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

16 June

Brussels

Organized by

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

in Partnership with

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

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Book of proceedings

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Criteria for the determination of substantive jurisdiction of the administrative court for reviewing disputes arising from employment relations

PhD (C.) Selvie Gjocaj
Judge at the First Instance Administrative Court, Tirana, Albania

Abstract

The precise definition of the rules of substantive jurisdiction of the court for reviewing disputes arising from employment relations and their correct application in case law are a safeguard for a due legal process. The substantive jurisdiction of administrative courts for these types of disputes is expressly defined in the organic[1] law. In addition to this general definition, substantive jurisdiction may also be provided for in special laws. However, it is often necessary, in the absence of provision stipulated in the special law, for the Court, in interpreting the provisions of the latter, to identify elements and /or legal criteria serving to determine the substantive jurisdiction of the administrative court for reviewing disputes arising from the employment relationship. The court should be careful in analysing these criteria and determining the substantive jurisdiction to review these disputes, in order to avoid unsubstantiated and unfounded decision-making for bringing the case to another court, or holding and reviewing a dispute that does not enters into its scope of review. Finally the result would be the same. A null and void process.

Keywords: Substantive jurisdiction, dispute, court.

Introduction

The substantive jurisdiction of specialized courts, being an exception to the general rule, is always linked to a specific area of dispute and as such cannot be broadly interpreted. Therefore, if a dispute does not have the full characteristics of those included in the group of disputes that are tried by a court with special substantive jurisdiction, then it will not belong to the latter, but will remain subject of review by the courts of general jurisdiction[2].

The Administrative Court is a special court established by a special law, which operates in a special field, that of trying administrative disputes. Exactly the law for the creation of these courts no. 49/2012 "On Administrative Courts and settlement of administrative disputes" as amended, defines also the disputes that constitute the subject, which is considered by this court, specifically in Article 7 of this law, cited above. The cases that constitute the subject for trial at this court are provided for exhaustively. Letter "ç" of Article 7 of Law no. 49/2012 "On the organization and functioning of administrative courts and settlement of administrative disputes", as amended by Law no. 39, dated 30.03.2017 "On some additions and amendments to Law no. 49/2012, "On the organization and functioning of administrative courts and settlement of administrative disputes". Accurate definition of substantive jurisdiction is imperative as it affects the validity of the process. Its inaccurate determination entails the nullity of the court process and decision-making at the end of trial. This gives rise for the highest court to overturn the decision and bring the case for substantive

[1] Law no. 49/2012 "On Administrative Courts and settlement of administrative disputes", as amended.
[2] Decision no. 00-2018-667, dated 08.05.2018 of the Administrative College/Panel of the High Court.

jurisdiction to the competent court. The situation is different in cases of territorial jurisdiction. In case the latter is not determined correctly, the highest court may uphold the decision of the lower court if the resolution of the case in merits is deemed to have been done correctly. In this case, in the decision, the highest court suffices with evidence in the decision of the fact of inaccurate determination of territorial jurisdiction by the lower instance court, drawing the latter's "attention" in relation to this fact. The legislator's intent for these various definitions is clear. This solution is in the interest of the parties attending the trial to conduct a trial and to reach a solution within a reasonable time. On the other hand, this solution is in the interest of the court to avoid the overload that would cause the remand for retrial of cases in such situations. In this case, the fundamental solution matters. The court is the same from the substantive point of view and is presumed to provide the same fair solution. This is why Law 49/2012 provides for a key distinction between substantive and territorial incompetence. Substantive incompetence is also found ex officio by the court, i.e. except at the request of the parties, while the issue of territorial incompetence can be raised only by the parties and until the judicial review of evidence has commenced.[3] For this purpose there is a consolidated practice of the Administrative College/Panel of the High Court.

The jurisprudence of the Albanian courts has consistently stressed that the competence to adjudicate a dispute from a substantive point of view is crucial as an element that guarantees a due legal process. If a court does not have jurisdiction / competence to adjudicate the case under review, in accordance with the provisions applicable under the relevant legislation, it may not perform any procedural action. Violation of the provisions governing this type of jurisdiction is such that it cannot be circumvented by the court of first instance examining the case, nor can it be validated by the highest instances of the judiciary, even if the case has been fairly resolved[4]. The Joint Colleges (Benches) of the High Court, in the Decision no.03, dated 06.12.2013, inter alia, argue that: *"Administrative courts of first instance, the Court of Administrative Appeal and the Civil College/Panel of the High Court, established by Law no. 49, dated 03.05.2012 "On the organization and functioning of administrative courts and settlement of administrative disputes", are competent to review all cases, which according to Article 7 of this law constitute administrative disputes, regardless of the status, stage or degree of adjudication".*

The previous formulation of Article 7, letter "ç" of Law 49/2012[5] was such that rendered the administrative court competent for all disputes in the field of employment relations, where the employer was a body of public administration. Therefore, a determinant criterion of the court's substantive jurisdiction was the quality of Employer. If the latter, in the meaning of the Code of Administrative Procedures[6] or the Law 49/2012[7] it was a public body/authority, any kind of disputes in the field of employment relations fell within the substantive reviewing jurisdiction of the administrative court, regardless of whether the employee worked at the central or local administration bodies, enjoyed the status of civil servant, any special status or was employed under the employment contract concluded in accordance with the

[3] Article 13 of Law 49/2021.

[4] Decision no. 917, dated 11.05.2017, of the Administrativ College/Panel of the High Court.

[5] Article 7/1, letter "ç" of Law 49/2012 :"Disputes in the field of employment relations, where the employer is the public administration body.

[6] Article 3, point 6.

[7] Article 2, point 6.

Labour Code provisions.
Upon entry into force of Law no. 39, dated 30.03.2017 "On some additions and amendments to Law no. 49/2012 "On the organization and functioning of administrative courts and settlement of administrative disputes", as amended, its Article 4 defines that "*In Article 7, the letter "ç" is amended as follows: "ç) disputes in the field of employment relations of civil servants, judicial civil servants, civil servants of the prosecutor's office and civil servants who according to the organic law have a special regulation. Employees at the public administration, court or prosecutor's office, whose employment relationship is based on the Labour Code, are excluded from this rule*".
This amendment to the law also dictated the change of case law regarding the substantive jurisdiction for reviewing disputes arising from the employment relationship. With the above changes the circle has narrowed. The provisions of the amended law are clear in terms of civil servants, judicial civil servants, civil servants of the prosecutor's office. What has been discussed in practice and case law has been dual is the determination of the competent court to review disputes arising from the employment of civil servants who according to organic law have a special regulation. Apparently, it seems that this provision of e law is clear and leaves no room for discussion. However, being introduced to the practical cases, specifically with the special legal provisions and disputes that are presented for review before the court, it transpires that the parties in their inquiries, but also the court in its decisions are obliged to analyse the provisions of special law to identify the legal elements and / or criteria that in this case serve to determine the substantive jurisdiction. From the procedural point of view, in the relations created between the employee and the employer, a public body in an employment relationship, the latter always manifests his will to the employee through a decision, order or any other type of act, which from the formal point of view is an administrative act. However, being acquainted with the practical cases, specifically with the special legal provisions and the disputes that are presented for review before the court, it results that the parties in their searches, but also the court in its decisions are forced to analyse the provisions of the special law on identify the legal elements and / or criteria that in this case serve to determine the subject matter competence. From the procedural point of view, in the relations that are created between the employee and the employer, a public body in an employment relationship, the latter always expresses his will to the employee through a decision, order or any other type of act, which from a formal point of view is an administrative act. Yet, the dispute remains in the field of employment relations and what remains to be identified is whether this employment relationship is public or private. Not every act issued by a public body has a direct and main purpose in the public interest. In certain cases the public body may enter into private legal relations, but in any situation, including the latter, its will is manifested through an administrative act. Such a position has been adopted before by the unifying jurisprudence of the High Court. Pursuant to this unifying practice of the Joint Colleges/Benches, the following case law, deeming the relationship between the parties a public service contract, has not considered the acts for imposing a disciplinary measure on an employee who is employed by virtue of a public service contract as employees of the state police, those of prisons etc, as administrative acts, has not stated their legality, but has regulated only the consequences of this contract already terminated, recognizing the right of compensation to the employee, if the measure taken by which the public service

contract is terminated, was made not for lawful reasons. Meanwhile, the Administrative College/Panel of the High Court subsequently changed the practice and assessed the nature of dispute between the parties, presenting arguments other than those of the unifying judgment of the Joint Colleges/Benches of the High Court no. 31, dated 14.04.2003 regarding the inquiries in the lawsuit for opposing orders or decisions as administrative acts[8]. In this case, the College/Panel argues: *"Finally, contrary to what the respondent claims in the recourse, the State Police General Directorate, in cases of disputes related to the status of the State Police employee, the administrative courts should be invested by the plaintiff and shall assess and dispose of the legality of the administrative act by virtue of which this administrative body manifests the will for the emergence, change and termination of this status, i.e the special public service relationship of the State Police employee, including his dismissal or exclusion from the police"*. Exactly this position of the Panel caused the courts to decide on merits of the act on the basis of which the employer expressed the need to change the elements of public service contract by issuing disciplinary measures or terminating this contract to the detriment of employees.

Thus, the provisions of special law remain the basis for resolving the determination of the substantive jurisdiction of the administrative court for reviewing disputes arising from employment relations. Therefore, in some special laws, such as the one for the state police, prison police etc, there is an express provision that employment relations are regulated by special laws or bylaws issued on the basis of and for their implementation and insofar as there is no provision therein, other laws apply. Specifically, for civil servants, employment relations are regulated by the law on civil servants, while for civil servants they are regulated by the Labour Code. Regarding the determination of special law, the Administrative College/Panel of the High Court argues[9]: "*In the meaning of Article 7 point "ç" of Law 49/2012 it will be understood as a special law only that law which made a clear regulation of the employment relationship, starting from the manner of determining the criteria of employment, recruitment, parallel job transfer or promotion, rights and obligations of the employee, relevant benefits, disciplinary measures, the right to appeal and the relevant body which exercises this function, deadlines and method of termination of employment, as well as any other measures or criteria serving to regulate this employment relationship. Therefore, this law will be deemed special in the meaning of Article 7 / ç of Law 49/2012 and which does not refer to the Labour Code for other regulations or the manner of termination of employment."*

In cases where the special law does not have an express provision, the subjective jurisdiction of the court [10] can be determined from the interpretation of its provisions. In this case, the Administrative College/Panel argues: *"Although the employment relations of the Deputy Mayor are regulated by an employment contract, concluded under the provisions of Labour Code, this duty and this state function is regulated by Law no. 139/2015 "On local self-government", having a special regulation by organic law. The College/Panel finds that in this law there are no other provisions regarding the status of Deputy Mayor. However, the College/Panel notes that this function is of major importance in the way the highest executive body of the basic unit of local government operates. In this context, the College/Panel bears in mind that notwithstanding the further non-regulation of this issue in the law, directly, there are other provisions governing the functions, competencies and status*

[8] Decision no. 00-2015-1539 (276), dated 07.05.2015 of the Administrativ College/Panel of the High Court.
[9] Decision no. 00-2019-2015, dated 28.03.2019, of the Administrativ College/Panel of the High Court.
[10] Decision no. 00-2020-518, dated 19.10.2020, of the Administrativ College/Panel of the High Court

of this official. Such regulations are also those related to the functions and competencies of the Mayor himself, closely interpreted by the legal institute of replacement in the exercise of competencies, regulated in the Code of Administrative Procedures".

Following the analysis of special legal provisions, the court identifies the elements and /or legal criteria that in this case serve to determine the substantive jurisdiction of the administrative court to review disputes arising from employment. The following are some of them:

-The employer is always a public administration body, according to the definitions in the Code of Administrative Procedures and Law 49/2012.

-Special law provides for special criteria for employment related to education, previous job experience, titles, degrees etc. or a specific recruitment procedure through competition in theoretical or practical terms. Also, the law contains specific rules regarding parallel job transfer, demotion or promotion, disciplinary proceedings against the employee and aimed at guaranteeing the rights to a fair legal process against him.

-The special law recognizes the employees a special status or rank system as it is the case of state police, prison personnel etc.

Regarding the effects of these legal amendments to Article 10 of Law no. 39/2017, it is foreseen that: *"Disputes over the employment of employees at the public administration, court or prosecutor's office, whose employment is based on the Labour Code, which on the day of entry into force of this law are subject to trial before the administrative courts, will continue to be tried according to the provisions of the law in force, before the entry into force of this law. Law no. 39/2017 was published in the Official Journal no. 85, dated 21.04.2017 and entered into force 15 days after publication, i.e. on 06.05.2017. It has no retroactive effect, being applied only to cases of this type registered with the court after its entry into force.* Thus, referring to this provision of law, the latter has not recognized the retroactive effect of these amendments, which means that for lawsuits filed before the entry into force of these amendments, the issue of substantive jurisdiction will be determined referring to previous provisions of the law. Accordingly, in every state and stage of the proceedings, the previous rule will continue to apply. Likewise, even if the case is remanded for retrial to the lower court, the same provision applies again, the case will be remanded and retried by the competent court from the substantive point of view according to the previous provisions of law.

Conclusions and recommendations

As mentioned above, the precise definition of substantive jurisdiction is a prerequisite as it affects the validity of the litigation. In this case, it is the duty of the court to verify accurately and as soon as possible the issue of substantive jurisdiction. As long as it can be determined by the court ex officio, then the latter, if it finds that it is not competent from the substantive point of view to review the case, can proceed from the stage of the first preparatory actions of the case, which are performed in the advisory chamber, without the presence of the parties, with the declaration of substantive incompetence and the submission of acts to the competent court, this referring to the provisions of Law 49/2021[11] and Civil Procedure Code[12].

In this way the court guarantees the conduct of a due and reasonable timely process,

[11] Article 25, letter "ç".

[12] Article 158/a of Civil Procedure Code.

thus avoiding the overload that would cause the remand of cases for retrial in such situations and prejudice to the interests of the parties by a delayed justice. Likewise, the parties themselves or the State Advocate's Offices, in cases where the latter participates in the trial, can and should be careful in submitting such requests as soon as possible.

Consolidation of case law is crucial. At the courts of first instance and those of appeal, there are often different practices regarding the interpretation of law, identification and assessment of legal elements and /or criteria serving to determine the substantive jurisdiction. In this case the High Court, its civil and administrative panels are regulators of the situation. Their decisions are binding upon lower courts. Conflict of jurisdiction between courts is not allowed. Therefore, the only way is to submit to the High Court the settlement of the dispute of substantive jurisdiction between the courts. In the circumstances where the High Court was not functional for a long time, this made such cases remain pending, while the lower instance courts continued to follow their practice. The High Court has already resumed its operation, reviewing with precedence the issues of jurisdiction and competence, a decision-making which has guided the practice of courts towards consolidation.

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Testimony as evidence in the Albanian criminal process

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Abstract

The chapter on evidence in the Code of Criminal Procedure of Albania, inter alia, has stipulated evidence with a witness. It must be said that evidence with witnesses is one of the main and most used evidence in our criminal process. This is because the court can obtain direct evidence from the witness regarding to who committed the criminal offense but also the mechanism of committing the criminal offense. However, in practice, in many cases problems have been encountered in terms of taking evidence with witnesses, the manner of questioning the witness and the probative value of the evidence in the Albanian criminal process. Testimony can be direct, i.e. testified by a person who has seen the defendant in the commission of the criminal offense, but the testimony can also be indirect, i.e. in cases where the witness in relation to the evidence he/she gives to the court, refers to other persons from whom he/she has obtained facts concerning the offense. The witness within the latest amendments of the code can also be an anonymous witness. This paper will present an overview of the provisions of the code on the object and limits of evidence, ability to testify, incompatibility with the duty of witness, exemptions from the obligation to testify, and the probative value of evidence in the Albanian criminal process.

Keywords: testimony, ability to testify, indirect (hearsay) testimony, secret witness.

Introduction

Article 153 of the Code of Criminal Procedure has defined the object and limits of testimony. This article stipulates that the witness shall be questioned on the facts constituting the object of evidence. Therefore, the objects of testimony are only those facts, which constitute the object of evidence. The witness cannot testify about the moral attitude of the defendant, except for when the case is related to facts that apply to the determination of his/her personality, which constitutes a circumstance in relation to the criminal offense and social danger.

According to the second paragraph of the same article, the questioning of the witness may extend to the relationship of kinship and interests that exist between the witness and the parties or other witnesses, as well as to the circumstances, the certification of which is necessary for the assessment of his/her reliability. Testimony on the facts that serve to determine the personality of the victim of the criminal offense is accepted only in those cases when the accusation against the defendant must be assessed in relation to the behavior of the injured party. The witness testifies based on personal perceptions, but when referring to other persons, which is the case of indirect testimony, he/she cannot testify to what is said in public, nor can he/she make personal assessments. The witness is asked only about certain facts, to which he/she must answer. The witness can testify about what is said in public and make personal assessments, only in the case when these two elements cannot be separated from the evidence on the facts.

Whereas, Article 156 of the Code of Criminal Procedure provides that persons who, due to physical or mental disabilities, are not able to give duly testimony, cannot be questioned as witnesses; defendants in a joint criminal offense or in a related proceeding even when they have been given the decision not to initiate the case, innocence, or sentence, except for in cases when the decision of innocence has become final; those who in the same proceeding, perform or have performed the function of judge or prosecutor; civil defendant.

The witness is obliged to appear to testify. Article 158 of the Code of Criminal Procedure provides for cases in which, for various reasons, specifically provided, persons are not obliged to testify. Yet in doctrine it is reasoned that they have the right of testimony (Islami, Hoxha, & Panda, Criminal Procedure, 2012).

Thus, the following persons are not obliged to testify: persons in a relationship of close sex or kinship (close gender, according to Article 16 of the Criminal Code; first-born, post-born, brothers, sisters, grandchildren, nieces, nephews and of sisters, affinities, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, stepfather or stepmother, unless they themselves have filed a complaint when they or any of their relatives are injured by the criminal offense; the person related to the defendant in a marital relationship for the facts learned by the defendant during the marital life; the spouse divorced from the defendant; his/her cohabitant ; in adoption relationship.

In these cases, the court is obliged to make known to the above persons the right not to testify and asks them if they want to benefit from this right. If the court does not respect this rule then such a thing leads to the invalidity of the testimony. In practice it is reasoned that: *"... It results that from the file the criminal proceedings against the applicant A.K., has started on the basis of the report of the citizen N.C., in the capacity of cohabitation with the defendant. As this citizen has initiated the criminal proceedings against the applicant, her appearance before the court for the assurance of testimony as evidence and her summons to testify, in the court of appeal, were made in the capacity of plaintiff and not in the capacity of person who is aware of the circumstances or facts relating to the event. Under these circumstances, the court notes that Article 158/2 of the Code of Criminal Procedure does not apply, with the consequence that this citizen had the obligation to testify and that the court does not have the obligation to recognize her for the possibility, the right on renunciation of testimony"* (Court, 2011).

In addition, persons who acquire knowledge in the context of maintaining professional secrecy may not be required to testify, as far as they know due to their job. Thus, according to the Code of Criminal Procedure, they cannot be forced to testify as far as they know due to their job, except for when they have the obligation to refer to decision-making authorities: representatives of religious faith, whose statutes are not in conflict with Albanian legal order; attorneys, legal representatives and notaries; physicians, surgeons, pharmacists, obstetricians and anyone practicing a health-related job.

Those who practice other jobs, to whom the law recognizes the right not to testify about those related to professional secrecy.

The court, when there is reason to suspect that the allegation made by these persons to avoid testimony, has no grounds, and orders the necessary certifications. When it turns out to be unfounded the witness is ordered to testify.

The provided provisions from the above paragraphs also apply to professional

journalists, regarding the names of the persons from whom they have received information during the exercise of their job. However, when the data are necessary to prove the criminal offense and the veracity of this data can be revealed only through the identification of the source, the court orders the journalist to indicate the source of his information.

Indirect testimony is the evidence given by a person that testifies facts and circumstances that he/she has obtained from another person. Therefore, what he/she testifies has not perceived them directly, but were told by another person indirectly (Elezi, 2012). The witness may not testify about a case if he/she is unable to tell where and how he obtained the information. However, the witness may also refer to other persons on recognizing facts. Indirect testimony cannot be used as a basis for establishing a fact until the court confirms that the person who has personal acquaintance is unable to give testimony due to death, illness, or has an objective inability to locate the person.

II. Witness interrogation, prohibition of suggestive questions

Each of the interested parties has the right to request the summoning of witnesses. It is up to the court to decide whether to accept this request or not. The court has also the right, mainly, to dispose the acquisition of evidence that it deems necessary to clarify the circumstances of the case. Pursuant to Article 161 of the Code of Criminal Procedure, the questioning of witnesses is done first by the party that requested the question and then by the other party. Therefore, the questioning is made by the prosecutor or defense counsel or the representative who requested the question and then the questioning continues by the parties in turn. Article 360 of the Code of Criminal Procedure provides for the appearance and swearing of a witness. Before the questioning begins, it is the presiding judge who warns the witness of the legal obligation and responsibility to tell the truth. This is the exception, when a minor up to the age of 14 appears as a witness. The court clerk reads the oath and the witness swears. After that, he/she shows his/her personal data. Taking testimony without oath leads to the invalidity of the act performed.

Thus, the questioning of the witness is performed in a certain order, respecting the relevant procedural forms. The questioning of witnesses is done separately and not in the presence of other witnesses. This is so in order to eliminate the influence that they may have on each other. Initially, the identity of the witness and his/her connections with the party participating in the proceedings are certified. It is provided that the prosecutor can request certification from the judicial court upon the authorization of the court for the witness as well. In the context of general questions asked to the Witness, is the certification of the identity of the witness, his/her relationship with the defendant, as well as obtaining data on his/her personality. However, the fact that the witness, due to accidental circumstances or not, can be found in this capacity, as he/she may have been previously convicted, cannot serve as a cause and as a source of an uncomfortable position for him/her. In practice, as regards the value of a witness's testimony, it is considered that his or her previous conviction, except for when he or she may have been criminally liable and convicted, e.g., of perjury, cannot serve as an element in diluting the veracity of his/her testimony. For a fair and objective assessment, the court must delve in the entirety of constituent elements of

the testimony, the witness's relationship with the defendant, and so on.
In the context of general questions, the witness is given relevant warnings about the fact that he/she is obliged to tell the truth and that he/she bears criminal responsibility for false testimony. Being concerned that the first contact with the witness is not drily and does not cause the witness wince or stiffness, because in this way the premises of not taking an accurate testimony will be created. After the general questions, it is passed to the questioning of the main issue (Lara, Commentary on the Criminal Procedure, 2019). The manner of questioning the witness shall adapt with the psychology of the person being questioned. Throughout the interrogation, it is forbidden to ask suggestive questions, i.e. those questions which are imposed on the witness in relation to certain evidence. If we were to make a comparison with contemporary criminal procedure, we would say that, in Italian and French criminal procedure, the suggestive question in the indirect question is not forbidden. The suggestive question is a question that also shows a certain answer, which interests the one who asks the question (Islami, Hoxha, & Panda, Criminal Procedure, 2012) Of course, such a thing presents its negative sides, as through the question the witness is suggested, issuing a statement that derives from the imposition through the suggestive question. In this context, the suggestive question has been presented to us as harmful, because it can be used by the party to distract the witness from the correct statement.
According to the opinions that are in favor of applying this questioning, it is quite valid for the accusation, serving the prosecutor to investigate the falsity of witnesses that the defense can present. Pursuant to Article 361/3 of the Code of Criminal Procedure, the suggestive question is prohibited. There is also an opinion expressed in the legal literature, according to which, ignorance of suggestive questions leads to ignorance of the facts. This is not fair, as the witness under the influence of suggestive questions is more likely to withdraw or go towards inaccurate and untrue facts. The suggestive questions are presented as risky even when addressed to the injured party at the time of the crime, preventing him/her from perceiving and memorizing the circumstances of the event. The more he/she is under the influence of the shock that has come from the offense, the more the suggestive question orients him/her towards filling the gaps of memory, of perceived data with data obtained from other sources. In conclusion, we can say that suggestive questions of any nature are questions that compromise the impartiality of the witness and thus do not help at all to certify the authenticity of the facts.

III. Questioning of juvenile

Particular attention is paid to the questioning of the juvenile. The juvenile is called the person who is under the age of 18 years. The reasons why juveniles need special protection, is related to their ability to understand and control their actions as it is lower than in adults. They are influenced easily by the adults and can easily become victims of crime, etc. To succeed in juvenile delinquency, a number of criteria must be considered such as: gathering the information needed for it; his/her living or working conditions; individual and psychic development; to establish a close contact with the juvenile in order to create a sense of reliability to him/her.
The questioning of the juvenile is done through a psychologist, educator or any other expert and when it is not contrary to the interests of the trial or the child, the parents

or guardian may be present during the questioning. The parties can request and the court can decide mainly that the juvenile be questioned by the judge in the presence of the expert. The juvenile may be questioned again only in special cases and in the same manner.

However, questioning the juvenile as a witness but also as a victim is a critical, crucial and fragile stage for the progress and success of criminal proceedings. This is due to the age of the juvenile and his / her individual circumstances that make it difficult to obtain proper and complete information from the juvenile. Moreover, the questioning of the juvenile as a witness should be completed as soon as possible after the reporting of the criminal fact to the relevant authorities. Conducting a complete and valuable questioning for the proceedings, respecting the elements of due process in the treatment of the juvenile and guaranteeing his/her rights throughout the procedure, is a process that requires speed of action, quality of the questioning, but also cautiousness in the treatment of the minor. In the questioning of the juvenile shall be guaranteed all the rights of the juvenile witness, professionalism and specialized knowledge of the persons who conduct this process. The formulation of the questions shall be in plain, understandable and clear language, avoiding the use of legal terms as much as possible. Questions shall be open, preferably short, and aimed at an answer for an idea, a free statement of history by the juvenile (Merkaj, 2020).

IV. The anonymous witness

In the framework of the amendments that the Code of Criminal Procedure has undergone in 2017, the secret witness is also provided. According to Article 165 / a of this Code, when giving evidence may place the witness or his/her family members in serious threat to life or health and when the defendant is charged with serious criminal offenses and the witness protection program is not implemented, the court, at the request of the prosecutor, may decide to apply special questioning techniques. The request of the prosecutor is presented to the presiding judge in a sealed envelope, marked "Confidential: anonymous witness". In the request, the prosecutor sets out the reasons for the need to use one or some of the special questioning techniques. In the envelope with the above note, the prosecutor also submits the sealed envelope including the full identity of anonymous witness. According to the provisions of this Code, only the presiding judge is acquainted with the true identity of the anonymous witness and certifies the aptitude and incompatibility with the duty of the witness. In any case, the date, name, signature and role of the persons who opened the envelope and those who are familiar with the data included in the envelope are clearly marked on the envelope. Following the certifications, the envelope with the real identity of the anonymous witness is returned to the prosecutor. The court examines the request of the prosecutor in the deliberation room and decides with a reasoned decision within forty-eight hours from the submission of the request. The prosecutor may appeal against the court decision within forty-eight hours from the notification of the decision. The Court of Appeal reviews the appeal in the deliberation room and decides on the appeal within forty-eight hours of receiving the acts. This decision is irrevocable.

When the court accepts the prosecutor's request, it decides on the witness's nickname and the procedures on concealing identity, notifying, appearing and participating in

the proceedings. The questioning of the witness is performed according to the rules provided in article 361 / b of this Code. This means that in addition to the application of the usual rules for obtaining evidence in the case of an anonymous witness, it is if it can be processed by obtaining evidence remotely, inside or outside the country by audiovisual means, respecting the rules of international agreements. In the case of remote questioning, it is provided that the person authorized by the court stays at the place where the witness is located and certifies the identity of his/her questioning, as well as takes care of the duly conduct of the questioning and the implementation of protection measures. These actions are reflected in the minutes. The same rule may apply to cases when the questioning of victims of sexual offenses, trafficking offenses or family-related offenses, who may be questioned through an audiovisual link, should be followed.

V. The value of the testimony in relation to the defendant's conviction

Regarding the value of the testimony in relation to the defendant's conviction, our criminal procedural law provides that the guilty verdict cannot be based solely or mainly on the co-defendant's statements or evidence obtained through special techniques for concealing the identity of the witness.

In this regard, we should also refer to the practice of the European Court of Human Rights, where despite the fact that its Article 6 does not explicitly address the problem of the anonymous witness, it should be said that there is a prejudice to the detriment of this practice. This is because in this case they are confronted with a psychological fact, a serious risk to life for fear of vengeance and a legal indication such as the principle of adversarial proceedings mentioned in Article 6, point 1 and especially Article 6 point 3 of the European Convention on Human Rights.

Thus in the case of Kostovski against The Netherlands, 20/11/1989 of the ECHR (application no. 11) it is reasoned that: *"The elements of evidence must be brought before the accused in a public hearing, in order to have a contradictory debate. However, it does not appear that the witness statement should always be made in the courtroom or in public to serve as evidence ... As a rule, Article 6 requires that the accused be given an appropriate and sufficient opportunity to oppose a testimony against him/her and to ask its author, at the time of testimony or later. "* It should be noted that the in principle, ECHR does not condemn the testimony made by a person whose identity is secret. On the other hand, in principle it respects the vitality of the duly process: at one point or another, except for in exceptional cases, the accused should be able to question the witness, specifically using the system that modifies voice and sound.

In the case of ECHR of Doorson against Netherlands (16/03/1996) the conditions for the use of anonymous testimony are clearly defined by confirming in principle a limit to it: there must be sufficient grounds to guarantee the anonymity of witnesses and during the questioning of the anonymous witness the judge must intervene: the judge must form an idea of the credibility of the witness; there must also be other evidence in addition to the evidence provided by anonymous testimonies (application of confirmation theory).

Meanwhile, regarding the collaborators of justice, according to our code, it is provided that they are questioned as witnesses. In case he/she makes false statements or testimonies, he/she bears criminal liability according to the law. So the collaborator

of justice must tell the truth and all the truth and according to article 36 / a of the Criminal Code, he/she bears criminal liability for false statements or testimonies and that his/her statements are evaluated in unity with other evidence that confirms their authenticity.

According to the ECHR in the case LUCA against ITALY (request no. 33354/96 and date of decision February 27, 2001) it is reasoned that: "…*However, in cases where the co-accused have been offered a reduced sentence in exchange for giving statements in favor of the prosecution, the courts must take a critical stance in assessing these statements.*"

Meanwhile, according to local practice, the Court of Appeal for Serious Crimes, in decision no. 70, dated 19.09.2018 reasoned that: "First, regarding the credibility of the declarant (defendant in a related proceeding) I.L, referring to his personality (not bad), his social, economic and family conditions (satisfactory), relations with the defendant Z.- the recipient of the accusatory statements of the co-defendant L.- which are not good, in the conditions of certifying the lack of normal, official communication between the two above-mentioned "characters", the first Z. in the position of head (director) of the General Directorate of Prison Administration and the second L. in the position of his deputy, i.e. essentially, "damaged", compromised (from previous conflicts) and identified by the lack of normal communication, his procedural situation (co-defendant L. was granted by the prosecutor the status of "collaborator of justice", "repentant"), the Court of Appeal for Serious Crimes, unlike the position of the Court of Crimes Serious, considers this "credibility" as unfulfilled and unaccomplished due to the aggravated situation in the relationship between them. Secondly, ... that the accusatory statements of the co-defendant L. (against the defendant Z.) be considered credible, legitimizing at the same time the serious "repentance" of the latter, accepted by the prosecutor, with the recognition of the status of the "collaborator of justice" for co-defendant L., shall be characterized by spontaneity, genius, promptness of "publication" of their notification to the prosecution authority or judicial police. Third, in addition to the above assessment of the content of the statements of co-defendant L., beyond them, at the end of the "assessment proceedings, certification of their veracity", finds in conformity with the provisions of the third paragraph of Article 152 of the Code of Criminal Procedure , the inability to certify the content of the accusatory statements of the latter (co-defendant L.) against the defendant Z., in other evidence as a necessary condition determined by the aforementioned provision to give the value of "evidence" "definitions of co-defendant" L .. Statements of co-defendant L ... not only prove to be unsupported by other independent evidence, but even in themselves, as mentioned above, they are incredible ... "

Conclusions

Evidence with witnesses is one of the main evidences on which the verdict of guilt or innocence is based. As one of the main evidences, the procedural authority must, during the receipt and management of this evidence, strictly respect the procedural rights and guarantees of the defendant in the criminal process. This is because on the contrary, if the court does not respect the provisions of the Code of Criminal Procedure on obtaining the testimony, it may lead to the invalidity of the decision. Therefore, the court must be careful in respecting all the norms related to the ability to testify, incompatibility with the duty of a witness, but also the exceptions from the

obligation to testify. A greater guarantee must be provided by the court against the defendant in cases involving the taking of the testimony of a collaborator of justice, as one of the proofs when utmost diligence must be taken. This is due to the status that the collaborator of justice enjoys in terms of benefits but on the other hand and in relation to the consequences that may come to the defendant from the testimony of the collaborator. In addition, the prosecuting authority must be very careful in cases when proceeding with the taking of testimony at a distance, i.e. in all cases when the witness who gives his/her testimony is not in the courtroom. This is so because, even in these cases, adversarial proceedings must be guaranteed, i.e. having the opportunity for the defendant and his/her defense counsel to examine the witness at a distance by asking questions. Only in compliance with the above rules, we can talk about a duly legal process where the defendant are guaranteed his/her procedural rights.

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Electronic Commerce (Legal Analysis)

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Abstract

Electronic commerce is a new technology which is growing rapidly. It has the ability to create a truly global digital economy, but at present current legislation does not encourage the uptake of this technology. The nature of the Internet and the globalisation of the world economy mean that developments in electronic commerce create legal problems concerning security of transactions and legal jurisdiction of transactions. The growth of electronic commerce has made current and future legal requirements difficult to assess. In order for electronic commerce to develop these issues have to be addressed on an international level. This paper attempts to highlight the problems of legislating electronic commerce. The role of the United States, European Union and Organisation for Economic Co-operation and Development (OECD) in formulating legal policy is discussed. The legal position regarding digital signatures, certificate authorities and trusted third parties are addressed as, is the issue of data protection.

Keywords: Legal regulation, Electronic Commerce, EU, USA.

Introduction

The term 'electronic commerce' has been defined by Kalakota and Whinston (1997, p 3) as having many perspectives - communications, business, service and on-line. For the purpose of this paper electronic commerce is defined as any action undertaken by a business which requires a financial transaction to be carried out over a network such as the Internet. Electronic Data Interchange (EDI) is a form of electronic commerce concerned with the exchange of business documentation such as invoices and orders. Businesses have been slow to adopt EDI (Kalakota and Whinston: 1997, pp 379-380) due to high costs, limited consumer access to proprietary networks and the inability to automate only part of the transaction. Electronic commerce has the ability to eliminate the time span between ordering, delivery invoicing and payment by using the world wide web. Electronic commerce transactions can be divided into two categories - business to business or business to individuals - and may involve the electronic supply of goods and services.

Electronic commerce offers benefits to both vendor and buyer. The vendor can create a global presence – thus generating more potential business, reducing costs, increasing competition, and allowing the ability to customise products. The buyer benefits through increased choice which encourages better standards of service, price reductions and a more tailored service.

At present only eighty-five per cent of companies are using the Internet (Feher and Towell: 1997, p3) and uptake of electronic commerce is small. However the OECD estimates a two hundred per cent growth in electronic commerce transactions. (OECD: 1997a)This rapid increase inevitably leads to problems on a global scale with legislation and regulation.

This paper highlights some of the legal issues surrounding electronic commerce and the measures taken by international bodies and organisations to address these problems.

2. Legal Regulation of Electronic Commerce

Fraud, financial misdemeanours and tax avoidance are not found just in electronic commerce, but electronic commerce presents new ways to commit old crimes. Electronic commerce is difficult to regulate for two main reasons. Firstly, the scope of electronic commerce and the technology involved changes rapidly. Traditionally, the formulation of the law has been an evolutionary process, adapting to suit the needs of society. Where electronic commerce is concerned the pace of change is and has been too great for this process to take place. This results in a situation where there is a choice of either applying current legislation or enacting new legislation specifically formulated to meet the challenge of electronic commerce. Secondly, the very nature of the technology involved means that it is transnational. This leads to problems as to which legal system has jurisdiction over electronic commerce transactions.

2.1 Formulation of Policy

Even in this era of supra-national bodies and trade blocs, the nation-state is still responsible for almost all of the legislation that affects its citizens. To date, few have enacted laws to deal specifically with electronic commerce; that may reflect the speed of legal change in most countries rather than a desire to wait until international agreement has been reached. In fact, some countries (such as France and Germany) have already introduced legislation governing the use and legality of electronic signatures. [3.3]

The OECD is dedicated to promoting measures that will benefit both members and non-members and the to development of international trade. Naturally, this organisation has considered the impact of electronic commerce. The report *Global Information Infrastructure - Global Information Society* (OECD: 1997b), although addressed to governments, acknowledges the need for all social partners to become involved and places importance on allowing the private sector to take the lead in the economic and commercial development and implementation of GII – GIS. Government efforts should concentrate on breaking down barriers and creating opportunities for digital commerce, rather than increasing regulation. The OECD recognises that the different legal and political traditions among members mean that different solutions will be appropriate for each nation, but states that the global nature of the digital economy requires them to look at ways of ensuring access and enforcing certain safeguards. The report also points out the need for consensus on security and authentication measures that will make electronically transmitted documents legally binding. Policy should remain flexible and dialogue with the private sector continuous. In addition, the OECD has issued proposals of a more detailed nature on topics such as cryptography and digital signatures. (OECD: 1997c) [3.3]

Groups comprising business representatives fall into two categories: those who lobby governments for control and legislation and those who provide advice and guidance for business wishing to enter into electronic commerce. In the former category, groups such as the World Wide Web Consortium (W3C), the Electronic Commerce Association and the Internet Law and Policy Forum (IPLF)) share information, encourage debate and engage in discussion with legislators to promote their cause. More often than not, the message they promote is the less regulation the better. It would be simplistic to say that they are in favour of no legislation at all, but they are of the opinion that they are in a better position than many to know what regulation is required. In addition they argue any regulation could not hope to be as reactive to changing circumstances and technology as they themselves could.

Thus far, the response to these claims has been receptive. Governments seem to

appreciate the fact that it is not practical for them to regulate electronic commerce completely. This has led to a large degree of co-operation between the public and private sector. In June 1998 EC Commissioner Bangemann invited business leaders from throughout the world to participate in a discussion on ways to increase global co-operation in electronic commerce. (Bangemann: 1998)
The conference concluded that regulation should be kept to a minimum as the global nature of electronic commerce made government regulation impossible anyway: therefore industry self regulation was the way ahead. They also arranged mechanisms by which industry could continue to consult with each other and play a leading part in the formulation of policy. (Bangemann: 1998) The Global Standards Conference, hosted by the EU, came to similar conclusions regarding self regulation. (EU: 1997a)
The Interactive Media in Retail Group is an example of a business group less inclined to lobby; although the IMRG has developed a standard for web sites which indicates to users that they are using an approved and secure site. (IMRG: 1998)

2.2 Jurisdiction
Although consumers are prepared to conduct business by telephone and by fax, for some reason there appears to be a psychological barrier to transactions over the Internet. As the Internet has no regard for national boundaries the question of which legal system is responsible for cross-border transactions is central to the success of electronic commerce. Users are less likely to feel confident about making a transaction electronically if they are unsure of the legal protection they will be afforded. They may not be offered the same means of redress as in a purely domestic transaction. They may also be reluctant to transact with parties in a foreign or unknown jurisdiction due to lack of legal protection. This has implications for the development of global electronic commerce and raises several important issues.
Firstly, how is a vendor to be expected to comply with the law of all the countries in which their clients reside? This would place an unacceptable burden on the vendor - forcing them either to be aware of the legal situation throughout the world or to limit themselves to dealing with a few countries where they feel reassured by the law. The former is unfeasible and the latter is undesirable as it would be contrary to the spirit of electronic commerce which it is hoped will stimulate world-wide trade.
One solution would be to establish international agreements stating that any contract signed in cyberspace comes under the jurisdiction of the territory in which the vendor resides. This, of course, raises questions as to what constitutes a residence and the problem is compounded if a business has operations in several countries. There is also the question of server location. In the digital global economy it is quite feasible for an organisation to have a server, but nothing else, in one country. The 'virtual organisation' is therefore outwith the jurisdiction of any one country.

2.3 Global Attempts at a Solution
The USA has the highest instance of electronic commerce transactions, but the legal issues are far from being resolved. The recent 'Framework for Global Electronic Commerce' outlines the US Government's plans for assisting the growth of electronic commerce (Clinton and Gore: 1997). This document takes the popular view that government should avoid regulation where possible and allow the private sector to take the initiative.
The Report does, however, advocate the creation of a Commercial Code setting down basic rules for transactions over the Internet and possibly providing a means for governmental recognition of electronic contracts, mutual recognition of electronic signatures, dispute settlement etc. The USA has already begun adapting the Uniform

Commercial Code, which governs US commercial law, for this purpose. Case law in the US appears to offer some sort of precedent in the area of jurisdictional liability. It appears that business sites can be categorised according to the level of interactivity involved. Thus, a web site that is purely informative is not likely to convey any liability outside the state of the publisher, whereas if the site allows, for example, online purchasing, the vendor will be liable in those states where the purchasing may take place.

The United Nations Commission on International Trade Law (UNCITRAL) has produced a model law for regulating electronic commerce, which appears to be similar to the US proposals for a Commercial Code. (UNCITRAL: 1996) Its effects are not binding and it is up to individual nations whether they introduce legislation based on the US model.

The OECD has also raised the issue of applicable law for the purposes of dispute resolution. (OECD: 1997c) It states that there is a need for mechanisms to resolve international disputes and suggests that existing international commercial bodies should be encouraged to take on this role.

The European Union has recently been formulating policy in a number of areas and is keen to ensure that regulation in Europe takes place in a unified way. Legislation on digital signatures, encryption and certificate authorities is imminent, and a Directive on data protection has been issued. (EU: 1995b) An outline of Commission policy can be found in 'A European Initiative in Electronic Commerce'. (EU: 1997c)

At present there are no effective means for solving cross border dispute resolution in the area of electronic commerce. The proposals suggested by the UN and US should go some way to addressing this problem, although individual countries must accept the proposals and adopt national legislation. It is to be hoped this is done as soon as is practicable, in order to reassure consumers and businesses that electronic commerce is a safe and reliable way to conduct their business. The proposed legislation is based on a model of electronic commerce that would not have evolved naturally, and thus will be constrictive by attempting to shape electronic commerce instead of letting the needs of electronic commerce shape the law.

2.4 The European Union Perspective

The EU is unique amongst international organisations in that it is able to make norms that are legally binding on its member states or which confer rights and obligations directly on the citizens of the EU. Harmonisation within the EU is a priority in order to ensure the single market is not distorted.

Europe, together with the US, is one of the key test-beds for electronic commerce. As the US and the EU are the largest trading blocs in the world, agreement between them would cover a large proportion of electronic commerce transactions. Agreement would also lead the way to a global legal environment, as other states dependent on trade with the US and the EU would be keen to enact similar legislation or enter into agreements which would make electronic commerce easier. Any kind of joint agreement must be swift, since it is inevitable that more and more nation-states will implement their own measures. It would be much more difficult to try to harmonise many individual laws than to encourage nations to follow a particular model from the beginning.

It appears that all parties are in agreement as to what is required – a flexible system led by the private sector allowing for the use of governmental rules in certain key areas. Example guidelines are already in place (UNCITRAL: 1996) and it seems likely that more will follow adhering to the same formula. If world-wide agreement is to be found, one system needs to be adopted by the EU and USA in the hope that their

trading partners will follow suit.
In the absence of concrete international regulations the inevitable conclusion is for the buyer and seller to enter into a contract stating the conditions that have been agreed upon and the jurisdiction in which any dispute will be settled.

3. Technical Solutions and Legislation

Although the number of businesses on the Internet has grown, many of these organisations are simply maintaining a 'web presence' by providing information about themselves and their products and have not yet undertaken Internet-based transactions. This inertia is probably due to concern about security of transactions and user authorisation. Technologies concerned with authorisation include firewalls, password access, smart cards and biometric fingerprinting. However, in order to provide secure electronic transactions (SET), encryption technologies are used. Encryption technologies, which are supported by the appropriate legal mechanisms, have the potential to allow global electronic commerce to develop.

3.1 Digital Signatures

Digital signatures provide information regarding the sender of an electronic document. The technology has assumed huge importance recently with the realisation that it may be the remedy to one of the major barriers to growth of electronic commerce: fears of lack of security. Digital signatures provide data integrity, thereby allowing the data to remain in the same state in which it was transmitted. The identity of the sender can also be authenticated by third parties.
The most widely used type of cryptography is public key cryptography where the sender is assigned two keys – one public, one private. The original message is encrypted using the public key while the recipient of the message requires the private key to decrypt the message. The recipient can then determine whether the data has been altered. However, although this system guarantees the integrity of the message, it does not guarantee the identity of the sender (public key owner). In order to remedy this a Certificate Authority is required.

3.2 Certificate Authorities

Trusted Third Parties (TTP) provide a variety of cryptography services to their clients. Certificate Authorities (CAs) are TTPs who have been given licence to produce digital certificates authenticating digital signatures. In order for this system to work, the Licensed CA must be reliable and have the confidence of the public and business community. In addition, those who rely on the services of the Licensed CA must be able to hold them legally liable for any loss suffered as a result of their error. Licensed CAs promote the use of electronic commerce technology by reassuring the user that the authentication process is reliable, that is, the owner of the digital signature is who they say they are. This provides business with the reassurance that the electronic commerce transaction is secure.

3.3 Legal Position of Digital Signatures

Although digital signature technology has been available for some time, it has only recently become feasible to use digital signatures to authenticate a document. This breakthrough has made digital signatures one of the most important areas of development within electronic commerce. It is important because the technology, and the law governing it, must develop in a way that promotes, or at the very least does not inhibit, the growth of electronic commerce.

A substantial amount of legislation regulating the use of digital signatures and their legal status has been enacted. So far, this has been enacted on a state by state basis, resulting in those countries taking contrasting legal positions. Germany has recently introduced the Digital Signature Law (Federal Act: 1998). France has enacted a law introducing Trusted Third Parties (Law Decrees: 1998)and the United Kingdom has released a consultation paper. (DTI: 1997) Belgium, Italy and Sweden have also introduced legislation. Legislation on digital signatures has taken place on a state by state basis in the United States and so far nineteen states have legislated. (HR; 1996) International law on digital signatures has yet to be formulated.
As part of its plan to develop electronic commerce and create user confidence, the European Commission has unveiled a proposal for a directive on digital signatures. (EU: 1998d) The draft directive would lay down minimum requirements for electronic signature certificates and certification services and require legal recognition of electronic signatures to the same extent as written signatures, especially in cross border transactions (EU; 1998d). This is vital if electronic commerce is to become a viable alternative to traditional ways of conducting business. The proposal also envisages co-operation with third countries to enable recognition of digital signatures that have been certified by a CA in a third country, provided that CA meets the requirements of the directive or is situated in a country which has negotiated an agreement with the EU. (EU: 1998b). Negotiations with the US and Japan to this end have already begun. This is a very positive step as from its inception electronic commerce was intended to be global and this must be reflected in the law. Unfortunately, this concept does not fit well with legal tradition, and movement to create an international framework has not been swift. One important provision of the draft directive was that Certification Authorities should be allowed to operate without obtaining authorisation in advance, although stating that they may seek voluntary accreditation if they wished.
Developments are also taking place at a global level. Bodies such as the Internet Engineering Task Force (IETF), the International Organization for Standardisation (ISO) and W3C are currently working on standardisation of digital signatures. The OECD has issued 'Guidelines for Cryptology Policy (OECD: 1997c) which includes a guide for states on the creation of legislation governing the use of digital signatures. UNCITRAL has also released draft legislation on electronic commerce, including guidelines for digital signatures. (UNCITRAL: 1998)

3.4 Encryption

The role of encryption, CAs and digital signatures go hand in hand. Cryptography provides the technology used in digital signatures as well as for encryption. Encryption renders an electronic document unreadable, thereby providing another level of security and increasing the attractiveness of the Internet as a means of transferring confidential data of the type often used in electronic commerce. Encryption is either a powerful tool or a dangerous weapon. As a tool it is an important aid to the security of legitimate data transactions, but as a weapon it could be used for criminal means. The US government intends to use key recovery to counter this problem. Concerned about the possible uses of encryption software, it has also legislated to prohibit the export of such software (stronger than 56 bits) without prior authorisation.

