cleared, a reality in which the local currency fuels only a percentage of the transactions in the economy. The increase of FC that funds the rest of the transactions is out of control of the Central Bank, it can only control the base of local currency. In the short run an increase of 6% of monetary base of ALL does not respond to an economic growth of 3% plus targeted inflation of 3%, this pushes toward a strong local currency and deflationary pressures.

Thus euroisation creates deflationary pressures. Moron and Winkelried (2005), for example, find same conclusion that "inflation targeting policies are compromised in highly dollarized economies".

## Euro to ALL Exchange rate

One final indicator to look for evidence for our theory is Euro exchange rate. Despite the staggering reduction of the remittances for immigrants, a reduction of 43%, Euro has been relatively weak vs. ALL. There are other factors that theoretically would suggest a stronger Euro vs ALL.

**TABLE 7:** Foreign Reserve Holding By the Bank of Albania

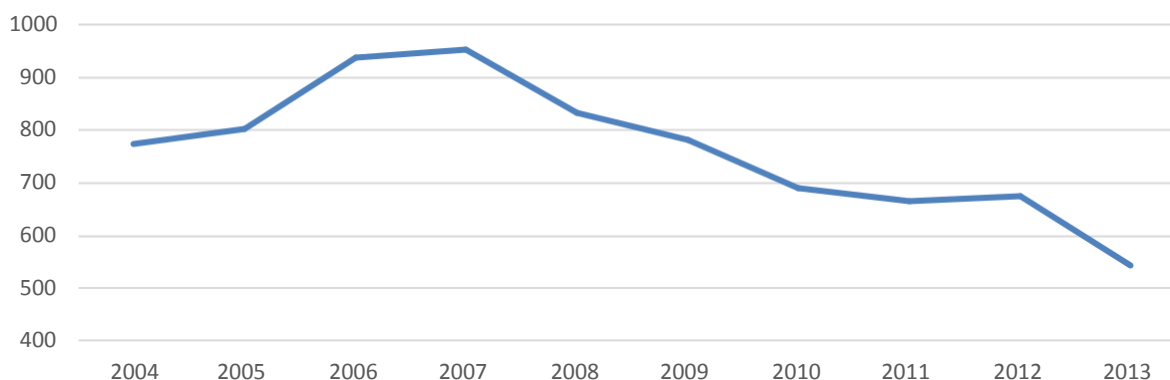


Source: Shijaku, Genti (2012)

First a worsening of the Balance of Payments would reduce the amount of Euros in the country needed to fund imports and thus pressure Euro exchange rate upward. Second BoA increased its Euro holdings, as shown below, primarily to accommodate for the fluctuations of remittances (Shijaku, 2012).

Third, Reserve Holdings of BoA were accompanied by a decrease in remittances as shown in the chart.

**TABLE 8:** Remittances in Albania 2004-2013



Source: Bank of Albania

Why did the Euro not appreciate against the ALL? The answer seems to point to the same conclusion reached above regarding the inflation and euroization effects on money supply; Euroization has contributed to lower inflation in Albania, and thus a stronger ALL. Despite the decrease of the supply of Euros, because of the fluctuations of remittances and increased foreign currency reserves by the bank of Albania, ALL exchange rate to Euro currency has remained strong and steady. This indicates that the Bank of Albania has maintained a tight monetary policy which has contributed to deflationary pressures and lower GDP in the short run.

## Concluding Remarks

In the aftermath of the Great Recession central bankers have pulled out of their toolbox unusual tools to tackle fears of a second Great Depression. After this crisis Albania economy finds itself with a different structure of monetary base. Euroization has increased both in household liabilities and bank deposits. All studies suggest the same is true of currency holdings by the public. The purpose of this paper has been to study the effects of euroization on our economic activity and inflation and suggest policies to respond. We have used time series data from the Bank of Albania and analyzed these data using econometric model of OLS in multiple regression model.

We found that euroization has a negative effect on our GDP. A 7% increase on the level of euroization tends to negatively impact GDP growth by 1%. Deposits euroization has an even stronger effect.