3.4.1 Clipper Chip

Since 1993 the US Government has consistently attempted to introduce legislation on the Clipper Chip, or a similar alternative. The Clipper Chip is a device enabling the government to gain access to communications by obtaining a key held by two escrow agents. These agents are usually government bodies: in the case of the USA, NIST and

the Department of the Treasury are the agents.
The outrage provoked by the initial proposal led to its abandonment and subsequent attempts to legislate in this area have featured watered down versions of the original idea, none of which have been particularly well received. The administration is persisting with attempts to introduce some sort of key recovery scheme (Abelson et al: 1998). In fact, according to the US Administration document *A Framework for Electronic Commerce* 'the US government will work internationally to promote development of market-driven key management infrastructure with key recovery.' (Clinton and Gore: 1997)
Many civil liberties groups have campaigned bitterly against these laws (ACLU, EFF, EPIC: 1998) and it is still unclear whether any kind of key recovery mechanism will become law in the USA.

Conclusion

Electronic commerce raises many new problems. It is not only the pace of its adoption that causes difficulty but the fact that a it is an entirely new form of doing business which disregards national barriers and traditional means of forming contracts. The ease by which information may be transferred is partly responsible for the success of electronic commerce. It is also the cause of many of the problems, for example new mass marketing techniques have been made possible, thus raising privacy issues.
With the rapid uptake of electronic commerce, predictably, there has been a rush to enact laws. However, these laws suffer from two fundamental problems: The changing nature of the technology has the potential to render any legislation redundant within a short period of time. In addition, national laws are inadequate to govern what is truly a global issue. Regulation poses further threats in that it risks stifling electronic commerce if it is unduly burdensome.
The aim of any regulation of electronic commerce should therefore be to facilitate the adoption of electronic commerce, or at the very least to avoid distortion of the market through laws which are not appropriate or which create strong local differences. Although there is an argument that legislation is not necessary, that clearly is not the case. Existing laws are not capable of being adapted to this truly new sphere of business. However, because no clear picture exists of what electronic commerce encompasses, how widespread it has become, and how it is likely to evolve in the future, it is difficult to reach a consensus on suitable laws. To some extent, this has been achieved through the various international agreements that have been signed, although no one agreement takes precedent over another and none are strictly binding. Of more legal effect are interstate agreements such as have taken place between the EU, the US and Japan. If a model can be created between these countries it will serve to encourage others to adopt similar legislation, perhaps leading to the certainty that is craved by business.

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Criminal offences relating to cultural property

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Abstract

Throughout the history of mankind, societies have always considered as special values objects, collections and places that reflect their historical, religious, artistic and scientific achievements. This property is commonly referred to as cultural property as it reflects the cultural heritage of the people who claim it. Often this property goes beyond a certain society or time and becomes important to all future generations of the world as a symbol of victory and human achievement. Unfortunately, as a result of the high value placed on it by society, cultural property throughout history has been the object of theft and destruction by those seeking profit or pleasure in attacking the cultural heritage of their enemies.
For the most part, international threats to cultural property originate from two sources.The first concerns the protection of this heritage in the context of armed conflict and the second is applicable at all times, and concerns the ability of the state to prevent and control the theft and illegal trafficking of its cultural property through various modalities of international cooperation and sanctions.
This paper aims to analyze a topic that is not currently addressed and to look at the preservation of cultural property in the spectrum of criminal law by addressing the legal basis for the preservation of this right from the wars to the present.

Keywords: cultural property, criminal offence.

Introduction

Cultural property is one of the most important assets of a nation. It testifies to the tradition and values on which the country is founded. Jeopardy or violation of this right constitutes a violation and is punishable under criminal law. For the most part, international threats to cultural property originate from two sources, so two separate legal frameworks have been developed to protect and preserve cultural property. The first legal framework deals with the protection of this heritage in the context of armed conflict and the second in other contexts. The first concerns destruction and looting during times of war and military occupation, which impose an incalculable cost on those groups against which attacks are carried out. This framework is based on the customary and conventional law of The Hague and Geneva, which is based on the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two protocols.[1] For the most serious threats to cultural property during war crimes, states and individuals who commit these acts are subject to international criminal and civil liability, which is enforceable by an existing international criminal court or by a state through the exercise of any of the grounds

[1] Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at the Hague, May 14, 1954, 249 U.N.T.S. 240 [hereinafter 1954 Hague Convention]; Protocol for the Protection of Cultural Property in the Event of Armed Conflict, signed at the Hague, 14 May 1954, 249 U.N.T.S. 358 [hereinafter 1954 Protocol I]; Second Protocol to the 1954 Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, signed at the Hague, 26 Mar. 1999, available athttp:// www.unesco.org/general/eng/le gal/clth eritage/hague/hagfull.html [hereinafter 1999 Protocol II.

of accepted jurisdiction.
The second framework is applicable at all times, and concerns the ability of the state to prevent and control the theft and illegal trafficking of its cultural property through various modalities of international cooperation and sanctions. The legal framework governing this issue includes: The UNESCO Convention and several other international, regional and bilateral instruments of general implementation of cultural heritage; Agreement on extradition of criminals; and internal customs controls. Unlike the regulation of armed conflict, this legal framework does not require reliance on substantial international criminal law to control the illegal expropriation and trafficking of cultural property. Instead, the law promotes interstate cooperation between internal law enforcement and customs control agencies in order to facilitate the seizure, return and restitution of stolen, protected and destroyed cultural property.[2]
Clearly, considerable efforts have been made over the past 200 years to protect cultural property from the threats of war and smugglers. However, the two legal frameworks that exist to protect and preserve cultural property are not comprehensive and have many shortcomings: lack of concrete jurisdictional provisions in international treaties, direct international enforcement mechanisms, and technical and financial resources to adequately train and equip officers.

1. Conventional protection of cultural property during wartime

Some international instruments governing armed conflict stipulate that certain violations of cultural property rights explicitly or implicitly constitute an international crime under conventional or customary international law. Some of the Conventions mentioned below do not provide specific grounds for jurisdiction, but interpretation and subsequent practices have defined them.
Lieber Code, enacted in the United States in 1863[3], stated that only public property was subject to confiscation and that cultural property would not be considered public property for the purpose of confiscation or misappropriation.In no way can such property be confiscated; to sell, give, destroy, damage or misappropriate privately, until a peace treaty determines the final ownership of the property.
The 1874 Brussels Declaration, although never ratified, prohibited looting and declared that enemy property could not be confiscated or destroyed unless justified by military necessity. In addition, property belonging to arts institutions, regardless of the type of private or public ownership or financing, should be treated as private property and as such its seizure or destruction is prohibited and should be prosecuted.
The Hague Conventions of 1899[4] and 1907[5] on the laws and customs of war on land include, for the most part, the concepts embodied in the Brussels Declaration. Both set out broad provisions for the protection of cultural property in some of the articles

[2] UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.
[3] U.S. Dept, of War, Instructions for the Government of the Armies of the United States in the Field, General Orders No. 100(1863).
[4] Convention with Respect to the Laws and Customs of War on Land, July 29, 1899, 32 Stat. 1803, T.S. No. 403, 26 MARTENS NOUVEAU RECUEIL (ser. 2) 949.
[5] Convention Respecting the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2277 (1907), T.S, No. 539

discussed below.

Theft is formally prohibited by Article 23 (g) which prohibits the destruction or seizure of enemy property unless otherwise required by the necessity of war[6].Private property cannot be confiscated. Attacking or bombing cities, villages or buildings, including cultural targets, is also prohibited. Three provisions of the 1899 and 1907 Hague Conventions deal specifically with the protection of cultural property. Article 27 obliges signatory states to take steps to safeguard buildings dedicated to art, science and religion and further imposes the obligation to notify the enemy by marking such buildings.In an even broader provision, any seizure or destruction with intent to damage arts and science institutions, historical monuments or works of art or science is prohibited and subject to legal proceedings.

The Convention relating to Naval Bombing inWartime[7], also adopted at The Hague in 1907, calls for all necessary measures to be taken to preserve historic monuments and buildings belonging to religion, art, science and charity. Although never formally adopted, the Hague Rules of Air War reiterate that historic monuments and cultural institutions be spared from bombing during war.

However, the Hague Conventions failed to prevent damage and destruction of cultural property during World War I, including the bombing of Rheims Cathedral and the burning of the library in Louvain. At the end of the war, a number of peace treaties established reparations for the confiscation of private property, which included cultural property. Among them, the Treaty of Versailles provided for art objects acquired by Germany during the Franco-Prussian War and World War I to be returned to their countries of origin.[8] Specifically, Article 297 (a) required Germany to cease the possession of confiscated property and to restore it to its rightful owners, if it still exists, and to provide the agreed compensation in lieu of return. The Treaty of Versailles established a court to adjudicate civilian compensation for confiscated property[9]. In addition, Germany was asked to identify all third party *bona fide* buyers who could be harmed by the return.

Although not a party to the Treaty of Versailles, the United States signed the Treaty of Berlin, which contained similar provisions, and a similar claims commission was set up in a later Treaty. The Treaty of Sevresmidis[10], between the Allies and Turkey, ordered Turkey to restore all looted property, archives, historical souvenirs or works of art taken before October 1914. Article 422 also required the return of all religious, archaeological, historical or artistic objects of interest received before August 1914 to the government of the territory from which they were taken within 12 months after the date of implementation of the agreement.[11]This treaty, however, did not enter into force. In 1936, the United States initiated an inter-American treaty called the Roerich Pact which stated in one of its provisions that movable monuments could not be treated as war booty.Unfortunately, international agreements did much more to stop cultural property damage during World War II than they had during World

[6] 1899 Hague Convention.

[7] Convention (IX) Concerning Bombardment by Naval Forces in Time of War, Oct. 18, 1907, 36 Stat. 2351 (1907), T.S.No. 542.

[8] Article 247 required Germany to replace books, manuscripts and incunabulas in the relevant number and value After the distraction of the library in Louvain.

[9] Article 3041 of the Treaty of Versailles.

[10] Treatyof Sevres, Aug. 10.1920.

[11] This provision for the preservation and return of the contents of the Russian Archaeological Institute in Istanbul, was originally handed over to the Allies to protect the rights of Russia.

War I.
After World War II, developments in the protection of cultural property during times of armed conflict were briefly reflected in the 1949 Geneva Convention on the Protection of Civilians in Time of War[12]Article 53, however, only states that any destruction of personal property, whether public or private, is prohibited. Unfortunately, the Geneva Convention of 1949 does not repeat some of the most explicit details of the Brussels Conference and the Hague Conventions of 1899 and 1907 although it considers certain violations as serious violations, e.g. war crimes. In addition, Protocols I[13] and II[14] of 1977,in addition to the Geneva Conventions of 1949, contain certain provisions for the protection of cultural property. A basic premise of the protocols is that the parties at all times distinguish between civilian objects and militarytargets, while the direction of actions can be done only against military targets[15]. Specifically, Article 53 of the Protocol prohibits acts of hostility against historical monuments, works of art, or places of worship that constitute the cultural or spiritual heritage of the people. The next article prohibits the use of such property for military purposes and prohibits direct retaliation against such property. The Geneva Conventions and Additional Protocols consider the destruction of well-known historical monuments, works of art or places of worship a "grave violation". As a "grave violation", the act constitutes a war crime and thus an international crime. Therefore, the work is subject to the universal basis, as well as other bases of jurisdiction.
Growing international pressure for a comprehensive convention specifically addressing the protection of cultural property during armed conflict resulted in the adoption of the 1954 Hague Convention. This convention seeks to expand the scope of the 1899 and 1907 Hague Conventions taking into account the events of the World Wars and including certain provisions of the Geneva Conventions of 1949 to establish a truly effective and comprehensive agreement on the protection of cultural property during armed conflict. As such, the 1954 Hague Convention applies to both conflicts of an international character and to conflicts of a non-international character. The 1954 Hague Convention also calculates the possibility of damaging cultural property prior to the declaration of war. In addition, it provides for safeguards in peacetime so that these measures can be implemented at the beginning of conflicts.In addition, it provides for safeguards in peacetime so that these measures can be implemented at the beginning of conflicts.[16]
Article 1 of the 1954 Hague Convention provides the first comprehensive definition of cultural property in an international instrument, as follows: "movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above". In addition to these specific art objects, archives or monuments, the definition of cultural property

[12] Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Geneva IV).
[13] Protocol I Additional to the Geneva Convention of Aug. 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts.
[14] Protocol II Additional to the Geneva Conventions of Aug. 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts.
[15] 1 97 7 Protocol I.
[16] 1954 Hague Convention.

in the 1954 Hague Convention also includes buildings whose purpose is to preserve and display the property defined above and those sites that contain a large amount of cultural property.[17]

Moreover, the 1954 Hague Convention does not distinguish between publicly or privately owned items. It describes the procedures for the special protection of specific items of cultural property. To qualify for special protection, cultural property must be "of paramount importance" and located at an appropriate distance from an industrial center or important military target. However, the country will not be given special protection if used for military purposes, such as stationing military personnel or storing weapons. Once cultural property is placed under special protection, state parties must ensure the protection of the property without causing damaging it. Immunity to cultural property may be withdrawn regardless of the use of the emblem or entry in the records if the property is being used for military purposes.

2. Protection of cultural property according to the International Criminal Court

In addition to the existing courts, the Rome Statute of the International Criminal Court, once adopted, will allow the prosecution of certain violations relating to cultural property constituting war crimes. Article 8 of the Statute that defines war crimes is a reinstatement of the existing conventional and customary law of war. Thus, many of the provisions that exist in previous instruments, such as the 1907 Hague Convention, the "serious violations" of the 1949 Geneva Conventions, and some provisions of Protocols I and II are evident in Article 8 of the Statute. Violations related specifically to cultural property can be divided into two main categories: (1) prohibition against intentional attack and destruction of undefined civilian objects; and (2) the prohibition of seizing or destroying the property of an enemy.

Regarding the first of these general categories, in a conflict of an international nature, the Statute prohibits: (1) extensive destruction and appropriation of property, not justified by military necessity; (2) directing attacks against civilian objects that is, objects which are not military objectives; (3) launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment; (4) attacking or bombing a town, village, building or dwelling that is uninhabited and not justified by military necessity; and (5) intentionally directing attacks against buildings dedicated to religion, education, art, science or historic monuments, in a conflict of non-international character. With regard to the second of these general categories, the Statute prohibits neither the abduction, nor the destruction or seizure of enemy property, unless justified by military necessity. Certainly, there are provisions which mention specifically the protection of important cultural sites such as museums and historic monuments. There are other provisions which prohibit launching attacks against unwanted civilian objects and important areas such as historic districts and structures.

[17] The Hague Convention of 1954 specifically includes shelters and areas with high concentrations of protected property in the definition of cultural property, although areas or facilities that preserve objects d'art cannot be considered important for cultural heritage because the convention aims to encourage the storage or location of items away from military facilities.

3. Current situation of international criminal legislation on the protection of cultural property

3.1. Codification of international custom

The list of Customary International Humanitarian Law provides, inter alia, a set of rules for cultural property as follows:

Rule 38. Each party to the conflict must respect cultural property:

A. Special care must be taken in military operations to avoid damage tobuildings dedicated to religion, art, science, education or charitable purposesand historic monuments unless they are military objectives.

B. Property of great importance to the cultural heritage of every people must notbe the object of attack unless imperatively required by military necessity.

Rule 39. The use of property of great importance to the cultural heritage of every people for purposes which are likely to expose it to destruction or damage is prohibited, unless imperatively required by military necessity.

Rule 40. Each party to the conflict must protect cultural property:

A. All seizure of or destruction or wilful damage done to institutions dedicated to religion, charity, education, the arts and sciences, historic monuments and works of art and science is prohibited.

B. Any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, property of great importance to the cultural heritage of every people is prohibited.

Rule 41. The occupying power must prevent the illicit export of cultural property from occupied territory and must return illicitly exported property to the competent authorities of the occupied territory.[18]

3.2. Protection of cultural property from theft and illegal export

The total value of stolen or smuggled objects involved in international trafficking is more than $ 1 billion a year and comes second after the illicit drug trade.Although the incidence of theft can be estimated worldwide, it is clear that illegal trafficking in cultural heritage involves the largest traders, collectors, institutions of any nationality. The general international legal framework is important, although not specific, the criminal aspects of the protection of cultural property include: UNESCO Convention and several other instruments of general application for cultural heritage; regional and bilateral instruments, including European law and bilateral provisions on the extradition of criminals; and customs controls and prosecutions, with additional reference to foreign and international legislation.

3.3. General application of multilateral agreements

The UNESCO Convention establishes multilateral control over the movement of cultural property while seeking to promote its lawful exchange and international co-operation in the preparation of its national inventories. The definition of the UNESCO Convention regarding cultural property reads “cultural property means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archeology, prehistory, history, literature, art or science”.[19]

[18] https://www.icrc.org/en/doc/assets/files/other/alb-irrc_857_henckaerts.pdf.

[19] UNESCO Convention.

Furthermore, the Convention lists: rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest; property relating to history; products of archaeological excavations; elements of artistic or historical monuments; antiquities more than one hundred years old, such as coins; objects of ethnological interest; works of arts such as paintings and sculptures; rare manuscripts and incunabula; post stamps; archives; articles of furniture and one hundred years old musical instruments.

The most important features of the UNESCO Convention are: export certification system; an urgent measure allowing signatories to call each other to help control endangered property of particular importance; a request that the parties return property stolen from museums, monuments and other institutions to their jurisdiction; a requirement that, "in accordance with national law", the parties prevent museums and similar institutions from purchasing illegally exported property from other states; an obligation for the parties to impose fines or other administrative sanctions for anticipated violations (Article 8); and a provision for international cooperation in the identification of cultural property and the development of national inventories.

Smuggled items may be recovered at the request of the State of origin, as long as the sole compensation is paid to innocent purchasers. This document strikes a compromise between the interests of states that import or export artworks. The scheme allocates the burden of control between the two by imposing primary responsibilities on exporting states, while requiring the importing state to cooperate in recovering and obtaining illegally exported properties. In addition to Article 8, the UNESCO Convention has limited criminal consequences. The UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage provides additional protection for certain archaeological and historical sites of great importance.

The UNIDRO Convention on Illegally Stolen or Exported Cultural Objects[20], which complements the 1970 UNESCO Convention, lays down detailed rules for the return of stolen cultural property and the return of illegally exported cultural property of importance to the state of origin. The UNIDROIT Convention enacts the rule of common law that protects an original property owner rather than the civil law protection of a trusted buyer, but provides for compensation for an innocent purchaser of stolen cultural property who has exercised due diligence in appropriating property. Rules for the return of illegally exported property set out legal criteria and periods for claims.

3.4. Regional and bilateral cooperation

Examples of limited regional co-operation include agreements between Western European and American states, the 1954 European Cultural Convention promoting co-operation for the preservation and protection of European cultural heritage, and the 1969 European Convention for the Protection of Archaeological Heritage prohibits unauthorized excavations on archaeological sites and provides for their demarcation, protection and supervision.[21] The 1992 European Convention for the Protection of the Archaeological Heritage also applies to underwater heritage, replacing the 1969 agreement. The 1992 Convention obliges parties to: maintain asset inventories; create

[20] Final Act of the Diplomatic Conference for the Adoption of the Draft UNIDROIT Convention on the International Return of Stolen or Illegally Exported Objects.

[21] European Convention for the Protection of the Archaeological Heritage.

archaeological and report discoveries to ensure scientifically sound archaeological activity; implement specific physical protection measures; and take into account all environmental impact measures.
More detailed requirements within the European Union are found in a Council Regulation on the export of cultural property and a Council Directive on the return of illegally excavated objects.

3.5. National Cooperation: Customs Controls and Prosecution

The provisions of national law help to localize an international error in an established legal system and to focus attention on the criminal aspects in the national application of international norms and customs. National mechanisms rely on customs controls and prosecution for theft. Many states treat the theft of cultural property as they treat any other theft, but there are exceptions. Most states also have ancient laws, which reserve the ownership of a certain cultural property for the state or national heritage. These laws are usually enforceable by customs controls, investigative and administrative provisions, civil actions, or prosecutions and penalties.
A brief summary of national controls reveals that states use a range of sanctions and procedures to enforce violations of antiquity laws. The variety of approaches taken by states includes: cancellation of illegal transactions; imposition of fines; imprisonment; confiscation of stolen or illegally exported items; supplementary provisions securing a civil cause of action for damages; offers or rewards for the discovery of lost art or antiquity; and revoking merchant licenses or further restricting opportunities for a convicted thief to purchase items in the future.
In particular, most states rely on the imprisonment of offenders for periods ranging from six days to 12 years. However, the average term provided for violations of antiquity laws appears to be between six months to a year.

3.6. Jurisdiction for criminal prosecution[22]

Jurisdiction over prosecution is the cornerstone of enforcement. However, cultural property agreements address only fundamental issues of criminal jurisdiction. Thus, there is a need for clearer guidance, including provisions on prioritization and compliance with jurisdictional alternatives. Although international agreements for the protection of cultural property may clearly impose a duty to punish and co-operate in the investigation, prosecution and punishment of those who commit crimes against cultural property, some of the conventions fail to explicitly make such statements. Agreements dealing with the protection of cultural property, unlike other international criminal law conventions, sometimes do not contain specific provisions on jurisdiction, extradition and judicial assistance in criminal matters. Although it may be possible to prosecute war crimes under the Hague customary law and the four Geneva Conventions based on a theory of universal jurisdiction, other theories of jurisdiction should be applied when the offense is outside the context of armed conflict.
The five theories of jurisdiction are recognized under international law as the creation of competencies for legislation and enforcement. They are, for the purpose of their general international recognition:
1. Territorial theory, based on the notion of sovereignty that a state can claim

[22] M. Cherif Bassiouni, International extradition: United States law and practice.

jurisdiction over any conduct committed within its territory, extending from the subjective and objective theories of territory, and the law of the flag, or navigable territory;
2. The theory of protective or protected interest, based on the concept that a state should be allowed to claim jurisdiction over conduct occurring outside the territory of the state, which threatens the important interests of the state;
3. Theory of active personality, based on the notion that at the same time as a citizen has the right to be protected by the state, a citizen has certain duties to his or her state, even outside the territory of the state;
4. Theory of passive personality, based on the theory that a state has a legitimate interest in protecting its citizens abroad;
5. The theory of universality, based on the theory that crimes delicti jus gentium should be subject to the jurisdiction of all states, regardless of where the acts were committed, to allow the protection of universal values and the interests of humanity.

3.7. Recognition and implementation of foreign laws and decisions

The international committee and conventional law has legislative powers to protect cultural property in the country of origin, but also to attribute enforcement powers and sometimes obligations to the state where an object has been transferred or where criminal activity has been committed against it. However, judicial enforcement according to jurisdictional theories of defense or passive personality is often difficult. In addition to legal problems, there may be forged customs documents or obstacles to translating, proving and enforcing foreign law. Moreover, some states have no ancient laws, and others have only vague or otherwise unenforceable provisions.[23]Even if these problems can be overcome, a state will generally not apply foreign laws or criminal judgments unless an agreement internationally specifically seeks to do so. The reasons are mainly related to: (1) discretionary elements involved in prosecutions and convictions; (2) the supposed desire of a sovereign to correct the mistakes made to his citizens; and (3) constitutional and other defense-related considerationssuch as the right to a jury trial by one's peers.
Although the laws imposing fines for art theft are clearly criminal in character and effect, violations of foreign customs and the laws of antiquity may or may not be criminal. For example, it is often unclear whether specific sanctions against the export of cultural objects are criminal. Even if the ancient laws of antiquity are non-criminal, they may nevertheless be unenforceable in another state if they are deemed to offend a public policy of encouraging a relatively free art market.

3.8. Restrictions on extradition

Extradition agreements are an important criminal aspect of cultural property law. *Maxim autdedereautjudicare* is a guiding principle of international criminal law. However, some factors may limit a state's readiness for extradition.[24] Factors that can prevent the extradition of an alleged criminal to the state with the greatest interest of the prosecution include: (1) provisions on double crime; (2) specialty of criminal activity; (3) non-existence of state citizens giving; and (4) high punishment thresholds to determine an extradition offense.

[23] Current Practices and Problems in Combating Illegality in the Art Market, Seton Hall.
[24] M. Cherif Bassiouni, The Penal Characteristics of Conventional International Criminal Law.

In certain circumstances, relying on punishment or prosecution in the state where the person is located may be unsatisfactory. Mexico and France, for example, became embroiled in a dispute over the theft from the French National Library of a fifteenth-century tonalamat (codex consisting of color drawings used as a horoscope). It is indisputable that a Mexican national stripped himself of the codex in Mexico and returned it to the Mexican government, which subsequently retained custody of it. The thief claimed he had simply reclaimed the property stolen from France, even though the codex appears to have been in France, following a series of legal transactions, dating back to the 19th century. Self-help measures pose a serious threat to the future of international cooperation in the management of the flow of cultural property. In light of the problems of defining cultural property rights and ensuring effective extradition, another step is a global agreement setting out the rights, duties, standards and procedures to govern the prosecution of persons alleged to have violated cultural property laws.

3.9. Technical and financial costs for enforcement

A recent enforcement problem involves the limitations of international law enforcement mechanisms. Various organizations, including INTERPOL, national law enforcement agencies[25] and the International Foundation for Art Research, provide assistance in enforcing cultural property laws. However, the significant work of such organizations is hampered by a lack of funding, inaccurate and incomplete transmissions, misinterpretations of information, and a variety of other administrative and technical shortcomings. Illegal trafficking in antiquities is rapid, and it is very simple to smuggle cultural property into the United States. Archives hidden in cargo shipments, personal luggage and vehicles are not the only means. Taking advantage of shortages of mail, couriers and parcel services, as well as trafficking items through third countries, are also common practices. A successful smuggler, Val Edvard, went public, boasting that he had no problem smuggling in the United States about 1,000 works of art from museums and ancient tomb sites in Mexico and Guatemala. Posing as a businessman buying restaurant equipment and reproducing antique reproductions for a Mexican restaurant, he was never arrested in ten years of smuggling. In fact, his bags had only been checked once, which was for medicine and not for works of art. His tricks on the way through airport customs included the deviant tactic of asking inspectors what to do about one or two extra bottles of alcohol he had brought with him. Since the United States Customs Service is preoccupied with the drug trade and money laundering, adequate resources are not devoted to combating illicit trafficking in antiquities. Although antiquities trafficking have not reached the level of drug trafficking, it nevertheless involves more than $ 1 billion each year and ranks between profiting from illegally imported weapons and endangered species.

Conclusions

While the protection of cultural property has become an increasingly international concern, legal frameworks still do not serve the purpose of effectively preserving property. Of course, the ancient Roman practice of confiscating property as a legitimate by-product of war is no longer acceptable. Despite conventional prohibitions against

[25] Helen Dudar, Making a dent in the trafficking of stolen art.

this type of destruction and looting, these activities continue, as evidenced by widespread damage and misappropriation of property during the armed conflict in the territory of the former Yugoslavia.

Protocol II of 1999 has made great strides in establishing a stronger basis for prosecuting offenders and establishing individual and state accountability. Moreover, the establishment of an international criminal court will provide an important tool for achieving these goals.

Moreover, international efforts to curb the influx of smuggled objects have yielded similar mixed results. While there have been numerous seizures, the illegal annual flow of cultural property amounts to over $ 1 billion.

Clearly, in order to better protect the world's cultural heritage; it is important that international conventions contain adequate jurisdictional and criminal elements. Furthermore, adequate resources should be devoted to customs service agencies in order to prevent illegal trafficking of protected items. Provisions that provide more sophisticated enforcement mechanisms and greater individual and state accountability will certainly increase deterrence.

These efforts will not be entirely successful, however, smugglers and those destroying cultural property must do their duty to protect the world cultural heritage and not look out for their selfish interests.

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Convention for the Protection of the World Cultural and Natural Heritage Convention for the Observance of the Laws and Customs of War.
Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.
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Additional Protocol II to the Geneva Conventions of 12 August 1949, concerning the Protection of Victims of Non-International Armed Conflict.
Protocol on Protection of Cultural Property in the Event of Armed Conflict.
The Hague Rules on Air Warfare.
Statute of the International Criminal Court for the Prosecution of Persons Responsible for Genocide, Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide.
Rome Statute of the International Criminal Court.
Statute of the International Tribunal for the Protection of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.
Peace Treaty between the Allied Powers and the Central Axis Powers and Germany.
Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments.

Learning in cooperation in the subject of Albanian language

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Abstract

Successful teaching depends on the methods used by the teacher towards his students. Cooperative learning refers to learning and learning in small or large groups of students, who are oriented by the teacher to perform a certain task, be it analysis, discussion, going through conclusions.
The purpose of this research is to understand the impact of cooperative learning on fourth and fifth grade students in the Albanian language subject and to highlight the beneficial elements that students occupy when applying such a method. This research is qualitative and data for this research were collected through a questionnaire conducted by Murray (2008), entitled: "Student Attitudes towards Cooperative Learning in Education" and a questionnaire prepared and tested by Rio (et al., 2017).) entitled: "Design and validation of a questionnaire to assess cooperative learning in educational contexts". This research is built on the following hypotheses and research questions, H1: "Cooperative learning affects the acquisition of students' communication skills in the subject of Albanian language"; based on Pearson correlation it is 0.32, while p=0.004.
H2: "Students who have not understood a learning unit in the Albanian language subject from individual work manage to understand it from the group discussion", based on Pearson correlation it is 0.345, while p=.006.
Meanwhile, the research questions are: Were you evaluated with a meritorious grade during the cooperative learning in the subject of Albanian language? Have you ever swum with a high grade, even though you did not contribute to the group? Both hypotheses have been proven to be true, while the results from the research questions have shown a real self-esteem by students of both generations, which has been statistically proven.
We can conclude that cooperative learning in the subject of Albanian language is a method widely used in schools of the municipality of Mitrovica and students are those who gain a lot of knowledge, values, skills, attitudes from such a method of learning.

Keywords: learning, cooperation, Albanian language, fourth grade, fifth grade.

Introduction

"Tell me and I forget. Teach me and I remember. Involve me and I learn."
Benjamin Franklin

Teaching is a complex process, while the teacher has professional, moral, and human responsibilities to his students. In this format, he should be dedicated and helpful to his students in a journey of successful learning. The goal of successful learning lies in the adequate methods that the teacher manages to identify, as an appropriate

learning instrument that adapts to the nature and the content of the learning unit. A careful reading of the teaching material by the teacher would guide him to an adequate definition of the method he will use on a given teaching unit. On this basis, we cannot ignore the fact of continuous evolution in education and as a result of learning based on new learning methods. The curriculum framework for pre-university education in the Republic of Kosovo (2011), among others, emphasizes the importance of successful learning on the application of certain learning methods by the teacher, which also inevitably have an impact on the final assessment of students. One of the most applied methods, which is widespread in almost all scientific disciplines, including the subject of the Albanian language, which is learning in collaboration, a widespread and valuable method. Cooperative learning is a method that helps students to learn! The most comprehensive definition of cooperative learning refers to learning, and learning in small or large groups of students, who are oriented by the teacher to perform a certain task, be it analyzed, discussed, concluding, and so on. Cooperative learning takes place within the group's internal discussion, with the student-led conversation about each other, not constantly supervised directly by a teacher, but the teacher will usually encourage the group only when asked questions about achievement which he has predetermined (Faroun, 2020).

Before beginning to apply this method, the teacher has the responsibility to manage and divide the groups appropriately. Teachers usually in group divisions identify students with mixed skills to work in groups together, which help to foster more effective collaboration (Faroun, 2020). This means that, depending on the objectives that the teacher has on the learning of students on a particular learning unit, determines the members of the group, respectively the number of members that a particular group will have. If classroom management has failed to produce effectiveness while working cooperatively, the teacher will not achieve the expected results; consequently, the situation may get out of control (Korkman et al., 2021).

Based on the fact that it is a very widespread method worldwide, the purpose of applying such a method is to activate all students within the class, to be active in their learning, to create an invigorating environment within the class, which will lead to quite active learning. In cooperative learning, the student-centered philosophy finds absolute applicability.

1.1 Literature review

Cooperative learning means sharing responsibilities within a group by sharing a task or commitment to a particular learning. The responsibility of each of the group members is equal and the division of these responsibilities or tasks within the group can be done based on the prior range of knowledge that each of the students that make up that group has, but also based on the interests and necessaries that every participant may have. Group members must believe that in the effort, each person in the subject of Albanian language benefits not only him personally but also the rest of the group, because the success of the group depends on everyone and the burden for success or failure is borne by all, therefore students are asked to help each other through cooperative work.

In the Albanian language course, through cooperative learning, students are offered the opportunity to learn effectively from their peers by discussing key concepts in the assignment, and explaining how to solve problems in the field of the Albanian

language. Group work also promotes transferable skills, such as decision-making, trust-building, effective communication, and leadership (Faroun, 2020). During such a process, which shows close collaboration between different people, who may have personalized ways of thinking, means that each member of the group will benefit, because cooperative learning is realized based on analysis, discussion, exchange of ideas, perception of information by different people, giving reasoning, arguments, and up to boost the student's self-confidence, improving the emotional and social condition, these elements that guide the successful learning of students in the subject of the Albanian language, always based on their curricula. While the teacher gives a task in the subject of the Albanian language, he should take into account the nature of the group, respectively the persons who make up the group, their character, personality traits, interest, and desire. Another factor that can directly affect the proper progress of cooperative learning is the student himself, who eventually cannot find out the meaning of the task individually in a certain learning unit; do not like it as a topic, or has no interest in learning it.

Eight elements that influence cooperative learning have been identified (Jacobs &Renandya, 2019) and include: positive interdependence, individual accountability, equal opportunities for participation, maximum interactions between group members, group autonomy, group heterogeneity, learning cooperative skills and considering cooperative learning as a value. It is the responsibility of the teacher to prepare the group of students to function in the Albanian language subject according to the eight elements mentioned above. On the other hand, relationship quality includes variables such as interpersonal attraction, consent, cohesion, trust, and social support (Johnson & Johnson 2006).

Behavioral skills are crucial too. The decent relation among students and teachers subordinates the number of absences and dropouts of students in cooperative learning. On the other hand, the attitude is reflected in the greater commitment to group members, in personal feelings and responsibilities to the group, in the willingness to take on difficult tasks, in motivation and perseverance to work towards achieving the goal, in satisfaction and morale, in readiness to endure pain and disappointment on behalf of the group, in readiness to defend the group against external criticism or attack, in readiness to listen and be influenced by colleagues, in the commitment to professional growth, in the success of each other and productivity (Johnson & Johnson 2006).

Taking into account that different tasks affect the benefits and developments of different areas of cooperative learning, the techniques used are also significant for fulfilling the goals and objectives set by the teacher, in this case with the subject of the Albanian language. Some of the most common benefits of cooperative learning are: "Understanding the different problems and content of the course increases students' self-confidence and self-esteem, strengthens social skills, increases student responsibility, enables inclusion, encourages students to make decisions, and active environment is created, it focuses on the success of each student "(Vrioni, 2013).

In cooperative learning, the process of lecturing, listening, or taking notes may not disappear completely, but it lives alongside other processes based on student discussion and active work with course material (Laalet. Al, 2012).

1.2 Curriculum for the subject of Albanian language

The core curriculum for the preparatory class and primary education of Kosovo (2016) is one of the documents that define the results for competencies and curriculum areas, expressed through knowledge, skills, attitudes, and values which should be developed and achieved by the student up to end of certain periods, as well as applicable methodology, which includes teaching, learning, and assessment. This is a document, along with other curricular documents (Core curriculum for preparatory class and primary education in Kosovo, 2016), which places cooperative learning within competencies, namely civic competence, competence for work, life, and environment. On the other hand, it is part of the attitudes and values that students should learn, then it also enters into skills and abilities (Core curriculum for the preparatory class and primary education in Kosovo, 2016).

This research is focused on the subject of the Albanian language. Based on the Albanian language learning program for the fourth grade, it is emphasized that the student should: acquire and expand communication skills; acquire and apply acquired language knowledge; understand and analyze literary and non-literary texts; to apply the acquired knowledge on the models of literary and non-literary texts (Albanian language for the fourth grade, 2015). Students during the week will have 6 hours of teaching in the subject of the Albanian language, respectively 222 teaching hours per year.

Meanwhile, learning the subject "Albanian language" in the fifth grade aims to: develop the ability of informative listening and active group listening in terms of receiving information and messages; acquire and expand communication skills and ways of communication, verbal and non-verbal communication; to develop active individual and group speaking to acquire standard language and to deepen basic linguistic knowledge; understand and distinguish between reading literary and non-literary texts and master reading techniques; develop functional writing and subjective writing; to acquire writing to acquire the language, the lexicon; to master writing in terms of spelling and punctuation (Albanian language for the fifth grade, 2015). Students during the week will have 5 hours of teaching in the subject of the Albanian language, respectively 185 teaching hours per year.

If we make a simple analysis of the content of the Albanian language subject in grades, fourth grade, and fifth grade, we can freely conclude that one of the most suitable methods for use is cooperative learning, as the method will meet the aims and objectives of the course.

2. Methodology

The purpose of this research is to highlight the impact of cooperative learning on fourth and fifth-grade students in the Albanian language subject and to highlight the beneficial elements that students learn when applying such a method. This research is qualitative and data for this research were collected through a questionnaire conducted by Murray (2008), entitled: "Student Attitudes towards Cooperative Learning in Education" and a questionnaire prepared and tested by Rio (et al., 2017).). The translation and validity of the questionnaire were done according to the standards. The raising of research questions and hypotheses is done based on the curriculum in teaching the Albanian language for fourth and fifth-grade students.

The hypotheses on which this research is built are:
H1: Cooperative learning affects the acquisition of students' communication skills in the subject of Albanian language;
H2: Students who have not understood a learning unit in the Albanian language subject from individual work manage to understand it from the group discussion.
The research questions are:
1. Have you been evaluated with a meritorious grade during the cooperative learning in the subject of Albanian language?
2. Have you ever scored high, even though you did not contribute to the group?
Participants in this research are fourth and fifth-grade students of the Municipality of Mitrovica, a total of 4 schools: "Migjeni", "Ismail Qemali", "MetoBajraktari", "Abdullah Shabani". Four classes were selected from each school. The sample of students for the fourth grade is represented by a total of 391 students, 207 females, and 184 males. The sample of students for the fifth grade is represented by a total of 382 students, 195 females, and 187 males.

3. Results

Analyzing the data received through the questionnaire, we can conclude that fortunately, 100% of respondents were persons who have been participants in group work in the subject of the Albanian language, an element that facilitates have quality answers from students. Each of the participants had already formed their own opinion and attitude about the eventual benefits that arise from cooperative learning and its forms. Based on the data analyzed in SPSS, 89% of respondents stated that during the implementation of cooperative teaching units they initially identify in themselves things of linguistic elements for which they have stagnation and in this form use group work to learn or to clarify new knowledge.
15% of fifth-graders stated that they felt competitive while learning cooperatively and as such, they pushed themselves into taking on the role of the group leader. Meanwhile, only 9% of fourth-graders have shown a tendency to be leaders of the groups to which they belong.
81% of fourth-graders stated that they respected extremely much (according to the Likert scale) the opinion of a friend while learning the subject of the Albanian language.
84% of fifth-grade students stated that they respected extremely much (according to the Likert scale) the opinion of a friend while learning the subject of the Albanian language.
In group work, the students of a group need to identify personal characteristics on cooperative learning because this would facilitate the position of each student in the group and each would have easier cooperation and focus on parts of the group, assigned from the subject of the Albanian language. Table 1 presents some of the characteristics that fourth-graders have identified in them and that represent the attitudes and positions they take while working cooperatively, while Table 2 presents the same characteristics identified in grade students fifth.

Table1
Characteristics that fourth-graders have self-identified

Characteristics	N	Average	Standard deviation
Communication with the others	391	3.97	.80
Helping each other	391	3.21	.52
I feel useful	377	3.88	.49
I have no emotional pressure	391	4.04	.56
Competition in learning	330	2.97	.42
Collaboration versus individual work	391	3.46	.44

Table 2
Characteristics that fifth-graders have self-identified

Characteristics	N	Average	Standard deviation
Communication with the others	382	3.27	.93
Helping each other	382	2.07	.42
I feel useful	378	4.52	.72
I have no emotional pressure	382	3.77	.55
Competition in learning	360	2.97	.77
Collaboration versus individual work	381	3.82	.41

On the other hand, various researchers have emphasized the importance of the discipline discussed also on the disciplinary side and classroom management which is fundamental to successful cooperative learning, hence the correlation between classroom management, number of students in the classroom, and efficiency in cooperative learning has resulted in p = 0.31. Based on the analysis of variance with 5.0% in the dependent variable, it means that we have a correlation between classroom management and successful learning outcomes in collaboration.
Consequently, weak classroom management led to unsuccessful learning within the group.
The materials provided by the teacher, to provide numerous learning opportunities by students, are very important. Based on the results we have f = 1.092 and p = 0.422, which means that the values obtained have no statistical significance and as a result of these results we can conclude that the materials are not always relevant when it comes to cooperative learning. , the group effect makes the materials understandable.
The results of the analysis of the first hypothesis: "Cooperative learning affects the acquisition of communication skills of students in the subject of Albanian language", have confirmed this hypothesis. Pearson correlation is 0.32 and p = 0.004, which means that cooperative learning affects the acquisition of communication skills in the Albanian language subject. The more "teachers apply the method of cooperative

learning; the more students will develop habits on the ways of communicating in the Albanian language."
The statistical results have confirmed the second hypothesis: "Students who have not understood a unit in the subject of Albanian language from individual work manage to understand it from the group discussion." The Pearson correlation is 0.345 and the sign value is p = .006. Based on statistical results we can say that we are dealing with statistically significant values. In other words, cooperative learning has a positive effect on the understanding of learning parts that students have failed to understand from individual learning.
Regarding the first research question, "Were you evaluated with a meritorious grade during the cooperative learning in the Albanian language subject?", 77% of such students affirmed this and 81% of the students of the fourth grade.
The second research question, "Have you ever scored high, even though you did not contribute to the group?, 26% of fourth-graders and 21% of fifth graders.

Discussions and conclusions

Analyzing the statistical data that have emerged, we conclude that both hypotheses have been fully confirmed, in which case we have the fulfillment of the purpose of this research: the more that student will learn in collaboration in the subject of the Albanian language, the more they will acquire communication skills. The second hypothesis confirmed leads us to the conclusion that even those students who have not managed to understand a unit of the Albanian language subject, at the moment they will have the opportunity to work in collaboration and discuss the same topic on which had stagnation during individual learning, from group discussion will achieve a higher level of learning and understanding.
If we analyze the first question and the second research question, where the first research question is related to the meritorious evaluation that students received after completing the tasks in cooperation in the Albanian language subject, we had affirmative answers from 77% of fourth-grade students and 81% of fifth graders. Whereas, for the second question, if they were graded with a higher grade, even though they did not contribute within the group, 26% of the fourth-grade students and 21% of the fifth-grade students stated. From the facts we can conclude that we are dealing with respondents who have honestly answered our questions, are aware of their actions, and also have a sense of responsibility to the group. We also have a numerical correlation between the two research questions.
The sense of competition within the group, which leads to the individual tendency to play the role of group leader, in both generations was relatively low, 9% of fourth-graders stated this and 15% of students in fifth grade. If we analyze the part of group management, the sense of competition that fourth and fifth-grade students have, we can conclude that the statistical values presented did not have statistical significance in the difference between the two groups of students. On the other hand, 81% of fourth-grade students and 84% of fifth-grade students stated that they respected each other's opinions while learning cooperatively in the Albanian language subject. From the data that have emerged on the sense of competition within the group, which leads to the individual tendency to play the role of the group leader and respect for the opinion of the other, we can conclude that we are dealing with a spirit of cooperation

between students during learning, in the subject of the Albanian language, the compromise between them, compactness, and teamwork atmosphere.Regarding the characteristics of students self-identified and their distribution through standard deviation, for both generations are presented numerical data concentrated near the arithmetic mean which proves that students possess self-identified characteristics, which help them learn in successful collaboration.

Shifting the focus to the purpose of this research, we can conclude that cooperative learning has a very positive effect on students' success in learning the Albanian language subject, in which case the beneficial elements that students absorb from such a working method will mean: acquiring communication skills, helping the other, respecting the other's opinion, sharing responsibility in the group. Also, the statistical data have identified some of the eight elements presented by Jakobs and Renandya (2019) and include: positive interdependence, individual accountability, equal opportunities for participation, maximum interactions between group members, learning and cooperative skills, and considering cooperative learning as a value.

Based on the results, cooperative learning is a very fruitful method in the subject of the Albanian language, and in this form, it easily fulfills a large number of competencies. Cooperative learning in the subject of Albanian language is a method widely used in schools of the municipality of Mitrovica and students are those who gain a lot of knowledge, values, skills, attitudes from such a method of learning.Considering that the philosophy of learning in pre-university education is "student-centered", such a method is very functional in the most natural implementation of this philosophy.

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Internationalization of Albanian small and medium enterprises and their performance

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Abstract

In the last years, the process of internationalization has been related to the small and medium enterprises, since them active role in the international markets has increased. This study tends to present a clear view of the internationalization process of SMEs, which operate in Albanian market, through explain in details the factors that influences them to be part of this process. To determine the methods and models used by SMEs and their impact of the form chosen in the finalization with success or not of the process. We believe that this research it useful and with interest because today in Albania, based on the Business and Investment Development Strategy issued by METE – Ministry of Economic, Touristic, Commerce and Enterprise Development. SMEs represent 95.3 % of the total number of companies, which are actively operating in our market, and 43.3% of them belong to commercial sector of the Albanian economy. They have employed 31.7% of total employees of the country and have realize 13.8% of the national turnover. These firms are mostly with Albanian owners and they already started to move toward international market. One of the goals of METE for the midterm period is to constitute a competitive country through stimulation of SMEs and showing them the new opportunities that offer European and Global Market.

Keywords: Internationalization, firm performance, SMEs, Theories of internationalization, Albania.
Jel classification codes.
F230 Multinational Firms; International Business.
F290 International Factor Movements: Other.
F200 International Factor Movements and International Business: General.

Introduction

Today we live in a world where globalization is the current trend and this has a considerable impact on the production, transport and technology. The concept of "interlinked economies" has become more and more solid, and has promoted the internationalization process of enterprises. Due to this, the internationalization topic is very attractive and in focus of the students, academics, businessmen and researchers.

Small and medium enterprises play a vital role in the economic development of any country. According to European Commission today, the SMEs are the backbone of the economy, and they represent 99% of all business in the EU. During the last years, SMEs were the focus of the researches and this is related with their increasing active role in the international market. SMEs has expanded rapidly their business activities in the foreign markets through using as main instrument the international diversification.

The importance of internationalization is increasing everyday due to the interaction

of several factors, such as:
1. The reduction of barriers for trading and investing based on several agreements. This reduction has contributed in fact positively to the companies to expand the exporting activities, producing and selling aboard.
2. The continuously developments of transport and logistics field to decrease the cost of importing and exporting.
3. Innovation in business behavior and technology has shown results in creating new goods and services that are attractive in the international market.
4. Markets have become wider and linked among each other because of the development of electronic commerce, globally known as e-commerce.
5. Companies and industries of the different countries have become interdependent regarding the supplies and business activities.
6. The capital markets have internationalized because of the decrease of internal legislations, and this has conduct to an internationalization process, which is increasing everyday between nations.
7. Different industries, in different countries have over capacities, this because of the increase in the productivity of the existing and new establishments. The national and local producers have managed to achieve the economy of scale, use the oversupply in the labor market and selling the product in the new areas. All these factors have increased the attempts of companies to start exporting activities.
8. The trading all over the world has continuously increasing more than the increasing of gross national product in global scale and this has promoted its importance in the international markets. (Albaum et la 2005)

The most well-known theories of this field are: Uppsala Model of Internationalization Process, Network Theory, International Entrepreneurship Theory and some new phonemes of high important for the today business such as New Joint Ventures or Born Global.

The three theories taken in consideration, try to explain in different ways the process of internationalization that happens when the firms tent to expand over the national markets. Generally, the internationalization process is related with the drawing up of new business strategy by the companies in which is decided when, how and in what way they will enter in the new market. There are several ways to enter in a new market such as exports, foreign direct investments (FDI), joint ventures, licenses, franchises, branches etc.

In any case, this process is surrounded by the risk and insecurity. In order that, one firm could achieve the success, it should decrease the level of risk and insecurity, and this is possible only by choosing the right model. The key of success is related with the knowledge of the market and based on this the companies should choose the model of internationalization. Other factors that should be taken in consideration are internal factors such as business network, the previous experience, management skills, the role of ownership, financial resources, government agencies, age and size of the company, originative skills etc.

The main purpose of this paper is to have a clear view of the internationalization process for the SMEs and the level of SMEs internationalization in Albania. To better understand the reasons why SMEs in Albania tent to be international and how they achieve to finalize this process. There are external and internal factors that influence the internationalization process such as economy conditions, organization culture,

technology, infrastructure etc. We have chosen to work on this research, because based on the literature review, in Albania there are few works conducted regarding Albanian SMEs internationalization is limited. The study aims to help the top managers and experts. It can be used as guide that top managers can follow to improve each step of the internationalization process and realize the benefits of internationalization for the firm. In the other hand, the government and state institutions, which have in focus the development of SMEs, should create new incentives, to facilitate the internationalization process and in this way, will improve both conditions of SMEs and Albanian economy.
The specific objectives of this research are as follow:
Describe the actual state of internationalization of Albanian SMEs.
Have e clear view of the firms that do not intend to internationalize and those, which are at first steps of the process, the last one, are the focus of our research.
Define the internal and external factors that influence the process of internationalization.
Define the most used model or method chosen by SMEs and how they affect the finalization of the internationalization process.
Define the countries where Albanian SMEs intend to enter and occupy the market with their goods and services.
Identification of the relationship between the internationalization process of SMEs and their performance.
Research Hypotheses:
Hypothesis: There is a positive relationship between the internationalization process and firm's performance.

1. Internationalization of smes

The existing literature regarding the internationalization and SMEs is wide, both if we talk about time extension and diversity of content. According the objectives, we have set at the beginning of the paper by choosing the field of the research; we have been focused on the definitions of internationalization, SMEs, firm performance, analysis of internal and external factors and the main internationalization theories.

1.1 Internationalization

For the dimension of the internationalization, several authors have proposed different definitions regarding it. From the literature review, currently there is any definition on which have agreed the researchers. The origin of this process it is found in the 60s, when Simmonds and Smith identify the internationalization as a success way to increase the export activities (McAuley 2001). Based on their study, the Swedish authors of Uppsalsa Model, who formalized the model of export behavior, Johanson and Vahlne (1977) Olson and Wiedersheim – Paul (1978) have cited that "internationalization usually it refers to a company behavior to toward foreign activities or performing activities abroad" (McAuley).
The internationalization is a process in which the firm increase its involvement in the international operations (Welch and Luostarinen 1988). In the other hand, Calof and Beamish (1995) define the internationalization as the process of adapting the company operation with the international environment.
Other more complex definitions have determined some typologies through crossing

different criteria's. Torres (1999) initiated from the location place and operation place of the companies, has identified four categories of companies, local, glocal, international glocal and global.
For a local company, procurement and location of the resources is done in local, regional or national level.
For a glocal company, the procure itself partially or totally in the international market, but sell goods or services in the internal market.
In the third category, the company do exporting activities; it procures and sells both in international and national markets.
Finally, in the fourth category a company performs part of the production on its own outside the country and conducts research and development activities in international level.

1.2 Small and Medium Enterprises - SMEs

1.2.1 Definition and characteristics of SMEs

As mentioned before, the paper deals with Albanian SMEs and when we talk about SMEs we refer to all the firms, which operate in every kind of sector and do not exceed a specific size. Commonly, the indicators used to determine the size of SMEs are gain, capital, the market position, number of employees, turnover. In the majority of studies performed in Albania as well as abroad, the definition of SMEs is linked with the criteria of number of employees.
Despite the variety of definitions in literature, the currently appearing framework in order to define an SME seems to be the definition of EU. If we refer to European Union definition (2005) "The category of company's micro, small and medium – SME consists in all the companies which have less than 250 employees and have an annual turnover not exceeding 50 million EUR or an annual balance sheet not exceeding 43 million EUR. According to one of the studies of European Business Observatory today, out of 19.3 Million total enterprises in EU, 99% are small and medium enterprises.
According to the Albanian legislation into force, the category of company's micro, small and medium – SME includes all the companies which have less than 250 employees and realize a annual turnover and/or an annual balance sheet not exceeding 250 million LEK (in national currency). If it is converted in EUR is 1.5 million EUR.
Further, the large population of SMEs is often divided into three groups following the criteria of the number of employees. The categories presented by INSTAT and EUROSTAT (see table 1) are commonly applied in literature.

Table 1. Size category of SMEs

Number of Employees	Category of SMEs
1 – 9	Micro enterprises
10 – 49	Small enterprises
50 – 249	Medium enterprises

When studying the SME internationalization process, some of the researchers either

focused on one of the size categories of the SMEs or excluded the category of the micro enterprises from their sample (Peskova, 2006). The micro enterprises, which represent the most numerous group of SMEs, have been excluded from the scope of this paper. This is justified by the lower probability of finding internationalized SMEs within this size category.
Accordingly, the definition of an SME for the purpose of this study reads as follows: The research subject is an independent firm with annual average employees higher than 9 but not exceeding 249.
Small and medium enterprises are very important in promoting competitiveness and to bring new products and technics to the markets. SMEs increase their productivity mostly through finance.
In our study are very important the internal characteristics and advantages of SMEs. If we talk about characteristics we would like to mention three most important:
Firstly, the organic structure, this is related with the absence of standardization and presence of informal working relationships, these make SMEs more flexible to operative business environment.
Secondly, SMEs are predisposed to survive in fluctuating and turbulent environments, where innovation and flexibility are the key of survival.
Third, their flat structure and the absence of hierarchy help them with the changes of labor environment and permits to the management to establish close relations with the employees.
Right along with these characteristics the SMEs may obtain some advantages such as:
- SMEs provide the strength of element of —balance‖ income spectrum. This balance gains importance in terms of both social and economic sides. These enterprises are the sources of new ideas and discoveries. They contribute to the industries for providing required elasticity.
- SMEs have the opportunity to make a decision more quickly. Because they work with less expense of management and general operating, they have faster and cheaper production.
- SMEs play an important role in creating private initiatives. In addition, they enjoy large shares in employment and training. These enterprises are the first establishments in which many qualified workers receive technical training.
- SMEs constitute an effective way to expand the manufacturing and industrialization to the whole country. SMEs are of the situation to be the manufacturer of intermediate goods and inputs of large industrial enterprises.
- SMEs may be effective in increasing quality of life providing some opportunities for small investments to use labor force, raw material and financial sources that cannot be used because of social and political reasons.
- SMEs possess a significant role to fulfill the function to reflect small savings and family savings directly to the investments (Keskin, Senturk, Sungur, Kiris 2010).

1.3 Theories of Internationalization

1.3.1 Uppsala Model

The Uppsala Model is developed in the Nordic school. The construction of the model has passed in two important phases. Firstly, in 1975, Johansson and Wiedersheim-Paul carefully observed every step of the internationalization process of four national firms. Then, in 1977, Johansson and Vahlne founded and refined the model. Their

theory is focused in four important aspects that any firm should take in consideration where it tends to expand the activities abroad.
Market knowledge – that means knowing the threats and opportunities they can find in the new foreign markets.
Engagement of the firm in the market – determine the financial resources that will be engaged and the measure of their engagement.
Engagement Decision – making – based on the market knowledge and the measure of the engaged resources.
The actual activities of the company – the goods and services the company is offering actually in the domestic market.
These four aspects cooperate with each other in a cyclic form. The main assumptions of this theory are:
The market knowledge and the resources engagement in the new market have impact the decision-making process regarding the engagement and the way these decisions will be implemented.
The company should start expanding its activities in the markets with the lower physical distance. The physical distance is known as the difference in language, culture and politic system.
The basic scheme to follow is exports – sales representative – branch, which offers all the service.

1.3.2 Network Theory

Johanson and Mattsson have developed the network theory in 1988, according to this theory the companies which use the high technology do not perform the gradual increasing process, but tend to reach the internationalization fast through utilizing the experience and resources of the network's partners.
This theory looks at the firm internationalization as a natural development and it is a result of the network relationship with a foreign company. The network is considered as a resource that produces knowledge and information about the markets, which in case of the network absence require a lot of time. The importance of the network it is related with the closely relationship between the firm and the partner and the facility of using the network clients, suppliers, industry, logistic system, regulators and public agencies etc.
The first step toward internationalization should do with the market knowledge where the network operates, its e environment conditions and relation with the partner.
While the firm is in an internationalization process, the relation with the network becomes stronger. While the trust and engagement between the network's participants, the firm reaches the market penetration.
During the penetration stage, the company it is integrated in the foreign market through using the network and after this it require to get involved in other foreign markets.
According to the network theory are identified four categories of companies:
Early entry firms – are all those firms, which have few relations with the new market. They have little knowledge about the market and have lower chances to win their part of this market.
Internationalize alone – they are too much internationalized, but within an

environment which is focused only in the internal market. These firms have capacities to promote the market internationalization. They have gained a lot of experience and knowledge about the foreign markets and have all chances to be successful.
Late entry firms – are all the firms, which tend to enter in a market that is already internationalized. These firms have an indirect relationship with the network, so by utilizing this relationship they have chances to reach success. They have different disadvantages against their competitors, since they have few knowledges of the market. These firms face difficulties in new markets if they continue to stay in the existing network.
Internationalize against others – this is related with the firms that are highly internationalized. In this case, both market and firm are internationalized. The knowledge and experience they already dispose help them to establish branches for the sale of goods, this due to the fact they can manage to coordinate at the same time activities in different countries. These firms have close relationships with international networks, which offer them possibilities to expand their activities.

1.3.3 International Entrepreneurship Theory

McDougall and Oviatt develop the international entrepreneurship theory in 2005. This theory studies the entrepreneurship behavior abroad and is focused on the way is disclosed, approved, analyzed, utilized the opportunities for the creation of new goods and services. According to them, the international entrepreneurship is a combination of innovative, proactive and risk-seekers that exceed the national borders and tend to create value for the organization.
The theory is focused on seeking innovative opportunities and converting them in competitive advantages. The entrepreneurship behavior of firms and individuals it is the base for entering in a new foreign market. The entrepreneur has the skills and all necessary information to evaluate market opportunities in order to create stable relations with other firms, suppliers, clients, government and media. As a risk seeker and with a lot of experience, he engages the resources in an effective way that the firms can gain a competitive advantage.

1.3.4 Influencing factors of the internationalization process

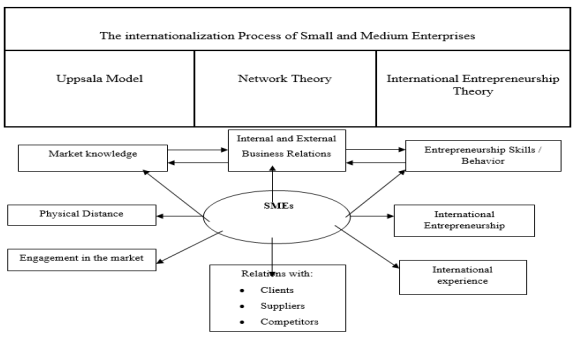
There are different motives why SMEs choose to internationalize. One of the main motives why they want to access in new and bigger markets is to achieve a higher financial performance. The companies expand the market for selling their products through exporting or establishment of branches or joint ventures. Some other firms expand abroad to have access in technology and knowledge so they can stay competitive. This shows that different processes of internationalization are undertaken by the firms to reach their strategic objectives.
Firms' reasons to internationalize are influenced by opportunities offered by foreign markets. These opportunities can be exploited only if the firms have the necessary resources to enter in the new market. There are two ways to analyze why SMEs choose to start the internationalization process. The companies have internal and/or external motives that influence the decision-making about the internationalization process. Qualitative and environmental factors play a key role.
The methods firms choose to enter in a new market.
Before the company starts the internationalization process, it should take three

important decidison:
What market: is chosen the market that is more attractive for the firm and it should balance the costs, risks and benefits.
When will transfer its activities abroad: the moment when a firm decide to enter in a new market. It can be the first or the last entrant. The first entrants are the firms that enter in an international market before that another firm of the same industry enters in a foreign market. The last entrants are those firms that go abroad only after other diffrent firms of the same industry has been already transfered.
Scale of extension: a firm can enter in a new foreign market in wide or tight scale; this depends on the level of resouces engagement. To enter in a market in a wide scale means a quick entry and the engagement of important resources. To enter in a market in a tight scale let the firm learn by choosen market because is less exposed against the market.
After taking in consideration these three important factors, the managment should choose how it would be internationalized. There are different methods of internationalization; we cannot say if there is a better or worst method of internationalization, it depends on the size, age, resources, devotion and market itself.

1.1.5 Conceptual Framework

Based on the internationalization theories explained above, which influence the behavior of SMEs regarding the internationalization process, I have drawn a conceptual framework. The literature, knowledge of foreign markets, business networks, entrepreneurship skills, individuals' activities are all variables that have an important impact in the internationalization process. We believe that the three theories are related with each other. Through a conceptual framework, we attempt to shown the relation between them. Without the right information about the market, the company cannot compose an internationalization strategy. According to Uppsala Model, the market knowledge increases the activities continuously and the firms tend to engage more resources in this market. If we begin thinking by the Network Theory, we can say that the font for the about the market are local and foreign business. The International Entrepreneurship Theory shows that market knowledge derives by the entrepreneurship behavior and individual activities.

Table 2. A Conceptual framework



It is clear that the market knowledge in an essential level could come from the previous experinece that the enterprenur might have had in the international business. In the today business world, the three fonts of information should be present for SMEs. We can metion that SMEs use different means to implement each theory and combine them in order to achieve their goal in the internationalization process.
We should underline the fact that the three theories are means that help SMEs to compose the internatioanization strategy. SMEs take in consideration issues related with entring methods, resources, and competitive advantages so they can finalise the process sucessfully.

1.4 Firm Performance

1.4.1 Definition of firm performance

The performance of Small and Medium-sized Enterprises (SMEs) has been a subject of continual interest to both researchers and academics. Firm performance refers to the level of success of the firm. The word performance has different meanings and is widely used, in general it measures the results of operations, activities, process, comparing them with the settled objectives of the company. Financial performance refers to the level of financial objectives set initially by the company have been achieved. It is known as the process of measuring the fulfillment of company's internal policies and operations in monetary terms, evaluating the "overall health of the company" for a given period. Generally, the interest groups have in focus two main issues: firstly, which is the financial position of the company at a certain moment and secondly, the company performance during a specific period. Usually the financial performance is related with the interpretation of financial statement of the company, in order to have a clear view of the profitability and business sustainability. The financial performance analysis includes the estimation of outputs, productivity, profitability, working capital, liquidity, fixed assets, cash flow and social performance.

1.4.2 The degree of internationalization of companies and performance

Measuring the degree of internationalization of companies has become a widely discussed and controversial topic in the literature of international business (Sullivan, 1994, 1996). Operatively the degree of internationalization has been measured in several ways, usually taking into account the behavioral theories of the internationalization of companies, which assume an internationalization process with a gradual increase in the commitment of companies to international markets, as they gain experience in operating abroad. There is not, however, a consensus measure for assessing it. The criteria and metrics adopted are based on indicators that can be classified into three types: (1) structural, (2) performance and (3) attitudinal (Dorrenbacher, 2000; Sullivan, 1994). The characteristics for each of the three groups of indicators are described as follows.
First, structural indicators seek to provide a picture of the international involvement of a company at a given time. Several of these indicators are related to external activities, such as the number of countries where the company operates, the number or proportion of subsidiaries abroad, the extent or proportion of involvement in non-equity ventures abroad (e.g., strategic alliances, franchising, etc.), the value or proportion of international assets, the amount or proportion of value-added abroad and the number or proportion of employees abroad (Dorrenbacher, 2000). Another

group of such structural indicators describes the internationalization of the governance structure of the company by such indicators as the number of stock markets in which a company is listed, the volume/proportion of shares held by foreigners, and the number or proportion of foreigners on the Board of Directors (Dorrenbacher, 2000).
Second, performance indicators, Dorrenbacher (2000) describes the performance indicators as those that measure "how much the success or failure of a company's activity during a given period (usually one year) is related to its presence in foreign countries." According to the author, the two main performance indicators used are sales (to external markets) and operating profit (generated by external subsidiaries).
Third, attitudinal indicators, in this group of indicators, according to Dorrenbacher (2000), seek to identify how the multinationals perceive foreign countries and treat their foreign subsidiaries. The purpose of these indicators is to measure the ways by which decisions are made in a multinational company, and, consequently, how executives think when doing business around the world. Despite a general understanding of the importance of these indicators in measuring the degree of internationalization of companies, there are doubts about the likelihood of being able to measure attitudinal aspects with the statistical confidence required.

2. Methods and procedures

The data collection will be done through semi - structured questionnaires and direct meetings with top management to receive qualitative information. The qualitative data will help us to better understand the strategic direction of the firms and the reason why they choose to internationalize. In addition, we will use electronic structured questionnaries for quatitative data. The information collected will be compare with the international models to determine the more used methods. The questions will be preparing in accordance with the specific objectives. We will tend to include in the questionnaries firms of small and medium enterprises of Albanian market, in order to have a clear evidence which of them has the trend to internationalize dhe has the advantage to finalise the process sucesfully.
The choosen metology, the sample size, procedures used for the data collection and analyzis of the data will be done in accordance with the specific objectives.
The elaboration of the quantitative data collected will be analyzed by conducting factorial analysis and regression analysis to test our hypothesis. The descriptive analysis will be done based on the qualitative data collected.

Conclusions

Since the globalization is the current trend, the global economy is being everyday more and more integrated, and this permits small and medium enterprises to internationalize in an effective and quickly way. To investigate the relation between the internationalization processes for SMEs and firm's performance focusing in a sample of 150 medium enterprises in Albania. Actually, in Albania the companies with 1 up to 9 employees represent 88% of the total enterprises. They have employed 31.7% of total employees of the country and have realize 13.8% of the national turnover. Meanwhile the companies with more than 50 employees dominate the economy through realizing 44.5% of the total national turnover, have 39.7% of employees in

total and have done 63.9% of the total investment in Albania. The internationalization process has been an interested topic in the focus of the researches, academics, businessmen and students. Based on the literature review there is a gap regarding the SME internationalization and business performance, because up to the last decade this is a phenomenon mostly related with the big companies? In the last years, the process of internationalization has been related to the small and medium enterprises, since them active role in the international markets has increased. Different internal and external factors such as macroeconomics conditions, organization culture, technology, and infrastructure have an influence in the way this firms choose they model of realize the internationalization process. The paper is focused in the three main theories of internationalization in general: Uppsala Model, Network Theory and International Entrepreneurship Theory, specifically in the case of Albania, that is in the first stage of development in comparison with the other countries of our region.

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Albanian model of the new Judicial Reform

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Abstract

The last thirty years of Albanian history have been marked by its biggest challenge; European Union (EU) accession. The EU membership requires the fulfillment of several criteria, linked to judiciary and rule of law, as set by the Copenhagen Council in 1993 and strengthened by the Madrid European Council in 1995. In its path to EU integration, parallel to the affords to fulfil the set of criteria and conditions imposed, Albania has been characterized by high level of corruption and organized crime,constantly highlighted by international community, especially EU and USA, who urged Albanian authorities to reform its judicial system. This paper aims to briefly present this important and unprecedent step that leaded Albania to the establishment of new 'special' institutions. To better understand this complex process and the reasons of the reform, the paper shall start with a brief historical background of Albania, which left behind a rigid system of harsh communism and entered a very complex transition. The analysis shall proceed by providing a general overview of the judicial reform, the so-called vetting process and SPAK law-and novelties introduced.

Keywords: Judicial reform, Albania, challenges, conditionality, integration.

Introduction

After the 90s, since the fall of the communist regime, despite being a small country, Albania has been characterized by the persistence of serious imbalances. Its transition from a harsh dictatorship to democracy has gone through several steps, some very complex in some ways. After the collapse of the communist regime the country fell into a state of semi-anarchy that led to a huge instability of the country in terms of security and rule of law. The events had a significant impact in the small Balkan country which saw the involvement of the major global playerslike the European Union (EU) and the United States of America (USA). Their influence in undertaking new reforms has been relevant. When Albania started its opening toward the western countries, it has oriented all affords to its biggest challenge: the EU accession. In this aspect Albania had to adopt its legislation with the western ones and for years, the Albanian laws has been a 'copy paste' of the latter's, struggling to be in line with European standards. Such an approach can build a good written law, but not if there is a lack of institutions able to absorb and people who honestly applies them. During the past thirty years all these elements created a state characterized by high level of corruption and organized crime, which became the basis for the reform of the judicial system, aiming to establish a trustful, independent, professional, and service oriented justice system. To understand the reasons behind this initiative the paper will start with a brief historic overview of Albania after the 90's, aiming to present its complex transition period and reasons behind the need to reform the justice system. The paper shall continue with introducing the challenges and novelties that the reform brought and will be finalized with conclusions indicating the changes that the Albanian authorities and the reform brought.

1. **Historical background and reasons of the justice reform**

The Albanian government launched in October 2014 the process of the constitutional reform which was finalized in July 2016 along with eight core laws with the unanimous vote of the Parliament of the Republic of Albania. In an unprecedent session, the opposition and the government unanimously voted to bring into life the fulfillment of one of the main criteria for EU accession, the judicial reform. The reform brought several changes which leaded to the creation of new institutions aiming to establish professional and independent structures. But what are the reasons behind this decision?

In the 90s, Albania left behind harsh regime of communism entering a long transition and a fragile democracy. For the first time Albanian citizens were introduced to the image of thelawyer, the Supreme Court and the School of Magistrate which has the objective to train and recruit new magistrates. Communist system laws were substituted with modern ones in order to approximate them to the western ones and in 1998 Albania approved its constitution. Beside these steps, the new system soon faced challenges which seriously put into risk the fragile justice system. To mention a few, the poor training and education of magistrates made them susceptible to political subjects, because they were unable to respond and interpret the new jurisprudence creating a real concern, as the universities were unable to prepare the new magistrates due to lack of experience and knowledge to respond to the new reality. Because of the first, a new concern raised, corruption.[1] The last, has been a phenomenon emphasized several times by EU and the US government, which lead Albania toirreversibly approve the justice reform. However, corruption is not only attributed to the justice system and its magistrates, but to a wider range due to an inversion of values which characterized the societies that abandoned the east bloc. In 2014 the EC progress report emphasized the need for Albania to intensify the fight against corruptionand crime citing that it was prevalent in many areas, including the judiciary and law enforcement, as it remained particularly a serious problem and urged Albania to the approval of a new judicial reform.[2]

The reform went through three main phases: analyses, strategy and legislative drafting.[3]

According to the strategy on the justice reform system[4], the analyses showed the poor quality of Albanian laws in 25 years of democracy, indicating an import of foreign laws without undergoing a process of adoption to the Albanian context based on the needs and real possibilities of the country. Another factor highlighted was the high level of corruption and the low level of professionalism of law practitioners. Therefore, on one hand the reform aims to create consolidated laws harmonized with the domestic reality and international standards and on the other, the reform

[1] E. Bozheku, (2016), La riforma costituzionale ("Strutturale") del Sistema della giustizia nella Repubblica d'Albania, (online) Available: www://archivio.dirittopenaleuomo.org

[2] EC Progress Report, 2014 (online) Available: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

[3] Euralius, Justice Reform information brochure, (Online) Available: https://euralius.eu/images/2020/JUSTICE-REFORM-BROCHURE-2020-03-30.pdf

[4] Strategjia e reformes ne systemin e drejtesise, 2015 https://rm.coe.int/strategjia-ne-refomen-e-sistemit-te-drejtesise/16809eb53a

shall create the conditions to monitor judges and prosecutors to respect the highest standards of integrity, morality and ethics in order to implement EU law standard.
The achieve these goals , Albania was committed to increase the role of the main key institutions which shall serve as the guardians of the new system, namely: The Constitutional Court, as a defender of the constitutional rights; the High Court, which performs in all law areas, except those constitutional or administrative; the General Prosecutor, who protects public interest on behalf of the state; the School of Magistrates, which trains, recruits magistrates, state advocates, legal assistants, advisors and chancellors; the Justice Appointments Council, that pre-screens the candidates, verifies their legal conditions and drafts the ranking lists for appointment;The two newly self-governing bodies established in December 2018, the High Judicial and High Prosecutorial Council which transfer, promote and evaluate the magistrates; and last but not the least the establishment and functioning of the Special Anti-Corruption Structure (SPAK).
In order to ensure independence, the reform modified the functioning of all key institutions. It is thought that these amendments shall reduce the political influence, will restore citizens trust to the justice system, and will create the mechanism to monitor and create mechanisms which shall enhance the performance of the Albanian magistrates.

2. Challenges and novelties introduced

The judicial reform has been accompanied by several critics on the way it was managed but it also introduced some novelties.
As mentioned above, the reform brought two main novelties: the creating and functioning of SPAK and the vetting process.
SPAK is a special structure consisting of a) the Special Prosecution Office (SPO) established in December 2019, independent from the General Prosecution Office, aiming to fight organized crime and corruption, b) the National Bureau of Investigation (NBI), a section of judicial investigative police, and c) the Anti-Corruption and Organized crime to adjudicate cases investigated by the SPO. These 'special' institutions were established based on law no. No. 95/2016 "*On the organization and functioning of institutions for combating corruption and organized crime*". Due to this law the Serious Crime Prosecution and Court, ceased to exist, while its competences in addition to others, such as investigation and prosecution of high-level officials, before during and after their office, passed to the new special structures.
The SPO members are appointed by the High Prosecutorial Council, while a candidate may not be assigned without fulfilling the security preconditions or conditions of professional ability, as indicated in the so-called vetting law. The vetting law introduces an important novelty.
The law no.84/2016 "*on the transitional re-evaluation of judges and prosecutors in the republic of Albania*", indicates that the re-evaluation process shall be carried out based on three criteriain compliance with article 4:

- Asset assessment – meaning wealth that the judges and prosecutorshave to present all necessary documents to justify their wealth and properties, while HIDAACI based on declarations of assets shall conduct a full audit procedure in compliance with the law;

- background assessment- is done by the Classified Information Security Directorate in cooperation with the State Intelligence Service and Internal Intelligence and Complaint Service near the Ministry of Internal Affairs, which investigate on inappropriate contacts with suspected or people involved in organized criminal activities and;
- proficiency assessment – meaning the professional qualifications. The proficiency assessment is extended in a three-year period and an explanatory report is prepared to indicate that if the assessee is:
- a) "Competent" to perform and continue their job because has shown quality of work, fair judgment;
- b) 'Deficient' in performing his/her tasks because has demonstrated poor judgment or is inefficient or ineffective. In this case theassessee shall attend a training program at the School of Magistrate to overcome the lacunes;
- c) 'Inadequate' to perform the tasks because he/she is inefficient or ineffective to the extent that the training program at the School of Magistrates, cannot resolve his lacunes.

According to the law all magistrates, judges and prosecutors are vetted by the re-evaluation institutions consisting of the Independent Qualification Commission (IQC), Appeals Chamber, Public Commissioners in collaboration with International Observers, the International Monitoring Operation (IMO), funded by the EU and US government.

Beside the above, the reform also faced a few difficulties. Deadlines for the creation of the new institutions were not respected. Huge delays were noted in implementing the newly approved laws due to the vetting process, which created significant vacancies in justice structures. The opposition boycotting the Parliament caused delays in appointing the members of the vetting structures, SPAK became operational only in 2020, the Constitutional Court was inactive for two years and only one judge, out of nine, managed to pass vetting, making impossible for Albanian citizens to appeal constitutional acts which might violate their constitutional rights.

In addition, the vetting law provides the possibility for the assesses to resign from the justice system, without having to justify their assets and they are able to keep them, although they might have illegal provenience. As indicated by the Albanian Helsinki Committee, the main reason of failing to pass the vetting process for most judges and prosecutors remain the asset assessment. [5]

3. Conclusions

For sure the Albanian model of the justice reform has introduced a novelty to the Albanian reality, dictated by the conditions imposed by the EU Commission. The reform is 'cleaning' the justice system form corrupted officials, but on the other hand brought various challenges.

The vacancies paralyzed the creating and functioning of the institutions. Deadlines were not respected, to give a few examples the High Judicial and Prosecutorial Council foreseen to be established in 2017, were actually formed more than one year later in December 2018. The NBI is not yet operational, while less of the half of investigators

5AHC,https://ahc.org.al/wp-content/uploads/2020/09/KShH_Raport-studimor-_-Vettingu-dhe-dinamikat-e-tij-_-Nentor-2019-Korrik-2020.pdf.

(in total 60), only 28, are now been trained by US and EU experts. The inactivity of the Constitutional Court deprived the right of the Albanian citizens to recall their constitutional rights.

Saying that the judicial reform has been successful would be premature, as only time will demonstrate it, however, it would not get worse that it was in the past. The EU and US government has invested in the ongoing process of the judicial reform and both had a key role. IMO, was created to supervise the vetting process and on several occasion the IMO issued recommendations and the vetting institutions followed them.

The reform is a historical novelty which brought Albania closer to the EU. Since March 2020 negotiations were opened for EU accession. It is hoped that the reform shall restore trust in judicial public institution, restore the principle of duty, responsibility and accountability of the system and shall remove political influence in such a sensitive area, opening the path to independent institutions. Magistrates will be free to act and politicly independent, which will lead to an increase of numbers of investigations and prosecutions for crimes which until nowadays remain unpunished and they can prosecute high level officials who were involved in corruption or other crime gender.[6]

The reform was a complex process, drafted in line with Albanian reality, coming from a long dictatorship, which still nowadays struggles to perform and behave in a new reality.

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Application and respect of the right to private and family life seen from the point of view of jurisprudence and case law

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Abstract

The paper aims to identify the problems encountered in the application and observance of private and family law not only as a right guaranteed by the European Convention on Human Rights but also as a right guaranteed by the domestic law of European states. including Albania. The case law and jurisprudence which has treated this right as one of the most important rights of a free and civilized human being has expanded the way of interpretation and application of Article 8 of the Convention. Seen in this perspective from the case law analyzed is considered as a violation of the right to private and family life not only interventions made by public authorities but also by other non-state actors such as visual or print media, private institutions that have personal data, etc. who with their actions or inactions may violate this right. This article aims to identify and give a clearer understanding of the legal boundaries of interference in the private life of the citizen as a subject of law and their respect by various public actors or not.

Keywords: europian convention, human right, private and family life, public institution, legitimacy.

Introduction

The European Convention on Human Rights, ratified by the Albanian state since 1996, envisages and protects the right and respect for private and family law, listing it as one of the fundamental human rights. Seen in this perspective and not only as a right implemented by an international act but also as a right that must be guaranteed by internal acts, the Albanian legislator has implemented as a guarantee in the basic act of the Republic of Albania, the Constitution. Thus, in the Constitution of the Republic of Albania[1], its article 35 provides for the protection of private data and their non-publication without the consent of the person, except in cases provided by law. Due to its importance, this right is also provided for in other legal and sub-legal acts. Being a broad right in conception and interpretation, national and international case law recognizes and has identified countless cases of its violation not only by public authorities but also by private ones. Although the narrow and literal interpretation of Article 8 of the ECHR[2] refers to the position of violator to the subject "Public authority" from the decisions of the judiciary it turns out that those lawsuits have been accepted where in the position of the defendant is placed a private entity against which the violation of this right has been proven.

The risk of violation of this right is constant and universal, especially since both doctrine and case law have failed to provide a definitive definition and set the limits of the vulnerability of this right. The legislation does not specify an exhaustive list

[1] Article 35 of the Constitution of the Republic of Albania.

[2] European Human Rights Conventions.

of elements to be included in private life and there is no single standard of circle of persons to be called family members. This situation greatly complicates the perception and value that the main actors should have in respecting this right, so it is the duty of scholars and connoisseurs of law to make a balance or database of legislation that mentions all these elements as a whole in order to to finalize a comprehensive doctrinal interpretation that would help stakeholders.
Thus, for example, in the Constitution of the Republic of Albania, the protection and respect of private law is interpreted or provided as an obligation for the protection of personal data, which in fact limits the legal provision of Article 8 of the ECHR at a time when case law has exceeded the provisions. made by this provision. Thus, the Law "On Personal Data Protection"[3] has in its focus mainly the guarantee of security of personal data processing which is not comprehensive in terms of protection of privacy and privacy. In this regard, the Albanian legislation is limited and fragmented as long as the observance of the right to private and family life is not sanctioned in a single legal act, but the interpreters of the law and its enforcers should investigate traces of this. rights in some legal and sub-legal acts in force.
If we want to look in practice for cases of violation of the right to private and family life, first of all we are interested in deconstructing the meaning of provision no. 8 of the ECHR, the purpose of the legislator and the perception of public authorities and not only. Seen in this light we must clarify the legal and literal of each concept included in this provision.

1. The definition of concept "All" and "the right" under Article 8

The provision begins or is addressed with the word "All." If we were to make a legal / legal interpretation of this word, it would result that the legislator has addressed all subjects of law, including natural persons and legal persons (private or public) who according to the law in force enjoy legal personality, which falls in fact, it contradicts the whole interpretation of the provision, which focuses only on the subjects of law, natural persons, as long as the same provision also speaks about family life. This in fact limits the other subject of law to the legal person in respecting the private law as long as this right includes respecting the preservation of the confidentiality of private data and their processing. This prohibition or restriction comes in uniform also with the purpose of the Convention which in its title refers only to natural persons as legitimate entities to raise claims for violations of the rights provided in this international legal act. Although some of its provisions could be very well attached and as rights for the legal person such as article 5, article 6, article 7, article 14 etc.
Then we continue with the word "the right". Interpreters and law enforcers know very well that their obligation is to respect the right or range of rights that a particular state recognizes to its subjects through laws, bylaws or the right created / approved by the competent authorities (I have consider this Anglo-Saxon system). So the right recognized by the legislature or law enforcement agencies is a binding right to be enforced. Any other rights which are not included in this range (such as moral, religious or customary rights) are not an obligation on anyone as long as there is no sanction or coercive force to enforce them. So in this case the word right refers to a right sanctioned by the legislature and not to the rights that civil society itself can

[3] Law No.9887, dated 10.03.2008 "On the protection of personal data".

practice in a given country.

2. The definition of concept "Respect" and "Private Life" under Article 8

"Respect" is another word that never takes its power from its sociological or literal meaning but from the coercive force of law. So,the subjects of law have the obligation to respect a right sanctioned by law otherwise they will be subject to legal consequences that will result from non-compliance with it. In this sense, the word "respect" means to be in accordance with the law, not to violate the constituted right and to recognize the limits of vulnerability and legal prohibitions.Sothe word respect is guaranteed by the sanctioning power of law, it is a legal obligation of the subjects of law and not a genuine expression of will.

"Private life" is a very broad and by no means exhaustive notion. Doctrine and jurisprudence generate from time to time and case by case new elements that can be included in the private life of legal entities and this in fact makes the work of the judicial system very difficult in guaranteeing and respecting this right and identifying violations presumed in this respect. If we are to make a detailed analysis of this vocabulary, we must first dwell on the word "life"[4], which means the existence of man or individual[5]. So the provision itself respects the right to life, the right to live, to exist, despite the fact that this right does not seem to be the main right or purpose at first sight of the interpretation of Article 8 of the ECHR we must accept that without the existence of respect for this right would not exist other rights either. Seen in this light despite the fact that the right to life is not the primary focus of this provision it remains its essence.

The definition of "private" is very broad as a concept and not exhaustive, as it is closely related to the development of legislation, the economic and social sphere not only of a society but also of the entire globe. Thus, we find the word "private" associated not only with human life and all other elements attached to it but also with property as an object of property right referring to the capitalist and democratic notion of "private property." Nevertheless, since the object of the rights recognized and sanctioned by the ECHR is related to personal non-property rights in relation to the individual, the notion of private property will not be addressed in this article. Doctrine and jurisprudence have included in the definition of "private life" rights related to sexuality, human body, personality, appearance, human interaction with third parties, collection and processing of information related to individual human characteristics of which are inalienable and inherited, etc. So, all those characteristics and individual elements which are closely related to the person / individual and his qualities and which cannot be duplicated or multiplied to third parties. The right to a private life is briefly the right to privacy, a right that refers to the personal right that every individual has to live his life according to his own way and worldview without violating the basic principles and public order of a state of certain (in which this individual is a citizen or resident) and the guarantee of this right by international and national legal acts against any violation that may come from the state through its bodies or from other private persons. The notion of privacy refers to the sphere of a

[4] Cambridge Dictionary Online "the period between birth and death, or the experience or state of being alive"

[5] Oxford Advanced Learner's Dictionary, Fifth Edition, p.680.

person's life in which he or she can freely express his or her identity, be it by entering into relationships with others or alone[6]. Let us take in turn all those elements which doctrine and practice have listed as private rights under the dome of this provision.
Similarly, the European Commission on Human Rights stated that the right to respect for "private life" is the right to privacy, the right to live as far as one wishes, protected from publicity however, the right to respect for private life does not end there. It comprises also, to a certain degree, the right to establish and develop relationships with other human beings especially in the emotional field, for the development and fulfilment of one's own personality. (*X. v. Iceland).*
The European Court has established in *Niemitz* v. *Germany*[7] that respect for private life encompasses a certain right to develop relationships with others:
The Court does not consider it possible or necessary to attempt an exhaustive definition of the notion of "private life".
However, it would be too restrictive to limit the notion to an "inner circle" in which the individual may live his own personal life as he chooses and to exclude therefrom entirely the outside world not encompassed within that circle. Respect for private life must also comprise to a certain degree the right to establish and develop relationships with other human beings.
In this case, the Court also expanded the notion of private life significantly, finding that the protection of Article 8 ECHR extended in some instances to business premises:
There appears, furthermore, to be no reason of principle why this understanding of the notion of "private life" should be taken to exclude activities of a professional or business nature since it is, after all, in the course of their working lives that the majority of people have a significant, if not the greatest, opportunity of developing relationships with the outside world. This view is supported by the fact that [?] it is not always possible to distinguish clearly which of an individual's activities form part of his professional or business life and which do not. Thus, especially in the case of a person exercising a liberal profession, his work in that context may form part and parcel of his life to such a degree that it becomes impossible to know in what capacity he is acting at a given moment of time.
To deny the protection of Article 8 (art. 8) on the ground that the measure complained of related only to professional activities - as the Government suggested should be done in the present case - could moreover lead to an inequality of treatment, in that such protection would remain available to a person whose professional and non-professional activities were so intermingled that there was no means of distinguishing between them. In fact, the Court has not heretofore drawn such distinctions: it concluded that there had been an interference with private life even where telephone tapping covered both business and private calls and, where a search was directed solely against business activities, it did not rely on that fact as a ground for excluding the applicability of Article 8 (art. 8) under the head of "private life."
Amongst the private relationships protected by the right to privacy are sexual relationships. How one expresses one's sexuality is an integral part of private intimacy and autonomy. Both the Human Rights Committee and the European Court have treated sexual life as an integral part of one's privacy and in recent years ruled that laws prohibiting homosexual acts constitute an unjustifiable interference with

[6] Coriel and Aurik v Thw Netherlands (Communication No. 453/1991 Views of 31 October 1194.
[7] Application No. 13710/88, Judgement of 16 December 1992.

the right to respect for private life. In *Dudgeon* v. *The United Kingdom*[8] the European Court found criminal laws prohibiting consensual homosexual acts between adults violated the right to respect for private life and went on in *Norris* v. *Ireland* to state that 'Although members of the public who regard homosexuality as immoral may be shocked, offended or disturbed by the commission by others of private homosexual acts, this cannot on its own warrant the application of penal sanctions when it is consenting adults alone who are involved. A person's name is an integral part of one's identity. Both the Human Rights Committee and the European Court have ruled that a person's name falls under the protection afforded by the right to respect for private life. In *Coeriel and Aurik* v. *The Netherlands* [9]where national authorities refused the applicants permission to change their surnames to Hindu surnames, the Human Rights Committee established that a person's name, including the power to change it. Although the European Convention does not specifically refer to name, the European Court has reviewed several cases in which individuals have claimed that governmentally imposed restrictions on name changes have violated the right to private life under Article 8[10].

Many cases regarding the right to private and family life concern the extent of protection afforded to the individual from state surveillance such as interference with correspondence, telephone tapping, secret video taping and searches[11]. Integrity and confidentiality of correspondence should be guaranteed de jure and de facto. Correspondence should be delivered to the addressee without interception and without being opened or otherwise read. Surveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire-tapping and recording of conversations should be prohibited[12].

Of course, time and practice have shown that the above-mentioned elements are by no means exhaustive, but a summary of the most frequent cases dealt mainly with case law. As legal scholars, it is up to us to research and study other social cases where violations of privacy can be identified by seeing this and by combining or interpreting other provisions (such as those related to non-discrimination, or freedom of expression (not only of thought) but also of external appearance (behavior or appearance), etc.)

3. The definition of concept "Family Life" under Article 8

Article 8 of the European Convention on Human Rights seems to guarantee the observance of only one right, de facto and de jure this provision is a conglomeration of several rights which are organically related to each other but at the same time can stand and as separate rights as rights of equal weight between them. No scholar or law enforcer can identify a right which is more important or prevailing over the other so it would be appropriate for their treatment to have the same weight and attention.

[8] Application No.7525/76, Judgement of 22 October 1981.

[9] Communication No. 453/1991, Views of 31 October 1994.

[10] Stjerna v. Finland (Application No. 18131/91, Judgement of 25 November 1994; Burghartz v. Switzerland (Application No. 16213/90); B v France (Application No 13343/87); Goodwin (Christine) v The united Kingdom (Application No 28957/95).

[11] Estrella v Uruguay (Application No 74/1980, Views of 29 March 2002); Peck v The United Kingdom (Application No 44647/98).

[12] General comment of the Human Rights Committee.

Thus, another right under the umbrella of this provision is the right to respect for family life. Before identifying cases of vulnerability to this right we must dwell on the definition that law, doctrine and case law have made to this right. An incorrect or incomplete interpretation could lead us to err or distort its implementation thus leading to human rights violations.The right to respect for family life is grounded in the protection of family integrity. Family can be based *inter alia* on blood ties, economic ties, marriage and adoption[13]. The European Court has generally considered family to consist of husband and wife and children who are dependent on them. The relationships between brothers and sisters and in some instances relationships with grandparents are protected under Article 8.[14] Some weight is also placed on *de jure* family life through marriage, but more on de facto family life through daily practice, leaving the option to evaluate each family unit claim on a case-by-case basis. Given modern changes in the social and cultural patterns of family life, this flexibility is important. In *Berrehab* v. *The Netherlands* (Application No. 10730/84, Judgement of 21 June 1988), the Court held that in case of a lawful and genuine marriage:

It follows from the concept of family life on which Article 8 is based that a child born of such a union is ipso jure part of that relationship; hence, from the moment of the child's birth and by the very fact of it, there exists between him and his parents a bond amounting to "family life", even if the parents are not living together.

Although the Court did not see cohabitation as a *sine qua non* of family life between parents and minor children, 'irregular' living arrangements have complicated determination of the existence of family life and the states' obligations towards the individual.

The Human Rights Committee has in General Comment 16 interpreted the term family broadly 'to include all those comprising the family as understood in the society of the State party concerned.' In Hopu and Bessert v. France , the Committee discussed the definition of family.

Another right, the violation of which would directly affect the respect of family law as it is inextricably linked to it is the right of residence or home. The house is the "roof" under which the family is built and the place where its well-being is guaranteed, as a result of which its vulnerability would directly affect the right to family life. The inviolability of one's home exists to protect private life and may not be interfered with unless with consent or authorized by the competent authorities[15]. The European Court has established in Niemetz v. Germany[16] that home can include business premises and in Buckley v. The United Kingdom[17] that protection of the home extends to a caravan site. The European system has dealt with blatant violations of the right to respect for the home when home and property is deliberately destroyed as in several cases brought against Turkey[18]The Court found in Cyprus v. Turkey[19] that the refusal of the authorities to allow Greek Cypriots to return to their homes in northern Cyprus constituted a violation of Article 8. The Human Rights Committee

[13] Hopu and Bessert v France (Communication No 546/1993; X. Y and Z v The United Kingdom (Application 21830/93); Hendriks v The Netherlands (Communication No 201/1985).

[14] Vermeire v. Belgium, Application No. 12849/8, Judgement of 29 November 1991.

[15] Rojas Garcia v Colombia (Communication No. 687/1996).

[16] Application No. 13710/88, Judgement of 16 December 1992.

[17] Application No. 20348/92, Judgement of 25 September 1996.

[18] Selçuk and Asker v. Turkey ,Application No. 23184/94, 23185/94, Judgement of 24 April 1998.

[19] Application No. 25781/94, Judgement 10 May 2001.

defines the term 'home' is to be understood to indicate the place where a person resides or carries out his usual occupation.[20]' The right to privacy is recognised in diverse regions and cultures but is particularly difficult to define. One author has described it as 'the desire by each of us for physical space where we can be free of interruption, intrusion, embarrassment, or accountability and the attempt to control the time and manner of disclosures of personal information about ourselves.[21]

Conclusions

With constant technological developments and changes in society, new concerns have arisen in relation to privacy. Issues regarding, for instance, anti-terrorism policies, resulting in the weakening of data protection, increased sharing of data between governments and increased profiling and identification of individuals, give rise to concern. Other difficult issues include data collection, systems of biometric identification, genetic privacy, Radio Frequency Identification (RFID), privacy in the workplace, DNA testing, the Internet and 'electronic privacy' in general, and certainly new issues will continue to develop where the right to privacy and the protection of the private sphere come into play. With new challenges, states must place even greater emphasis on effective protection of the right to privacy and ensure that any interference with this right is warranted and lawful.