Also we found that credit euroization has a strong influence on inflation but deposit euroization has no statistical influence on inflation.

These indicators were substantiated by strong ALL toward major currencies, primarily Euro. Fall of remittances, growth of foreign currency reserves by the Bank of Albania and worsening of trade deficit and balance of payments have not led to stronger euro and weaker Albanian Lek.

The response from BoA has not been adequate and proportionate compared to that of other countries. Base interest rate has been lowered but other tools in central bank's arsenal have not been used. In order to adequately respond to the current crises the BoA and the new reality should change its monetary policy.

As suggested by the Phisher mathematical identity, the monetary base increase should be adjusted to take into account the current structure of Albania's money supply. What would be the effect of a more expansionist monetary policy to compensate for the euroization?

- First growing money supply would result in higher inflation that would move closer to the 3% targeted inflation of the Central Bank.

- A monetary expansion, beyond current levels, would weaken ALL toward other major currencies, USD and EURO. Kadareja (2014) explains what would happen with a weaker ALL:

"A depreciation of local currency against other currencies would temporarily increase the competitiveness of our goods and services. On the other side it results with higher inflation because imported goods and services become more expensive."

Both of the above results are desirable in the current state of our economy. The correction of this asphyxiating monetary policy brings the desired results of better competitiveness of Albania goods and services. Secondly it results with higher inflation and better chances of escaping the dangers of deflation.

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# Technological Innovation of Small and Medium Enterprises in Kosovo: Challenges and Barriers

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## Abstract

*the ability to innovate, is the main challenge in the fast changing global markets, to maintain a stable economic development in the long term. The ICT can carry strategic incentives to adjust the economic structure and to modify the economic model of a country. This process can build a resource-saving and a environmentally friendly society. The technological innovation can improve the international competitiveness of the economy and the overall employment rate of young generations. The rapid development of SMEs has become a major force to support economic growth of Kosovo. However, small and medium enterprises in transitional economies are not always trusting technological innovation. Several businesses due to multiple internal and external environmental factors, show a low level of confidence over technological innovation. In fact, from an internal point of view, the management can be afraid of security issues, like leak of strategic information, or moreover company secrets. The typical example can be the reluctance to adopt cloud technology platforms to improve the management tasks and operations. Meanwhile the external threat can be an overturn of the management style that threatens positions and hierarchy within the organization. This paper aims to analyze some key factors that prevent the spread of technological enhancement in small and medium enterprises in Kosovo. Some typical case studies will be analyzed and further policy recommendations will be suggested.*

**Keywords:** SME, ICT, confidence, success, transition economy.

## Introduction

The penetration of Information and Communication Technology in the management of SME's is substantial in the global economy. The way it is changing the business model is very dynamic and for the moment it is very difficult to determine if there are delimited frontiers to the ICT applications for business purposes. Let us think just to the 3D printing, how it can overturn the traditional business model. Nevertheless in some parts of the world, like the new born Republic of Kosovo, the diffusion of recent technologies is still relatively slow, especially if we consider the SME sector, when traditional culture of doing business still prevails. The world market is developing so fast that even if the local enterprises are just interested in the neighborhood commercialization, the global competitors will soon knock at your local marketplace swiping away, may be decades of business establishment.

Anyway to specific manufacturing sectors and processes, sometimes the intensive or recent technology can't bring any further improvement, if not can create inferior quality standards. Possible examples are EU certifications like PDO, PGI (Bureau 2003), where implementation of traditional (or primitive) technology is the key to the success (Mora 2009). This principles can apply easily to agricultural firms, or agro-industrial firms. Anyway other artisan manufacturers can benefit from this "competitive" slow motion technology of production. When it comes to trading gears, should not be any reasonable impediment to the firm from using social media to promote the goods, or to use cloud computing to manage sales, HR, website analytics, data intelligence etc. So the basic question is to what extent the Information Technology can be benefic to the company growth? What are the limits of applications, and what is the priority ranking of some recent technologies.