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Deep learning methods for Cybersecurity

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Abstract

With the increasing amount of data that are generated everyday worldwide, there can be security problems with them. So, we have to extend the security needs beyond the traditional approach which emerges the field of cybersecurity. Cybersecurity can handle this big amount of data using deep learning methods. Deep learning is an advanced model of traditional machine learning. It has the aptitude to pull out optimal feature representation from raw input samples. Deep Learning has been successfully applied in various instances in cybersecurity. We can mention here, for example, the intrusion detection, the malware classification, the android malware detection, the spam and phishing detection and the binary analysis. In this paper we describe some of the techniques of Deep learning for cybersecurity.

Keywords: application, cybersecurity, deep learning, machine learning.

Introduction

In recent years, deep learning has marked enormous success with its applications in many domains. It is a new field of machine learning which has been increasing hastily. Deep learning has been applied effectively to most traditional application domains and in some new areas that present more opportunities, as well. There have been proposed different methods based on different categories of learning, such as: supervised, semi-supervised, and un-supervised learning. When compared to traditional machine learning attitudes in the fields of image processing, computer vision, speech recognition, machine translation, art, medical imaging, medical information processing, robotics and control, bio-informatics, natural language processing (NLP), cybersecurity, and many others, the results from experiments show highly developed performance using deep learning. Cybersecurity is the throng of policies, techniques, technologies, and processes that collaborate to protect the confidentiality, integrity, and availability of computing resources, networks, software programs, and data from attack. Cyber protection mechanisms exist at the application level, as well as, at network, host, and data level. There are many tools, such as firewalls, antivirus software, intrusion detection systems (IDSs), and intrusion protection systems (IPSs), that work to avert attacks and detect security breaches. However, many adversaries are yet at an advantage because they only need to find one weakness in the systems which need protection.

As the number of systems connected to the internet increases, the attack surface increases, as well, leading to greater risk of attack. Moreover, attackers are using more advanced ways, developing zero-day exploits and malware that shun security measures, which enable them to insist for long periods of time without being noticed. Zero-day exploits are attacks that have not been met previously but are often variances on a known attack. Cybersecurity engages protective key data and devices from cyber threats. It's an absolutely necessary part of corporations that gather

and maintain large databases of client data, social platforms wherever personal information were submitted and the government organizations wherever secret, political and defense information is considered, as well. It helps in protecting against vulnerable attacks that possess threat to special data, across countless applications, networks and devices or not.(see [1], [2]) As the quantity of persons who gain access to the information online and the threats to the data are increasing daily, the cost of online crimes is calculated in billions. Furthermore, to be defended against external threats, defenders also must guard against insider threats from individuals or entities within an organization that abuse with their authorized access. A report by RiskBased Security told that a astonishing 7.9 billion records have been exposed by data breaches in the first nine months of 2019 only. This quantity surpasses more than two times (it is (112%)) the number of records exposed in the same period of 2018. According to the International Data Corporation predictions, the international expenditures on cybersecurity solutions will reach a mammoth of $133.7 billion by 2022. Governments in all the world have responded to the rising cyber threat with suggestions to help organizations implement effective cybersecurity practices. In this paper we present some of the methods of Deep learning applied to cybersecurity. In section 2, we explain what cybersecurity is, describing the types of cyber threats, as well etc. In section 3, we outline the similarities and differences of Machine learning (ML) and Deep learning (DL), among others. In section 4 some network datasets are mentioned. Section 5, 6, 7 present the methods, types of Deep learning attitudes and its architecture and in the section 8 are given the most commonly evaluation metrics for models based on Deep learning.

I. Cybersecurity

In [51] is given this definition for the cybersecurity: "…cybersecurity refers to the body of technologies, processes, and practices designed to protect networks, devices, programs, and data from attack, damage, or unauthorized access."
"…It's also known as information technology security or electronic information security. The term applies in a variety of contexts, from business to mobile computing, and can be divided into a few common categories…" [50]. The following are some of them:
Network security: In Wikipedia we can find this definition for the…"Network security consists of the policies, processes and practices adopted to prevent, detect and monitor unauthorized access, misuse, modification, or denial of a computer network and network-accessible resources.".
Application security: is emphasized in improving the security of an application, "… by finding, fixing and preventing the vulnerabilities." (Wikipedia)
Information security: is, in essence, the practice of protecting the integrity and privacy of data, not only in storage but also in transit.
Operational security (OPSEC): includes the processes and decisions for handling and protecting data resources. In the envelope of OPSEC, or, procedural security, are included all the permissions that users have when acquiring a network and the procedures that determine how and where data may be stored or shared.
Business continuity and Disaster recovery (BCDR): are two closely related processes that define how an organization replies to a cybersecurity incident or any other

event that causes the losing of operations or data. BC&DR hands out with processes, keeping track, alerts and plans that help organizations being prepared for keeping business critical systems online during and after any kind of an accident as well as restarting lost operations and systems after an incident.

End-user education: This category is directed to the most unforeseeable cybersecurity factor: people. Anyone can accidentally introduce a virus to any secure system by not following good security practices. So, the training of individuals in the topics related to computer security is a very important task because by helping the individuals recognize and pick up various security incidents, many cyber-attacks will be avoided

Identity management and Data Security: In this category are included frameworks, processes, and activities which enables authentication and authorization of legitimate individuals to information systems within an organization. Data security requires implementing strong information storage mechanisms that ensure security of data at rest and in transit.

Mobile security: or wireless security is the protection of both organizational and personal information stored on mobile devices like cell phones, laptops, tablets, etc. from various threats which are related with wireless computing, such as unauthorized access, device loss or theft, malware, etc.

Cloud security: is the protection of data stored online through cloud computing programme from many possible threats. It is related with the design of the secure cloud architectures and applications for organization using various cloud service providers such as AWS, Google, Azure, Rackspace, etc.

Types of cyber threats: Types of cyberthreats include:

Malware is a form of malicious software in which any file or program can be used to harm a computer user. Malware is one of the most common cyber threats, and it is is a software that a cybercriminal or hacker has created to interrupt or harm a legitimate user's computer. It is widen more often via an uninvited email attachment or a download looking as legal, it may be used by cybercriminals to make money or in cyber-attacks with political reasons. There are a number of different types of malware, including:

Virus: A piece of code which has the capability to copy itself and that attaches itself to clean file and spreads throughout a computer system, infecting files and destroying the data.

Trojans: A type of malware that downloads onto a computer camouflaged as a legitimate software. Cybercriminals mislead users to upload Trojans onto their computer to harm them or to gather data.

Spyware: It is another malware that seeks to collect information about a person or organization and send such information to another entity in a way that causes damage to the user, often without his knowledge, for example, catching credit card details.

Ransomware: Malware which blocks the access of a user's file and data, threatening him of deleting it if the victim will not pay.

Adware: or advertising supported software is a software which can be used to spread malware.

Botnets: "A botnet is a number of Internet-connected devices, each of which is running one or more bots. Botnets can be used to accomplish Distributed Denial-of-Service attacks, steal data, send spam, and allow the attacker to access the device and its connection." (Wikipedia)

SQL injection: An SQL (structured language query) injection is a type of cyber-attack used by cybercriminals to attack data-driven applications, in which malicious SQL statements are inserted into an entry field for execution. This gives them right of entry to the sensitive information contained in the database.
Phishing: is when cybercriminals attempt to fraud sensitive information or data such as usernames, passwords, credit cards etc. through emails that appear to be from a legitimate entity.
Man-in-the-middle(MitM): These kind of malware are eavesdropping attacks that require an attacker intercepting and transfering messages between two parties who believe that they are communicating with each other. As an example, we can mention that where, on an unsecure WiFi network, an attacker could intercept data being passed from the victim's device and the network.
Distributed denial-of-service (DDoS) attacks are those in which various systems interrupt the traffic of a targeted system, such as a server, website or other network resource. By overflowing the target with messages, connection requests or packets, the attackers can slow the system or crash it, to not allow legitimate traffic from using it.
Advanced persistent threats (APTs) are prolonged targeted attacks in which an attacker penetrates a network and remains undetected for long periods of time having as objective to sneak data.
Latest cyber threats: Here are some of the most recent cyber threats as they have been reported by the Australian, U.K., and U.S. governments.
Dridex malware: Dridex is a form of malware with a many capabilities. It has affected victims since 2014, picking out their banking information. This is performed by stealing passwords, banking details and personal data which can be used in tricky transactions causing colossal financial losses adding up to hundreds of millions.
Romance scams: occur when a criminal embraces a false online identity to get the affection and confidence of his victim. In February 2020, the FBI advised U.S. citizens to comprehend the confidence trickster that cybercriminals commit using dating sites, chat rooms and apps. Perpetrators take advantage of people seeking new partners, deluding victims into giving away personal data. The FBI reports that romance cyber threats damaged 114 victims in New Mexico in 2019, with a huge amount of financial losses : $1.6 million.
Emotet malware: By the end of 2019, The Australian Cybersecurity Centre warned national organizations about a widespread global cyber threat from Emotet malware. Emotet is a sophisticated trojan which is spread via spam e-mails. The infection may occur through malicious script, macro-enabled document files, or malicious link.
"…Other common attacks include drive-by-download attacks, exploit kits, malvertising, credential stuffing attacks, cross-site scripting (XSS) attacks, business email compromise (BEC) and zero-day exploits." (see [50],[51]) Some of the benefits of implementing and maintaining cybersecurity practices are, for example, "…the business protection against cyberattacks and data breaches, protection for data and networks, prevention of unauthorized user access, improved recovery time after a breach, protection for end users and endpoint devices, regulatory compliance, business continuity, improved confidence in the company's reputation and trust for developers, partners, customers, stakeholders and employee ." (see [52]).

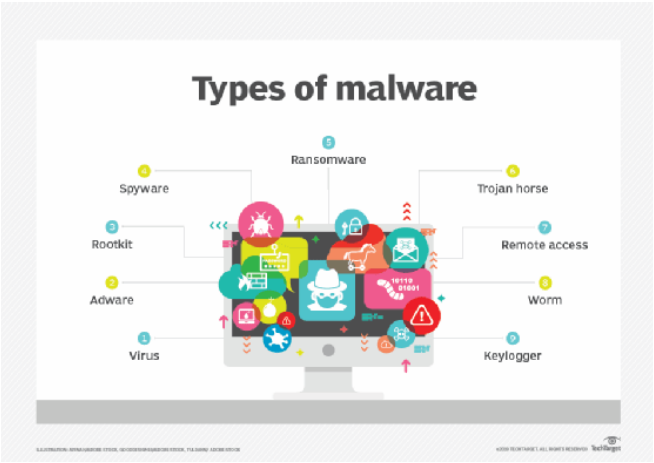

Fig. 1.Malware variants .

II. Ml and dl

"…AI is a new technological science that studies and develops theories, methods, techniques, and applications that simulate, expand and extend human intelligence." [4]. It is a relatively, new field of computer science. AI seeks to understand the essence of human intelligence and to build an intelligent machine that behaves in a similar way to humans. Some researches in the AI area includes robotics, computer vision, nature language processing and expert systems. AI can simulate the process of human thinking. The history of artificial intelligence together with the machine learning and deep neural network (DNN) (a predecessor to deep learning) turns back to the 1940s and since then the work is progressing in the field with some big achievements in the 1980s (Alom et al., 2018). ML is a branch of AI. It is closely related to (and often overlaps with) computational statistics, which is concetrated on prediction making using computers, as well. ML has strong links with the mathematical optimization, which provides methods, theory and application domains to the field. The protagonist of ML, Arthur Samuel, has defined ML as a "field of study that gives computers the ability to learn without being explicitly programmed." The regression and classification which are based on known features earlier learned from the training data are, primarily, the central points of ML. DL is a new field of machine learning . Its motivation lies in the building of a neural network that simulates the human brain for analytical learning. It imitates the human brain mechanism to throw light on data such as images, sounds and texts [5].

The concept of DL was suggested by Hinton [6] based on the deep belief network (DBN). He has proposed an unsupervised greedy layer-by-layer training algorithm that it is very hopeful for solving the optimization problem of deep structure. Then the deep structure of a multi-layer automatic encoder is suggested. Furthermore, the convolution neural network proposed by LeCun *et al.* [7] is the first real multilayer structure learning algorithm that uses a space relative relationship to reduce the number of parameters for improving the training performance. DL is involved in many situations where machine intelligence would be useful:

1. When a human expert is missing;
2. In cases of speech recognition, vision and language understanding i.e. when the humans are unable to explain their aptitude;
3. When the solution of the problem changes from time to time such as in the weather prediction, price prediction etc.;
4. When it is needed the adaptability of the solutions to the particular cases, for example, in biometrics, personalization etc;
5. When the problem has a too vast size for our bounded reasoning capabilities as, for example, calculation webpage ranks, sentiment analysis etc.

Right now. Deep learning is being applied practically in all domains. For this reason, this approach is often called a universal learning approach.

A ML method essentially includes the following four steps as they are described in [8]:

1. Feature Engineering. Choice as a basis for prediction (attributes, features);
2. Choose the suitable machine learning algorithm. (Such as classification algorithm or regression algorithm, high complexity or fast);
3. Train and evaluate model performance. (For different algorithms, evaluate and select the best performing model);
4. Use the trained model to classify or predict the unknown data.

The steps of a DL approach are similar to ML, but as mentioned above, unlike machine learning methods, its feature extraction is automated. It is not manual any more. DL algorithms or models can prove more powerful over some of the restrictions or challenges of ML (Xin et al., 2018). So, DL uses the representation learning for a feature selection and can handle large and multi-layered datasets (Apruzzese et al., 2018; Diro & Chilamkurti 2018). The dominance of algorithms and training data sets influence the effectiveness of trained machines or the performance of the models and for this reason, are sometimes guarded as a trade secret (at least the data sets) (Ateniese et al., 2015).

III. Some network security data sets

The basis of computer network security research are the data. The correct choice and reasonable use of data are the prerequisites for guiding appropriate security research. The dimensions of the dataset also influences the training results of the ML and DL models. Computer network security data are typically obtained in two ways: 1) directly and 2) using an existing public dataset. The use of existing network security datasets can preserve data collection time and increase the efficiency of research by quickly obtaining the various data required for research. The following data sets are some of the Security datasets that are accessible on the Internet:

A. DARPA Intrusion Detection Data Sets

DARPA Intrusion Detection Data Sets [9], which are under the direction of DARPA and AFRL/SNHS, are collected and published by The Cyber Systems and Technology Group (formerly the DARPA Intrusion Detection Evaluation Group) of MIT Lincoln Laboratory for evaluating computer network intrusion detection systems. The first standard dataset yields a huge amount of background traffic data and attack data. It can be downloaded directly from the website. Right now, the dataset, in essence, includes the following three data subsets:

- 1998 DARPA Intrusion Detection Assessment Dataset: Contains 7 weeks of training data and 2 weeks of test data;
- 1999 DARPA Intrusion Detection Assessment Dataset: Contains 3 weeks of training data and 2 weeks of test data;
- 2000 DARPA Intrusion Detection Scenario-Specific Dataset: Contains LLDOS 1.0 Attack Scenario Data, LLDOS 2.0.2 Attack scenario data, Windows NT attack data.

B. KDD Cup 99 Dataset

The KDD Cup 99 dataset [10] is one of the most widely used training sets; it uses as a basis the DARPA 1998 dataset. This dataset contains 4 900 000 replicated attacks on record. There is one type of the normal type with the identity of normal and 22 attack types, which are divided into five major categories: DoS (Denial of Service attacks), R2L (Root to Local attacks), U2R (User to Root attack), Probe (Probing attacks) and Normal.

The KDD Cup 99 dataset remains the most profoundly observed and freely available dataset, with fully labeled connection records comprising several weeks of network traffic and a considerable number of different attacks [11].

C. NSL-KDD Dataset

The NSL-KDD dataset [13] is a new version of the KDD Cup 99 dataset. The NSL-KDD dataset improves some of the limitations of the KDD Cup 99 dataset. The KDD 1999 Cup Dataset Intrusion Detection Dataset was applied to the 3rd International Knowledge Discovery and Data Mining Tools Contest. This model identifies features between intrusive and normal connections for building network intrusion detectors. In the NSL-KDD dataset, each instance has the characteristics of a type of network data.

D. ADFA Dataset

The ADFA data set is a set of data sets of host level intrusion detection system issued by the Australian defence academy (ADFA) [12], which is widely used in the testing of intrusion detection products. In the dataset, various system calls have been characterized and marked for the type of attack. The data set includes two OS platforms, Linux (ADFA-LD) and Windows(ADFA-WD), which record the order of system calls. (see [3])

IV. Dl and cybersecurity

Deep learning (DL) has been the great discovery of artificial intelligence tasks in the areas of image processing, pattern recognition and computer vision. As we pointed out in section 3, Deep learning is inspired by the human brain's ability to learn from experience instinctively. DL has been meliorated over classical machine learning generally thanks to the current development in both hardware resources such as GPU, and powerful algorithms like deep neural networks. The massive generation of training data has also a tremendous contribution for the current success of deep learning as it has been attested in giant companies such as Google and Facebook (see [14],[15]). The main benefit of deep learning is the absence of manual feature engineering, unsupervised pre-training and compression capabilities which make possible the feasibility of the application of deep learning even in resource constraint networks [16]. This signifies that the capability of DL to self-learning results in higher

accuracy and faster processing. (see [14])

One of the most common and critical applications for deep learning algorithms is to improve cybersecurity solutions. We mention below some of the main and more important applications of Deep Learning in Cybersecurity and explain how these applications can help to prevent the most common threats and cyber attacks, as well.

Intrusion Detection and Prevention Systems (IDS/IPS): These systems find out malicious network activities. They do not allow intruders to access the systems and alerts the user. Usually, they can be recognized by known signatures and general attack forms. This is of use against threats like data breaches. Normally, this task was accomplished by ML algorithms. However, the use of these algorithms was the cause of generating many false-positive by the system, creating boring work for security teams and causing unnecessary tiredness. Deep learning, convolutional neural networks and Recurrent Neural Networks (RNNs) can be applied to produce more intelligent ID/IP systems by analyzing the traffic with better accuracy, reducing the number of false alerts and helping security teams differentiate bad and good network activities. Some important worthy solutions include Next-Generation Firewall (NGFW), Web Application Firewall (WAF), and User Entity and Behavior Analytics (UEBA).

Dealing with Malware: Standard malware solutions such as regular firewalls find out malware by using a signature-based detection system. The company run a database of known threats which updates it regularly to include new threats that were introduced recently. This technique is efficient against these threats, but it fights to hand out with more advanced threats. Deep learning algorithms are able to detect more advanced threats and are not conditioned to remember known signatures and common attack patterns. Alternatively, they learn the system and can recognize disbelieving activities that might indicate the presence of bad actors or malware.

Spam and Social Engineering Detection: Natural Language Processing (NLP), is a deep learning technique,which can help us to detect without difficulty and to deal with spam and other forms of social engineering. NLP uses various statistical models to find out and block spam. It learns normal forms of communication and language patterns.

Network Traffic Analysis: The results has shown that Deep learning ANNs are very promising in analyzing HTTPS network traffic to observe for malicious activities. This is very helpful for dealing with many cyber threats such as SQL injections and DOS attacks.

User Behavior Analytics: An important security practice for any organization is the tracking and analyzing user activities and behaviors. It is much more demanding than recognizing long-established malicious activities against the networks because it circumvents security measures and often doesn't raise any flags and alerts. For instance, when insider threats take place and employees use their legal access in malicious intent, they are not penetrating the system from the outside.This makes many cyber defense tools useless against such attacks. Against such attacks, User and Entity Behavior Analytics (UEBA) constitutes a great tool. After a learning interval, it can find out normal employee behavioral patterns and recognize doubtful activities, for example, when the system is accessing in unusual hours, that perhaps indicate an insider attack and raise alerts. [53].

V. Types of dl approaches

As well as machine learning, deep learning approaches can be divided in these categories: supervised, semi-supervised or partially supervised, and unsupervised. In addition, there is another category of learning called Reinforcement Learning (RL) or Deep RL (DRL) which are often discussed as being members of semi supervised or sometimes of unsupervised learning approaches.

Supervised Learning: Supervised learning can be defined as a learning technique that utilizes labeled data. There are different supervised learning approaches for deep leaning including Deep Neural Networks (DNN), Convolutional Neural Networks (CNN), Recurrent Neural Networks (RNN) including Long Short Term Memory (LSTM), and Gated Recurrent Units (GRU).

Semi-supervised Learning: The Semi-supervised learning is learning that occurs based on partially labeled datasets (which, usually is referred to as reinforcement learning (RL)).

Unsupervised learning: The unsupervised learning systems are ones that can work without the presence of data labels. To discover unknown relationships or structure within the input data, in this case, the agent learns the internal representation or important features. As members of this category are, often, considered clustering, dimensionality reduction, and generative techniques.

Deep Reinforcement Learning (DRL): The Deep Reinforcement Learning is a learning technique which is used in unknown environments. DRL began in 2013 with Google Deep Mind [16, 17]. From that time, have been proposed many advanced methods which are based on RL. The choice of the RL type that is needed to be applied for solving a task depends upon the problem scope or space. DRL is the best way to go in the case when the problem has many parameters to be optimized. Otherwise, if the problem has not so many parameters to be optimized, a derivation free RL approach is good. We can mention, as an example of this, the annealing, cross entropy methods, and SPSA.

We conclude this section with a nice quote from Yann LeCun:

"If intelligence was a cake, unsupervised learning would be the cake, supervised learning would be the icing, and reinforcement learning would be the carry."

VI. DL architectures

DL methods provide a computational architecture that combines several processing levels (layers) to learn data representations with several levels of abstraction. DL is a ML subfield that utilises several non-linear processing layers for discriminative or generative feature abstraction and transformation for pattern analysis. DL methods are also known as hierarchical learning methods because they can capture hierarchical representations in deep architecture. The working principle of DL is inspired by the working mechanisms of the human brain and neurons for processing signals. Deep learning architectures can be be divided in two categories: discriminative and generative. The discriminative model, in general, supports supervised learning methods, while on the contrary, the generative model supports unsupervised learning methods [19]. Deep networks are constructed for supervised learning (discriminative), unsupervised learning (generative learning) and the combination of

these learning types, which is called hybrid DL. CNNs and recurrent neural networks (RNNs) are examples of discriminative DL methods. Deep autoencoders (AEs), deep belief networks (DBN), restricted Boltzmann machines (RBMs), generative adversarial networks (GANs) and ensemble of DL networks (EDLNs) are examples of hybrid DL methods.

1. Convolutional neural networks (CNNs)

CNNs were introduced to reduce the data parameters used in a traditional artificial neural network (ANN). CNN is a specific kind of neural network used to process data that has a known, grid-like topology [21]. CNNs were firstly inspired by a concept called Receptive Field which comes from the study of cat's visual cortex [22]. Convolution supports three important ideas that can help to improve a machine learning system: sparse interactions, parameter sharing, and equivariant representations.

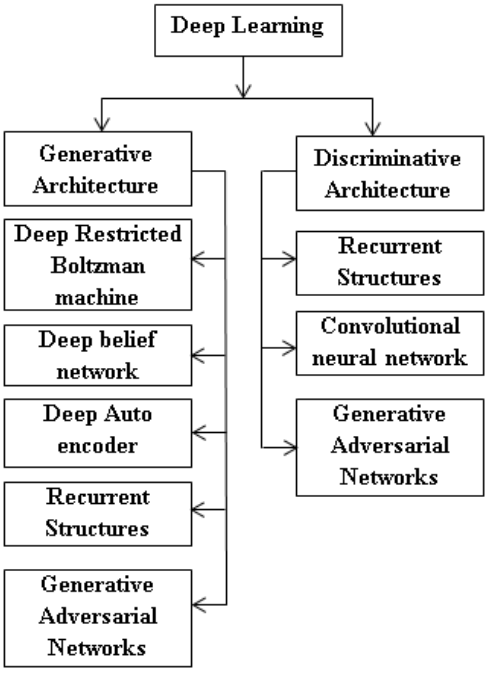

Fig. 2. Classification of Deep learning architecture.

The basic CNN architecture is made up by one convolutional and pooling layer, optionally followed by a fully connected layer for classification or prediction. In contrast to traditional neural networks, CNN efficiently decreases the number of parameters in nets and the effect of gradient diffusion problem, which means that we can successfully train a deep model containing more than 10 layers using CNNs. For example, AlexNet [23] contains 9 layers, VGGNet [24] contains 11-19 layers, InceptionNet [25] from Google contains more than 22 layers, and ResNet [31] from Microsoft even contains 152 layers. (see [20])

The main advantage of a CNN is that it is extensively applied to the training approaches in DL. It also allows for the automatic learning of features from raw data with high

performance. However, a CNN has high computational cost; thus, implementing it on resource-constrained devices to support onboard security systems is challenging.

2. Recurrent Neural Networks (RNNs)

An RNN is a vital category of DL algorithms. RNNs were proposed to handle sequential data. In several applications, forecasting the current output is based on the analysis of the associations from several previous samples. Thus, the output of the neural network depends on the present and past inputs. In such an arrangement, a feed-forward NN is inappropriate because the association between the input and output layers are preserved with no dependency [28]. Therefore, when the backpropagation algorithm was introduced, its most remarkable application was the training of RNNs [29]. RNNs and their variants have achieved excellent performance in many applications with sequential data, such as machine translation and speech recognition [32-34].

3. Deep autoencoders (AEs)

A deep AE is an unsupervised learning neural network trained to reproduce its input to its output. An AE has a hidden layer, which defines a code used to represent the input.

An autoencoder [21] is a neural network trained to copy its input to its output. Compared to RBMs, an autoencoder consists of three layers including an input layer, a hidden layer, and an output layer. The hidden layer describes a code used to represent the input, and its output is a reconstruction of the input. Basically, the network consists of two major components: an encoder function f which extracts the dependencies of the input, and a decoder g function which produces a reconstruction. The Autoencoder is trained by minimizing the error between the input and output.

However, AEs cannot learn to replicate the input perfectly. AEs are also restricted because they can produce an approximate copy only, merely copying the inputs that are similar to the training data. The model is required to prioritise which characteristics of the inputs should be copied; thus, it frequently learns useful characteristics of the data. AEs are potentially important for feature extraction. AEs can be successfully used for representation learning to learn features (in place of the manually engineered features used in traditional ML) and reduce dimensionality with no prior data knowledge. AEs, nevertheless, consume high computational time. There are various auto encoder types such as Stacked Autoencoders (SAE), Sparse AE, Split-Brain AE, etc. (Alom et al., 2018). SAE can work on pre-training tasks, small datasets with high accuracy in results (Apruzzese et al., 2018).

4. Restricted Boltzmann machines (RBMs)

RBMs are deep generative models which are developed for unsupervised learning [35]. Restricted Boltzmann machines (RBMs) [19] are probabilistic graphical models that can be interpreted as stochastic neural networks. RBMs consist of m visible units to represent observable data and n hidden units to capture collections between observed variables, providing us a stochastic representation of the output. RBMs are successful in dimensionality reduction and collaborative filtering [26].

5. Deep belief networks (DBNs)

DBNs are generative methods. A DBN consists of stacked RBMs that execute greedy layer-wise training to accomplish robust performance in an unsupervised environment. In a DBN, training is accomplished layer by layer, each of which is executed as an RBM trained on top of the formerly trained layer (DBNs are a set of RBMs layers used for the pre-training phase and subsequently become a feed-forward network for weight fine-tuning with contrastive convergence.) [30]. In the pre-training phase, the initial features are trained through a greedy layer-wise unsupervised approach, whereas a softmax layer is applied in the fine-tuning phase to the top layer to fine-tune the features with respect to the labelled samples [33].

DBNs have been applied with great success in malicious attack detection. In [36] is proposed an approach to secure mobile edge computing by applying a DL-based approach to malicious attack detection. In this study is used a DBN for automatic detection, and the suggested DBN-based model showed crucial improvement in malware detection accuracy compared with ML-based algorithms. This noticable result demonstrated the primacy of DL models, in general, and DBNs, in particular, to traditional manual feature engineering methods in malware detection.

6. Generative adversarial networks (GANs*)*

Introduced by [37], GANs are recently considerd as very promising Deep learning frameworks. A GAN framework simultaneously trains two models, namely, generative and discriminative models, via an adversarial process.

GAN, developed by Goodfellow in 2014, is a zero-sum game between two neural networks or between the two players, Discriminator (output) and Generator (input) (Alom et al., 2018). The discriminative network is responsible for distinguishing the original dataset and the one that is produced by GAN, whereas the generative deep network, taking the sample from the discriminative network and some noise added, is responsible for producing adversarial examples that are very close to the original set (Chakraborty et al., 2018). GAN has been used in several domains or it has many applications such as realistic images of objects, game development, motion development, etc. (Alom et al., 2018). GAN has been used as a semi-supervised or unsupervised learning and there exist many improved versions such as Deep Convolutional GAN (DCGAN), Coupled Generative Adversarial Network (CoGAN), Bidirectional Generative Adversarial Networks (BiGANs), etc. (Alom et al., 2018). Some other examples of GAN include MalGAN, APE-GAN, DCGANs by Radford et al., GAN based attack by Hitai et al., adversarial examples of images and text using GAN model by Zhao et al., variational autoencoder (VAE) – GAN, adversarial autoencoder (AAE), etc. (Duddu, 2018; Li et al, 2018).

GANs may have a potential application in IoT security because they may learn different attack scenarios to generate samples similar to a zero-day attack and provide algorithms with a set of samples beyond the existing attacks. GANs are suitable for training classifiers through a semi-supervised approach. GANs can generate samples more rapidly than can fully visible DBNs because the former is not required to generate different entries in the samples sequentially. In GANs, is needed only one pass through the model for generating a sample, differently from the case of RBMs, in which is required an unidentified number of iterations of a Markov chain [37, 38]. However, GAN training is unstable and difficult. Learning to generate discrete data,

such as text, by using a GAN is a challenging task [37, 38].

7. Ensemble of DL networks (EDLNs)
Several DL algorithms can work collaboratively to perform better than independently implemented algorithms. EDLNs can be realized by combining generative, discriminative or hybrid models. EDLNs are often used to handle complex problems with uncertainties and high-dimensional features. An EDLN comprises stacked individual classifiers, either homogenous (classifiers from the same family) or heterogeneous (classifiers from different families), and is used to enhance diversity, accuracy, performance and generalization [39].

8. Self-Organized Maps (SOM)
It is a neural network based and unsupervised learning algorithm that was developed by Kohonen in 1982 (Tsai et al., 2009; Chakraborty et al., 2018). The algorithm uses a process of self-organization and reduces the dimensionality of input vectors into usually two dimensions representative output vectors (Tsai et al., 2009). This algorithm also uses the winning node which is the neuron closest to the training set and group the output vectors with similar weights in a self-organized ordered map after training (Tsai et al., 2009).

9. Genetic Algorithm (GA) or Genetic Programming (GP)
The algorithm belongs to the group of Evolutionary Computation (EC) which uses the biologically inspired natural selection and evolution process (Tsai et al., 2009; Nguyen, 2018). The algorithm generates a large population of variables of interest or candidate programs and evaluates the performance of those using the fitness of measure function (Elwahsh et al., 2018; Tsai et al., 2009). Any weak performing variables are replaced by high performing variables using the genetic recombinant, natural selection, crossover, and mutation in large iterations (Tsai et al., 2009; Nguyen, 2018). Other algorithm or technique such as Particle Swarm Optimization and Ant Colony Optimization belong to EC group (Nguyen, 2018).

10. **Fuzzy logic**: The Fuzzy set theory constitutes the base of Fuzzy logic. It explains the phenomenon in real-world using the values for reasoning that are between 0 and 1 (Tsai et al., 2009). The degree of logic is not a hard statement of true or false. It is workable. (Tsai et al., 2009). For example, rain is a natural phenomenon and the probability of falling and its amount, as well, varies (Tsai et al., 2009).

VII. Some evaluation metrics for dl based models

The most frequently used model evaluation metrics for deep learning based models are as follows:
i. *Confusion Matrix*: A confusion matrix is a table which encapsulates the performance of a classification algorithm. It is obtained by summarizing the total number of correctly and incorrectly classified predictions based on each class [42]. To design the confusion matrix are needed the following values:
a. True Positive (TP): The true positive values are defined as the number of instances that has been correctly classified by the model [43].

b. True Negative (TN): The true negative values are defined as the number of negative instances that were correctly classified by the model [43].
c. False Positive (FP): With the false positive value we mean the number of negative instances labeled incorrectly as positive instances [43].
d. False Negative (FN): With the false negative value we mean the number of positive instances labeled incorrectly as negative instances [43].
ii. *Recall*: Recall also called sensitivity or true positive rate is defined as the proportion of real positive instances that have been predicted positive [44].
We can calculate the recall using the following formula:

$$Recall = TP/(TP + FN)$$

iii. *Specificity*: Specificity describes how effective a classification model is when identifying negative labels [45]. We can calculate the specificity using the following formula.

$$Specificity = TN/(TN + FP)$$

iv. *False Positive Rate* (FPR): With FPR or the so-called Fall-Out we mean the proportion on negative instances classified incorrectly as positive instances. In other words, it is the probability that a false alarm will be raised [46]. We can compute the FPR using the following formula.

$$FalsePositiveRate = FP/(TN + FP)$$

v. *False Negative Rate* (FNR): FNR, also called the miss rate, is the proportion of incorrectly classified samples to the number of positive samples [47]. We can calculate the FNR using the following formula.

$$FalseNegativeRate = FN/(TP + FN)$$

vi. *Precision*: Precision can be defined as the proportion of predicted positives that are real positives. It is applied on many areas such as, machine learning, data mining, and information retrieval [44]. We can compute the precision is calculated using the below formula:

$$Precision = TP/(TP + FP)$$

vii. *F-Measure*: The F-measure is defined as the harmonic mean of the precision and recall [41]. We can calculate the F-measure using the following formula:

$$F1 = 2 \cdot precision \cdot recall/(precision + recall)$$

viii. *Accuracy*: The Accuracy is defined to be the overall effectiveness of the classification model [45]. The formula used for the calculation of the accuracy is as follows:

$$AC = (TP + TN)/(TP + FP + TN + FN)$$

ix. *Matthew's Correlation Coefficient* (MCC): MCC is a technique used for measuring the quality of binary and multiclass classification. The MCC returns a value between -1 and $+1$, where -1 denotes total disagreement, 0 no better than random prediction and $+1$ indicates total agreement [48, 49]. We can calculate the *MCC* using this formula:

$$MCC = TP \cdot TN - FP \cdot FN/\sqrt{(TP + FP)(TP + FN)(TN + FP)(TN + F}$$

$$MCC = \frac{(TP \cdot TN - FP \cdot FN)}{\sqrt{(TP + FP)(TP + FN)(TN + FP)(TN + F}}$$

IX. Result and discussion

The methods of machine learning (ML) and deep learning (DL) constitute a good solution to services and products. However, the basic technologies of these methods are new and still in evolution. The development and implementation of DL and ML models themselves have been a challenge as they require expert knowledge from multiple domains. These models are continuously improved in the aspect of the manipulation of the parameters of equations for their accuracies and their performances deploying in the distributed systems or cloud environments, as well, depending on the requirements and goals. In this paper, we are concetrated on the background, definitions, terms, descriptions, of DL methods and security attacks. We have provided a short review of Deep learning methods and its applications. We have described different state-of-the-art deep learning models in different categories of learning which include supervised, unsupervised, and Reinforcement Learning (RL), as well as their applications on cybersecurity, in particular. In addition, we have explained in detail some different supervised deep learning techniques such as DNN, CNN, and RNN and some unsupervised Deep learning techniques including AE, RBM, GAN. Generally, DL architectures are made up of multiple hidden layer that helps to learn hierarchical representation. Cybersecurity has become an important sphere of research thanks to the eruptive rise in the number of attacks to the computers and networks. Today, the use of deep learning technologies for cybersecurity analysis and intrusion detection is highly relevant. So, we review the emerging researches of DL architectures for diverse anticipated applications of cyberecurity. This include Intrusion detection, Malware and Botnet detection, Spam and Phishing detection, Network traffic analysis, Insider threat detection etc. As the data of cybersecurity is continuously growing day by day with the evolution of technology, the performance of DL based solutions also improve. In recent days, variety of DL architecture designs for cybersecurity have blossomed. On the other side, attackers are using the same tools to use more sophisticated attacks. Nowaday DL has done significant steps towards the improvements of the traditional signature-based and rule-based systems as well as classic machine learning-based solutions and it can provide new approaches related to cybersecurity problems. As different authors used different datasets and different metrics , it is not so easy to draw conclusions about the performance of any particular approach. Although, there can be noticed some general trends. So, a great variation of performance was noticed across the different security domains. Of the domains with multiple approaches, DL appeared to have the most consistent performance for identifying malicious domain names generated by DGAs, where TPR varied between 96.01% and 99.86%, FPR ranged between 1% and 1.95%, and accuracy ranged between 0.9959 and 0.9969. In contrast, the performance of approaches for network intrusion detection had wider ranges in performance with TPR between 92.33% and 100%, FPR between 1.58% and 2.3%, and accuracy between 44% and 99%. DL can be applied successfully on cybersecurity because the cyber domain has large volumes of data and from a variety of sources. However, the research in this direction is becoming difficult because of the limited number of publicly available datasets. These datasets are either small, old, or internally generated and not shared among researchers, as

well. So, it will be critical for advancing cybersecurity solutions, to develop large, regularly updated, benchmark datasets. Moreover, for comparing detection rates, speed, memory usage, and other performance metrics is needed the ability to test proposed DL methods in real operational scenarios. The cybersecurity industry has understandood and esteemed, already, the value of DL, and new datasets are coming on the scene, as a result.

X. Conclusion

This paper is a review on some applications of Deep learning on cybersecurity. It is pointing out, among others, that the main advantage of Deep learning techniques compared with those of Machine learning is, mainly, the deep neural network process. We have tried to summarize and to present in a more compact form some of the main results related to the methods of Deep learning for cybersecurity. But we do not pretend that it has been exhausted all the spectre of applications and many other issues related to the Deep learning and cybersecurity. Only several pages are not enough for presenting them but this paper, as we hope, is an unassuming effort in this direction.

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Albania E-Gov encounters *vis a vis* sustainable development

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Abstract

The impact of the digital revolution in public administrations across developing countries in general and in Albania more specifically using the cases of public service innovation: e-government are analyzed. In particular, the paper describes a transitional context of the country in which public service innovation policies have been implemented, illustrates developments in service modernization and identifies some of the key challenges faced by the Albanian government in introducing service innovations.
The sustainable development policies and e-government are an attempt of the Albanian government to improve quality of public services and reduce corruption and eventually an increased credibility in front of the Foreign Direct Investors Community.
However, as this paper argues, some progress in improving accessibility and quality of public services has been noted but the implementation of the "digital wave" has been limited and constrained by the institutional framework and culture prevailing in the Albanian bureaucracy.
The main conclusion is that the governments of transition countries need to critically analyze the pros and cons of the sustainable development/innovation policies and reflect on their cultures before making further steps to adopt e-Gov policies.
This article is an extension of the theme of e- government as a tool to struggle with corruption. E-Government, enabling citizens to directly contact state authorities via the Internet, eliminates contact with officials, thereby reducing their permissive function and the risks of corruption, ensuring transparency and accountability. The purpose of this article is a comparative analysis of the development of e- government in different countries of Europe and Asia, as well as consideration of the correlation between the expansion of e-government functions and the reduction of corruption risks in Albania.

Keywords: Innovation policies, sustainable development, accountability, correlation, e-government.

Introduction & Theoretic Analysis

The day-to-day business of (any) government is built on information. Information is a critical resource that helps to ensure the accountability of government, enables governments to manage its operations though making them more transparent, and allows the public to participate in the governance of their country. With the revolutionary changes that ICTs are bringing to our global society, governments worldwide continue to develop more sophisticated ways to digitize its routines and practices so that they can offer the public access to government services in more effective and efficient ways.
With the revolutionary changes that ICTs are bringing to our global society, governments worldwide continue to develop more sophisticated ways to digitize its routines and practices so that they can offer the public access to government services in more effective and efficient ways. Across the world, 173 of 190 countries use the Internet to deliver government services. These activities are broadly referred

to as digital government, which is an "umbrella term that comprises all uses of information and telecommunication technologies in the public sector" (Garson p. 18). e-Government focuses on the utilization of information and communication technologies (ICT) to deliver government services. e-Government is part of other closely related efforts in digital government. The term e-governance characterizes efforts to use ICTs for political purposes and the organization of political activity in a country.

The challenges and issues of implementing e-Government systems will also be relevant to implementing ICTs to build systems to support e-governance. The e-government paradigm is based on one-window services, where public services are carried out electronically. Thus simplifying, standardizing, anonymizing the public services to citizens, making them much more mobile and transparent (Bondarenko et al.: 2020). The transition from the industrial to the post-industrial stage of development leads to the transformation of the whole life of society, including the economic, social, and political areas. Following the paths of developed countries and under pressure imposed by the international donor agencies, many developing countries have been trying to reshape their administrative systems along this new "digital logic.

Albania has been under growing pressure by the international community to engage in political reforms that include a modernization agenda to improve quality of public services. In recent years, Albania has made efforts to modernize the public sector, including technology-based reform of administrative governance systems. A parallel effort has been a focus on the use of information and communication technologies for provision of services and inclusion. Albania has not been immune to the international trends and has adopted a Digital Agenda as a key policy paper in the current administrative reform. Transforming the old principle of leadership –I AM IN CHARGE mode of government into integrated governance through multiple stakeholders is an emerging policy paradigm in Albania.

Albania is emerging as a dynamic, economic and political actor in the Balkan region. It has rich natural resources, particularly oil and gas reserves, which are being exploited through massive foreign investment. Over the past decade, the country has made impressive policy strides, progressed towards developing a rules-driven fiscal framework, strengthened public management and the business climate, and allocated resources for improved social services and critical infrastructure to sustain growth (World Bank, 2019).

Since 2014 the government of Albania launched two ambitious programs aimed at modernizing and improving public services through single-window arrangements: One Stop Shops (Public Service Centers)

- innovative organizations which provide services of different government bodies through one location and e-government (World Bank, 2016). Giving an answer to the question of how relations between citizens and the state are changing, we can confidently say that e-government enhances transparency, accountability, the gap between government and society and the anti-corruption component.

The purpose of the article is an attempt to find a correlation between the introduction of electronic public services and the reduction of corruption in Albania.

Literature Review

According to many researchers, as Bhatnagar and Apikul (2006), Andersen (2009), Elbahnasawy (2014), the potential impact of e-government on reducing corruption is undeniable. Bhatnagar and Apikul (2006) claim that the use of information and communication technology (ICTs) has dramatically changed public services. Bertot et al. (2012) make a general theoretical conclusion about the potential of applying e-government to improve transparency and strengthen anti-corruption actions. Bhatnagar and Apikul (2006) highlight four anti- corruption strategies using e-government.

- The first one is a prevention strategy, which implies preventive measures of reducing corruption, particularly reducing bureaucracy, simplifying rules and procedures, eliminating intermediary officials, which anonymizes and standardizes the process of providing services and reduces the possibility of abuse of authority and power.
- The second is a pressure strategy, which is possible due to the transparency of electronic communications and the ability to monitor the progress of online procedures, requests, appeals to state authorities by citizens.
- The third is an accountability strategy is implemented by increasing access to information, data publicity, and empowering citizens, publishing government information.
- The fourth strategy contributes to the development of computer literacy and civic culture of people, which largely eliminates corruption. Among global e-government researches, there is empirical evidence for a clear quantitative correlation between the application of e-government and the reduction of corruption in both developing and developed countries and that is also the case for Albania.

Andersen (2009) states that the prevalence of e-government from 10% to 90% means a reduction in corruption from 23% to 10%. Elbahnasawy (2014) claims that "the influence of e-government on the struggle with corruption is clearly positive and empirical results show that e-government is an important tool in the fight against corruption". Studies of Lio, Liu, and Ou (2011) based on data from 70 countries, from 1998 to 2005, they also come down to the hypothesis that there is "a strong theoretical basis to believe that e-government can promote transparency and accountability and the Internet can be used as a tool to fight corruption effectively". Later studies such as Knox and Janenova (2019), Mensah and Mi (2019), consider the impact of e-government and electronic communications overall on the development of publicity, transparency and accountability in society. Estonian researcher Karv (2015) examined the correlation factors between the introduction of electronic services and the reduction of
corruption in Estonia, a young European country with great success in implantation of electronic government.

Methodology

In our study, we relied on the method of the Estonian researcher Karv (2015) in which he uses the method of comparison and distinguishes four factors of correlation of

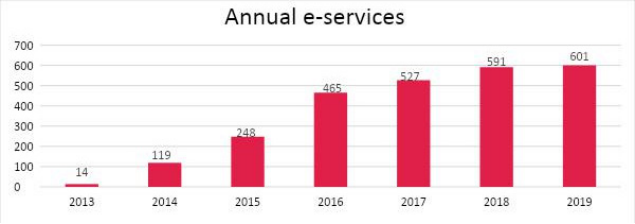
e-government to reduce corruption. These are: **a)** the elimination of intermediaries between citizens and authorities; **b)** increasing transparency; **c)** increasing accountability; **d)** narrowing the gap between citizens and government officials.
The applied method consists in comparing the indicators, and in the influence that they have on other indicators, which is calculated by measuring the key global indicators of public administration efficiency. So, the decrease in intermediaries between citizens and the state is calculated by using an indicator, the number of Internet users and electronic appeals of citizens. The increase in transparency is measured by Transparency International through the Corruption Perceptions Index. Accountability is reflected in the World Bank's Global Governance Indicator (TIME SERIES) – World Government Indicator (WGI). The narrowing of the gap between citizens and government authorities is measured by using the criterion of citizens' trust in the state (Eurobarometer Research). These indicators are closely interrelated, and each of them has a separate effect on reducing the level of corruption.
In addition, the research approach that will be followed and the conditions under different phases of data gathering must be detailed from the initiation of contacts, case study selection, pre-eliminatory questioner, style/form etc.
Vis a vis style/form that will be used, Chicago Style – author date has been selected. The rationale for this choice is based on added practical values and follows the tendency for this paper.
The applied methodology consists in studying the influence of some indicators on others, where the determination of correlation factors is most important. The article makes extensive use of content analysis of various sources of information, documents, and analytical reports.

Ground Work

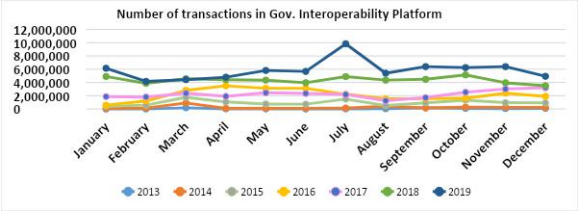
According to the data of the "The State Supreme Audit Institution"[1]of the Republic of Albania, the most corrupt areas in Albania (pre digitalization) were the government procurement system; licensing area, including state authorities issuing licenses and permits, ministries, committees, departments; control and supervisory authorities (police, Ministry of Internal Affairs, the court of justice, tax and financial, sanitary inspections, customs,); social area of education and healthcare. To reduce corruption, electronic government services were introduced in the following areas: governmental procurement, electronic licensing sectors, electronic business registration, electronic customs declaration, specialized electronic service centres for the issuance of a driver's license and registration of transport, electronic service in the social sectors.
The first factor influencing the impact of electronic services on petty corruption is the reduction of intermediaries between citizens and the state, the so-called "middle-man", officials who are obliged to provide state services to citizens without delay. The elimination of "middle-man" was measured using an indicator of the usage of the Internet for interaction with government agencies. Looking through the data, we can see how many people use computers and the Internet to communicate with government services. This indicator of the use of the Internet in addressing government authorities automatically determines the elimination of officials in the chain of interconnections between people and the state. According to data from

[1] www.klsh.org.al- Annual Reports (Buletini i Auditimeve 2014-2020)

National Agency for Information Society (2019),
The graf. below (graf 1), shows the number of newlly added electronicaly services for 2013-2019 period.
During this time, e-services have rise 43 times.



Graf 1. Number of e-services each year level 3-4 (according to UNPAN)
The govermental portal e-Albania has been linked to Governmental Interoperability Platform, which is the cornerstone architecture that enables the interoperability of public eletronic data bases in real time. More than 70 milions transaction have been register for the year 2019 (Graf 2).



Graf 2. The number of transactionin Gov. Interoperability Platform. (NAIS annual report 2020 available at www.akshi.gov.al)
The stated factors speak in favour of the increase in the number of electronic state services each year, Albania is systematically digitalizing. In 2020, "the Digital Agenda 2020" program was launched, which resulted in significant success in promoting the development rating of the e-government readiness index (EGDI).

E-Government Development Index	2020	2018	2016	2014	2012	2010	2008	2005	2004	2003
Albania (Rank)	59	74	82	84	86	85	86	102	110	114

Table 1. E-Government Development Index (United Nations: 2020)

Also, since the beginning of 2020, the large-scale "Digital Agenda Strategy" has been implemented in the country. One of the missions of this strategy includes measures

to improve the quality and increase the number of state services provided online, which will reduce bureaucracy and corruption, as well as make government agencies more efficient and public. (Digital Agenda Strategy: 2020).
The second very important correlation factor is Transparency, which is calculated by the international rating organization Transparency International (TI). Albania ranked 106 places wich is the best result in the entire history of participation in this world ranking.

ALBANIA

Score

35/100

Rank

106/180

Score change

+2since 2012

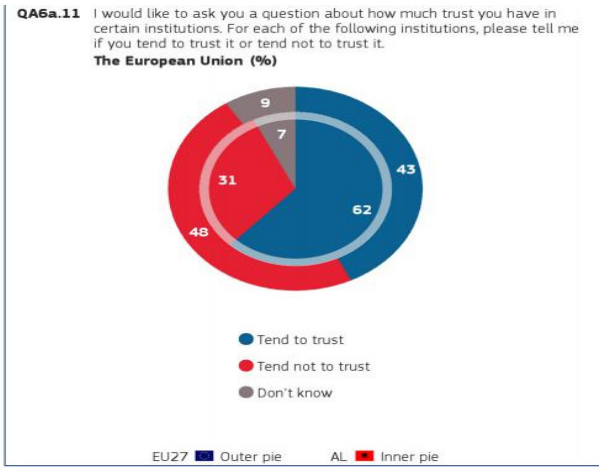
Table 2. Transparency International (TI-2020)

According to TI experts, "the main positive changes in this rating are, first of all, associated with the adoption of new anti-corruption legislation, the introduction of public control, the implementation of systematic and consistent work to eliminate the causes and conditions of corruption, and the improvement of providing state services.". A lot has been done by the government of Albania in favor of developing transparency over this time. Namely, in 2019, the Internet portal "Open Government Data" was significantly improuved, which consists of such components as open data, open legal and regulatory instruments, open dialogue, open budgets, as well as an assessment of the effectiveness of state agencies.
The third important factor arising from transparency is the accountability of state agencies to citizens. An indicator of accountability is the World Government Indicator (WGI), which takes into
account such indicators as "Voting rights and accountability to society". This project is implemented by the World Bank to computing government performance.

Indicator	Country	Year	Number of Sources	Governance (-2.5 to +2.5)	Percentile Rank	Standard Error
Voice and Accountability	Albania	2009	13	0.14	54.03	0.14
		2014	12	0.14	50.25	0.12
		2019	10	0.15	52.22	0.13
Political Stability and Absence of Violence/Terrorism	Albania	2009	6	-0.05	42.18	0.27
		2014	8	0.49	61.43	0.20
		2019	7	0.12	52.86	0.23
Government Effectiveness	Albania	2009	9	-0.26	47.85	0.21
		2014	9	-0.09	50.00	0.22
		2019	8	-0.06	50.48	0.22
Regulatory Quality	Albania	2009	10	0.24	58.37	0.17
		2014	11	0.22	60.10	0.18
		2019	9	0.27	63.94	0.18

Table 3. Indicator Voting rights and accountability according to the World Government Indicator (WGI-2019)

The fourth correlation factor is to narrow the gap between citizens and government officials and increase citizens' trust in the state. Eurobarometer studies are used to measure this indicator. In many ways, these changes are the result of the implementation of new approaches to involve society in the anti- corruption movement.



Graf 3. Standard Eurobarometer 93 (Summer 2020)

Discussion

As we clear up, through the analysis of these four factors, there is a correlation of e-government in reducing corruption risks. According to the first factor, there is an increase in the growth of Internet users and electronic public services in Albania, which affect the reduction of intermediaries between citizens and the state, and consequently, the reduction of corruption. According to the second transparency factor, due to the efforts of the state, the introduction of new anti-corruption legislation, the institution of public control, as well as electronic public services, Albania has made solid progress in the Transparency International (TI) rating of corruption perception, ranking 106th in 2019. However, in order to advance in this rating, Albania needs to struggle with not only petty and administrative corruption but also top corruption at a high level of power and capital. As to the third factor of accountability, electronic communications create a relationship between government agencies and citizens more transparent due to the possibility of electronic appeals, the presence of electronic receptions and electronic blogs of heads of government departments and ministries. According to the fourth factor of increasing citizens' trust in the state, it can be noted that precautions against corruption affect the reduction of the gap between citizens and civil servants and increase the trust of citizens in the state. However, e-government is not the only factor in reducing corruption but is one of the components of the overall fight against corruption. Correlation shows that e-government is effective in the struggle with petty and administrative corruption. Nevertheless, to fight against top corruption,

comprehensive state measures are needed, including both preventive and possibly repressive anti-corruption measures.

We can see this from the experience of countries that have not succeeded in developing e-government but have great progress in reducing corruption. In this regard, we can trace the experience of countries like Estonia and Georgia. Estonia is a recognized leader in the development of e-government with the lowest prevalence of corruption. After the collapse of the USSR, Estonia, with a small territory and population, led by a young government, decided that digitalization is the way of modernization and the establishment of a new effective public administration.

Georgia on the other hand, being one of the most corrupt countries in Eastern Europe at the beginning of 2000s, today is very successful in the fight against corruption.

Country	**E-GOV readiness rating**	**Corruption Perception Index Transparency International**
Estonia	16	18
Albania	59	35
Georgia	60	41

Table 4. A comparative analysis of the development of e-government and the corruption perception index

As we can see from Table 4, Estonia is recognized as the leader in the development of e-government, rated 16th among 193 countries of the world, accordingly, rated 18th in the corruption perception index. Georgia, succeeding in the fight against corruption (41st) is not successful in the development of e-government, rated the only 60th. Albania, occupying a moderately good position in the development of e-government (59th), rated low (35th) in the rating of corruption, but it is a progress compared to previous years.

Conclusions

The phenomenon of corruption is as multidimensional and multifaceted as the power itself since corruption is a shadow of power. Many causes of corruption's emergence, as well as methods to struggle with it, cannot be considered in one study. Based on research in Estonia, we tried to mark variables that correlate with a positive effect on reducing corruption risks in Kazakhstan. In general, the social and economic effect of e-government on the development of the country is enormous. In the economic, this manifests itself in the form of an increase in the index of the simplicity of doing business and competitiveness; in the social sphere in the form of increasing transparency and reducing corruption; in politics in the development of accountability and feedback between the state and civil society. However, there are many factors that reduce corruption, which is not limited to the introduction of e-government. In this regard, we pointed to the experience of Georgia.

The conclusion of this research is that, despite the fact that electronic public services are not the only way to reduce corruption, they are one of the important preventive

measures to reduce corruption risks. In this case, we use the term "corruption risks" rather than corruption overall, as these four correlation factors affect corruption risks as a potential possibility of corruption, which we tried to prove using Albania as an example. Certainly, for the confident conclusions of the correlation between electronic services and the reduction of real corruption the time is needed, because according to experts, it takes longer than one year to assess the impact of the fight against corruption on a state of democracy. From this, we can conclude that in the historical time perspective, with the development of measures taken by the e-government to develop transparency and accountability, this correlation will be more visible and more distinct for future comparative studies.

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The effects of technology on English language in digital age

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Abstract

In the era of globalization, technology has impacted every aspect of human existence. As we all know technology has been an integral part of education and especially of foreign language learning. It plays a decisive role in human development, facilitating both social and linguistic change. There is a rapid increasing interest in the need to use technology in language learning at all ages, but especially at early age, because it is considered as one of the ways to create real and enjoyable atmosphere for young language learners when it is used correctly and effectively. Many researches claim that language learners can improve their language and cultural awareness by using technology in different social and cultural contexts and language awareness can be faster through intercultural communication. Though there are some who argue that the impact of technology has 'dumbed down' the language, there are others who would claim that a language that does not evolve is a dying language. Therefore, technology has a big role in changing the way people communicate. Specifically, the way people speak today is almost the same way they spoke before the internet became what it is, however, with an enriched vocabulary. However, what is largely different is the way people write today. Thus, this paper aims to highlight those changes occurred in the written English focusing on the background of the evolving field of technology in English language teaching, presents the growth of English through technology, the various necessities of technology in teaching English, and lastly, gives introduction of some aspects of English language affected by usage of technology.

Keywords: technology, vocabulary, communicate, changes, language learning.

Introduction

We are all aware that technology has been an integral part of education and especially foreign language learning. It can be said that technology and English language education are related to each other (Singhal, 1997), and it has become a very significant component in the process of globalization and the widespread of the English language. Graddol (1997) emphasizes that "*technology lies at the heart of the globalization process*; affecting education, work and culture". Thus, the impact of technology has become phenomenal in the context of teaching and learning the English language, apart from the role of the teacher. Therefore, it can be implied that the role of the teacher amalgamated with the role of technology can lead to advanced learning results (Sharma, 2009).

Students learning English as a second or foreign language need specialized language support. They need to practice in hearing language, reading language, speaking language, and writing language in order to develop their experience and skills (Ybarra & Green, 2003). In other words, students need to perform various linguistic activities and tasks in each of the four language skills to enhance their linguistic competence. In order to perform such linguistic activities and tasks, they must be able to efficiently

use various technological tools which can help them acquire linguistic competence easily and effectively.

Therefore, social media or electronic communication technology has revolutionized the process of composing English writing and speech. Communication technology reflects a several number of electronic communication forms. Such forms are normally associated with the internet nowadays access through both computers and mobile phones. They include e-mail, chat rooms, forums, instant messaging devices, social networking sites, gaming networks.

The influence of technology and internet on modern English language is clearly seen and touched in various ways and means. First, it adds lots of "*jargon vocabulary*". Second, it provides meaning to existing words and terms, such as the meaning of *'mouse'* and *'keyboard'* and so on. Moreover, it produces words on unifying the utterance of people all over the world as they meet each other via social media although they are from remote places. In addition, technology can lead to special linguistic "memes" faster and much further than ever before. It is argued that technological change, to some extent, tends to provoke linguistic and cultural change. That's why dictionaries are permanently ready to add new and typically very trendy words. In this respect, Dewey (2015) and Al-Kadi (2017) believe that old words that have gotten new meanings are more interesting than new words. For instance, the words "cloud", "tablet" and "catfish" are interesting examples of old words with new meanings. Cameron (2009, p.155) thinks that young learners should be encouraged to choose interesting subjects and topics from the internet. Clements and Sarama (2003) state that correct technological materials can be beneficial for students. Harmer also (2007) claims that computer-based language activities improve cooperative learning. In today's world computers are good friends of children. They can motivate them and bring natural atmosphere into their world. Tomlison (2009) informs that computer-based activities provide language learners rapid information and excellent materials. He also explains that multimedia and all sorts of internet materials encourage learners to learn more.

Therefore, if we refer to the research studies, it can be said that in foreign language area technological development for young learners is very important and effective in learning a new language. The question is raised that how technology affects learning a foreign language. Technology, internet and some computer games could promote language learning positively if they are used correctly. Gee (1996) mentions socio-cognitive approach gives language learners chances to interact in an authentic social context. Internet can provide socio-cognitive approach through authentic tasks and project based studies. Online games can support and improve various vocabulary fields and also give valuable language feedback **(Pensky, 2002**). Scott and Ytreberg (1990) explain the child development and say that young learners like playing with language such as using games, rhymes, songs and stories and Internet is one of the good places to use language interactively.

It is very crucial that teachers use technology effectively in order to increase their students' language awareness, they should organize the activities according to children's age, language level, interests and needs.

2. Literature Review

This section presents some of the studies that are related to the effects of technology on learning English as a foreign language. Thus, the paper is focused on the following sections: language learning in the digital age, the effect of technology in learning English as a second language, and aspects of the language being affected by the usage of the technology.

2.1 Language Learning in the Digital Age

Technology is an important part of language learning throughout the world at all different levels. Technology has been used to both help and improve language learning. It enables teachers to adapt classroom activities, thus enhancing the language learning process. Mostly, we find its usage in the primary sector as much as in adult education. Society is gradually becoming more connected due to advancements in technology. Nowadays, language learners use their computers or phones to access the learning lessons from wherever they are outside of the classroom. Continuous advancements in technology enable students to learn the English language without taking a formal English class. This means that learners can learn the language without necessarily attending classes because they can teach themselves. According to Bull and Ma (2001), technology provides unlimited resources to language learners. Harmer (2007) and Genç lter (2015) emphasized that teachers should encourage learners to find appropriate activities through using computer technology in order to be successful in language learning. Clements and Sarama (2003) declare that the use of suitable technological materials can be useful for learners. According to Harmer (2007), using computer-based language activities improve cooperative learning in learners. Furthermore, Tomlison (2009) and Genç lter (2015) say that computer-based activities provide learners rapid information and appropriate materials. They continue that internet materials motivate learners to learn more.

In addition, Larsen-Freeman and Anderson (2011) supported the view that technology provides teaching resources and brings learning experience to the learners' world. Through using technology, many authentic materials can be provided to learners and they can be motivated in learning language. One of the areas that technology supports very effectively is project work. Learners are always encouraged to learn about things through language. Getting learners to do work about topics that are of interest to them, or topics that are taught in other parts of the curriculum (sometimes called Content and Language Integrated Learning or CLIL) is a great way to improve their skills. Technology makes this possible wherever you are in the world. Teachers and learners can go online to read or listen to material about different areas of interest, and can then write or speak about what they have discovered, telling others in the class or other classes elsewhere in the world.

2.2 How does technology effect on English as a second language?

The rapid development of science and technology has brought provided numerous technological tools to facilitate English language teaching. Among these tools are online English language learning websites, electronic dictionaries, computer assisted language learning programs, presentation softwares, Listening CD players, numerous YouTube and other video clips, virtual conferences, etc., mobile assisted language

learning (MALL) and so on. Multimedia technology and its application to English language teaching have provided another powerful and effective tool, especially in the context of TESOL.

The traditional methods of English language teaching may sometimes be dull and boring, especially in an EFL or ESL context. Thus, technology such as multimedia features audio, visual and animation effects, and can thereby captivate the imagination and attention of the learners instantly. With abundant information and the ability to transcend time and space, multimedia technology offers a sense of plausibility and uniqueness. This creates an engaging atmosphere in the classroom, which thereby helps in the process of creating and sustaining interest and motivation among the students. Technology is an effective tool for learners. Learners must use technology as a significant part of their learning process. Teachers should model the use of technology to support the curriculum so that learners can increase the true use of technology in learning their language skills (Costley, 2014; Murphy, DePasquale, & McNamara, 2003). Learners' cooperation can be increased through technology.

The application of technology has considerably changed English teaching methods. It provides so many alternatives as making teaching interesting and more productive in terms of advancement (Patel, 2013). In traditional classrooms, teachers stand in front of learners and give lecture, explanation, and instruction through using blackboard or whiteboard. These methods must be changed concerning the development of technology.

Other researchers, such as David Crystal (2001, 2005, 2011) believe that technology has established a linguistic revolution. To Crystal and other linguists like Herring (2011), these changes in English form and usage have introduced a new form of linguistics called *Internet Linguistics*. Thus, the internet language has some features connected to speech and writing, e.g., phonetic and phonological ones. In addition, it is seen a fully formed language style, with its own vocabulary, abbreviations, spelling and punctuation, grammar, slang and all other features that define a real language style. As Crystal (2001) states, the internet users have the ability to communicate faster and send short text messages to each other. All the abbreviations, acronyms included in the internet language make up most of Netspeak's vocabulary along with lists of coined words and phrases.

Whereas, Jacqui Murray (2015) gives the following reasons for using technology in English language teaching:

1) Technology allows students to demonstrate independence.
2) Technology differentiates the needs of students.
3) Technology deepens learning by using resources that students are interested in.
4) Students actively want to use technology.
5) Technology gives students an equal voice.
6)Technology enables students to build strong content knowledge wherever they find it.

2.3 Aspects of English language affected by usage of technology

2.3.1 Some features of the internet language

The internet language has some features connected to speech and writing, e.g., phonetic and phonological ones. In addition, it is seen a fully formed language style, with its own vocabulary, abbreviations, spelling and punctuation, grammar, slang and all other features that define a real language style. As Crystal (2001) states, the

internet users have the ability to communicate faster and send short text messages to each other. All the abbreviations, acronyms included in the internet language make up most of Netspeak's vocabulary along with lists of coined words and phrases.
It is natural that all live languages change over time, the internet has offered a new medium for these changes to happen. As the internet has become a public device and a means of communication available everywhere, English spelling, vocabularies, pronunciation, and grammar have changed as well.

3.1. New vocabulary and abbreviations

One of the most obvious and prominent features is the lexicon that belongs exclusively to the internet. This lexicon does not contain the terminology related to computer science and other relevant subjects.
A great number of new words other than technical terms like *cable, disk, bit binary*, have emerged to reflect particular situations, operations, activities and so on. A popular way of creating internet terminology is to combine two separate words to form a new word, e.g., *mousepad, one-click, double-click*
a. Internet acronyms and text messaging
SMS language or internet acronyms are the abbreviated language and slang words commonly used with mobile phone text messaging, email and instant messaging (online chat application, such as Messenger from Facebook, Instagram, Twitter). In the analysis of text messaging, it was found that these messages don't use formal English and have many abbreviations. Texts are supposed to be instant, so the use of abbreviations is considered easier and faster than full forms. Therefore, the various types of abbreviations found in chat-groups, text messages, and blogs have been one of the most distinguished features. Acronyms are so common that they normally stand for new full forms of words, e.g., acronyms like *BBS (bulletin board system), CID (consider it done), CIO (check it out) and FAQ (frequently asked questions), BBF (Best friends for ever), CUS (see you soon), DIY(Do it yourself),EOD (end of discussion), CXT(see you tomorrow), F2F(face to face), C&P(copy and paste)* are frequent abbreviations found in the daily usage of the language of the internet.
b) Spelling and punctuation
Distinctive graphology is also a remarkable characteristic of Netspeak or the internet language. For example, the status of capitalization is used distinctively and varies greatly. Most of the instances found in the use of capitals in the Netspeak are not case-sensitive which tend to follow a random use of capital letters or no capitals at all. Sentences including letters beginning with small letters in different position are usually acceptable.
For example:
-Jack are you travelling to paris next month
In the above sentence, the message wholly in capitals is considered to be
"shouting" and always avoided. On the contrary, words with full capitals add some extra emphasis to be recognized.
-She is VERY beautiful.
-This is a VERY important point.
Spelling is also distinctive in the electronic English language. New spelling conventions have been used and emerged, such as the case of replacing plural –s by –z in particular words like *downloadz, serialz, gamez, filez*.

These spelling errors are frequently used in the electronic writing. But they are not an indication of lack education. Instead, they are purely typical examples of email language.

c) Grammar

As it has been explained earlier the most general features of the internet language distinctiveness are mainly found in graphology and lexicon- the levels of language where it can easily produce innovation and deviation. In related words, grammatical variation or distinction is less frequent. Few instances have been counted in the usage of Netspeak. Particular cases which express verb reduplication take place in some chat-groups but these are not frequent or universal. For instance, a verb is used twice in immediate succession to refer to a group of functions, such as the expression of pain, happiness, pleasure and so on.

-I *deleted your message, Lose, lose [I'm stupid]*

-How about that! Win, win [the program has performed successfully]

Conclusions

To conclude, technology has been an integral part of education and especially foreign language learning. It can be said that technology and English language education are related to each other and it has become a very significant component in the process of globalization and the widespread of the English language. Thus, nowadays there is a strong connection between technology and language learning and its impact can be easily seen in many aspects of the language. Therefore, this study aims to shed light on the updated and latest changes that have taken place in the English language regarding the lexicon, abbreviations, new spelling and any other grammatical deviation. The analysis of the data collected in this study showed that the users of the internet and the other technological media were interested in using vocabulary variation represented in the use of acronyms and abbreviations in their text messages, emails, chat-groups, and blogs. In addition, spelling variation which is seen as spelling errors was also found. It is expected that new vocabulary, new acronyms, spelling errors and punctuation may appear and be used frequently in the future. To be specific, these new forms work in updating the English language, but they at the same time should not change the essence of language.

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The impact of the pandemic on the accommodation sector and the strategies used by them - Case study

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Abstract

The aim of this study is to examine the effects of the covid 19 pandemic in tourism sector of Albania. This study has tried to highlight some of the influences caused by this phenomenon as well as the economic consequences, and the strategic changes used by accommodation structures. This study focused in findings and theoretical analysis brought by researchers and academics, which have brought their approaches for the consequence that this pandemic has caused to several countries of the word. Additionally, this study includes empiric analysis. This study is conducted in the small city in south of Albania, Saranda. A sample of 105 is taken a from hotel structures in this region and it was found that 60% of the hotels have used the retrenchment strategy and consequently they have reduced their staff as well as other operational expenses. Another strategy that was used was the cost focus strategy, and the respondents have claimed that they have tried to reduce the costs and operating with lower prices. 105 of the respondents structures have been negatively affected by the pandemic and 50% claimed that the reduce was bigger than 50%.

Keywords: Albania, business strategy, hotel structures, negative impact, pandemic.

Introduction

The Covid -19 virus epidemic, is the world's largest pandemic for over the last hundred years, that has spread its effect worldwide. This pandemic has caused adevastating impact on humanity all over the world, including the disastrous effects on the economy of many nations. One of the most affected sectors,due to its specific characteristics was that of tourism.

These negative effects were caused as a result of the numerous measures that most governments took, in order to prevent and limit the virus, such as: drastic mobility restrictions which were originally decreed by the governments of various other countries, which disabled a crucial part of the product and service activities, as well as travel restrictions and means of transport among territories and states, almost worldwide.

Another factor that impacted negatively is the business/activity restrictions, which resulted in the reduction of the disposable income of many families, which will affect the extent of tourism spending that is believed (Alonso-Almeida & Rodriguez-Anton, 2020) to have an impact for over a short-term and medium-term period.

Prophylactic measures based on social distance, isolation, as well as strong restrictions and interruption of international transport in most parts of the world, have caused an economic crisis with incalculable effects in most countries of the world.

Among the most impacted economic sectors, the tourism sector, by its own characteristics, was the most impacted sector by the considerable effects of these constrains, and is predicted to be the last to return to normal.
When crisis situations occur, such as natural disasters or when there are situations likewise COVID-19,travel companies are forced to change their operating strategies. These events generate high levels of uncertainty and usually require quick responses in order to be able to cope with the negative impact (Ritchie & Jiang, 2019). Numerous studies have found that crisis situations have a major impact on the tourism industry. The immediate destination impacts observed are; a large decrease in tourists, as well as the level of occupancy rate, a decrease on the average daily rate and a decrease of the income available per room.
In the short term, other impacts, such as job cuts, changes in operations and downsizing of services, threaten the recovery of the tourism industry. While in the medium and long term, events such as difficulties in collecting loans, postponing investment plans or difficulties in repaying debts can accelerate the return to normal activity.
Researchers have recommended a number of key strategies in response to various economic or natural crises such as: cost reduction, stimulating and reopening local markets, lowering prices, preparing contingency plans (scenarios) and human resource policies.

1.1 The impact of global pandemic caused by Covid 19 in the tourist sector of Albania

Governments around the world have taken various measures to help businesses due to the difficulties caused by the pandemic. (Alonso-Almeida & Rodriguez-Anton, 2020) have brought in their study the specific case of Spain, which mentions the measures that this country has taken to help businesses face the problems caused by the pandemic. According to this study, the competent authorities adopted safeguards, given the significant decline in the entry of international tourists in Spain. One of the possible short- and medium-term solutions was trying to take advantage of domestic tourism, while restrictions on international movement were still being applied. Taking into consideration the current situation, the Spanish authorities focused on an effort to support domestic tourism, like many other countries that depended on international tourism, , while public-private cooperation was fundamendal in supporting these measures.
According to (Papanikos, 2020) the impact of the pandemic in 2020 is different. Its effect cannot be measured as the displacement of demand and / or supply curves because these curves simply do not exist. For example, due to coronavirus, there is neither supply nor demand for tourism services. When the coronavirus closes a hotel, the service of this hotel no longer exists. When a country stops its citizens from travelling abroad, it is not a blow to the demand curve (the demand curve does not shift to the left) but demand falls, i.e., it no longer exists. There is a potential requirement, but this cannot be realized in a situation of uncertainty and the risk that a pandemic creates. Thus, there is no economic policy that can solve this problem when necessary the market is forced to close its operation both on the supply side and on the demand side. (Kumudumali, 2020) The global tourism sector accounts for more than 10% of global GDP and 30% of world export services (World Bank, 2017).
Tourism is one of the main sectors affecting the economy as many governments impose

travel restrictions, travel bans, airport closures and mass passenger cancellations. Thus, the tourism industry cost a loss of over US $ 820 billion in revenue globally due to the COVID-19 Pandemic (Ozili & Arun, 2020). In addition, the hospitality industry has been largely affected due to the lockdown policies and social distancing imposed by most governments and by booking cancellations, which can almost cost around $ 150 billion worldwide.

Hotels around the world face booking cancellations due to the pandemic situation. Thus, the hotel industry lost US $ 150 billion, mainly affecting the employees of this industry. The impact of the COVID-19 explosion on the tourism industry can be assessed including booking cancellations as well as the status of hotel industry employees. Globally, there was a massive decline in the hotel industry in global per capita income, e.g., Asia (-67.8%) and Europe (-61.7%). Also according to (UNWTO, 2020), invasions decreased significantly, starting from March 2020 from 20% to over 70%, worldwide.

UNWTO data (UNWTO, 2020) further illustrated that 850 million to 1.1 billion less international tourism demand with an export loss of tourism revenue of $ 910 billion to $ 1.2 trillion in 2020 due to the coronavirus. It was also predicted that 100 to 120 million direct tourism jobs would be jeopardized as a result of the pandemic.

In May 2020, the UN World Tourism Organization published estimates of how large the impact of the coronavirus on international tourism demand could be. In this report, three scenarios were drafted, with the positive one assuming that travel restrictions would be lifted in July. Even under this scenario, which turned out to be very optimistic with international travel still limited, UNWTO expected international tourism demand to fall by 58%, compared to 2019.

1.2 Research methodology

Both types of research were used in this study, the primary and the secondary one. Secondary research data are provided by various institutions such as the Institute of Statistics of Albania. Regarding the primary data, was used the questionnaire method, in which the hotel structures provided information about the economic impact that their structure had from the pandemic. As well as the strategies used by these structures during 2020. The sample taken in the study consisted of 105 hotels of different sizes and classifications.

1.2.1 Corona virus and tourism in Albania

As one of the countries whereone of the main pillars of economic development is the tourism sector, the Albanian economy was significantly affected by the pandemic caused by the coronavirus. The borders closureby the European Union countries, due to the spread of this virus would lead to the cancellation of 100% of hotel reservations for the spring months and up to 89% during the summer. This phenomen also brought a change in the demand of tourists, from international demand to domestic, national demand.

Theprovided data by INSTAT showed that Covid-19 has reduced the number of tourist demand and same for the structures and operators that serve in this sector.

The following table illustrates the entries of individuals at border crossings, where there is a fairly significant decrease in entry after March. Albania had a deeper economic downturn than the economies of neighboring countries.

Table 1: Number of international tourist during 2019-2020

	January	Febary	March	Aprile	May	June	July
2019	574048	530.691	712.983	874.156	829.164	1.080.464	1.724.374
2020	693.956	616.496	272.514	25.257	46.488	364.574	663.980

Source:INSTAT,2021

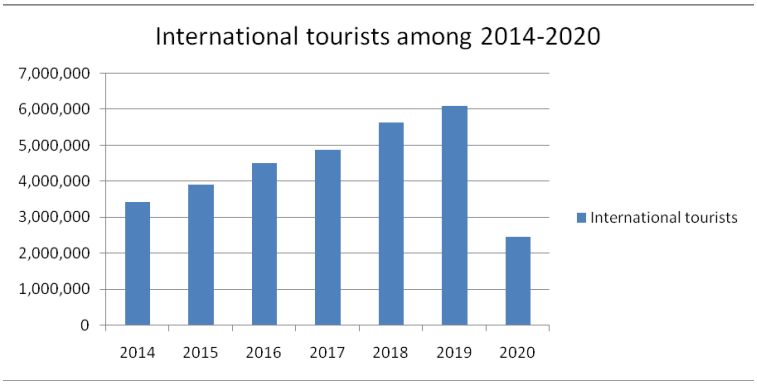

Table 1: Number of international tourist during 2014-2020
Source: INSTAT, 2021

Case Study

This study conducted in Saranda, a coastal city in southern Albania. The economy of this region is directly related to the tourism industry. The study included a sample of 105 hotel structures of different sizes and classifications.

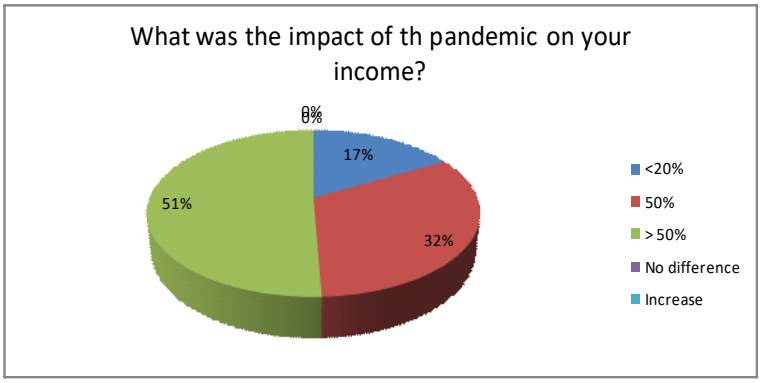

Table 3 Impact of the Pandemic on the hotel revenues

From the answers of this study, it was noticed that tothe question "whether the global pandemic caused by covid 19 has affected", the surveyed businesses answered unanimously to the extent that they are 100% affected by it. The tourism industry is one of the industries most affected by this situation, by its very nature and complexity 42% of them stated that the impact was very negative in their structures, while the rest was negative. About the extent affected on these structures, they responded, 51%

of them claimed that there was a decline in their income by more than 50% during 2020. 32% claimed that the decline was up to 50% and 17% of them indicated that they had experienced a decline of up to 20%.

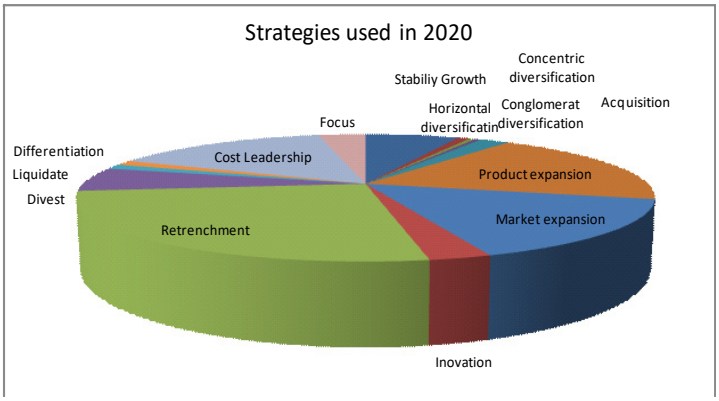

Table 4Strategies used during 2020

The 2020, was very difficult not only for hotel structures but for most of the business world. During this year, the hotel structures have responded that the most used strategy by 60% of them was re-registration, where they claimed that they have reduced costs and cut parts of their staff. This strategy will be followed by the strategy of market development, product development and cost leadership, respectively at the rate of 36%, 45% and 36%.

The 2020, changes the demand and the tourist movement to Saranda, due to the closure of the borders by the Greek state, a part of the Balkan countries chose to visit our country. This brought the need for changes in the products and services offered by these structures to adapt to the new tourist demand. Some of them also preferred to use the price reduction as a strategy to attract as many vacationers as possible to their premises.

These strategies were followed by the stripping strategy, which was stated to be applied by 15% of the surveyed structures. They claimed that they had closed part of the activities and facilities of the hotel structures, part of their products.

Conclusions

The 2020 was a difficult year for the whole world, and a part of it still faces the catastrophic consequences of this pandemic. The business world is in the throes of collapse, with many governments pursuing policies based on their capabilities. One of the industries most affected by this pandemic is that of tourism, due to the nature of this industry.

From the data provided by the Institute of Statistics in Albania, the number of tourists in this country fell by 60%, compared to the previous year.

According to the study conducted in Saranda, hotel structures accepted 100% that the global pandemic had an impact on their business. 42% of them stated that the impact was very negative and 51% of them stated that its impact had reduced their income

by over 50%.

The most used strategies by these businesses during 2020 were the retrenchment strategy, where 60% of businesses claimed that they had reduced the operating costs and the number of their staff. Followed by the market development and product development strategy, in which respondents claimed that tourists came from new markets and had to modify their products and services to suit this tourism demand. Another strategy used to the extent of 45% was the cost leadership strategy, where the structures tried to reduce their costs by choosing to operate at lower prices than their competitors.

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Needs and motivational decisions in an uncertain time. A study in the fason sector in Elbasan, Albania during the Covid-19 period

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Abstract

Covid-19 has changed everything. Within the day, entrepreneurs and managers had to find solutions for the fate of their business and employees. Anyone providing services moved more easily from work in business premises to work at home. Manufacturing companies had and still have more difficulties. Under these conditions, managers faced the immediate need to make a range of decisions. Were those the best decisions possible? Does this new environment resemble the previous one? Despite efforts to escape or coexist with the pandemic, private enterprise seeks to increase performance as a condition for survival in the present and the future. Managers cannot achieve it without increasing the performance of employees. At this point, we can raise several other questions; how do employees feel at work and abroad? What are already their primary needs? Do the same motivational actions work? These are questions that we will try to answer through this paper. We have interviewed different employees and managers in the fason sector in Elbasan city. Every employee has different needs and levels of motivation. Our study found that the low employee needs nowadays are physiological and other health and hygiene suppliers, safety needs, and communication and belonging needs. Successful leaders might consider the challenges people are encountering in balancing their work lives with their personal lives. Employees need support for mind, body, and purpose. A healthier environment, adapted schedules, effective communication, empathy, and online training and meeting will likely characterize successful efforts. Demonstrating empathy and flexibility, prioritizing workers' mental health, and creating psychological safety can have a meaningful impact on employee experience and their future.

Keywords: needs, motivation, employee, covid-19.

Introduction

Today everyone is discussing the impact that the COVID-19 pandemic has on our lives, society, private enterprise and the economy as a whole. Hard to find aspects of life that escaped its clutches. Everything changed within a day. In conditions of constant fear and lack of trust, the return and comfort of employees in the workplace is already a difficult challenge. Individuals have different needs, and just as diverse are the priorities that everyone gives to their list of demands. And in times of pandemic, no one leaves out of focus their needs and preferences. Whether working at home or abroad, people with health problems focus entirely on health, those with financial needs focus on meeting them, and so each of us has his or her own needs; these needs are now even more dynamic. The task of supervisory managers is to increase the attention in identifying these needs and their dynamics. The need for employees

to work in environments where anti-Covid rules apply is already an obligation of business organizations.

According to the world health organization (WHO), COVID-19 spreads primarily through respiratory droplets or contact with contaminated surfaces. World Health Organization states that exposure occurs at the workplace, travelling to work, work-related travel, and local community transmission.

All this forces managers to start thinking differently to change their routine, communication, planning, managerial practices, and all this under COVID-19. Compared to other administrative functions, motivation seems to have a special place in the primary source of businesses, the human one, and further in the survival and success of the company in the current environment.

Literature review

Sneaser and Sternfels, in their paper, consider the scale of change that the coronavirus has engendered and feel compelled to reflect not just on a health crisis of immense proportion but also on an imminent restructuring of the global economic order. (Sneader, K., B.Sterfels, 2020) The authors suggest five stages offering leaders a clear path to begin navigating to the next normal —a normal that looks unlike any in the years preceding the coronavirus, the pandemic that changed everything.

1. Resolve

In almost all countries, crisis-response efforts are in full motion. Business continuity and employee safety plans have been escalated, with remote work established as the default operating mode. Many are dealing with sharp slowdowns in their operations, while some seek to accelerate to meet demand in critical areas spanning food, household supplies, and paper goods. Leaders focus more on this stage. For the authors, resolve means determining the scale, pace and depth of action required at the state and business levels.

2. Resilience

The pandemic has metastasized into a burgeoning crisis for the economy and financial system. As a result, public -, private-, and social-sector leaders will need to make difficult "through cycle" decisions that balance economic and social sustainability, given that social cohesion is already under severe pressure from populism and other challenges that existed pre-coronavirus.

3. Return

After a severe shutdown, returning businesses to operational health is highly challenging. Most industries will need to reactivate their entire supply chain, even as the differential scale and timing of the impact of coronavirus mean that global supply chains face disruption in multiple geographies. Therefore, leaders must reassess their entire business system and plan for contingent actions to return their business to effective production at pace and scale.

4. Reimagination

A shock of this scale will create a discontinuous shift in the preferences and expectations of individuals as citizens, as employees, and as consumers. These shifts and their impact on how we live, how we work, and how we use technology will be more apparent over the coming weeks and months. Some effects could prove significant as the pursuit of efficiency gives way to the requirement of resilience— the end of supply-chain globalization, for example, if production and sourcing move closer to the end-user.

5. Reform

Governments are likely to feel encouraged and supported by their citizens to take a more active role in shaping economic activity. Business leaders need to anticipate popularly supported changes to policies and regulations as society seeks to avoid, mitigate, and preempt a future health crisis of the kind we are experiencing today. The aftermath of the pandemic will also provide an opportunity to learn from a plethora of social innovations and experiments. With this will come an understanding of which innovations, if adopted permanently, might provide substantial uplift to economic and social welfare—and which would ultimately inhibit the broader betterment of society, even if helpful in halting or limiting the spread of the virus.

The managerial function of motivation in the clutches of COVID-19

Employee's needs

The first and the most famous needs theory is the one developed by Abraham Maslow. Maslow's hierarchy of needs proposes that humans are motivated by multiple conditions, and those needs exist in a hierarchical order (Llaci, 2017).

Stefanie Ertel, in her paper, analyzed the changes to employee's needs during COVID-19. Table 1 shows the results of her study. Food, toilet paper, payment delays, or forgiveness become survival needs, and unless a business can guarantee these basic needs, the company must not assume that their employees will stay. Many companies have had to lay off or significantly decrease hours for many, if not all, of their workers. If a company can avoid this through creative means, they will meet this basic need and provide their employees and their longevity company.

Some small businesses have maintained a sense of connection with their regular customers; many have used their social media outlets to aid in this area. Whether a business was active on social media or not previously, those who will continue to grow will use social media platforms to keep connected to their employees and customers.

The need for esteem relates to the desires for a positive self-image and attention, recognition, and appreciation from others.

Self-actualization is the category for the highest need where the individual is motivated by self-fulfilment-becoming a better person through opportunities and being creative, empowered, or challenged. The author emphasizes that many will not be focused on self-actualization since they may focus more on stability within their job and safety at both their jobs and their homes. With financial and racial issues at a high in many areas, this is likely less of a concern. However, it should not be less of a problem for businesses. With this unrest is an opportunity to empower and challenge oneself and one's employees to come up with creative solutions to meet the needs of the times.

Hierarchy of needs	Basic	Post–COVID-19
Physiological	Food, water, and shelter	Food, toilet paper, payment delays, or forgiveness
Safety	Personal security, employment, and health	Employment (can I do this from home), health and appearance of health, and a safe environment no matter one's ethnicity

Love and belonging	Friendship and sense of connection	Connection near or far, physical or virtual, and acceptance
Esteem	Respect, status, and freedom	Enough rate that will not waver with shifting environment and space for yourself and those who work for you
Self-actualization	Desire to become the most that one can be and being creative, empowered, and challenged	Self-development, no matter the location or the environment with pure intentions from the leader

Table 1: Employee's needs during COVID-19

Carine Risley says that; our focus on developing staff - our trust in our team and their ability to adjust and improve - will continue to benefit us, not because the job market is difficult, but because hiring anyone new will be unlikely for some time to come (Risley, 2020)

Chenyu Shan and Dragon Yongjun find out that Chinese companies with high employee satisfaction outperform firms with low employee satisfaction by around 0.5 percentage points, or 6.5% relative to the mean drop in raw returns on the first trading day after the coronavirus outbreak, after controlling for pricing factor loadings and firm characteristics. Their findings show the importance of employee morale during a crisis period, and that firms can do well by doing good (Chenyu Shan and Dragon Yongjun Tang, 2020).

Kaushik and Guilera, in their paper, state that the challenge for human resources is to continue to develop employees who are innovative, proactive, committed and dedicated to their employer while remaining positive and productive in this challenging situation for success in the current circumstances (Dr Meenakshi Kaushik, Neha Guleria, 2020).

Remuneration and motivation are closely related to employee welfare. It also is a reward for services provided by the company to employees as a form of retribution in the form of money for labour, thoughts that have been donated salaries, incentives, benefits, bonuses and commissions, services provided by the company in order achievement of company goals. Thus, remuneration and work motivation simultaneously influence employee performance, and remuneration has the most dominant influence on the performance of banking employees during the Covid-19 pandemic (Murpin Josua Sembiring, Didin Fatihudin, Mochamad Mochklas, Iis Holisin, 2020).

Motivating employees

How organizations and employees respond to the COVID-19 global pandemic will be a defining moment for all of us. Many organizations are experiencing sudden economic fallout as social distancing mandates take effect. Others with a direct role in fighting COVID-19 have found that they need to stretch themselves in new ways to meet unprecedented demands.

In a crisis, people's minds turn first to their survival and basic needs. Will he/she or any of his/her familiars be sickened? What will happens if yes? The manager has to take care of the answers. A crisis is when managers must uphold a vital aspect of their role: making a positive change in people's lives. Doing this requires managers to acknowledge the personal and professional challenges that employees and their family experienced during a crisis.

Every crisis affects people differently; leaders should pay careful attention to how

people are struggling and take corresponding measures to support them. Managers must demonstrate empathy, open themselves to compassion from others, and remain attentive to their wellbeing. As stress, fatigue, and uncertainty build up during a crisis, they might find that their ability to process information, remain levelheaded, and exercise good judgment diminishes. Investing time in their wellbeing will enable managers to sustain their effectiveness over the weeks and months that a crisis can entail.

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Rani, Curtis and Reggy, concluded that during COVID-19 time, HR managers who had used monetary levers to motivate their staff now have to use non-monetary levers, such as appreciation and career growth. They mentioned time management as a source of self-motivation to increase productivity during work from home and reinforce leadership skills to set an example and knowledge sharing as a motivating factor for others in increasing productivity (Rani B Seema, Prettysha Curtis, Jayashankar Reddy, 2020).

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The University of Pittsburg has designed a guide to support supervisors in helping to keep employees engaged and productive while working remotely during the COVID-19 pandemic. (www.emergency.pitt.edu/covid-19) Their recommendations are:

- Think ahead - This can be a moment for strategic and long-term planning.
- Think back – The manager can use "Quiet" times to gather and examine data on previous initiatives.
- Think deep - Make a plan to dive into the systems. It might include; organizing,

cleaning up databases, catching up on data entry and other backlogs, etc.

- Think across - Brainstorm ways that the work can impact others. For example, brainstorming ways the team can help others in the community through volunteer efforts also maintain everyone's safety—keeping in touch with other managers to compare notes on what's working.
- Think growth - Downtimes are ideal for developing ourselves and teams. Encouraging employees to engage in professional development topics through free resources like LinkedIn Learning (accessible through the Pitt Portal), webinars, books, digitally available articles and other publications, podcasts, TED Talks, Massive Open Online Courses (MOOCs), etc. Building discussions around professional development materials with the team.
- Think wellbeing - We all must sustain our physical and mental health. For example, the manager sharing ways with his team has discovered to stay focused in a non-office setting.
- QtiGroup, in their report, asks: In this time of uncertainty, what can organizations do to ensure they are attracting, retaining, and motivating the employees they need to not only survive – but to thrive during recovery? (qtigroup, 2020) As an answer to this question, they propose different strategies to boots, retention and motivation during COVID-19.
- Speed up hiring process
- Use creative job titles
- Offer sign-on bonuses
- Utilize third-party recruiters/staffing agencies
- Temporarily increase
- Base pay for high demand service roles
- Connect with businesses that have laid off/furloughed employees
- Offer flexible work hours
- Remotely for jobs that typically can't do so
- Re-allocate employees and/or responsibilities to balance workload
- Temporarily waive or relax attendance policies
- Develop paid time off donation policy
- Offer an opportunity for negative balances in sick
- Temporarily offer premium pay/bonus for extended working hours or hazardous conditions
- Provide small denomination
- Spot bonuses for extraordinary work
- Re-train or cross-train employees
- Recognize employees
- Engage team in improving business operation

Methodology

This paper aims to understand and conceptualize the impact of Pandemic Covid-19 on low-level employee needs and motivation issues. The aim is to suggest a framework in employee motivation practices during Covid -19. The research is primary and secondary data based. For the study, the researcher compiled 62 responses from employees of eight different companies. The researcher has also conducted interviews

with high and middle-level managers from eight other businesses in the fason sector in the Elbasan area. Literature reviews in this field served as the study secondary data.

Analyzes and results

This pandemic period has shaken people's basic needs. In our study, from the interviews, we found out that the low employee needs nowadays are physiological and other health and hygiene suppliers, safety needs, and communication and belonging needs. If the employer is not meeting one's basic needs or if these needs are unstable, it isn't easy to stay at a particular place of business. Employees challenges include lack of access to food and other supplies.

They are worried about personal or family health concerns and job or financial security. Non-stop news updates and ever-changing requirements from the government have created a lot of anxiety. Businesses cannot move forward without health safety. Another factor to consider is health safety and its appearance for both the employees and the customers. An impression of lack of security within health standards can impact business operations.

Now it is more challenging to connect with co-workers and customers. Employees must feel part of a group, of the family, loved and accepted among their peers and supervisors for love and belongingness to be evident. Previous experience with online platforms is not essential; businesses that will continue to grow will use social media platforms to keep connected to their employees and customers.

Every employee has different needs and levels of motivation. Today's environment does not make meeting those needs as straight forward as one may think. It is vital to have a great and inspiring leader who puts the people before the company (D`Auria, G., and A. De Smet, 2020). SERVE leadership model, for example, focuses on people, connection, and empowerment. Servant leaders are a revolutionary bunch—they take the traditional power leadership model and turn it completely upside down. This new hierarchy puts the people—or employees, in a business context—at the top and the leader at the bottom, charged with serving the employees above them. And that's just the way servant leaders like it (Turner, 2015).