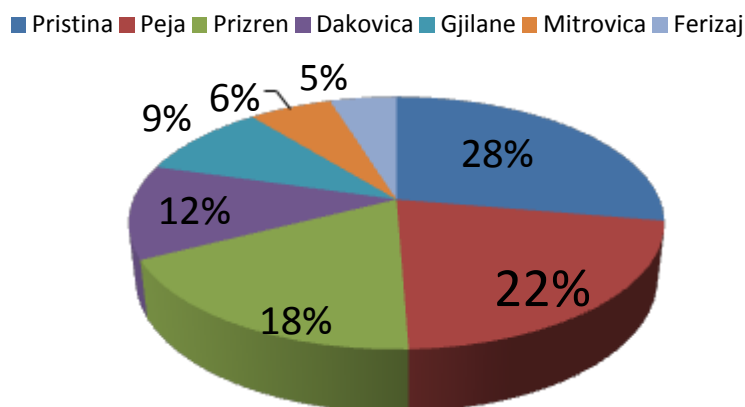
## Methodology

We used mainly the information collected through 45 interviews of relatively successful SME entrepreneurs, and 38 interviews of failed or in process of failure entrepreneurs. The results were crosschecked between them in order to provide a better panorama of the potential ranking of priorities in the running of the SME.

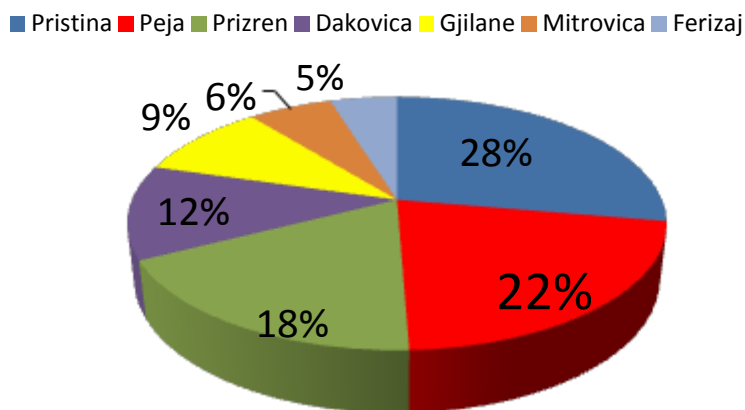
The distribution of the interviews were mainly focused in the region of Pristina

(23) and Peja (18) as described in figure 1, without excluding also the other regions from the survey. The size of the selected companies were less than 50 employers. This choice does not follow the World Bank definition (up to 99 employers), anyway due to the characteristics of this particular region other authors apply different definition measures of the SME's (Hauser, 2005).

**FIGURE 1.** Geographical Distribution of the survey



**FIGURE 2.** Distribution of SME's by Sector (survey)



In the second figure is showed the distribution of SME's by sector, trying to track a proxy of the population ratios. The main sector is the Service compartment with 38% of interviewed companies, the rest of the sectors is represented by close ratio between 12% Construction and 18% Transport.

**TABLE 1.** Responses to the question if the company is implementing the following technology (% of Yes)

Technological Tool	Group A <sub>1</sub> (%)	Group B <sub>2</sub> (%)
<b>I. Communication</b>		
a. Email	64	57
b. Telephone	100	100
c. Messengers/ Chat	45	38
d. Fax:	46	57
<b>II. Web technologies</b>		
a. Company Web Page	46	35
b. Web analytics	33	19
c. E-commerce	26	20
d. Social Networks	63	45
e. Pay Pal	26	20
f. Online Banking	32	16
g. Mobile applications	15	7
<b>III. Cloud Computing</b>		
a. ERP system	38	21
b. HR	28	26
c. Pay-roll	78	72

## Results and Interpretation

The main results of the survey are aggregated in Table 1. It is clear that the diffusion of some communication tools is not under discussion any more, like the telephone and e-mail can be considered indispensable in the running of a SME or generally any kind of Business. In the area of communication technologies seem to be no significant difference between the ratios of group A and B. It is important to emphasize that in both groups there are still some 34% and 43% of companies that do not use e-mail for communications. The presence of agricultural firms to a certain extent is justified, but also some other firms like transport were ignoring email communication at all. Surprisingly the fax usage was more accentuated in the group B companies, may be as a sign of an obsolete technology.