Uncertain company performance going forward is a vital challenge for managers. Therefore, leaders must guard the most critical asset—employees—both physically and mentally. If organizations want employees to do and deliver more, then employees must feel valued as people. This part of the paper will focus on the motivation tactics and actions applied in the fason business in Elbasan city. In the manufacturing industry, remote working is not an option for employees, and a distance of 2 meters is not always possible. In graph 1, we have summarized employee needs and motivation actions.

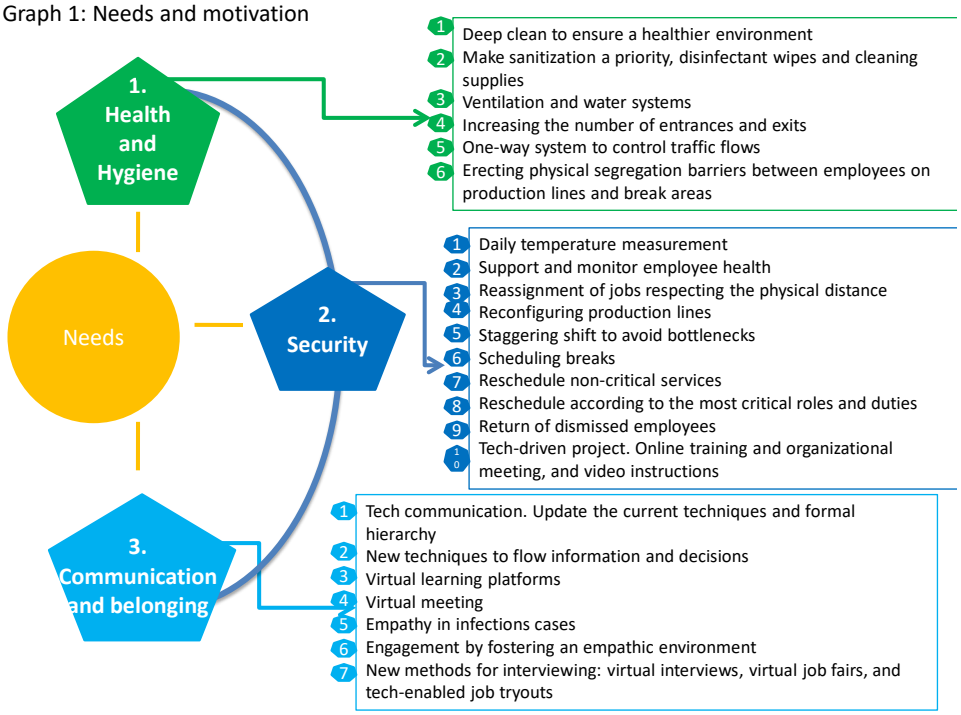
We will list some of the most used measurement and actions used to enhance health and hygiene at work:

Fulfil physiological and other health and hygiene suppliers

- Deep clean to ensure a healthier environment
- Make sanitization a priority with access to disinfectant wipes and cleaning supplies
- Ventilation and water systems are operating properly

- Increasing the number of entrances and exits
- Introducing a one-way system to control traffic flows around the factory
- Erecting physical segregation barriers between employees on production lines and break areas.

Graph 1: Needs and motivation



Companies should keep repeating the critical hygiene rules, such as proper handwashing, and monitor adherence to those rules where necessary. In addition, managers could add reminders to screensavers or posters to provide valuable reminders, such as in the cafeteria and bathrooms and everywhere where hygiene is crucial.

Fulfil security needs

When enough employees become ill and absent, the business is at risk. Managers cannot sustain normal daily operations. It is just as problematic when managers or key personnel are absent for an extended time—such as the critical supervisor in charge of significant employees or the production manager responsible for the material costs or quality. It's hard to find the right balance between taking the steps necessary to ensure the company's survival and acting socially accountable. To fulfil security needs, leaders take different measures and actions such as:

- Daily temperature measurement
- Support and monitor employee health
- Reassignment of jobs respecting the physical distance
- Reconfiguring production lines, so employees do not work face to face
- Staggering shift to avoid bottlenecks when employees arrive and leave
- Scheduling breaks
- Reschedule non-critical services

- Return of dismissed employees
- Tech-driven project. Online training and organizational meeting, and video instructions
- Reschedule according to the most critical roles and duties

Communication and belonging needs

Communication, especially in crises time, is one of the crucial management tasks. It means having a designated point person on the managerial level sending updates to employees. It is imperative to address the staff individually during this phase. In this way, managers increase reliability and show everybody that they are valued. Even if COVID-19 news is all over the media, employees need the latest information. Sensitive information and decisions should regular updates in emails or virtual meetings. Videoconferencing tools and apps for virtual teaming facilitate remote collaboration too. Managers are creating engagement by fostering an empathic environment. Empathy from leaders reduces stress, while candour builds understanding and feelings of empowerment to act. Things are changing fast, and leaders must connect with employees in real-time as real people. Through other tech tools, leaders are ensuring belongingness. Now employees make more video calls with colleagues providing at the same time engagement and teamwork. The most used tools are Zoom and Google Hangouts.

- Tech communication. Update the current techniques and formal hierarchy.
- New techniques to flow information and decisions
- Build future-ready skills using virtual learning platforms
- Virtual meeting
- Empathy in infections cases
- Engagement by fostering an empathic environment
- Consider new methods for interviewing, such as virtual interviews, virtual job fairs, and tech-enabled job tryouts

Conclusions and recommendations

In the developmental heat of the situation, we need and are likely to see a new breed of effective leader emerge. Although the uncertainties caused by COVID-19 continue to disrupt work environments, business leaders must be mindful of how they can improve employees' mental health and morale. There are several issues that leaders should keep in mind to support employees and help them adjust to the next normal. Flexibility is crucial. Successful leaders might consider the challenges people are encountering in balancing their work lives with their personal lives. It is particularly true for working parents and other caregivers. Second, employees need support for mind, body, and purpose. Leaders can create opportunities for employees to pause and reflect, encourage healthy habits, and develop a sense of community and shared goal.

Organizations need to consider what changes they need to make to maintain employees' motivation. A healthier environment, adapted schedules, effective communication, empathy, and online training and meeting will likely characterize successful efforts. In addition, demonstrating compassion and flexibility, prioritizing workers' mental health, and creating psychological safety can have a meaningful impact on employee experience and the future.

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The progress of the Kosovo-Serbia dialogue and the role of the European Union in this process

Sami Ahmeti

Abstract

The International Court of Justice (ICJ) gave its opinion on the act of declaring Kosovo's Independence, reiterating that this independence is in accordance with International Law. This opinion paved the way for the work of the United Nations General Assembly, which in September 2010 adopted a resolution sponsored by the 27 countries of the European Union and Serbia[1]. This resolution also enabled the start of a dialogue between Kosovo and Serbia, which dialogue was facilitated by the EU from the beginning, ie the EU was considered as a direct mediator or as a party in this dialogue process. Dialogue was seen as the only and proper opportunity for the two now independent states to normalize relations with each other. This adjustment of relations was seen as a factor of peace, stability and security in the region. The dialogue would serve to promote cooperation, to improve the lives of citizens and to advance the common path of the two countries towards the European Union.[2]

Keywords: Progress, Kosovo-Serbia, European Union.

Introduction

A few months after the adoption of the resolution, on March 10, 2011, the Assembly of Kosovo adopted a resolution mandating the Government of Kosovo to start technical talks with Serbia. The government was obliged to report to the Assembly on the progress and development of the dialogue. Within the legal deadlines, the executive was required to submit the basic document for the dialogue. This document would specify the general principles of the Technical Dialogue, the objectives as well as the non-negotiable issues[3].

A year later, in 2012, in addition to technical talks, political talks between Kosovo and Serbia began. The new resolution was adopted on October 18, 2012 and supported the start of political dialogue and again mandated the Government of Kosovo to lead the dialogue process[4].

The Kosovo-Serbia dialogue has been accompanied by numerous tensions as well as frequent interruptions. Tensions have been internal as well as between the two countries. The general elections in both countries in 2014 caused delays in the development of the dialogue. The dialogue was finally suspended in 2018 and has

[1] UnitedNations, GeneralAssembly, "Resolution A / RES / 64/298", 9 September 2010. Available at: http:// www.un.org/en/ga/search / vieë_doc.asp? symbol = A / RES / 64/298.

[2] Assemblyof the RepublicofKosovo, "Resolutionon the dialoguebetween the RepublicofKosovoand the Republicof Serbia", March 10, 2011. Available at, http: //www.kuvendikosoves.org/c ommon/docs/R e zuluta _per_dialogun_midis_R.Kosoves_dhe_R.Serbise_2.pdf.

[3] Assemblyof the RepublicofKosovo, Resolution "On the normalizationofrelationsbetween the RepublicofKosovoand the Republicof Serbia", October 18 2012. Available athttp://www.kuvendikosoves. org/common/docs/Rezolute_Marredhenive_Kosova_Serbia.pdf.

[4] The Assemblyof the RepublicofKosovo, "Resolutionregarding the detentionof the former Prime MinisterofKosovo, Mr. RamushHaradinaj, in France ", March 10, 2017. Available at, http://kuvendikosove s.org/common/docs/2017_03_09_Resoluta_nr_011_per_lirimin_e_ Ramush_ Haradinaj.pdf.

not resumed due to the frequent change of governments in Kosovo[5].

An analysis into Signed agreements

The first phase

So far, 23 agreements have been signed between the two countries, at the technical and political level. The focus of these agreements is the life of the citizen, the goals for the dissolution of the Serbian parallel structures in Kosovo, the extension of the rule of law throughout the country and the consolidation of Kosovo's international subjectivity. However, not all the signed agreements have been implemented. The lack of implementation has come as a result of the unwillingness of the parties, especially Serbia, to respect the spirit of the agreements reached.

What has characterized the dialogue process from the beginning is thought to be a lack of transparency and accountability. The EU has repeatedly stated, especially in the recent strategy of the European Commission, that the road to the EU for both countries is linked to the progress of the dialogue process. Despite these calls, Serbia has consistently hindered the progress of the dialogue by actively engaging to prevent the internal strengthening and consolidation of the Republic of Kosovo in the international arena. Such a commitment she had made clear especially after challenging the International Court of Justice (ICJ) 's view on the legitimacy of Kosovo' s declaration of independence.

As the whole dialogue process has been closed, this has also damaged its credibility. In the absence of information on dialogue, dissatisfaction and opposition within the country have increased over time. Dissatisfaction has also come from the fact that 7 years after the start of the dialogue, the progress made towards improving relations between the two countries is small. The non-implementation of the agreements, apart from the lack of political will, has come as a result of the conflict of the content of these agreements with the constitutional and legal order of the Republic of Kosovo.

From the beginning of the dialogue in March 2011 until the end of 2012, seven agreements have been signed between Kosovo and Serbia: 1. Free movement; 2. Integrated border management; 3. Cadastral registers; 4. Regional representation; 5. Civil registers; 6. Recognition of diplomas and 7. Mutual recognition of customs stamps. In addition to the signing of these agreements, discussions began on issues related to telecommunications and energy. Due to the political nature of a large part of the signed agreements, the door was opened for the start of political dialogue. Relevant Parliamentary Committees would also be part of the political dialogue. During the process of political dialogue a change of terminology was seen as dialogue was considered as a process for resolving problems between two independent and sovereign states. The US also took the position of the facilitator in support of dialogue[6]. The new resolution on the approval of agreements arising from the political dialogue specifies that they must be in the spirit and in accordance with the sovereignty of Kosovo, international subjectivity, territorial integrity and internal legal and

[5] Ibid.

[6] Office of the Prime Ministerof the RepublicofKosovo, MinistryofDialogue, "Program of the Governmentof the RepublicofKosovofor the BrusselsDialogue / period 2014 - 2018 /", 15 January 2015, p. 6. Available at, http://www.kryeministri-ks.net/repository/docs/Programi_i_Qeveris%C3%AB_s%C3%AB_Republik%C3%A Bs_s%C3%AB_Kosov%C3%ABs_per_Dialogun_e_Brukselit__1-2015__1-2015. Pdf.

constitutional regulation of the Republic of Kosovo[7].
During the political dialogue process, 10 rounds of talks took place between the Prime Minister of Kosovo, Mr. Thaçi and the Prime Minister of Serbia, Dacic. Nearly a year after the start of the dialogue, the Brussels agreement was signed, which according to the High Representative of the European Union, Catherine Ashton, was considered as a step closer to Europe for both countries[8]. The agreement reached considered the normalization of the north as well as the extension of the legal and constitutional system throughout Kosovo. The Prime Minister assured that the agreement was in full compliance with the constitution of Kosovo and the laws of the country. The Association of Serb-majority Municipalities, according to the agreement, would have the same competencies as the current association of municipalities in Kosovo. With the signing of this agreement, it was thought that Kosovo and Serbia had entered the final phase of normalization of relations.
The Brussels agreement provided for the integration of parallel structures into Kosovo's constitutional framework in exchange for the Serbian government's legal influence in Kosovo's internal affairs through the Belgrade-funded Association / Community. The then opposition had strongly opposed this agreement, emphasizing that the plan for its implementation would make the state of Kosovo dysfunctional and create an autonomous Serb entity in northern Kosovo. The Self-Determination Movement (Lëvizja Vetëvendosje) had requested from the Constitutional Court an assessment regarding the compliance with the constitution of the law for the ratification of this agreement. The Constitutional Court had rejected the interpretation of the April 19 agreement as it fell outside the jurisdiction ratione materiae of the court[9].

The second phase

The second phase of the dialogue between Kosovo and Serbia began in August 2015, when Prime Minister Isa Mustafa headed the Kosovo government and Aleksandar Vucic headed the Serbian government. In a series of meetings between the two leaders, the package of Brussels Agreements was created, which included: the agreement on energy, telecommunications, the establishment of the association of Serbian municipalities. This agreement paved the way for the establishment of an association of Serb-majority municipalities. Regarding this association, there were two positions: that of the Kosovar side which stated that the association had the competencies of an NGO and that of the Serbian side which stated that the association had executive powers. The Democratic Institute of Kosovo (KDI) argued that this association leads to a third level of government[10].

[7] Ibid.
[8] European Union, "Remarks by HighRepresentativeCatherineAshtononEU-facilitateddialogue", 19 April 2013. Available at, http: // www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/136875.pdf.
[9] Assemblyof the RepublicofKosovo, Resolution "Ongranting consent for the signing of the FirstAgreement of Principles Regulating Normalization Of Relations between the Republic of Kosovoand the Republicof Serbia ", April 21, 2013. Available at, http://www.kuvendikosoves.org/common/docs/Resolution_for_agreement.pdf.
[10] European Union, "Statement by the HighRepresentative / Vice-President - President FedericaMogheriniafter the EU-facilitateddialoguemeeting", 25August 2015. Available at, https://eeas.europa.eu/headquarters/headqu arters-homepage/3182/st atement-by-high-representativevice-president-federica-mogherini-follo%C3%ABing-the-meeting-of -the-eu-facilitated-dialogue_en.

Opposition to the association and demarcation took place in various, violent ways, such as throwing tear gas at the assembly or quietly, such as collecting signatures against the association by the opposition. This caused the political scene to be extremely polarized and the normal functioning of the Assembly to be paralyzed. These events, in the eyes of the public, undermined the credibility of the agreements that were being reached as part of the dialogue process[11].

In October 2015, the Constitutional Court received a request from the President of Kosovo, Mrs. Jahjaga for interpretation of the compatibility of the principles of the association with the Constitution of Kosovo. In its response, the Court found that the principles enshrined in the Agreement on the Association of Serb-Majority Municipalities were not in line with the constitutional spirit of Kosovo. Meetings between the parties were always held under the mediation of the EU. A serious blow was dealt to the dialogue after the engagement of Serbian diplomacy against the recognition of the state of Kosovo or its membership in international organizations such as UNESCO or INTERPOL, as well as the construction of the wall on the Mitrovica bridge at the time when the opening of this bridge was expected[12].

In late 2016 and early 2017, the Serbian government intensified international arrests of Kosovo citizens and senior officials, which caused a lot of tension between the two sides. This led to the suspension of the dialogue by Kosovo. All these events damaged the constructivist spirit of the dialogue to which the parties were committed. The situation was further aggravated by the sending of an illegal train by Serbia with religious iconography and the words "Kosovo is Serbia"[13].

The third phase

The meetings in Brussels resumed in July 2017, when the presidents of the two countries agreed that the dialogue would enter a new phase of discussion of weighty issues that would lead to the conclusion of this process. The dialogue took place entirely at the level of presidents, always with the EU as a facilitator. The leadership of the dialogue by the president has been constantly criticized by the opposition because it does not have the mandate of the assembly. During his term as Prime Minister, Mr. Haradinaj had demanded a change in the approach of the dialogue, full transparency and had expressed that the epilogue of the dialogue would be achieved only with the mutual recognition of both countries[14].

The EU, in its role of supervisor and facilitator of the dialogue, in January 2018 had invited the parties to continue the technical dialogue and to discuss the implementation

[11] Ibid.

[12] The ConstitutionalCourtof the RepublicofKosovo, found in the JUDGMENT in Caseno. KO130 / 15 that: "Principles, as elaborated in the" Association / Communityof Serb-majoritymunicipalities in Kosovo - GeneralPrinciples / KeyElements ", are not fully in linewith the spiritof the Constitution, Article 3 Equalitybefore the Law, paragraph 1, withChapter II on Fundamental Rights and Freedoms and with Chapter III on the Rights of Communities and their Members Constitution of the Republic of Kosovo; ", 23 December 2015. Available at, http://www.votaime.org/Uploads/Data/Documents/VLERES~1_GmystyF653.PDF.

[13] Kosovo in 2015, more information at https://www.zeriamerikes.com/a/kosova-ne-vitin-2015-/3123197.html

[14] European Union, "FedericaMogherinimeetswith President Thaçi ofKosovoandVuçic. Of Serbia", August 31, 2017. Available at, https: //eeas.europa.eu/headquarters/headquarters-homepage/31526/federica-mogherini-meets-president-tha%C3%A7i-kosovo-and-vu%C4%8Di%C4%87-serbia_en.

of the agreements reached. Following the start of the Kosovar side's meetings with senior officials, the assassination of SDP leader Oliver Ivanovic caused the Serb side to withdraw from the talks, threatening not to return to the negotiating table until the assassination was fully uncovered. The dialogue resumed a month later at the invitation of the EU[15].

Implementation of agreements

As mentioned, the biggest problem with the agreements reached between the Kosovo and Serbian sides is not the agreements themselves but the degree of their implementation. Despite the flaws that the agreements may have, the biggest problem was that they were not implemented in accordance with the parties' commitment. According to Brookings (2014) the dialogue process has been characterized by constructive ambiguity which is a term first used by former US Secretary of State Henry Kissinger in the 1970s. Under this term, an ambiguous text creates space or opportunity for advancing the interest of the parties. The ambiguity in the dialogue process between Kosovo and Serbia has provided space for the parties to interpret the agreements according to their version and for both to declare victory in the talks.

The EU itself seems to have contributed to the uncertainties regarding the outcome of the agreements reached as it refused to interpret them. Agreements are generally characterized by poor implementation, with deadlines often neglected by both parties. This has made the process protracted and the effects of the agreements unclear to the citizens. Some agreements, such as the dismantling of parallel structures, have not been implemented due to a lack of security for the state's non-alignment in northern Kosovo[16].

The implementation of the agreements lacked the element of reciprocity as was the case with the license plate agreement where Serbia obliges Kosovar drivers to use probationary plates while Kosovo has not requested such a thing from Serbian drivers. The same happened with the recognition of state documents or the acceptance of university diplomas. The Kurti I government, after coming to power in January 2020, established reciprocity with Serbia, which was opposed by the Trump administration for undermining the dialogue.

"Dialogue of elites and not of citizens"

Due to the lack of transparency and accountability and because the agreements have not directly addressed the needs of the citizens, the dialogue has been termed as 'elite dialogue'. The EU has seen this lack of transparency as a consequence of the fragility and complexity of the process. As issues of crucial importance to Kosovo and Serbia are considered in this process, the European Union has seen the way for the process to be completely closed. This closure has greatly served the polarization and disruption of the political scene.

The content of many agreements, although published (often late), for some of the agreements the implementation plan is kept secret. Government reports on the

[15] Office of the Prime Ministerof the RepublicofKosovo, "Kosovonegotiatingteamfordialoguewith Serbia launches a seriesofmeetings in Brussels", January 15, 2018.Accessible at, http://www.kryeministri-ks.net/?page=1,9,7485.

[16] Ibid.

state of dialogue are not translated into Serbian, thus preventing the Kosovo Serb community from accessing these documents.

Conclusions

The whole dialogue process was accompanied by a lack of transparency and accountability. Agreements reached between Kosovo and Serbia have found low implementation, mainly by the opposite side. There was a lack of broad political and social consensus on the progress of the process. What has happened and continues to happen is that the conversations have taken place behind the scenes. The EU, despite facilitating the process, seems to have contributed even more to deepening the transparency of the process, as it has never interpreted the agreements and the process as a whole, calling it 'delicate' and 'complex'. The Kosovar side is still unclear about the outcome, that is, what it wants to achieve through dialogue. The process lacked the principle of reciprocity where many of the agreements were implemented unilaterally by Serbia.

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Comparison of alkaline preparations in disinfection of the eggshell

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Abstract

The objective of this study was to discover the effects of applying two antimicrobial drugs (sodium carbonate and chlorine-in the form of sodium hypochlorite NaHClO) on chicken eggshell on a poultry farm in Kosovo. Salmonella infections in egg contents may be related to external contamination of the eggshell. Sodium carbonate and chlorine in the form of sodium-NaHClO hypochlorite were applied to the eggshell at different concentrations and pHs of 10, 11 and 12 versus some of the Salmonella concentrations found in the analyzed eggs. A high amount of total bacteria was observed in all samples, but after the application of disinfectants we saw a decrease of these bacteria. Higher concentrations of applied chemicals are needed for better disinfection.
For shell tests, Salmonella Enteritidis inactivation occurred at lower concentrations at pH 12 than at pH 11 and pH 10. The contact time between the chemicals and Salmonella apparently results in accelerated bacterial inactivation.

Keywords: egg shell, antimicrobial, sodium carbonate, chlorine.

Introduction

Eggs are one of the important sources of human food. In recent years, Salmonella enteritidis infections in humans have been traced to contaminated eggs. [9, 15] Salmonella is readily capable of contaminating bird eggs through vertical and horizontal transmission. Vertically transmitted salmonella contaminate the eggs during the laying process, [37] while horizontal transmission occurs when the eggshell is contaminated by external sources such as incubators, the environment, or other infected birds. [32] The calcareous skin surrounding the egg is porous and permeable to bacteria. The cuticle is a protein film covering the egg shell that provides a natural barrier to help prevent internal bacterial contamination, [27] however, defects in the shell or thinning of the cuticle can lead to invasion of the egg shell by bacteria in surface [24]. Salmonella can easily penetrate the egg cuticle and contaminate the internal contents. [39,38]
In egg shells, the total number of aerobic mesophilic bacteria can reach 3.75 to 7.07 log10 colony forming units (CFU) per egg. Therefore, reducing the microbial load of the egg shell through disinfection procedures would improve the quality of the egg to be incubated and reduce the incidence of bacterial infections in newborn embryos and hens.
The salmonella enterica serotype is one of the most common serotypes associated with human salmonellosis (30). Studies have shown that contamination of egg contents can occur in the reproductive tract during the egg formation process. This microorganism, which is present in the feces, can also infect the contents of the egg by penetrating the shell through the shell pores or damaged areas (19, 28).
Currently, most egg processors in the United States use chemical sanitization systems

to decontaminate egg shell surfaces before packaging. Chlorine is approved for use by the U.S. Department of Agriculture-Agricultural Market Service [31] in egg cleaning solutions at levels of 50 to 200 ppm chlorine available. [31]
Favier [10,11] reports that 100.0 mg / L chlorine available applied through washing for 10 min at 25oC reduced the number of Yersinia enterocolitica inoculated in egg shells by 2.9 to 3.1 log10cfu / egg.
The efficiency of chlorine has been reported to be neutralized by the presence of high organic load and suspended solids in the bathing waters. [16.20]
Emphasis is placed on HACCP-based programs for identifying and preventing potential microbiological hazards that may arise from raw material, processing stages, product, and food plants. [12,23]
Chemicals such as chlorine and chlorine compounds [9], ozone, [7,33] organic acids, [2] trisodium phosphate [26] are being widely used for decontamination purposes.
At the same time, a large variety of chemical agents have been developed, marketed as detergents, detergent-cleaners or detergents for cleaning and disinfecting eggs.
In practice, the cleaning and disinfection efficiency of agents is often determined by standard laboratory tests based on bacterial suspension tests, which are used to determine recommended concentrations (3). However, the implementation of these recommendations in difficult conditions is sometimes problematic because effective concentrations in suspension may be less active against bacteria sticking to a surface, especially a porous surface such as the eggshell.
Several other factors such as the number of bacteria present, the time of contact between the chemicals and the cells, and the pH of the microbial solutions also affect the effectiveness of the cleaning and cleaning agents. Commercial egg cleaners typically use alkaline ingredients to clean eggs, such as sodium carbonate and chlorine cleaners that operate at a pH ranging from 9 to 12 (25). However some authors have suggested that pH values> 11 be used to minimize the bacterial load on the eggshell and bath water. (8, 14)
The main objective of this study was to evaluate the effects of the application of two egg-cleaning compounds contaminated with Salmonella Enteritidis and to determine the influence of pH and contact time on the activity of these antimicrobial compounds (sodium carbonate and chlorine-in the form of hypochlorite). sodium NaHClO), as well as the lowest amount of chemical product needed to eliminate organisms on the eggshell surfaces of a poultry farm in Kosovo.

Materials and methods

Sampling procedure

For the following experiments, bacterial counting was performed in the same manner. Eggs from all samples taken in Whirl-Pak bags, the bags were then filled with 50 ml sterile PBS.
Each egg was massaged by hand into the bag for 1 min to remove bacteria located on the outer shell of the egg. Upon completion of the massage, the bags were opened and 10 ml of rinsing solution was aseptically collected in an empty tube of sterile culture. Rinse solutions with 0.5 ml each of all rinsing samples were spread in a non-selective medium indicating total bacterial count (agar plates). All samples were collected in duplicate. The plates were then incubated for 48 hours at 37 ° C. After the incubation period, the plates were removed and the colonies were counted. All

results are reported as log10 cfu / egg.
During the experiment, 110 chicken eggs were used for microbiological evaluation. The eggs were bought from a commercial poultry farm in Kosovo, which uses brown chickens raised on the floor.
For microbiological evaluation, 110 eggs were divided into 3 groups: 1) 10 eggs without disinfection; 2) 50 contaminated eggs that are then treated with sodium carbonate (30, 50 and 60ppm) in time 2-12 minutes; 3) 50 eggs contaminated and then disinfected with 100, 150 and 200 ppm sodium hypochlorite (NaHClO). This test was performed at different pH. A total of 110 eggs were randomly selected, cracked eggs were discarded and dispersed in disinfection treatments.
Detergents and cleaners. Commercial egg cleaning and sanitizing ingredients are presented in Table 1. Prior to each experiment, fresh solutions were prepared with sterile water distilled to the desired concentration in the laboratory, according to the manufacturer's instructions. The pH of the products was adjusted to 10, 11, or 12 as needed with 10 N sodium hydroxide or 10 N hydrochloric acid, as determined using a pH meter calibrated according to the manufacturer's specifications. The samples (100 ml) were transferred to sterile bottles and kept in a hot water bath to reach the required test temperature of 48^0C.

Table 1. Composition of cleaning agents used in the work

Active Agent	Type	ppm
Sodium Carbonate 40-70%	Sanitiers	40,50,60
Sodium Hypochlorite-NaHClO 10.25%	Detergent	100,150,200

Realization of the work
For the procedure of eggs without disinfection, the egg rows were kept in the same room where the other treatments were performed, but the eggs did not undergo any disinfection procedure. Room temperature and humidity were recorded, from 26.7 to 30.5°C and from 49 to 53%, respectively.
In the second experiment the samples taken had to go through sodium carbonate disinfection procedures at concentrations of 40 50 and 60ppm for 2, 5 and 10 minutes. In the third experiment each of the samples taken had to go through chlorine disinfection procedures (in the form of Na-NaHClO Hypochlorite) at different concentrations of 100,150 and 200ppm for 2, 5 and 10 minutes. Control eggs were placed directly into sterile Whirl-Pak bags and bacterial counting was done.
The experimental design was a combination of three concentrations, three pH (10, 11 and 12), and three exposure periods (2, 5 and 10 min). A total of 110 eggs were divided into 3 groups: 1) 10 eggs without disinfection; 2) 50 contaminated eggs which are then treated with sodium carbonate (40, 50 and 60ppm) in 2, 5 and 10 minutes; 3) 50 eggs contaminated and then disinfected with 100, 150 and 200 ppm sodium hypochlorite (NaHClO). 10 eggs tested for Salmonella positive served us as a negative control.

Results and discussions

In this study, two commercial egg washes with sanitizing ingredients such as sodium carbonate and sodium hypochlorite, in different concentrations, at pH values of 10,

11 and 12 were examined for their effectiveness in inactivating Salmonella Enteritidis in the shells of contaminated eggs where the results were expressed in Table 2.
Compounds that do not demonstrate microbial effect at these concentrations were then examined until one found the effective amount of each cleaning agent.
Figure 1 shows the bacterial count of Salmonella enterica Calculated as log10 cfu / egg which will serve as a negative control. As seen in the figure we have a number of coppers starting from 1.98 log10 cfu / egg to 3.62 log10 cfu / egg.

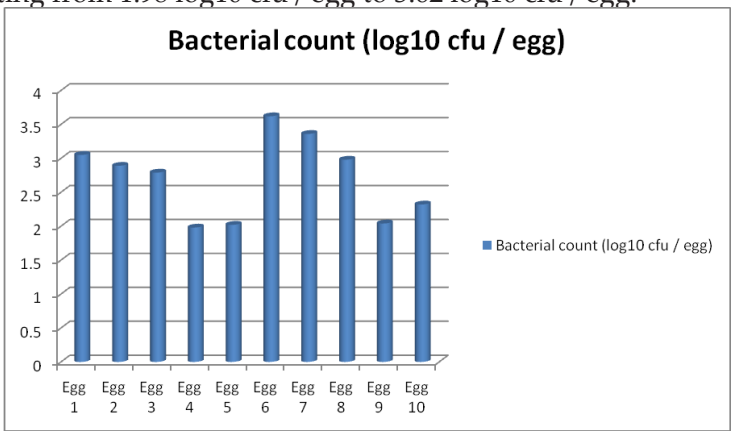

Figure 1. Bacterial counting at these sample eggs

The results showed that at concentrations suggested by the manufacturer none of the chemical products tested were able to completely eliminate Salmonella Enteritidis from the egg shell. Both products were ineffective at the three pH values and at the time of contact tested.
Higher concentrations of chlorine, up to 2 or 3 times higher than the dose treated in this study, are required to make a total elimination of Salmonella in the eggshells. For sodium carbonate, the effective concentrations were similar to those of other chemicals and were 5 to 6 times higher than the concentrations used in this paper.
The observed infection of chemicals in egg shells is consistent with previous observations reported in the literature, which indicate that very high concentrations of egg-cleaning compounds, including those tested in the present study, are necessary for decontamination. of the eggshell (6, 14, 17).
The initial level of contamination of the eggshell can play an important role in the effectiveness of chemical agents. Because the numbers of bacteria present in the shell can affect the bactericidal activity of egg cleaning compounds, heavily contaminated eggs should not be placed in the egg washing machine. Moreover, before the cleaning operation they should be kept inside an environment that prevents the multiplication of bacteria in the husk.

	Bacterial counting (log_{10} cfu/egg)									
		pH 10			pH 11			pH 12		
Product		2 min	5 min	10 min	2 min	5 min	10 min	2 min	5 min	10 min
Natrium Carbonat	100ppm	2.70	2.62	2.56	1.98	1.68	1.56	1.86	1.53	1.42
	150ppm	2.56	2.45	2.43	1.86	1.53	1.42	1.72	1.40	1.32
	200ppm	2.23	2.13	2.03	1.76	1.46	1.32	1.62	1.22	1.03

Hipoklorit natrium	40ppm	2.70	2.65	2.45	2.68	2.58	2.41	1.84	1.42	1.39
	50ppm	2.55	2.45	2.33	2.51	2.42	2.31	1.63	1.32	1.15
	60ppm	2.41	2.32	2.16	2.42	2.32	2.01	1.42	1.15	0.98

Table 2. Bacterial count (log10 cfu / egg) in eggs treated with Na Carbonate and Na hypochlorite at different pH and time

Bactericidal activities of any chemical treatment were determined against Salmonella Enteritidis in this paper. In this test eggs were taken with Salmonella as an experimental egg, two sanitizing ingredients, such as sodium carbonate, sodium hypochlorite, at pH values of 10, 11, and 12 were examined for their effectiveness in inactivating bacteria for a contact time of 2, 5 or 10 min. As shown in Table 3, the analyzes showed differences between Salmonella values for both products; Na Na hypochlorite showed a land number of bacteria than Na Carbonate.

Bacterial values decreased significantly with an increase in pH or contact time: the number of bacteria at pH 10 was significantly higher than at pH 11, and the number of bacteria at pH 11 was significantly higher than at pH 12; the number of bacteria for the time 2 min was not much higher than that for the time 5 min, although the values of the number of bacteria for both times were very significant and higher than for the time 10 min.

The inhibitory effect of chemicals on bacteria adhering to the surface has been investigated by others (3, 36).

poor performance of chemical compounds is attributed to microstructural changes in the egg shell surfaces, which may protect the microorganism from the action of bactericidal agents (1, 3, 13). The eggshell of a chicken is composed of more than 10,000 pores (35). In a study involving water-washed egg shells, Holley and Proulx (18) found that the number of surviving Salmonella located in the eggshell pores was greater than that in egg-washing water.

Changes in pH values. For egg shell tests, the minimum effective concentrations of chemical compounds depended heavily on the pH of the chemical solution (Tables 2). Increasing the values of the antibacterial solution pH values from 10 to 11 and then to 12 produced an effect on the minimum lethal concentrations of microorganisms. Lower concentrations are required to destroy Salmonella Enteritidis at pH 12 than were required at pH 10, especially after 10 min exposure. Thus, the higher the alkalinity, the lower the lethal concentration and the shorter the exposure time to kill the bacteria. This tendency is similar to those previously published regarding the interactions of pH and chemical concentration (8, 18, 22). Holley and Proulx (18) studied the inhibitory effect of different pH of egg wash values on Salmonella Typhimurium and noted a significant substance in reducing the number of cells when the pH was increased from 9.5 to 11. However, at pH 10 , the organisms were not completely killed over 16 hours. Currently, the U.S. Department of Agriculture (37) recommends a water wash at a pH of 10.3 in combination with a temperature of 43 + -5^{o}C. However, Bartlett et al. (4) showed that many samples of bath water had met the minimum temperature and pH requirements produced in unacceptably high bacterial counts.

Contact time. The bactericidal activity of both washings and the cleaning agents tested in this study was determined by the time of contact between the chemicals and Salmonella cells (Tables 2). A contact time of 10 min tends to inactivate organisms

in the eggshell at lower concentrations than did 5 or 2 minutes of contact time. However, the relationship between contact time and the number of bacteria has not been consistently observed.

Within the context of the egg assessment station, chemical solutions are applied to the egg shells for less than 3 min. This conclusion highlights the difficulty of eliminating bacteria from egg shells when the number is very high.

Conclusions

This study was conducted to determine the minimum concentrations of the two chemicals needed to destroy Salmonella Enteritidis on egg surfaces. Our results show that very strong concentrations of these cleaning compounds, much higher than those commonly used in processing plants, were required to inactivate Salmonella Enteritidis in contaminated shells, even when heat (48^0C) and alkaline environment (pH 10 to 12) were used as solutions.

Therefore, preventive measures aimed at reducing or eliminating possible contamination of Salmonella peel should be a major concern when trying to control Salmonella. Further research in this area is needed to ensure egg industry with the most effective means of preventing and controlling Salmonella Enteritidis contamination.

Furthermore, the use of these high concentrations of cleaning agents may be impractical for industrial application due to side effects on egg shells and corrosive effect on equipment.

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The right to life in light of Article 2 of the ECHR

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Abstract

Respect for human rights and fundamental freedoms and especially the right to life is reflected in the most democratic constitutions of any state. But these rights and freedoms are respected and cannot be satisfied without any kind of restriction, as an absolute and uniform protection of human rights in all aspects and for every citizen in general; it would be practically impossible. There are therefore restrictions on the rights and freedoms of the individual, which international constitutions and instruments are classified as permissible restrictions. Despite this understanding, there are some rights that are absolutely inviolable, for which there is no possibility of constitutions allowing their limitations. The right to live as a fundamental attribute and indisputable value of the human being is one of these important rights protected by law. In this way, the legal protection of human life is a value that underlies all human rights and its denial would lead to the elimination of other human rights. But the protection of human life is influenced by a number of factors, for which the legislators, through the laws they adopt or draft, provide details that can guarantee human life. Exceptions can be made, only because of the law, when as a consequence of the protection of the most important constitutional right one's life is required to be taken. The law is entitled to exceptional cases and related deaths, within the meaning of Article 2, paragraph 2 of the European Convention on Human Rights (hereinafter ECHR, or the Convention).

Keywords: Life; ECHR; ECtHR; Human rights; Life protection; Procedural protection; Basic values.

Introduction

The right to life is an inalienable, indivisible and irreducible human right. It is a fundamental right with broad focus, where different issues and aspects are found. The right to life enjoys special protection by international, European, regional and national legal instrument, but not only. The international instruments regarded relevant to the protection of right to life attach more importance to life and the quality of living as a process, especially in societies which are based on democratic governing and the Rule of Law. There are several fundamental issues that will be addressed in this article relevant to the right to life in light of Article 2 of the ECHR, therefore the essential elements of the right to life. The right to life is enshrined in Article 2 of the ECHR as well as in Additional Protocols of the Convention.

The rights and freedoms as sanctioned in the European Convention of Human Directors are subject for review in the European Court of Human Rights (*hereinafter ECtHR*, or *the Court*), in light of any right thereof that might have been infringed. The ECtHR is vested with the competence to control and ensure adherence to and

compliance with one's right through the interpretation and implementation of the norm as prescribed in the ECHR by the legislative and executive institution of the High Contracting Parties. The ECtHR can be set in motion only after all the domestic legal means and remedies have been exhausted, within the meaning of the internationally all accepted general principles, within a period of six months from the final domestic court decision. The Court decisions are binding. When the ECtHR finds a violation, the country in question is obliged to execute the decision, taking measures to commit that such a violation will not occur anymore. It is of special importance to study the right to life as it is considered *primus inter pares*; a source of all the other constitutionally guaranteed rights.

1. The meaning of Life

The right to life is an irreducible, inalienable and indivisible right, closely associated with the human being. It stands at the top of the pyramids of human rights, and in the absence of its enjoyment no other human right would exist (Daci. J, 2011: 245). Once, the protection of human life and its values depended solely on the human individual judgment itself. Thus, throughout the period of the two world wars, humanity was confronted and recognized the worst infringements and violations of human rights, especially the violation of the right to life itself. In the years following the end of World War II, the Nazi regime committed the most heinous acts against the right to life, which consisted in the physical extermination of the Jewish people and other peoples such as the Roma, considered as constituting an "inferior race", according to Nazi ideologues, as well as a real danger to the homogeneity of the German "superior race"[1].

Given these dark events in the history of humanity, mankind understood that the right to life was a necessity in the functioning of a modern society, in the absence of which the lasting and continuity of humanity would not be possible. Under these conditions, humanity took upon itself to prevail in ridding the world of slavery and wars, these being the engine driving the destroyer of the most important value without which existence would be null. Consequently, many different Constitutions as well as international conventions, have foreseen the need to provide by legal means a more complex protection of the right to life, offering the greatest possible guarantees. During the last decades, the phenomenon of life has awakened a universal legal interest due to the fact that the protection of human life has not always been a priority in world societies therefore the awareness towards this human value is the result of an intellectual but challenging effort. In modern society, human life is an irreducible, inalienable and indivisible universal right, regulated and protected by the Constitution.

Although the right to life cannot be understood outside the concept of human society and it cannot be stripped of its universal character, it should be noted that the recent history of terrorist attacks creates diffidence and prove that the right to life as a *primus inter pares*, and of fundamental importance for the preservation and insurance of all other constitutional rights, is slipping into the background. The global insecurity to social coexistence caused by this type of warfare that does not regard life at all but, on the contrary, accepts the sacrifice and loss of innocent lives with the excuse of another

[1] See http://impakt.al/holokausti-e-verteta-e-genocidit-me-te-madh-ne-historine-njerezore/.

greater cause, has hindered somewhat the appreciation of values bestowed in human rights, and especially the right to life under analysis.
The biological definition of life is an issue that has colored the philosophical debate since antiquity and scientific discussion for centuries; yet not having concluded in a joint and all accepted term, the later also because of religious interference. The protection of life aims at two main objectives, where the two are elements that constitute the composition of life, the material and the spiritual, mater and energy. This division or distinction, into material and spiritual was put forward by Plato, who believed that the body is mortal but the spiritual is immortal and that the latter is submitted to continuous successive resurrections. Today, this stance is considered as anachronistic and dogmatic and from the legal point of view, as human life is treated as one biological phenomenon, physical being, a structured unit based on the laws of physics and biology[2].
The life of an individual is protected by the law. In this way, the legal concept of protection of human life is sanctioned in the Constitutions of civil legal systems. The right to life is presented as "a value", from which all other rights derive. Life is a right, a fundamental attribute of the human being, and when this life is taken away, or taken in any way, man is at the same time eliminated as the bearer of rights and obligations. Based on Article 2 of the Convention on Human Rights (ECHR) it was derived that "Every human being's right to life is protected by law". Having an indisputable value, human life becomes the object of constitutional protection. The protection of human life is not the same in all times and circumstances, being influenced by a number of different factors. Even the legislator can be one such factor through drafting laws that approve, foresee, and guarantee human life.
The deprivation of one's right to life as an exception[3] is done only by law as a result of the protection of a more important constitutional right or simply another right prevailing at that time, according to the circumstances of the moment. According to Article 2, point 2 of the European Convention on Human Rights, the law is the one who has the right, in special cases, to allow the taking of human life. Specifically, these cases have found their legal regulation in the general provisions of criminal legislation that provide for the legal institute of necessary protection[4], or in other laws, which give the right to the Armed Forces, police forces, and armed civil guards to deprive a person of his life. This kind of inflicted death by the state, through its organs, has nothing to do with and cannot be equated with the death penalty, as the kind of punishment that was previously given by the court, but is related to those exceptional cases, expressly cited above.

2. Nature and beginning of life according to Article 2 of the ECHR

The right to life is the most relevant and universal right from the joy of which the continuity of the community depends. Even though we are aware of the importance of life and we have created the right instruments to guarantee this right, we still do not have an absolute guarantee of it and often face different situations which challenge the legislation created. The European Convention on Human Rights is

[2] A Brown.(2002). "What Can We Learn From the Pretty Cases?" Human Rights & UKP 3.3(8).
[3] P. BARILE.(1984). Diritti dell'uomo e Libertà fondamentali, Il Mulino.fq 22-32.
[4] P. CARETTI.(2005). I Diritti Fondamentali, libertà e diritti sociali, II Ed., Giappichelli. fq 30-42.

one of the instruments that proclaim and protect the right to life. We find this right sanctioned in Article 2 of the ECHR, which, in paragraph 1, stipulates that; "Every human being's right to life is protected by law." "No one shall be arbitrarily deprived of his life except the case when a court decision applies, where the crime is punishable by law." From the interpretation of this paragraph we can see that the ECHR protects the right to life of every individual without distinction and refers in context only to human life. The right to life is addressed in Article 2 of this convention, not only for the fact that it is one of the fundamental human rights, but also to emphasize its importance because without this right, no other right would exist. According to the ECHR, the right to life is not derogatory and no one can deny this right even in time of war or any public emergency when life can be threatening to the nation. But, from the interpretation of paragraph 1 of Article 2 of the ECHR, it appears that the right to life is vulnerable and its protection is not absolute, despite the legal framework. The Convention guarantees against intentional violations of this right, but in case that there is a final court decision ordering the deprivation of one's right to life, then the protection of the convention ceases and its violation is legitimized also by the same Convention[5].

Thus, paragraph 1 of Article 2 of the ECHR is characterized in the first part by the obligation that everyone has to protect the right to life by law and in the second part legitimizes the violation of this right by a court decision, under the shield of the absolutely necessary expression. The Convention guarantees only the life of "human beings", while the life of animals and the existence of "legal persons" are not protected by this article. Thus, "legal persons", such as commercial companies, which are "persons" within the meaning of the ECHR, can rely on the Convention in relation to certain rights they actually have, such as respect for the right to property[6] and the right to for a fair trial in determining their civil rights and obligations. The right to freedom of expression may be claimed by the media and publishers, etc[7]., the right to freedom of assembly by associations[8], and the right to freedom of religion by religious organizations[9].

According to Article 2 of the ECHR, none of them contain the "right to life". The Convention does not clarify what life is, where the protection of Article 2 of the Convention begins or ends, this is due to the lack of a world-wide legal or scientific compromise on this issue, although the Commission and the ECHR exist they do not have the will to set accurate standards in this regard. As the Court found in the case of *Vo v. France*, the question of when the right to life begins to fall within the scope of the Court's common view that States should enjoy in this area, notwithstanding the interpretation of the Convention, a

[5] See McCann and Others V. The United Kingdom, Grand Chamber judgment, September 5, 1995. Para. 147 with reference also to the judgment in Soering v. The United Kingdom of July 7, 1989, para. 88.

[6] See Stran Greek Refineries and Stratis Andreadis v. Greece, judgment of December 9, 1994. note that Article 1 of the First Protocol expressly gives "any natural or legal person" the right to enjoy his possessions peacefully. This is the only provision in the Convention and its additional protocols that provides for this.

[7] See Observer and Guardian v. United Kingdom, judgment of November 26, 1991; Sunday Times v. The United Kingdom (II), judgment of November 26, 1991, Groppera Radio AG and Others v. Switzerland, judgment of March 28, 1990.

[8] See Stran Greek Refineries and Stratis Andreadis v. Greece. Tre Traktörer Aktiebolag v. Sweden, judgment of July 7, 1989.

[9] See Pastor X and Church of Scientology v. Sweden, Claim no. 7805/77, Decision on Admissibility of May 5, 1979 (has reversed an earlier decision: Church X v. The United Kingdom, Application No. 3798/68, Decision on Admissibility of 17 December 1968).

"*vital legal instrument which must be interpreted in the light of today's conditions*". The rationale for this conclusion is identified in the fact that the obligation of protection offered under the competencies of the ECHR does not have a consensus within most of the Contracting States themselves, especially in France, where the latter has become the subject of debate, and secondly, that there is no pan-European compromise on the question of whether the unborn child "fetus" is a person, thus the subject holder of the right of Article 2 of the Convention.

In case of imposing a standard, it has been and continues to be evaluated that meaning of the beginning of life should be dealt individually, case-by-case, and states have been given considerable freedom to regulate the legal framework by itself, giving importance to the various interests at stake and balancing the alleged interest with the deprivation of the substantial right guaranteed. This is also noted by the jurisprudence of the Convention bodies; both the Commission and the Court, in relation to matters which have dealt with the legality and compatibility of the act of induced abortion (abortus provocatus) based on Article 2 of the ECHR, that now is referred to as simply "abortion", euthanasia and suicide assistance[10].

3. Protection of life by law

Based on Article 2 of the ECHR it is defined that "Every human being's right to life is protected by law", and on paragraph 2 of this article it is defined that "Every use of lethal force must be absolutely necessary". The law in a State party to the Convention must protect the individual from the violation of life, except when the violation on life is "absolutely necessary". But most legislators do not have a clear definition of the term "absolutely necessary" in their domestic law. Thus, about the use of lethal force by SAS soldiers in the McCann case, the Court found that English domestic law lacked the domestic legal framework for the use of lethal force, and in these circumstances, thanks to this omission could be considered a violation of Article 2 of Convention[11].

In the case of *Matzarakis v. Greece*[12], the Court analyzed the qualification of the guidance given to law enforcement in this context. The case consisted of tracking a car by the police, after ascertaining the violations of the traffic rules. During the operation, the police opened fire with many shots in the direction of the car and seriously injured (but did not kill) Mr. Matzarakis. In this case, the Court found the development to be irregular and not within acceptable standards of police operation, considering chaotic the manner in which firearms were currently used by the police in this case. During this time the use of firearms in Greece was regulated by an old and incomplete law of World War II, which listed a wide range of situations in which a police officer could use firearms without being responsible for the consequences.

During the evaluation of the legal framework of this case, the Court held that irregular and arbitrary acts committed by civil servants are inconsistent with respect to the effective observance of human rights and that police officers should not be left in a vacuum when performing their duties, even in the context of a planned operation, or a spontaneous pursuit of a person thought to be dangerous. The

[10] F.M. Kamm.(1996). Morality, Mortality, vol. 2, Oxford: OUP, page 272.

[11] AA. VV. (2005). Diritto, L'universale, Costituzionalismo, Le Garzantine.page 58.

[12] See Matzarakis v. Greece, Appl. No. 50385/99, Judgment (Grand Chamber) 20 December 2004.

existence and implementation of a legal framework is essential to determine the specific circumstances in which law enforcement officers may be allowed to use force and firearms in strict compliance with international standards developed within this framework[13].
The existing system did not provide clear guidelines and criteria for police officers to use force in peacetime. Thus, it was inevitable that the police officers pursuing and subsequently arresting the individual had the autonomy and were able to take careless initiatives, initiatives they probably would not have taken if they had benefited from a proper qualification and guidance. The Court in its decision clarifies that the lack of shortcomings in the regulatory framework and the lack of "appropriate qualifications and instructions" in the use of firearms by the police may in themselves constitute a violation of the obligations under Article 2 of the Convention to protect the right to life "by law".

In the case of *Muhacir Çiçek and others against Turkey*, the existence of legislation was established which defined that if the attack used was intended to repel an illegal attack against them, or in proportion to the attack, this act will not be punished. So, the domestic legislation authorized the police to use firearms in the performance of their duties, according to the cases provided by national law for this purpose, but the government in this case has expressed in relation to the use of weapons that before the attack took place should be shot three times in the air by police authorities, or should be shot in front of the feet of individuals in order to repel them, and in the third case the use of firearms will be allowed only if not there is no other way to control the situation.

4. Aspects of procedural protection provided by the ECHR for the protection of life.

The right to life is an essential and inevitable right. Without the right to life it is impossible to have other rights. Like the protection from torture, the right to life is one of the fundamental values of democratic societies and its meaning must be determined with due regard to the importance of this right. Consequently, legal provisions that guarantee that right must be interpreted strictly. The primacy of the right to life has been consistently recognized by international agencies, courts and tribunals. This has been particularly the case where law enforcement agencies have used excessive force[14].
In the procedural aspect of Article 2 of the ECHR, the ECHR requires the states to conduct an effective investigation into deaths that occur in violation of domestic law. The obligation of the law to protect the life of every individual includes a procedural aspect through which the circumstance of deprivation of life is subject to an independent and public investigation[15]. Intentional homicide should be considered for criminal sanctions, as well as negligent homicides resulting from the use of force

[13] C Gaumer and P Griffith.(1998). "Whose Life is it Anyway? An Analysis and Commentary on the Emerging Law of Physician Assisted Suicide" 42 S D L Rev 357; Bradbury.
[14] This comes out clearly in the case of Guerrero v. Colombia (Human Rights Committee), which deals with the excessive use of force by a Colombian police officer that resulted in the death of seven people who were not proven to be involved in any criminal act committed.
[15] See McCann v United Kingdom; Yasa v. Turkey; Gulec v Turkey; Ergi v Turkey.

in circumstances that do not justify their use. When death is caused by negligence, criminal sanctions should be considered, which depend in part on the circumstances of the death. Effective criminal laws must be enacted to prevent, punish, and deter acts that deprive people of their lives. Domestic law should also regulate cases where the use of deadly force by state officials is allowed. Relevant laws designed to protect life must be practical, effective and enforceable, although prosecuting authorities have a degree of discretion in determining whether to prosecute. However, this degree of discretion should not nurture a culture of impunity in law enforcement officials. Consequently, a decision taken by state bodies not to prosecute or conduct an appropriate investigation will raise issues related to the right to life[16]; In the case where the decision on the innocence of a person is based on a legal defense which has been outside the scope of the accepted arguments for the use of deadly force, this would constitute a violation of the right to life[17] and the state has an obligation to punish state officials who kill illegally. A clear disproportion between the dangerousness of the unlawful conduct and the punishment then imposed would violate the right to life[18].

In procedural terms it is characterized by several standards make it credible and that can be considered as evidence in a court process, and these characteristics are:

a. The investigation should be conducted by an independent public body;
b. The investigation must be thorough and rigorous;
c. The investigation should be such as to determine responsibility for death;
d. Speed of authorities in investigation;
e. The necessity of an ex-post investigation;
f. Possibility of participation of relatives in the procedure.

The obligation to investigate a death must be carried out mainly by the state authorities without the submission of a formal request by certain individuals, even by the simple notification by the authorities of a murder gives rise to the obligation to conduct an effective investigation[19]. In cases where the complainants allege a violation to the right to life, the Court assesses the circumstances of the case to assess the effectiveness of the investigation.

Conclusions

The right to life is a fundamental right with a wide focus, which includes issues related to various aspects and has a special protection by international, European, regional and national instruments. It is an indivisible, inalienable right closely related to the human being, which stands at the top of the human rights pyramid. Without that right, none of the other rights would exist. The right to life is provided in Article 2 of the ECHR and the Additional Protocols to this Convention refer in context only to human life. During the analysis of this right and the problems that states face in ensuring its protection, we notice that: The Convention does not clarify what life is and where the protection of Article 2 of the Convention begins or ends, this is due to the lack of a world-wide legal or scientific compromise on the issue because the

[16] See Jordan v United Kingdom; Oneryildiz v Turkey; Fanziyeva v. Russia.
[17] See the provisions of Article 2(2) of the ECHR.
[18] See Bektas v. Turkey.
[19] See Ergi v. Turkey, Luluyev v. Russia, 9 November 2006, para.90 -101.

Commission and the ECHR are unwilling to set precise standards in this regard.
The right to life creates two kinds of obligations: substantial obligations that consist in the guarantee of the right to life and procedural obligations in case of loss of life. Both requirements have the equal importance and often but not necessarily, intertwined in the same events. The right to life is an essential and inevitable right. The right to life is given special importance in international law because other rights would have no meaning in the absence of life and the importance of the right to life is recognized as a value contained in the human being. In this sense, the right to life is closely linked to human dignity. Without the right to live it is impossible to have other rights. Like the protection from torture, the right to life is one of the fundamental values of democratic societies and its meaning must be determined with due regard to the importance of this right.

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Active Employment Policies in the Labor Market of Albanian Governments in the period 2005-2020

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Abstract

Employment and unemployment are two main indicators of the labor market, despite the link between them; this is not necessarily a link between them that the increase of one leads to the decrease of the other and vice versa. In a market economy, even the labor market is subject to the rules of the free market, which is the result of the equilibrium of supply and demand in the labor market. But the regulatory and harmonizing role of the government in the employer-employee relationship as well as the labor market is achieved through employment policies. The debate on state intervention in the economy and as a result even in the labor market is evident, due to the growing social responsibility and the increasing role of the government in managing social problems. Due to the long transition in Albanian society, in order to establish a market economy and the rule of law, the role of the government as a regulator has been decreasing. Despite the fragile Albanian economy, the role of the government in this development stage creates the conditions for the business climate and the labor market development through employment policies. This paper aims to present some issues and make an analysis of forms of government intervention in the labor market through the employment policies of Albanian governments in different periods, as well as the role of the National Employment Service, Labor Department in unemployment mitigation and the enforcement of employment policies.

Keywords: active policy, unemployment, employment policies, labor market, government intervention.

Introduction

The problem of employment and unemployment is a phenomenon known not only to Albanian society but also in many other countries in the Balkan region and beyond. The long transition of the command economy into a market economy, as well as problems in the functioning of the rule of law, is important factors of social problems in Albanian society.

Despite the economic downturn due to the pandemic, compared to the period of 2019 from 11.8%, in 2020 (economic growth was -5.5%) according to the Albanian government, unemployment increased by 3.4% (INSTAT 2020). But with the completion of the investment of the TAP project and the hydropower plant of Devoll, an increase in unemployment was noticed by 1.2%. For the first quarter of 2021, unemployment is 21% (INSTAT, 2021) and according to various organizations it can be as much as 51%. The problem is the employment of young people with secondary education, unemployment for them is 14% and for those with higher education, 12%. What is worrying is the creation of conditions in the Business climate that according to "Doing Business", Albania has dropped by 19 countries, ranking 82nd in the region, which shows an aggravation in doing business. In fact, a major problem is the departure of young people from Albania where, from 2014 until now the departures

are greater than before 2014 (320 thousand, INSTAT 2021). With an economic logic in a country where people leave, the demand for goods and services drops, production shrinks and unemployment rises (Introduction to Economics).
Despite the labor market force factor and other factors influencing it, the role of active policies of Albanian governments has been more evident in the governance of the years after 2014, with the creation of employment offices in each city hall and incentive policies for employment. What is noticed as a problem, despite the policies pursued in the government after 2014, which coincide with investments of 2 billion $ (INSTAT), again the population departures were greater than before 2014. The reason for this is the economic growth not to the extent necessary to bring satisfactory results in increasing employment, wages. Economic growth is the keyword of the "health" of any economy, of opportunities for stable finances, of employment opportunities and reduction of unemployment, of opportunities for increased consumption, of sustainable development policies (Ardian Civici, 2020: 5). In order to affect the economy, economic growth must be over 6%, in Albania only in 2008 it was 8% (INSTAT 20218).
Human resource management policies by the administration are subjective and political, worsening not only the situation but also the high level of corruption in administrative designations, this complicates the role of the state as a labor market regulator.

- **Literature review**

The problem of unemployment is closely related to the large rigidities of the labor market (Gilles Saint-Paul. 1996), where market flexibility is understood as a result of the impact of institutional policies. This has some implications for institutional policy actions: First, exposing a high employment rate to unemployment facilitates the reduction of employee protection; second, the lower the unemployment benefits, the more employees react to wages; third, a higher level of unemployment and the existence of a right-wing government slow down the increase in the minimum wage. Active labor market policies (Law 7995, Article 14: 1995) are defined forms of government intervention for the proper functioning of this market and to reduce unemployment. Researchers (O.Goro E.Polo, A. civici, S. Xhepa) conclude that economic policies and employment promotion policies have not been effective in Albania.
Although there are 6 employment promotion programs, they consist of subsidizing employment and training through work and practice. Mechanisms have been used to target large groups, which do not take into account the diversity of needs of different groups within them, based on demographic and other factors combined (Elena polo 2016: 1). Beyond the very positive fact of reducing unemployment to 12.4% and creating over 220 thousand new jobs in the last 4-5 years, a worrying problem remains the structure of new jobs and their limited impact on economic and social development and productivity growth (Adrian Civici, 2020: 8).
(European Commission 2020: 1), the OECD defines active labor market policies as inclusive of social spending, aimed at improving the prospect of gaining a profitable job or increasing their profit capacity. This category includes public spending and employment services for young people graduating from school, employment

promotion programs for the unemployed, including groups in need, special programs for those with disabilities.

Active Labor Market Policies are the main factor called "Activation Strategies" and are typically associated with unemployment insurance and the conditional benefit system (John. P. Martin. 2014).

The regulatory role of the government in the labor market is realized through employment policies, which are divided into two categories: a) Active policies, aimed at activating employment by preserving existing jobs and creating new jobs, and job mediation according to the priorities created by certain social groups. This policy is implemented in the following forms: subsidized employment or employment in public programs; employment information and mediation instruments; employment counseling; training programs, implemented by the employment office. b) Passive policies, which aim to ensure a minimum standard of living for the unemployed, including social assistance for the unemployed until they find work.

The institution responsible for implementing policies is the National Employment Service, which is an autonomous public service, with the status of a central government administration (Law 7995, 1995). Functions of the National Employment Service: registration of jobseekers; work mediation; guidance and counseling for jobseekers; preparation of documentation for unemployment benefits; vocational training courses; gathering information on the market; training. Employment Offices are part of the structure of the National Employment Service, represent it and have the competence defined by status. The financing of the National Employment Service is done by the National Employment Fund, subsidized by the government, and donations from employers and local government.

Employment policies from another point of view are divided into policies: firstly, quantitative employment policies, which aim at full employment and prevention of crises, unemployment and socio-economic consequences, they include the opening of new jobs, through the economic reformation, privatization, and foreign investment; secondly, the quality employment policy seeks to protect employees from changes in the labor market, including the right to employment, in terms of vocational training, qualifications, training.

The labor market and employment policies are influenced by the following factors: demographics, motion flow in the labor force; economic factors, competition between markets and emerging countries; technological factors, reduction of human contribution due to automation; political factors, common markets and the free movement of people.

At the national level, the long-term problem of unemployment threatens the goals of the employment policy, lowers the level of ability to get professional people to the right job, and undermines the geographical distribution of employment. The crisis in the labor market points out the importance of the right skills, qualifications, and experiences of workers at work. Young non-professional workers at work carry greater burden in times of crisis. Active labor market policies play a key role in providing professional advice and training as needed in the labor market, addressing and avoiding employment barriers for social groups in need of work (A. Nichols, J. Mitchell, S. Linder, 2013: 2).

But employment policy is strongly influenced by phenomena such as economic crisis and unemployment, avoiding these phenomena requires effective policies to

evade negative effects on the labor market (A. Civici 2020: 8). Such policies could be: reducing working hours to make room for other workers: lowering the retirement age to circulate generations; review of immigration policies; domestic and foreign investment policies to create new jobs.
The impact of unemployment on the future of the labor market when unemployment is troubling is as follows (A.Nichols, J. Mitchell, S. Linder, 2013: 8): the unemployed are more likely to find a way out of the labor force and retire; enroll in disability programs; obtaining disability is more troubling because of the cost of keeping companions (Rupp and Stapleton 1995). This situation makes it very difficult to manage unemployment but also encourages corruption in institutions to benefit unfairly from social assistance programs. The government must therefore consider combining economic, social, and employment promotion policies. One of the strategies they can use is to take advantage of national economic development priorities as well as attract foreign investment. One of the policies to increase the labor market is the attraction of investments by the government for the creation of new jobs. The impact of investments leads to economic growth and this leads to increased employment and reduced unemployment, according to the law Okunit (A. Civici, 2020) this logic has not occurred in the Albanian economy.
Lack of comprehensive policies to reduce unemployment when it is a concern for society leads to lack of income in the family, stress, social problems, and pressure for the salaries in workers (Jacobson, Lovis, Daniel Sullivan, Robert Lalonde 1993). A lack of available jobs close to where the disadvantaged unemployed workers live, contributes to long durations of joblessness, in part because cocial networkers become largely populated by other jobless workers (Wilson 1987, Kain 1968). Pavaresisht rolit qe mund te luaj qeveria ne politikat nxitese te punesimit, ne nje ekonomi tregu nuk eshte factor kryesor per rregullimin e tregut te punes.

- **Methodology**

The purpose of this paper is to compare the employment policies executed by the Albanian government in the period 2005 to 2020, to see how effective they have been in creating new jobs and promoting employment in the labor market. Despite rather regulatory incentive policies, the study aims to analyze employment policies that lead to the creation of new job openings, and precisely the attraction of new investments as a factor for economic growth as a whole, and the creation of new job openings.
In terms of the regulatory role of government in the labor market, the study focuses on public spending over the years to promote employment, and the use of the minimum wage as a policy to promote wage growth in the labor market. Quantitative data from INSTAT were used as data for the study, as well as administrative data from the National Employment Service.
Pervasive statistics, correlation, tabular and graphical methods processed in Excel programs, were used for data analysis.

- **Problem analysis**

Employment promocion programs have evolved and increased in number over time, and there are currently seven employment promotion programmes targeting different groups that are deemed to be at higher disparities in labor market or in need of integration in the society. The employment promotion programmes in Albania

largely rely on subsidized employment and on-the- job training (Swiss Agency for Development and Coperation, National Employment Sercice. 2019:9). In contrast to the political theory, that lowering the retirement age increases the opportunity for new employment, the Albanian government has done the opposite. In 2015, a pension reform was made, which rises the retirement age for both men and women. After January 2021, women retire at the age of 61 from the previous 60 years. Also for men aged 65 years old until 2056, increasing every year by one month, they will retire at the age of 67 (Official Gazette, 2015). Regarding the employment situation in Albania, this policy complicates the climate of job creation.

The departure of young people, as well as the reduction of the natural increase of the population, causes the reduction of the non-disabled population (INSTAT), which is an important factor for young workers. This shortage in the labor force reduces the number of contributors to social security and increases the number of beneficiaries, making it difficult to cover and increase pensions. In 2020 the total deaths were 28,026 and the births 27,600 for the first time the natural increase was negative since the statistics made in 1923 (INSTAT, Monitor Magazine: 2021: 2).

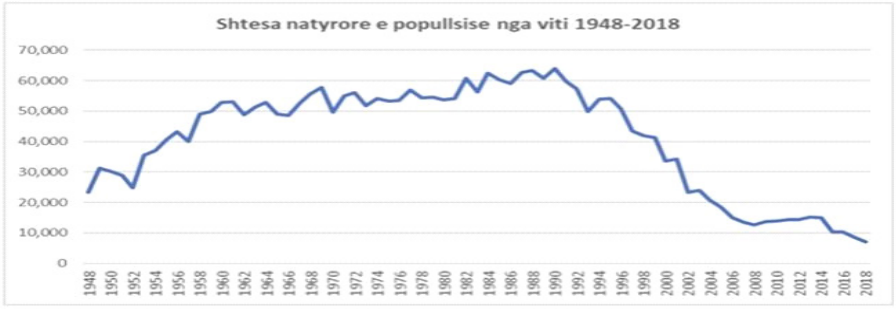


Fig.1 Natural increase of the population in period 1948- 2018
Source, INSTAT

For the first time in the history of the country, the deaths exceeded the births by 400 people (INSTAT, 2021). To increase the number of births, the Albanian government has followed, after 2020, the policy of financial support for children born, by giving the amount of about 80,000 lek.

Public expenditures to promote employment subsidies occupy 0.046% of GDP (2015) and 0.034% of GDP (2014) in Albania, they are far from the expenditures made by OECD countries at 0.6% of GDP and EU countries at 0.5% of GDP. Public expenditures for training programs as precent of GDP in 2014 year are 0.015% and 2015 year are o.016 % of GDP, Public expenditures for incentive programs as% of GDP in 2014 year are 0.02% and in 2015 year are 0.031% of GDP, Expenditures for supporting unemployed youth as% of GDP before 2014 year did not exist in 2015 year are 0.0035% of GDP.

Analysis of the impact of investment policy, on the creation of new jobs. Referring to Table (1) we see that the average investment in the government period 2005 to 2013 is 728.7 million Euros, while in the government period 2013 to 2020 the average is 947.6 million Euros. Government investments of the period after 2013 have been 16.2% higher than the government of the period 2005-2013.

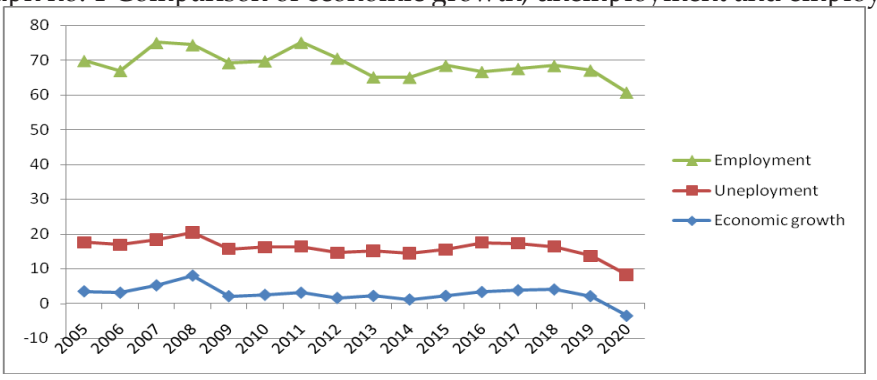
Table 1. Investment, economic growth, employment and unemployment

Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Investments Million euro	627	643	724	813	717	793	630	666	945	869	890	942	900	1,020	1,072	940
Economic growth	3.5	3.1	5.2	8.0	2.1	2.5	3.1	1.6	2.19	1.17	2.22	3.31	3.80	4.02	2.11	-3.5
Employment	52.2	50.0	56.6	53.9	53.5	53.5	58.7	55.9	49.9	50.5	52.9	49.1	50.2	52.0	53.4	52.5
Unemployment	14.1	13.8	13.2	12.5	13.6	13.7	13.3	13	13	13.3	13.3	14.2	13.5	12.3	11.5	12.8

Source Instat, processing author

The average economic growth in the government period 2005-2013 was 3.5%, while the average economic growth of the government period after 2013 was 2.8% with a difference of 0.7%, which is lower (Chart 1). The analysis did not take into account the negative growth of the pandemic period (covid-19) in order not to distort the study. Regarding the impact of investment policies on employment in the period 2005 - 2013 we have an average of 53.8%, while in the period 2013-2020 of governance the average for employment is 51.5%. There is no qualitative difference between the two periods of the governance, considering that 360 thousand citizens have emigrated from Albania. For the governing period, 2005-2013 the coefficient of correlation of investments with employment is -0.3 which shows that it has not had an impact on employment growth, for the period 2013-2020 this coefficient is positive 0.5, which shows that it has had an impact. For unemployment, in the government of 2005-2013, the average is 13.4% while for the government of the period 2013-2020 the average is 12.8%, with a difference of 0.6%.

Graph no. 1 Comparison of economic growth, unemployment and employment



Source INSTAT, author processing.

Regarding the connection of investments with unemployment, the correlation for both periods has negative vessels (-0.5, -0.7), but with a stronger negative impact on the government of the period 2013-2020, this is consistent with the analysis of researchers (A. Civici, 2020). In fact, in both periods that have been studied, the focus of the first government has been on infrastructure, and the second on urban planning, in order to give priority to tourism development.

I think that the reason for the lack of impact in the investments is the period of the pandemic (covid-19) that suspended the arrival of tourists. The correlation coefficient

of the connection between economic growth and employment, in both periods has no impact because they have a small value of 0.14 for the period 2005-2013, and -0.2 for the period 2013-2020. While regarding unemployment the impact of economic growth has a positive coefficient of 0.48 for the period 2005-2013 and 0.2 for 2013-2020.

In both periods of government, the policy of minimum wage for the impact on the labor market has been enforced. The average minimum wage in the government period 2005-2013 is 17,422 ALL, in the period 2013-2020 it is 23,714 (table.2).

	Table 2. Comparison of wages according to employment sector		
Year	minimum wage	wage in public sector	wage in private sector
2005	11,800	15,055	26,808
2006	14,000	16,500	28,822
2007	14,000	18,000	33,750
2008	17,000	23,022	36,537
2009	18,000	28,357	40,874
2010	19,000	34,783	43,615
2011	20,000	36,451	46,665
2012	21,000	37,715	50,092
2013	22,000	36,993	52,150
2014	22,000	37,333	53,025
2015	22,000	38,173	54,000
2016	22,000	38,850	54,488
2017	24,000	45,631	61,600
2018	24,000	47,299	63,273
2019	26,000	48,767	63,825
2020	26,000	49,440	66,479

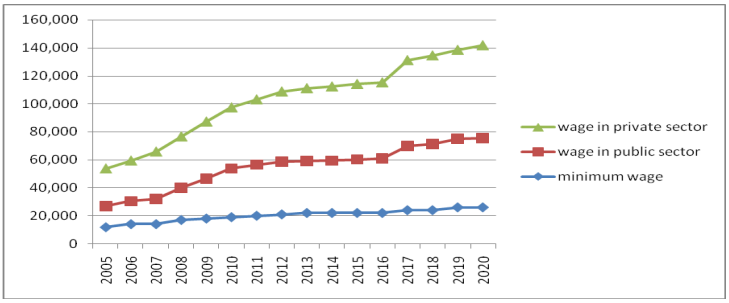
Source INSTAT, author processing.

The average salary in the private sector is 27,430 in the period 2005-2013 and 43,641 for the period 2013-2020. The average salary in the public sector was 39,923 in the period 2005-2013 and 59,527 in the period 2013-2020. The difference between the payroll periods in the averages of the private sector is 12,493 ALL and for the public sector is 14,886, which shows a constant increase in all sectors. The policy pursued by the government in both periods for the minimum wage has been successful, but Albania has the lowest wages in the region and therefore has more departures from the region to Western countries.

The correlation coefficient regarding the link between the minimum wage and wage in private sector is 0.96, and the link between the minimum wage and the wage in public sector is 0.95, which shows that the impact of the increase in the minimum wage on the increase in private-sector wages has been close to one. The correlation coefficient for the relationship between minimum and state wage is 0.98 in the government period 2005-2013 and 0.94 in the period 2013-2020, it is a strong link between the increase of the minimum wage and that in the public sector. What is evident from the analysis of wages for the labor market is that wages in the public sector are higher than in the private sector. This has led to the deformation of the labor market and shows that the

private sector is not yet valued and fades the encouragement of citizens to invest in the economy.

Graph no.2 Comparison of the Minimum Wage with the wage of private and public sector



Source, author

This has led to the deformation of the labor market and shows that the private sector is not yet valued and fades the encouragement of citizens to invest in the economy. Despite the impact of active employment promotion policies, in the period 2013-2020, according to the data, 220,000 people were employed.

Table No.3 Labor Force, per 000 thousand

Year	2016	2017	2018	2019	2020
Labor force	1,163	1,185	1,213	1,268	1,214
Employed	1,043	1,096	1,138	1,147	1,131
Unemployed	120	89	75	71	83

Source, INSTAT 2020

In reality, this seems like an unbelievable figure coming from the fight against informality in the economy, and from the registration of farmers who have not previously registered their activity and were forced to receive subsidies (oil). This is confirmed by the data in Table 3, for the labor force (INSTAT 2020), the difference from 2016 to 2020 is 88,000 employees. While unemployment from 2016 to 2020 has decreased by 51,000, calculating 76% (84,000) of the refugees that have left Albania in recent years 220,000 citizens (INSTAT, 2020), the decrease in unemployment is also a result of departures.

In 2016, operating expenses increased by 23% compared to 2015. Funds for active labor market policies have been stable, reaching the amount of 450-490 million ALL. Budget expenditures for the labor market have increased, 1,622,231 ALL in 2015; 1,803,829 leke in 2016; 1,958,700 ALL in 2017.

Graph.3 Budget expenditures for employment policies

Number of beneficiaries from Employment Promotion Program (2015-2016) are: on the job training 2305 persons, jobseekers in difficulty 3011 persons, internship for recent graduates from Albania abroad 478 persons, unemployed youth entering the labour market for the first time 193 persons, unemployed jobseekers with disabilities 46 persons, in the total 6116 persons. According to the National Strategy for Employment and Skills, there has been an increase in the number of people benefiting from employment programs, in 2014 there were no people benefiting from the programs, in 2015 20,140 people were registered and in 2016 25,170 people were registered for training and qualification. Consolidation of the NES information system, promotion and sharing of information with the public, business and social partners have contributed to the improvement of vacancies advertised by third parties through the National Employment Service (NES). This has led to an increase in demand for vacancies over the years: in 2013-16,175; in 2014- 30,583: in 2015-35,345; in 2016-38,519 vacancies and increasing the role of NES, ; 40% of vacancies belong to the industry sector. Active employment policies after 2015 through training programs, qualification courses and vocational schools, has tried to influence the labor market supply for occupations required by the labor market.

Conclusions

1. In both periods, the governments have found itself in difficult situations, in the period 2005-2013 (financial crisis 2008), and in the period 2013-2020 (pandemics), which have interrupted the effects of policies for job creation and employment incitement.
2. In the period 2013-2020, employment promotion policies have been given priority, but still, the public expenditures that they cover are very small in relation to the expenditures made by OECD countries and other countries in the region.
3. The policy of increasing the minimum wage has been used in both periods, but wages in Albania are the lowest in the region, which also stimulates emigration.
4. The policy of attracting investments was used in the first period 2005-2013 in road infrastructure and in the period 2013-2020 in urban development, in order to give priority to tourism, but the pandemic (covid-19) prevented the possibility of their effectiveness, which remains to be proved in the future.

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The European Pillar of Social Rights as new dimension of Social Europe

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Abstract

Over the last two decades the legislative output in the dimension of EU social policy has been relatively weak in contrast to other areas of European law in which there have been more significant legislative changes.
After a numerous discussions and challenges, on 17 November 2017, President **Juncker** and European Union leaders at the EU Social Summit in Gothenburg, solemnly proclaimed the fourth Pillar in the architecture of the European Union, the European Pillar of Social Rights.
The creation of the European Pillar of Social Rights "represents the broadest effort to raise the profile of social policy in two decades, since the inclusion of the employment chapter in the Amsterdam Treaty and the formulation of the European Employment Strategy". At Union level, the European Commission is responsible for implementing the European Pillar of Social Rights. The implementation of the Pillar is envisaged through a variety of community legal instruments such as: regulations, directives, non-binding instruments such as recommendations and communications, the establishment of new institutions, funding actions and country-specific recommendations. The European Pillar of Social Rights as a reaffirmation of the high political profile composed of social rights and principles cannot address all the social failures of the EU.
In this article I will try to shed light on some arguments focused mainly on the functional and political aspect regarding the implementation of rights and the difficulties encountered by the European Pillar of Social Rights in the current and future development of the European integration project.
The arguments I will analyze are mainly related to a number of challenges as well; the high levels of unemployment and rising inequalities in labor market inequalities especially between Northern and Southern European countries, the elimination of social inequalities between Member States which requires adequate treatment, the creation of a mandatory concept of adequate minimum wages guaranteed at EU level that will help can put pressure not only on domestic demand, minimum social security rights and social assistance, but will also affect in improving the situation on equal opportunities and social mobility of workers, the creation of a basic reference budget for the minimum income that will serve as a compass in facilitating wage convergence and community solidarity and challenges related to the treatment of self-employed workers.

Keywords: Social policy, Social Pillar, Social Dimension, ESU.

Introduction

In Gothenburg on 17 November 2017, the European Commission, Parliament, and Council signed a 'solemn' Inter-Institutional Proclamation on the European Pillar of Social Rights. The Pillar 'represents the most encompassing attempt to raise the profile of social policy in two decades, since the inclusion of the employment chapter in the Amsterdam Treaty and the formulation of the European Employment Strategy'. The Pillar is a high-profile political reaffirmation of a broad set of social rights and principles there may be a stronger commitment to EU social policy. The

Pillar's implementation envisages the deployment of the full array of EU governance instruments: regulations and directives, recommendations and communications, the creation of new institutions, funding actions, and country-specific recommendations. As such, the static imagery evoked by the notion of a 'pillar' arguably does not capture the true nature and potential of the initiative, which is dynamic and fluid, wide-ranging, and permeating. The use of the European Semester as an avenue for the implementation of the Pillar is especially interesting, considering that it is in this context of economic governance that many decisions with questionable social consequences have been taken over the past years, especially since the economic crisis.

Materials and Methods

The pillar "represents the broadest effort to raise the profile of social policy in two decades, since the inclusion of the employment chapter in the Amsterdam Treaty and the formulation of the European Employment Strategy". From a structural point of view, it consists of 20 different social principles and rights adopted aiming to reduce social differences in terms of opportunities and living conditions within the EU Member States. 12. In essence, these principles summarize the social aspect of the EU *acquis* communautaire, the so-called Social Acquis, and referring to the Commission's indications, the pillar should play an important role in achieving its functionality. Defined in the form of addressing the "rights" depending on the context, the principles cover several areas, which are covered by social policies such as: equality, working conditions, wages and minimum income, health care and housing.
The community legislator has structured these principles into three chapters.
-Equal Opportunities and Access to the Labor Market
- Fair Working Conditions
-Social Protection and Inclusion
Will these principles become operational?
In its preface the European Pillar of Social Rights makes a clear reference to the relevant articles of the treaties and states that its purpose "is to serve as a guide to efficient employment and social outcomes, when responding to current and future challenges, which aim directly at meeting the essential needs of the people and at ensuring better implementation and enforcement of social rights". It "shall apply at the level of the Union and at the level of the Member State within their respective competences", and "shall not extend to the powers and tasks of the Union as provided for in the Treaties".
Presented by the Commission as a non-legislative act (at the same time a recommendation and a proclamation) means that the rights and principles contained in the EPSR are not binding on the EU institutions and member states. However, the Commission asserts that most of the rights and principles contained in the social pillars are legally binding on EU Member States due to other legal norms, such as; The European Social Charter of the Council of Europe, the Community Charter of Fundamental Social Rights of Workers, the European Charter of Fundamental Rights, the European Social Security Code of the Council of Europe, and the case law of the Court of Justice of the European Union. Furthermore, the social pillar is said to accept the relevant conventions and recommendations from the ILO (International

Labor Organization) and the United Nations Convention on the Rights of Persons with Disabilities.
The implementation of the principles and rights sanctioned in the Pillar, first requires the drafting and approval at the appropriate level of a particular legislation as well as the identification of institutions which will be implicated in its implementation. The Commission reiterated the need for implication at various levels of government and administration, such as the EU institutions, the Member States through local, regional and national authorities, and the social partners and civil society.
At Union level, the European Commission is responsible for implementing the European Pillar of Social Rights. The implementation of the Pillar is envisaged through a variety of community legal instruments such as: regulations, directives, non-binding instruments such as recommendations and communications, the establishment of new institutions, funding actions and country-specific recommendations. It seems that the Commission will rely more, as in the case of the Lisbon Strategy and the Europe 2020 Strategy, on non-binding instruments such as the Open Coordination Method and the European Semester.
With the unanimous approval of the instrument, the Commission clearly stated that the EPSR is "primarily conceived for the euro area, but applicable to all EU member states wishing to be part of it".
The pillar is seen as a new EU social policy framework that combines different elements of public policy from setting the agenda to implementing them. I will highlight some challenges which are addressed to the social policy of the European Union and thanks to the instruments of the Pillar can find solutions.
These include high levels of unemployment and rising inequality in the labor market, persistent inequalities in access to childcare, education, training, and lifelong learning opportunities, and a high level of poverty and social exclusion throughout the EU.
The future of the European social integration project will depend on the success of preventing the divergence in the euro area, which should increase social investment through EU development strategies in the peripheral regions. On the contrary, their absence has the potential to widen the gap, especially between a large part of the eastern suburbs, which is still fresh from the debate of posted workers and their self-exclusion from Union policies for so long how their impact on the euro area is not direct.
The dual dualization of European labor markets is a result of the EU policy architecture. Rising labor market disparities, especially between Northern and Southern European countries, are due to the lack of a common fiscal policy and focused budget on EMU, and at the same time critically expose the naive political theory of using deepening European economic interdependence without a proper security network.
Social investment should be closely linked to "Employment Strategies" as an important tool to reduce poverty, although they are not fully sufficient. Of course, their design will remain on a wide range of principles on which the Pillar itself is built. However, increasing employment levels will have an impact on alleviating poverty, but it is not necessarily a sufficient and not very promising condition that this decline will be at acceptable levels. If the wage index and other employment benefits are low and not in coherence with the level of prices and taxes, then the strategy is insufficient to help people get out of poverty.
I am of the opinion that a normative intervention with the sanctioning of a basic

reference budget and the creation of a framework for minimum incomes would be reasonable, which would serve as a compass in facilitating wage convergence and community solidarity. Establish a basket with illustrative reference prices of goods and services that concretely represent the minimum required for adequate social participation in each Member State.
The union does not have direct competence in the field of wages and their determination, but in various ways, the issue is gradually falling under its influence. In the context of re-balancing the asymmetry between economic and social standards, the Pillar should draft an agreement establishing a Community framework on guaranteed minimum income for each country, based on a coordinated approach to minimum wages at the EU level and ensuring that levels are set above the poverty line and represent a good wage for the work undertaken. This approach should be binding on a directive and not as a guide for EU national governments.
The Mandatory conception of adequate minimum wages guaranteed at the EU level will help create pressure not only on domestic demand, minimum social security rights and social assistance, but also on improving the situation on opportunities equality and social mobility of posted workers. This can also be translated as a guarantee of the risk of the impoverishment of European citizens and Member States by taking austerity measures in the future. This concept can be aided by the implication of current Open Coordination processes.

Results and discussion

It is quite clear that the "principles and rights" enshrined in the Pillar of Social Rights express the desire of the European Union to seek to place "the Person and its Dignity" at the heart of its policies and whether they will be fully implemented in the short term. Reasonable time will provide great support for the European social integration project. However, the way it is conceived and its content cannot escape the main criticism of the risk of inconsistency of this initiative and its inability to produce concrete lasting effects.
As the newest expression of social rights, the European Pillar of Social Rights shows a significant shortcoming stemming from its legal status. To clarify this ambiguity of it we must first clarify two important legal concepts. The two most important documents published by the Commission in the so-called "Pillar Package" are a "Recommendation" and a proposal for an "Inter-Institutional Announcement".
At first glance the two documents have almost identical content and cover a wide range of areas of social policy and labor legislation, but differ in their impact and legal form. In the Union "vocabulary" the basic legal term indicates the provision of the Treaty on which the Union's competence to adopt a measure is based. In fact, since the Union has competence only in specific areas, it would be able to act on its own if the Treaty contained a title for competences. In our case, the recommendation has a very clear legal basis, because its adoption is based on Article 288 TFEU, while in the draft proclamation, the legal basis dilutes its clarity, as the Treaties on which it is based do not explicitly provide an opportunity to approve "announcements".
Choosing the legal basis is not always easy, because seen from different points of view, the same text may depend on different articles of the Treaty. However, both instruments refer to the same articles of the Treaty in the field of Social Policy in

which the Pillar aims to strengthen its influence.
When it comes to the legal nature of these two instruments, the impact of the recommendation is certainly more direct. Recommendations may be adopted by the Commission pursuant to Article 292 TFEU. The purpose of the recommendation is to suggest a course of action of political and moral importance. In contrast to the directive in the absence of binding force, the recommendation is adopted in areas where the EU has no legislative powers, but may have indirect legal effect in order to prepare the legislation of the member states and provide legitimate provisions to be met for subsequent binding instruments. In the case of the EPSR, the recommendation will change the legislation of the Member States nationally.
The Inter-Institutional Proclamation, meanwhile, is a slightly more complex procedure than the recommendation. The proclamation is a solemn declaration and in its essence reflects the position and support of the principles of the Pillar through the political engagement of the proclamation actors which in this case are the three EU institutions (European Parliament, Council of the European Union and European Commission). As mentioned above, the adoption of such an instrument is not explicitly provided for in the Treaties, but there are some precedents in the past for a similar approach. One such precedent is the sole proclamation of the Charter of Fundamental Rights of the European Union in Nice on 7 December 2000 (and subsequently in an amended format, in 2007), which has already taken on constitutional value. Perhaps following this precedent, the Commission saw fit to use it as an example in the presentation of the Pillar.
In both cases, both the recommendation and the proclamation are identified as soft legal instruments and in the absence of a legally binding force.
In its ambiguity, there is a lack of information on how to implement legal rights and on the relative distribution of powers and taking responsibility between different levels of government (EU, national, regional, local), a fundamental element that the Pillar does not remain a statement simple of principles. However, the Pillar, being an act of promulgation without any legally binding value for the Member States (and this is very clearly stated in the Pillar), may not be sufficient and appropriate to promote an effective constitutional political re-establishment of social rights. It is true that it is not a strong legal instrument and often displays its current weaknesses, but it is certainly a step in the right direction.
Another shortcoming that deserves special attention is related to the territorial scope of the European Pillar of Social Rights. The functionality on which it is conceived depends directly on the Eurozone Member States with the option that other States may join in the future. Perhaps Euro membership was used in the same way as a representative of the political likelihood of approval and participation. This perception, characterized by the lack of EPSR influence throughout the European Union, with the achievement of social convergence in the euro area and only an indirect reference to the rest of the member states, risks paving the way for a differentiated integration in their social perspective. This differentiation does not seem reasonable and very debatable from the perspective of equality of the rights and fundamental principles proclaimed. Eliminating social inequalities between the Member States is a crucial issue for all EU citizens that requires adequate treatment. Such an inappropriate restriction on the application would increase rather than reduce the division between the two groups of Member States.

Another important component in implementing ESPR that is worth analyzing is the new Scoreboard. It is based on the complete updating of statistical information and performs an important function as a reference framework for closely monitoring the progress of the 20 principles of the Pillar in the context of the European Semester. Its impact in the form of binding character in Semester will undoubtedly be really useful in socio-economic coordination policies. However, the social evaluation table reveals some key shortcomings which may serve to weaken its role. Initially, there is a disagreement between the two main actors at the EU level, namely between the Commission and the Member States following the decision taken by the Commission to eliminate the inclusion of Member States through the Employment Committee and the Social Protection Committee as advisory bodies. Problems especially appear in issues of comparability with secondary indicators. Further, in accompanying the monitoring process from the European Semester, the Table is still incomplete, as with its indicators it does not reflect all the principles and rights set out in the Pillar. In the selected indicators compatibility is noticed in the relations between the 35 indicators of the Scoreboard and the 20 rights of the Pillar that is associated with the impossibility of measuring the full or partial implementation of a principle of the Pillar. In the absence of a well-thought-out methodology, there is the presence of confusion created by the overlap of multiple indicators in the existing set of social indicators used at the European level on the points board of the social scoreboard. This overlap may be compounded by the weakening of Member States' employment monitoring and defense performance.

In my opinion, the function of the Social Scoreboard should be supplemented with the inclusion of poverty indicators, net minimum wages, social security together with the tables of existing employment and social protection scores in the EU, which would make it possible to strengthen European governance in the field of social policy. It is true that the European Union does not have direct competence in the field of wages and their determination, but in different ways and situations, the issue tends to gradually fall under its influence.

Another ambiguity is observed in some employment rights. Although the proposals for the balance between life and work, working conditions and access to social protection are considered as among the most important issues of the Pillar basic social rights for maximum working time and minimum period of leave, the annual paid leave is not mentioned at all. The EPSR impact of the rights set out in the Charter may not be direct. This raises the question of whether these rights are being politically redefined to exclude the issue of working time.

Referring to the text of the European Pillar of Social Rights document, the competencies of the Union in its implementation will not matter because every decision must be taken and implemented by the member states. Only about 25% of its budget is allocated to social measures, which represent about 0.3% of member states' budgets. This weakness of the legislative and financial power of the European Union will directly affect the implementation of the provisions of the EPSR and the transfer of almost the entire burden of social protection and social security on the shoulders of member states. Perhaps the inclusion of the EPSR as an annex to the Treaty on the Functioning of the European Union, similar to the EU Charter of Fundamental Rights, could, for the first time, strike a balance between economic freedoms and social rights. A true social market economy can only be achieved by the inclusion of

certain fundamental social rights in relation to social security and social protection in the Treaty.

Conclusions

The impact that the Social Rights Pillar could have could be closer if concretization as a rule at EU level of adopted principles and rights is achieved. In this case the EU could introduce further legislation within the scope of labor market policy. This provides an opportunity for the Commission to recommend legislation within areas where the principle of subsidiarity could have limited.

The Pillar Package shows that the EPSR focuses mainly on the national level and its aim is to complement and advance the social dimension of the EU. Addressing by the Commission of Principles and Rights mainly to the Member States and their full support will play a very important role in achieving the success of social policy as a whole. Otherwise the EPSR is likely to fail.

If the Pillar is implemented effectively and complemented by other complementary legal initiatives, the Pillar will significantly improve the level of social protection of many European citizens and at the same time consolidate the Union's role in social policy.

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Different methods of estimation for modified Rayleigh distribution

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Abstract

In this paper, we propose different methods for estimating the unknown parameters of Alpha Power Transformed Weibull-Rayleigh distribution. One of the fundamental problems in the theory of parameter estimation is the choosing of the most efficient estimators, among others. First, we briefly describe different methods of estimations, namely Maximum Likelihood estimators, Moment estimator, Modified Moment estimator, L-moment estimators, Percentile-Based estimators, Least Square estimators, Weighted Least Square estimators, Maximum Product Spacings, Cram ́er-von-Mises, Anderson-Darling and Right-tail Anderson-Darling and compare them using extensive numerical simulations.

Keywords: Alpha Power Transformed Weibull-Rayleigh, Maximum Likelihood estimator, Moment estimator, Kolmogorov–Smirnov Test, Numerical Simulations, Parameter estimation.

1. Introduction

Modelling lifetime phenomena using probability distributions is an important issue in many applied sciences such as medicine, physics, biology, engineering and others. Practically, it is observed that most of the classical distributions like exponential, Weibull, Rayleigh, gamma and others are not sufficiently flexible to model various phenomena of the nature. For this purpose, researchers have suggested several methods of extending well-known distributions to generate new families of distributions. There are many generalized families of distributions proposed in the literature such as: Exponentiated-G proposed by Cordeiro et al. [2], Beta-G by Eugene et al. [1], Weibull-G by Bourguignon et al. [4], Kumaraswamy-G by Cordeiro and de Castro [3], alpha power transformation by Mahdavi and Kundu [5]. Combining the alpha power transformed (APT) generator and the Weibull-G family of distributions, Elbatal et al. [7] introduced a new generator called $APTW-G$ family.

The aim of this article is to study some statistical properties for the $APTW-Rayleigh$ distribution introduced by Elbatal et al. [7] and to consider many different methods of estimation for the parameters of the distribution. The Rayleigh distribution is

a continuous probability distribution for positive valued random variables, which was firstly introduced by the British physicist Lord Rayleigh in 1880. Rayleigh [12] derived it as the distribution of the amplitude resulting from the addition of harmonic oscillations. It has emerged as a special case of the Weibull distribution with the shape parameter taking value 2. The Rayleigh distribution has been widely used in many fields of science. An example for the application of Rayleigh distribution is the analysis of wind velocity into its orthogonal two-dimensional vector components. Assuming that each component is uncorrelated, normally distributed with equal variance σ^2 and zero mean μ, then the overall wind speed will be characterized by a Rayleigh distribution. It can be also used to model scattered signals that reach a receiver by multiple paths, to model the lifetime of an object. It is very useful for analyzing skewed data and as its hazard rate function is linearly increasing, the Rayleigh distribution has been used as a model for the lifetimes of components that age rapidly with time. Some problems related to the Rayleigh distribution can be found in Siddiqui [10]. Hirano [11] discussed the origin and some properties of the distribution.

Due to the importance of Rayleigh distribution in a variety of fields, many authors have constructed different generalization of the distribution to receive a new model more flexible and efficient for fitting the data. Cordeiro et al. [8] proposed the beta generalized Rayleigh distribution and then provided its mathematical properties. Ateeq et al. [9] proposed the Rayleigh-Rayleigh distribution using Transformed Transformer method (It is a technique where the function form of CDF of a random variable is used to transform PDF of other random variable into a new distribution.).