Web Technologies reveal some important patterns of difference between the two groups. The main difference is the social network activity, that can be for communication purposes, marketing, public outreach, PR etc. The difference is about 18 points in percentage representing the very simple signal of a shifting business environment. It is important to note that some companies do not have any web page at all but they have a Facebook or Twitter account. The penetration of E-commerce is still at a premature status, due to some financial constraints that Kosovo is facing from the lack of full recognition as an independent state. This apply also to the E-banking, or PayPal applications. Finally some companies are adventuring in the mobile applications customized for their business, mainly in the group A (15%).

## Typical constrains

### The costs

Generally the main obstacle to implement new technologies seems to be the cost of implementation, migration, running and maintenance. The SME's cannot cover the multiple burdens of implementing the technology. Generally the outsourcing seems to be the main solution (57%) anyway some companies rely totally on their own resources, typically run by young entrepreneurs or young members of the family (family run business). The results of the table 2 show that the outsourcing of ICT implementation is completely indifferent between group A and B. The main factor influencing the outsourcing component seems to be the geographical location. Companies located in Pristina seem to be more eager to utilize outsourcing resources rather than own.

**TABLE 2** Percent of firms using technology from outsourcing companies\*

Region	Group A <sub>1</sub>	Group B <sub>2</sub>
Pristina	62	69
Prizreni	46	38
Ferizaj	28	31
ĐAKOVICA	35	33
Gnjilane	38	39
Mitrovica	32	30
Peja	31	26

\*At least 5% of the total costs of the company

<sup>1</sup>Companies having a positive revenue in the past 5 five years.

<sup>2</sup>Companies declared failed or in the process of failure.

## Information Asymmetry

The skepticism related to new technologies is a typical factor accompanying this global processes. From an internal point of view, the management can be concerned of security issues, like leak of strategic information, or moreover company secrets. Meanwhile the external threat can be an overturn of the management style that threatens business as usual culture within the organization. To the question if the security issues where a major concern to implementing ICT within the company Table 3, the responses where quite different from region to region. But Pristina (28%) as a metropolitan capital had the tendency to be more confident, along Prizreni (36%). Meanwhile the highest hesitation was in Gnjilane(61%) considering a major concern the SME security, among running SME's. Considering that this is a subjective post occurrence question, the reliability of group B answers is to be evaluated with caution. Also from this table the main difference is just geographical location, meanwhile the difference between groups is still not significant.

**TABLE 3** Percent of firms answering YES

Region	Group A <sub>1</sub>	Group B <sub>2</sub>
Pristina	28	34
Prizreni	36	27
Ferizaj	42	39
ĐAKOVICA	38	39
Gnjilane	61	46
Mitrovica	57	43
Peja	49	32

<sup>1</sup>Companies having a positive revenue in the past 5 five years.

<sup>2</sup>Companies declared failed or in the process of failure.

## Conclusion

The barriers to ICT implementation in Kosovo SME's are multiple, some of them relate directly to objective obstacles, like activation or maintenance costs, but some other barriers are directly connected to culture and lack of clear information about the potential settlement for the SME. Some significant benefits are confirming the thesis of ICT as a comparative advantage in the success of a SME. These advantages were more accentuated in the web technologies and the usage of social networks as powerful means of communication and outreach. The key factors of success and failure a SME are multiple, the aim of this study is just to show some comparative advantages of ICT implementation. Further investigation is needed to enlarge the sample size and to include other factors and relevant technologies that may influence the accomplishment of a SME growth.

A simple element is missing from the attention of this study is the life span of a SME. It was not in the intention of the study, anyway the presence of young and technologically equipped companies among group B, was not excluded among the sample. Sometimes the life of these companies was less than one year, presenting an objection to the thesis that technology is an exclusive asset for the success.

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