Definition 1.1 A random variable X is said to have Rayleigh distribution with parameter ($\beta > 0$) if its probability density function PDF is given by:

$$f(x;\sigma) = \begin{cases} \beta x e^{-\frac{\beta}{2}x^2} & x > 0 \\ 0 & x \leq 0 \end{cases} \qquad (1)$$

and the corresponding cumulative density function CDF is given by:

$$F(x;\sigma) = \begin{cases} 1 - e^{-\frac{\beta}{2}x^2} & x > 0 \\ 0 & x \leq 0 \end{cases} \qquad (2)$$

In 2021, Elbatal et al. [7] introduced a three-parameter distribution called Alpha Power Transformed Weibull-Rayleigh by taking as baseline the Rayleigh distribution to Alpha Power Tranformed Weibull Family.

Definition 1.2. The cumulative distribution function of the *APTW-R* with parameters θ, α and λ are given as:

$$F_{APTW-R}(x) = \frac{\alpha^{1-e^{-\left(e^{\frac{\beta}{2}x^2}-1\right)^{\theta}}} - 1}{\alpha - 1} \text{ for } \alpha > 0,\ \alpha \neq 1$$

and for $\alpha = 1$ we have:

$$F_{APTWR}(x) = 1 - e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}.$$

Figure 1 illustrates some of the possible shapes of the CDF of Alpha Power Transformed Weibull-Rayleigh.

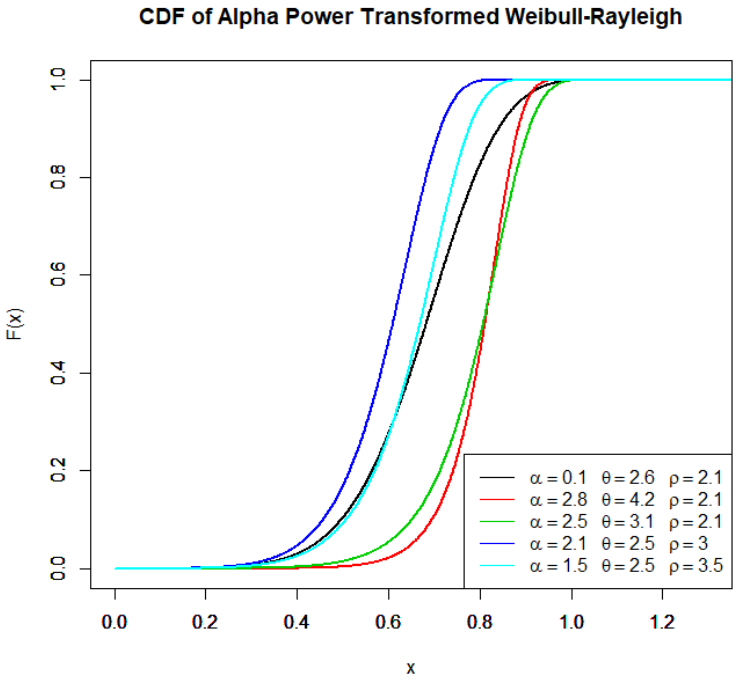

Figure 1. CDF of the APTW-R for different parameter values.

The probability density function is given:

$$f_{APTWR}(x) = log(\alpha)\theta\rho x e^{-\frac{\rho}{2}x^2} \frac{\left(1-e^{-\frac{\rho}{2}x^2}\right)^{\theta-1}}{(\alpha-1)\left(e^{-\frac{\rho}{2}x^2}\right)^{\theta+1}} e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}} \alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}$$

for $\alpha > 0,\ \alpha \neq 0$, and for $\alpha = 1$ we have:

$$f_{APTWR}(x) = \theta\rho x e^{-\frac{\rho}{2}x^2} \frac{\left(1-e^{-\frac{\rho}{2}x^2}\right)^{\theta-1}}{\left(e^{-\frac{\rho}{2}x^2}\right)^{\theta+1}} e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}$$

Figure 2 illustrates some of the possible shapes of the PDF of Alpha Power Transformed Weibull-Rayleigh.

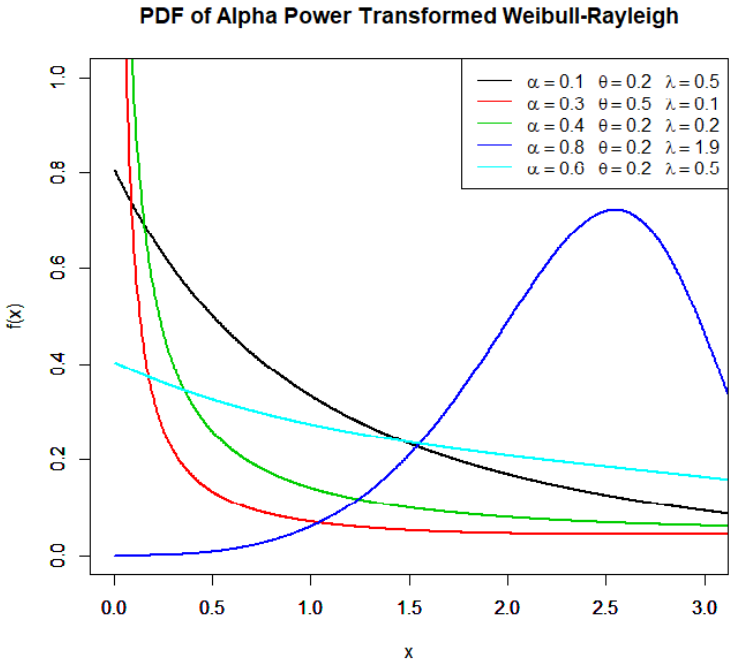

Figure 2. The graphs of PDF of the APTW-R for different parameter values.

The survival function, also known as the reliability function, $R(x)$ gives the probability that a subject survives longer than some specified time x, that is $R(x)$ gives the probability that the random variable X exceeds the specified time x. Mathematically, the reliability function is given by

$$R(x) = P(X \geq x) = 1 - F(x) \tag{3}$$

Therefore, the reliability function for the *APTW-R* is defined as

$$R(x) = 1 - \frac{\alpha^{1-e^{-\left(\frac{\rho}{\theta^2}x^2-1\right)^{\theta}}} - 1}{\alpha - 1} = \frac{\alpha - \alpha^{1-e^{-\left(\frac{\rho}{\theta^2}x^2-1\right)^{\theta}}}}{\alpha - 1} \tag{4}$$

for $x > 0$, where $\alpha > 0$.

The hazard function, denoted by $h(x)$, is given by the formula:

$$h(x) = \lim_{dx \to 0} \frac{P(x \leq X \leq x + dx | X \geq x)}{dx} \tag{5}$$

The numerator of this expression is the conditional probability that the event will occur in the interval $[x, x + dx)$ given that it has not occurred before, and the denominator is the width of the interval. Dividing one by the other we obtain a rate of event occurrence per unit of time. Taking the limit as the width of the interval goes down to zero, we obtain an instantaneous rate of occurrence. The conditional probability in the numerator may be written as the ratio of the joint probability that X is in the interval $[x, x + dx)$ and $X \geq x$ (which is, of course, the same as the probability that x is in the interval), to the probability of the condition $X \geq x$. The former may be written as $f(x)dx$ for small dx, while the latter is $R(x)$ by definition. Dividing by dx and passing to the limit gives the useful result

$$h(x) = \frac{f(x)}{1 - F(x)} \tag{6}$$

which some authors give as a definition of the hazard function. In other words, the rate of occurrence of the event at duration x equals the density of events at x, divided by the probability of surviving to that duration without experiencing the event. The hazard rate function for the *APTW-R* distribution is given as

$$h(x) = \frac{log(\alpha)\theta\rho x e^{-\frac{\rho}{2}x^2} \frac{\left(1 - e^{-\frac{\rho}{2}x^2}\right)^{\theta-1}}{(\alpha - 1)\left(e^{-\frac{\rho}{2}x^2}\right)^{\theta+1}} e^{-\left(e^{\frac{\rho}{2}x^2} - 1\right)^{\theta}} \alpha^{1 - e^{-\left(e^{\frac{\rho}{2}x^2} - 1\right)^{\theta}}}}{\frac{\alpha - \alpha^{1 - e^{-\left(e^{\frac{\rho}{2}x^2} - 1\right)^{\theta}}}}{\alpha - 1}} =$$

$$= -\frac{\theta\rho x \left(1 - e^{-\frac{\rho}{2}x^2}\right)^{\theta-1} \alpha^{1 - e^{-\left(e^{\frac{\rho}{2}x^2} - 1\right)^{\theta}}} \left(e^{-\frac{\rho}{2}x^2}\right)^{-\theta-1} \ln(\alpha)\, e^{-\frac{\rho}{2}x^2 - \left(e^{\frac{\rho}{2}x^2} - 1\right)^{\theta}}}{-\alpha + \alpha^{1 - e^{-\left(e^{\frac{\rho}{2}x^2} - 1\right)^{\theta}}}} \tag{7}$$

Figure 3 illustrates some of the possible shapes of the hazard function of Alpha Power Transformed Weibull-Rayleigh. We observe that the graphs of the hazard function are bathtub shaped and increasing.

Integrating the hazard function $h(x)$ from 0 to x, we obtain the cumulative hazard function, which is given by the formula

$$H(x) = \int_0^x h(u)du = -\ln\left(R(x)\right) \tag{8}$$

The cumulative hazard function for the *APTW-R* distribution is given as

$$H(x) = -\ln\left(\frac{\alpha - \alpha^{1-e^{-\left(\frac{\rho}{\theta^2}x^2 - 1\right)^\theta}}}{\alpha - 1}\right) \tag{9}$$

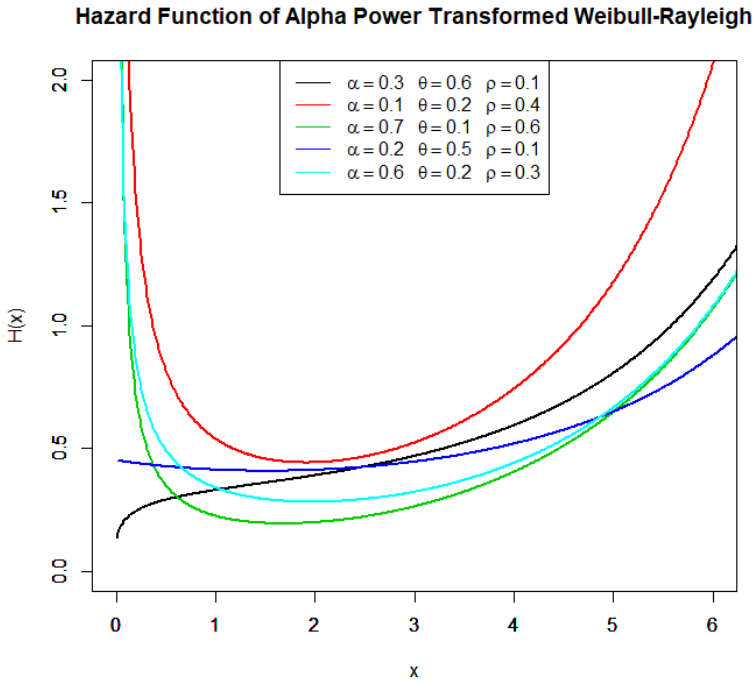

Figure 3. The graphs of hazard function of the APTW-R for different parameter values.

2. Quantile Function

The quantile function of a random variable X is obtained by inverting the distribution function of X, say $F(x)$, hence the quantile function of a random variable X is defined as follows:

$$Q(p) = F^{(-1)}(p) = \inf\{x: F(x) \geq p\}, \quad 0 < p < 1$$

The quantile function corresponding to the CDF of *APTW-R* distribution is given as

$$Q(p) = F^{(-1)}(p) = \frac{\sqrt{\log\left(\left(\sqrt[s]{-log\left(1 - \frac{log\left((\alpha-1)\left(p - \frac{1}{1-\alpha}\right)\right)}{log(\alpha)}\right) + 1}\right)^2\right)}}{\sqrt{\rho}}, \quad 0 \leq p \leq 1$$

Median, first and third quartiles of the *APTW-R* distribution are obtained by substituting $p = 0.25, 0.5, 0.75$ respectively.

3. Order Statistics

The ordered values of a sample of observations are called the order statistics of the sample, and the smallest and the largest values are called the extremes. Order statistics and extremes are among the most important functions of a set of random variables. There is natural interest in studying the highs and lows of a sequence, and the other order statistics help in understanding concentration of probability in a distribution, or equivalently, the diversity in the population represented by the distribution. Order statistics are also useful in statistical inference, where estimates of parameters are often based on some suitable functions of the order statistics.

In this section, we derive closed-form expressions for the PDF of the j^{th} order statistics of the *APTW-R* distribution. Suppose that $X_1, X_2, \ldots, X_n$ is a random sample from the *APTW-R* distribution and let $X_{(1)}, X_{(2)}, \ldots, X_{(n)}$ denote the corresponding order statistics obtained from this sample. The probability density function of the j^{th} order statistics can be obtained by

$$f_{j:n}(x) = \frac{n!}{(j-1)!\,(n-j)!}[F(x)]^{j-1} f(x)[1-F(x)]^{n-j} \qquad (10)$$

where the $F(x)$ and $f(x)$ are the CDF and the PDF of the *APTW-R* distribution. The PDF of the j^{th} order statistics for the *APTW-R* distribution is given by

$$f_{j:n}(x) = \frac{n!}{(j-1)!\,(n-j)!} \times \left[\frac{\alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}-1}{\alpha-1}\right]^{j-1} \left[1-\frac{\alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}-1}{\alpha-1}\right]^{n-j} \times$$

$$\times\left(log(\alpha)\theta\rho x e^{-\frac{\rho}{2}x^2}\frac{\left(1-e^{-\frac{\rho}{2}x^2}\right)^{\theta-1}}{(\alpha-1)\left(e^{-\frac{\rho}{2}x^2}\right)^{\theta+1}} e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}} \alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}\right)$$

The PDF of the smallest order statistic $X_{(1)}$ is

$$f_{1:n}(x) = n \times \left(log(\alpha)\theta\rho x e^{-\frac{\rho}{2}x^2}\frac{\left(1-e^{-\frac{\rho}{2}x^2}\right)^{\theta-1}}{(\alpha-1)\left(e^{-\frac{\rho}{2}x^2}\right)^{\theta+1}} e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}} \alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}\right) \times \left[\frac{\alpha-\alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}}{\alpha-1}\right]^{n-1}$$

And the PDF of the largest order statistic $X_{(n)}$ is

$$f_{n:n}(x) = n \times \left(log(\alpha)\theta\rho x e^{-\frac{\rho}{2}x^2}\frac{\left(1-e^{-\frac{\rho}{2}x^2}\right)^{\theta-1}}{(\alpha-1)\left(e^{-\frac{\rho}{2}x^2}\right)^{\theta+1}} e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}} \alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}\right) \times \left[\frac{\alpha^{1-e^{-\left(e^{\frac{\rho}{2}x^2}-1\right)^{\theta}}}-1}{\alpha-1}\right]^{n-1}$$

4. Methods of Estimation

In this section, different methods which can be used to estimate the parameters θ, ρ and α of the *APTW-R* distribution have been discussed.

4.1 Maximum Likelihood Estimation

In statistics, the method of maximum likelihood is probably the most widely used method of estimation, due to its desirable properties of estimators including consistency, asymptotic efficiency and invariance. It was introduced by R. A. Fisher [13]. In this Section, maximum likelihood estimators of the parameters of *APTW-R* distribution have been derived. Let $X_1, X_2, \dots, X_n$, be a random sample from $X \sim APTW-R\ (x;\ \theta, \rho, \alpha)$, with observed values $x_1, x_2, \dots, x_n$. Then the likelihood function of the observed sample is given as

$$L(x_1, x_2, \dots, x_n; \theta, \rho, \alpha) = \prod_{i=1}^{n} \frac{ln(\alpha)\theta\rho x_i e^{-\frac{\rho x_i^2}{2}\left(1-e^{-\frac{\rho x_i^2}{2}}\right)^{\theta-1}} e^{-\left(\frac{\rho x_i^2}{2}-1\right)^{\theta}} \alpha^{1-e^{-\left(e^{\frac{\rho x_i^2}{2}}-1\right)^{\theta}}}}{(\alpha-1)\left(e^{-\frac{\rho x_i^2}{2}}\right)^{\theta+1}}$$

and the corresponding log likelihood function is

$$\begin{aligned} l = lnL(x_1, x_2, \dots, x_n; \theta, \rho, \alpha) = \\ = nlog(log(\alpha)) - nlog(\alpha - 1) + nlog(\theta) + \sum_{i=1}^{n} \log\left(\rho x_i e^{-\frac{\rho}{2}x_i^2}\right) \\ + (\theta - 1)\sum_{i=1}^{n} log\left(1 - e^{-\frac{\rho}{2}x_i^2}\right) - (\theta + 1)\sum_{i=1}^{n} log\left(e^{-\frac{\rho}{2}x_i^2}\right) \\ - \sum_{i=1}^{n}\left(e^{\frac{\rho}{2}x_i^2} - 1\right)^{\theta} \\ + \sum_{i=1}^{n}\Bigg(1 \\ - e^{-\left(e^{\frac{\rho}{2}x_i^2}-1\right)^{\theta}}\Bigg) log(\alpha) \end{aligned} \qquad (11)$$

By applying the rule of maximum likelihood estimation, differentiating partially the log likelihood function with respect to the parameters of the model θ, ρ, α, and equating to zero, the maximum likelihood estimates $\hat{\theta}_{ML}, \hat{\rho}_{ML}, \hat{\alpha}_{ML}$ of the parameters θ, ρ, α, respectively.

4.2 Moment Estimation

The method of moments is one of the oldest methods for finding point estimators and the motivation comes from the fact that the sample moments are in some sense estimates for the population moments. It was introduced by Karl Pearson [14].

The moment estimators of *APTW-R* distribution can be obtained by equating the first three theoretical moments with the respective three sample moments. The first three sample moments are defined as:

$$m_1 = \frac{1}{n}\sum_{i=1}^{n} x_i$$

$$m_2 = \frac{1}{n}\sum_{i=1}^{n} x_i^2$$

$$m_3 = \frac{1}{n}\sum_{i=1}^{n} x_i^3$$

And the first three theoretical moments are defined as:

$$\mu_1^{'} = E(X^1) = \int_{-\infty}^{+\infty} x f(x;\theta,\rho,\alpha)dx$$

$$\mu_2^{'} = E(X^2) = \int_{-\infty}^{+\infty} x^2 f(x;\theta,\rho,\alpha)dx$$

$$\mu_3^{'} = E(X^3) = \int_{-\infty}^{+\infty} x^3 f(x;\theta,\rho,\alpha)dx$$

The moments estimators $\hat{\theta}_{ME}, \hat{\rho}_{ME}, \hat{\alpha}_{ME}$ of the parameters θ, ρ, α can be obtained by solving numerically the following system of equations:

$$m_1 = \mu_1^{'}(\theta,\rho,\alpha)$$

$$m_2 = \mu_2^{'}(\theta,\rho,\alpha)$$

$$m_3 = \mu_3^{'}(\theta,\rho,\alpha)$$

An attractive alternative of the moment estimation method is the modified moment estimation. In this method, can be made some modifications, which employ the first order statistic [30]. Let $X_1, X_2, \ldots, X_n$, be a random sample from $X \sim APTW-R\ (x;\ \theta, \rho, \alpha)$, with observed values $x_1, x_2, \ldots, x_n$. The modified moment estimators of *APTW-R* distribution can be obtained as the solution of the following equations:

$$E(X) = \bar{x}$$

$$V(X) = s^2$$

$$E\left(F\left(X_{(1)}\right)\right) = F(x_1)$$

Where $F(\cdot)$ is the *APTW-R* cumulative distribution function, $X_{(1)}$ is the first order statistic, x_1 is the smallest sample value, $\bar{x}$ is the sample mean $\left(\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i\right)$ and s^2 is the sample variance $\left(s^2 = \frac{1}{n-1}\sum_{i=1}^{n}(x_i - \bar{x})^2\right)$.

4.3 Least Square Estimation

The least square estimators and weighted least square estimators (LSEs) were proposed by Swain, Venkatraman and Wilson [15] to estimate the parameters of a Beta distribution. The LSEs of the unknown parameters of *APTW-R* distribution can be obtained by minimizing

$$\sum_{j=1}^{n}\left(F\left(x_{(j)};\theta,\rho,\alpha\right) - \frac{j}{n+1}\right)^2$$

with respect to the unknown parameters θ, ρ and α. $F(\cdot)$ denotes the distribution function of the *APTW-R* distribution and $E\left(F\left(X_{(j)}\right)\right) = \frac{j}{n+1}$ is the expectation of the empirical cumulative distribution function. The least squares estimate (LSEs) of θ, ρ and α, say, $\hat{\theta}_{LSE}, \hat{\rho}_{LSE}, \hat{\alpha}_{LSE}$, respectively, can be obtained by minimizing

$$LS(\theta,\rho,\alpha) = \sum_{j=1}^{n}\left(\frac{\alpha^{1-e^{-\left(\frac{\rho}{s^2}x_j^2-1\right)^{\theta}}} - 1}{\alpha - 1} - \frac{j}{n+1}\right)^2 \qquad (12)$$

Therefore, $\hat{\theta}_{LSE}, \hat{\rho}_{LSE}, \hat{\alpha}_{LSE}$ of θ, ρ and α can be obtained as the solution of the following system of equations:

$$\frac{\partial LS(\theta,\rho,\alpha)}{\partial \alpha} = \sum_{i=1}^{n} 2 \cdot F_{\alpha}^{'}(x_{(i)};\, \theta,\rho,\alpha)\left(F(x_{(j)};\theta,\rho,\alpha) - \frac{j}{n+1}\right) =$$

$$= \sum_{j=1}^{n}\left(2\left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{\alpha-1} - \frac{j}{n+1}\right)\left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}\left(1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}\right)^{\theta}}{\alpha(\alpha-1)}\right.\right.$$

$$\left.\left. - \frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{(\alpha-1)^2}\right)\right) = 0$$

$$\frac{\partial LS(\theta,\rho,\alpha)}{\partial \rho} = \sum_{i=1}^{n} 2 \cdot F_{\rho}^{'}(x_{(i)};\, \theta,\rho,\alpha)\left(F(x_{(j)};\theta,\rho,\alpha) - \frac{j}{n+1}\right) =$$

$$= \sum_{j=1}^{n} \frac{\left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{\alpha-1} - \frac{j}{n+1}\right)\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}\theta x_j^2 e^{\frac{\rho x_j^2}{2}} e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}} \ln(\alpha)}{\left(e^{\frac{\rho x_j^2}{2}}-1\right)(\alpha-1)}$$

$$= 0$$

$$\frac{\partial LS(\theta,\rho,\alpha)}{\partial\theta}=\sum_{i=1}^{n}2\cdot F_{\theta}^{'}(x_{(i)};\,\theta,\rho,\alpha)\left(F(x_{(j)};\theta,\rho,\alpha)-\frac{j}{n+1}\right)=$$

$$=\sum_{j=1}^{n}\frac{2\left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{\alpha-1}-\frac{j}{n+1}\right)\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}\ln\left(e^{\frac{\rho x_j^2}{2}}-1\right)e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}\ln(\alpha)}{(\alpha-1)}$$
$$=0$$

We can solve these equations numerically to obtain the estimates $\hat{\theta}_{LSE}$, $\hat{\rho}_{LSE}$, and $\hat{\alpha}_{LSE}$.

4.4 The Weighted Least Square Estimation

The weighted least squares estimators (WLSEs) of the unknown parameters can be obtained by minimizing

$$\sum_{j=1}^{n}\omega_j\left(F(x_{(j)})-\frac{j}{n+1}\right)^2$$

with respect to θ,ρ and α, where ω_j denotes the weight function at the jth point, which is equal to

$$\omega_j=\frac{1}{V(F(X_{(j)})}\frac{(n+1)^2(n+2)}{j(n-j+1)}$$

The weighted least square estimates (WLSEs) of θ,ρ and α, say $\hat{\theta}_{WLSE},\hat{\rho}_{WLSE},\hat{\alpha}_{WLSE}$ can be obtained by minimizing

$$WLS(\theta,\rho,\alpha)=\sum_{j=1}^{n}\frac{(n+1)^2(n+2)}{j(n-j+1)}\left(\frac{\alpha^{1-e^{-\left(\frac{\rho}{e^{2}}x_j^2-1\right)^{\theta}}}-1}{\alpha-1}-\frac{j}{n+1}\right)^2 \qquad (13)$$

Therefore, the estimators $\hat{\theta}_{WLSE}, \hat{\rho}_{WLSE}, \hat{\alpha}_{WLSE}$ can be obtained from the first partial derivative of the (13) with respects to θ, ρ, α and set the result equal to zero.

$$\frac{\partial WLS(\theta,\rho,\alpha)}{\partial \rho} = \sum_{j=1}^{n} \frac{(n+1)^2(n+2)}{j(n-j+1)} \times$$

$$\times \left(\frac{\left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{\alpha-1} - \frac{j}{n+1} \right) \alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}} \left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta} \theta x_j^2 e^{\frac{\rho x_j^2}{2}} e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}} \ln(\alpha)}{\left(e^{\frac{\rho x_j^2}{2}}-1\right)(\alpha-1)} \right) = 0$$

$$\frac{\partial WLS(\theta,\rho,\alpha)}{\partial \alpha} = \sum_{j=1}^{n} \frac{(n+1)^2(n+2)}{j(n-j+1)} \times$$

$$\times \left(2\left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{\alpha-1} - \frac{j}{n+1} \right) \left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}} \left(1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}\right)}{\alpha(\alpha-1)} - \frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{(\alpha-1)^2} \right) \right) = 0$$

$$\frac{\partial WLS(\theta,\rho,\alpha)}{\partial \theta} = \sum_{j=1}^{n} \frac{(n+1)^2(n+2)}{j(n-j+1)} \times$$

$$\times \left(\frac{2\left(\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}}-1}{\alpha-1} - \frac{j}{n+1} \right) \alpha^{1-e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}}} \left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta} \ln\left(e^{\frac{\rho x_j^2}{2}}-1\right) e^{-\left(e^{\frac{\rho x_j^2}{2}}-1\right)^{\theta}} \ln(\alpha)}{(\alpha-1)} \right) = 0$$

By solving these equations numerically, we can obtain the estimates $\hat{\theta}_{WLSE}$, $\hat{\rho}_{WLSE}$, and $\hat{\alpha}_{WLSE}$.

4.5 Percentile Estimation

If the data come from a distribution function which has a closed form, then we can estimate the unknown parameters by fitting straight line to the theoretical points obtained from the distribution function and the sample percentile points. This method was suggested by Kao [16] [17] and he has successfully implemented it for Weibull distribution. In this section, we apply the same technique for the *APTW-R* distribution. The quantile function of the *APTW-R* distribution is given by

$$x = F^{(-1)}(p) = \frac{\sqrt{\log\left(\left(\sqrt{-\log\left(1 - \frac{\log\left((\alpha-1)\left(p - \frac{1}{1-\alpha}\right)\right)}{\log(\alpha)}\right)}+1\right)^2\right)}}{\sqrt{\rho}}$$

Let $X_{(j)}$ be the j^{th} order statistic, i.e, $X_{(1)} < X_{(2)} < \cdots < X_{(n)}$. If $p_j = \frac{j}{n+1}$ denotes an estimate of $F\left(x_{(j)}; \theta, \rho, \alpha\right)$, then the estimates of θ, ρ and α can be obtained by minimizing

$$\sum_{j=1}^{n}\left(x_{(j)}-\frac{\sqrt{\log\left(\left(\sqrt{\theta}\sqrt{-\log\left(1-\frac{\log\left((\alpha-1)\left(p_j-\frac{1}{1-\alpha}\right)\right)}{\log(\alpha)}\right)}\right)^2\right)}}{\sqrt{\rho}}\right)^2$$

with respect to the parameters θ, ρ and α.

4.6 L-Moments Estimators

The L-moments estimators were originally proposed by Hosking [18].These estimators are obtained by equating the sample L-moments with the population L-moments. Hosking[18] states that the L-moment estimators are more robust that the moment estimators and they are also relatively robust to the effects of outliers and reasonably efficient when compared to the maximum likelihood estimators for some distributions.

For the *APTW-R* distribution, the L-moments estimators can be obtained by equating the first three sample L-moments with the corresponding population L-moments. The first three sample L-moments are:

$$l_1 = \frac{1}{n}\sum_{j=1}^{n} x_{(j)},$$

$$l_2 = \frac{2}{n(n-1)}\sum_{j=2}^{n}(j-1)x_{(j)} - l_1$$

$$l_3 = \frac{6}{n(n-1)(n-2)}\sum_{j=3}^{n}(j-1)(j-2)x_{(j)} - 6l_2 + l_1$$

and the first three population L-moments are:

$$\lambda_1 = E(X_{1:1}) = \int_{-\infty}^{+\infty} x\, f(x)dx = E(X),$$

$$\lambda_2 = \frac{1}{2}[E(X_{2:2}) - E(X_{2:1})] = \int_{-\infty}^{+\infty} x[2F(x) - 1]f(x)dx,$$

$$\lambda_2 = \frac{1}{3}[E(X_{3:3}) - 2E(X_{2:3}) + E(X_{1:3})] = \int_{-\infty}^{+\infty} x[6(F(x))^2 - 6F(x) + 1]f(x)dx,$$

Here, $X_{j:n}$ denotes the jth order statistic of a sample of size n. Therefore, the L-moments estimators $\hat{\theta}_{LME}, \hat{\rho}_{LME}, \hat{\alpha}_{LME}$ of the parameters θ, ρ, α can be obtained by solving numerically the following equations:

$$\lambda_1(\hat{\theta}_{LME}, \hat{\rho}_{LME}, \hat{\alpha}_{LME}) = l_1,\ \lambda_2(\hat{\theta}_{LME}, \hat{\rho}_{LME}, \hat{\alpha}_{LME}) = l_2,$$
$$\lambda_3(\hat{\theta}_{LME}, \hat{\rho}_{LME}, \hat{\alpha}_{LME}) = l_3$$

4.7 Maximum Product Spacing Estimators

The maximum product of spacings (MPS) method for estimating parameters in continuous univariate distributions has been proposed by Cheng and Amin [19] and it was also independently developed by Ranneby [20] as approximation of the Kullback-Leibler measure of information. This method is based on the idea that the differences of the consecutive points should be identically distributed.

Let $X_1, X_2, \dots, X_n$ be a random sample from the *APTW-R* distribution and $X_{(1)}, X_{(2)}, \dots, X_{(n)}$ be an ordered random sample. For convenience, we also denote $X_0 = -\infty$ and $X_n = +\infty$. In the method of maximum product of spacings, we seek to estimate the parameters θ, ρ, α of the distribution by maximizing the geometric mean of distances D_i, where every distance D_i is defined as

$$D_i = \int_{x_{(i-1)}}^{x_{(i)}} f(x;\theta)\, dx = F(x_{(i)};\theta,\rho,\alpha) - F(x_{(i-1)};\theta,\rho,\alpha),$$

For $i = 1, 2, \dots, n+1$, where $F(x_{(0)};\theta,\rho,\alpha) = 0, F(x_{(n+1)};\theta,\rho,\alpha) = 1$ and $\sum_{i=1}^{n+1} D_i = 1$.

The geometric mean of distances is given by:

$$GM = \sqrt[n+1]{\prod_{i=1}^{n+1} D_i} \qquad (14)$$

The MPS estimators $\hat{\theta}_{MPS}, \hat{\rho}_{MPS}, \hat{\alpha}_{MPS}$ are obtained by maximizing the geometric mean (GM) of the spacings with respect to θ, ρ, α or equivalently by maximizing the logarithm of the geometric mean of the sample spacings:

$$\log(GM) = \log\left(\sqrt[n+1]{\prod_{i=1}^{n+1} D_i}\right) = \frac{1}{n+1}\sum_{i=1}^{n+1} logD_i =$$

$$= \frac{1}{n+1}\sum_{i=1}^{n+1} \log\left[F(x_{(i)};\theta,\rho,\alpha) - F(x_{(i-1)};\theta,\rho,\alpha)\right] =$$

$$= \frac{1}{n+1}\sum_{i=1}^{n+1} \log\left(\frac{\alpha^{1-e^{-\left(\frac{\rho}{e^2}x_{(i)}^2-1\right)^\theta}}-1}{\alpha-1} - \frac{\alpha^{1-e^{-\left(\frac{\rho}{e^2}x_{(i-1)}^2-1\right)^\theta}}-1}{\alpha-1}\right)$$

The MPS estimators $\hat{\theta}_{MPS}, \hat{\rho}_{MPS}, \hat{\alpha}_{MPS}$ of θ, ρ, α can be obtained as the simultaneous solution of the following equations,

$$\frac{\partial logGM}{\partial\theta} = \frac{1}{n+1}\sum_{i=1}^{n+1}\left[\frac{F_\theta'(x_{(i)},\theta,\rho,\alpha) - F_\theta'(x_{(i-1)},\theta,\rho,\alpha)}{F(x_{(i)},\theta,\rho,\alpha) - F(x_{(i-1)},\theta,\rho,\alpha)}\right] = 0$$

$$\frac{\partial logGM}{\partial\rho} = \frac{1}{n+1}\sum_{i=1}^{n+1}\left[\frac{F_\rho'(x_{(i)},\theta,\rho,\alpha) - F_\rho'(x_{(i-1)},\theta,\rho,\alpha)}{F(x_{(i)},\theta,\rho,\alpha) - F(x_{(i-1)},\theta,\rho,\alpha)}\right] = 0$$

$$\frac{\partial logGM}{\partial\alpha} = \frac{1}{n+1}\sum_{i=1}^{n+1}\left[\frac{F_\alpha'(x_{(i)},\theta,\rho,\alpha) - F_\alpha'(x_{(i-1)},\theta,\rho,\alpha)}{F(x_{(i)},\theta,\rho,\alpha) - F(x_{(i-1)},\theta,\rho,\alpha)}\right] = 0$$

where,

$$\frac{d}{d\alpha}\left(F(x_{(i)},\alpha,\rho,\theta)\right) = \frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^\theta}}\left(1-e^{-\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^\theta}\right)}{\alpha(\alpha-1)} - \frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^\theta}}-1}{(\alpha-1)^2}$$

$$\frac{d}{d\rho}\left(F(x_{(i)},\alpha,\rho,\theta)\right)=\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^{\theta}}}\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^{\theta}\theta x_{(i)}^2 e^{\frac{\rho x_{(i)}^2}{2}}e^{-\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^{\theta}}\ln(\alpha)}{2\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)(\alpha-1)}$$

$$\frac{d}{d\theta}\left(F(x,\alpha,\rho,\theta)\right)=\frac{\alpha^{1-e^{-\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^{\theta}}}\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^{\theta}\ln\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)e^{-\left(e^{\frac{\rho x_{(i)}^2}{2}}-1\right)^{\theta}}\ln(\alpha)}{(\alpha-1)}$$

4.8 Methods of Minimum Distances

The minimum distance method is a very general technique that formalizes the inference problem as the search for a distribution function that is as close as possible to the empirical distribution given by the observed data. The minimum distance estimation was pioneered by Wolfmitz in 1950's [21]. It is a method for estimating the parameters of a distribution, which is based on minimizing empirical distribution function statistics, which are also called goodness-of-fit statistics. The minimum distance method provides several estimators depending on the particular empirical distribution function statistic chosen. In this subsection, we present three estimation methods for the *APTW-R* distribution based on the minimization, with respect to $\boldsymbol{\theta, \rho, \alpha}$, of the goodness-of-fit statistics. This class of statistics is based on the difference between the estimate of the cumulative distribution function and the empirical distribution function (see, [22] [23]).

4.8.1 Method of Cramér-von-Mises

The Cramér-von-Mises estimator (CME) is a type of minimum distance estimators, which is based on the Cramér-von-Mises statistic [24] [25]. MacDonald [28] motivates the choice of Cramér-von-Mises type minimum distance estimators providing empirical evidence that the bias of the estimator is smaller than the other minimum distance estimators. The Cramér-von-Mises estimates $\tilde{\theta}_{CME}, \hat{\rho}_{CME}, \hat{\alpha}_{CME}$ of parameters θ, ρ, α of *APTW-R* distribution are obtained by minimizing, with respect to θ, ρ and α the function:

$$C(\theta,\rho,\alpha)=\frac{1}{12n}+\sum_{i=1}^{n}\left(F(x_{(i)}|\theta,\rho,\alpha)-\frac{2i-1}{n}\right)^2$$

$$= \frac{1}{12n} + \sum_{i=1}^{n} \left(\frac{\alpha^{1-e^{-\left(\frac{\rho}{e^{x_{(i)}^{\alpha}}-1}\right)^{\theta}}} - 1}{\alpha - 1} - \frac{2i-1}{n} \right)^2$$

These estimates can be obtained by solving the nonlinear equations:

$$\sum_{i=1}^{n} \left(F(x_{(i)}|\theta,\rho,\alpha) - \frac{2i-1}{n} \right)^2 \frac{\partial F(x_{(i)}|\theta,\rho,\alpha)}{\partial \theta} = 0$$

$$\sum_{i=1}^{n} \left(F(x_{(i)}|\theta,\rho,\alpha) - \frac{2i-1}{n} \right)^2 \frac{\partial F(x_{(i)}|\theta,\rho,\alpha)}{\partial \alpha} = 0$$

$$\sum_{i=1}^{n} \left(F(x_{(i)}|\theta,\rho,\alpha) - \frac{2i-1}{n} \right)^2 \frac{\partial F(x_{(i)}|\theta,\rho,\alpha)}{\partial \rho} = 0$$

4.8.2 Methods of Anderson-Darling and Right-tail Anderson-Darling

Another type of minimum distance estimators is based on Anderson-Darling statistic and is known as the Anderson-Darling estimator (ADE). The Anderson-Darling test is similar to Cramér-von-Mises criterion except that the integral is of a weighted version of the squared difference, where the weighting relates the variance of the empirical distribution function. The Anderson-Darling test was developed T.W.Anderson and D.A. Darling [27] [29] as an alternative to other statistical tests for detecting sample distributions departure from normality. The Anderson-Darling estimates of the parameters are obtained by minimizing, with respect to θ, ρ, α, the function:

$$A(\theta,\rho,\alpha) = -n - \frac{1}{n}\sum_{i=1}^{n}(2i-1)\left[logF(x_{(i)}|\theta,\rho,\alpha) + \log\bar{F}\left(x_{(n+1-i)}|\theta,\rho,\alpha\right)\right]$$

$$\sum_{i=1}^{n}(2i-1)\left[\frac{F'_{\alpha}(x_{(i)}|\theta,\rho,\alpha)}{F(x_{(i)}|\theta,\rho,\alpha)} - \frac{\bar{F}'_{\alpha}(x_{(n+1-i)}|\theta,\rho,\alpha)}{\bar{F}(x_{(n+1-i)}|\theta,\rho,\alpha)}\right] = 0$$

$$\sum_{i=1}^{n}(2i-1)\left[\frac{F_{\theta}'(x_{(i)}|\theta,\rho,\alpha)}{F(x_{(i)}|\theta,\rho,\alpha)}-\frac{\bar{F}_{\theta}'(x_{(n+1-i)}|\theta,\rho,\alpha)}{\bar{F}(x_{(n+1-i)}|\theta,\rho,\alpha)}\right]=0$$

$$\sum_{i=1}^{n}(2i-1)\left[\frac{F_{\rho}'(x_{(i)}|\theta,\rho,\alpha)}{F(x_{(i)}|\theta,\rho,\alpha)}-\frac{\bar{F}_{\rho}'(x_{(n+1-i)}|\theta,\rho,\alpha)}{\bar{F}(x_{(n+1-i)}|\theta,\rho,\alpha)}\right]=0$$

The Right-tail Anderson-Darling estimates of the parameters are obtained by minimizing, with respect to θ,ρ,α, the function:

$$R(\theta,\rho,\alpha)=\frac{n}{2}-2\sum_{i=1}^{n}F(x_{(i)}|\theta,\rho,\alpha)-\frac{1}{n}\sum_{i=1}^{n}(2i-1)\log\bar{F}\left(x_{(n+1-i)}|\theta,\rho,\alpha\right)$$

These estimates can also be obtained by solving the non-linear equations:

$$-2\sum_{i=1}^{n}\frac{F_{\alpha}'(x_{(i)}|\theta,\rho,\alpha)}{F(x_{(i)}|\theta,\rho,\alpha)}+\frac{1}{n}\sum_{i=1}^{n}(2i-1)\frac{\bar{F}_{\alpha}'(x_{(n+1-i)}|\theta,\rho,\alpha)}{\bar{F}(x_{(n+1-i)}|\theta,\rho,\alpha)}=0$$

$$-2\sum_{i=1}^{n}\frac{F_{\theta}'(x_{(i)}|\theta,\rho,\alpha)}{F(x_{(i)}|\theta,\rho,\alpha)}+\frac{1}{n}\sum_{i=1}^{n}(2i-1)\frac{\bar{F}_{\theta}'(x_{(n+1-i)}|\theta,\rho,\alpha)}{\bar{F}(x_{(n+1-i)}|\theta,\rho,\alpha)}=0$$

$$-2\sum_{i=1}^{n}\frac{F_{\rho}'(x_{(i)}|\theta,\rho,\alpha)}{F(x_{(i)}|\theta,\rho,\alpha)}+\frac{1}{n}\sum_{i=1}^{n}(2i-1)\frac{\bar{F}_{\rho}'(x_{(n+1-i)}|\theta,\rho,\alpha)}{\bar{F}(x_{(n+1-i)}|\theta,\rho,\alpha)}=0$$

5. Simulation Study

In this section, we perform a Monte Carlo simulation study to evaluate the performance of different estimation methods for estimating the parameters of the *APTW-R* distribution. We compare the proposed estimators by using the Kolmogorov-Smirnov test. This procedure is based on the KS statistic:

$$D_n=\max_{x}|F_n(x)-F(x|\theta,\rho,\alpha)|,$$

where $\max_{x}$ denotes the maximum of the set of distances, $F_n(x)$ is the empirical distribution function, and $F(x|\theta,\rho,\alpha)$ is the cumulative distribution function.

Firstly, we provided an algorithm to generate a random sample from the *APTW-R* distribution for given values of its parameters and sample size n. The following procedure was adopted:

1. Set n, $\Theta = (\theta, \rho, \alpha)$ and initial value x^0.
2. Generate $U \sim Uniform(0,1)$.
3. Update x^0 by using the Newton's formula
   $x^* = x^0 - R(x^0, \Theta)$
   where, $R(x_0, \Theta) = \frac{F_X(x^0,\Theta)-U}{f_X(x^0,\Theta)}$, $F_X(\cdot)$ and $f_X(\cdot)$ are cdf and pdf of the *APTW-R* distribution, respectively.
4. If $|x^0 - x^*| \leq \epsilon$ (very small, $\epsilon > 0$ tolerance limit), then store $x = x^*$ as a sample from *APTW-R* distribution.
5. If $|x^0 - x^*| > \epsilon$, then set $x^0 = x^*$ and go to step 3.
6. Repeat steps 3-5, n times for $x_1, x_2, \ldots, x_n$ respectively.

For this purpose, we take $\theta = 2, \rho = 3, \alpha = 0.5$ arbitrarily and $n = 10, 20, \ldots, 50$. All the algorithms are coded in R, a statistical computing environment and we used algorithm given above for simulations purpose.
From the results of the simulation study, it is observed that the method of Maximum product of spacings (MPS) is the most efficient method compared to others for estimating the parameters of the *APTW-R* distribution since it has the minimum value of Kolmogorov-Smirnov test (Table 1). In addition, the MPS estimators have good theoretical properties [19] such as consistency, asymptotic efficiency, normality and invariance, so we conclude that the MPS estimators should be used for estimating the parameters of the *APTW-R* distribution.

Table 1: The methods of estimation and its respective Kolmogorov-Smirnov test value.

i	**Methods of Estimations**	**Kolmogorv-Smirnov**	**Ranking**
1	Maximum Likelihood Estimation	0.02648394	4
2	Moment Estimation	0.02764843	10
3	Modified Moment Estimation	0.02666012	6
4	Least Square Estimation	0.02527194	3

5	Weighted Least Square Estimation	0.02448414	2
6	Percentile Estimation	0.02648543	5
7	L-Moment Estimation	0.02712943	8
8	Maximum Product Spacings Estimaton	0.02440732	1
9	Cramer Von Mises Estimation	0.02725204	9
10	Anderson-Darling Estimation	0.02823921	11
11	Right-tail Anderson-Darling Estimation	0.02693234	7

The empirical and the fitted cumulative distribution function of the *APTW-R* distribution are presented in Figure 4 for the simulated data.

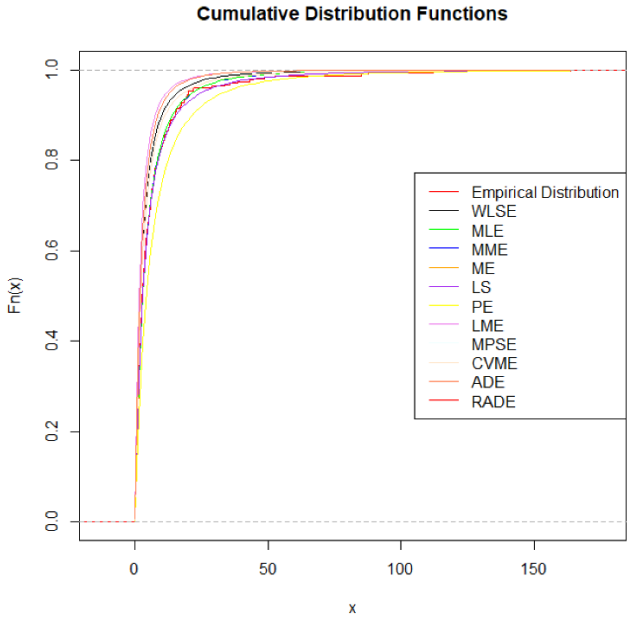

Figure 4. Empirical and fitted CDF of the *APTW-R* distribution for the simulated data.

Conclusions

In this paper, a new three parameter model named *APTW-R* distribution, which extends the Rayleigh distribution has been studied and evaluated. Behavior of parameters is checked by PDF and CDF plots. Comprehensive studies of the

statistical properties of the new distribution have been presented. These include the derivation of the reliability function, hazard function, the quantile function, which is useful for obtaining the median, the third and first quartile, also for the simulation of random numbers from the *APTW-R* distribution. We also obtained the PDF of its minimum and maximum order statistics. We discuss some methods that can be used to estimate the parameters of the *APTW-R* distribution and we compared them via numerical simulations. From the simulation study, it is observed that the Maximum product of spacings (MPS) method is the best compared to other methods, since it has minimum value of the KS test. Combining these results with the good theoretical properties of the MPS method such as consistency, asymptotic efficiency, normality, and invariance, we conclude that the MPS method should be used for estimating the parameters of the *APTW-R* distribution.

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The importance of voting as a fundamental right

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Abstract

The right to vote dates back to ancient times of mankind. The complex system of elections that we see today in our nations was first developed in Greece and Rome.
During the Renaissance, the Greco-Roman World was widely studied, and its systems of voting inspired many to establish more democratic forms of government.[1]This was enormously influential in the development of modern democracies. For example, the Roman and Greek voting systems were studied by the American and French Revolutionaries when they were drafting their democratic constitutions.
According to Locke, voting represents an innate right of the individual as a human being and a participant as such in the political community. In a political society, all members of the community have the right to contribute to the formation of political will[2].
This article tries to bring attention to the importance of the right to vote as one of the most important rights defined by the Albanian Constitution. The right to vote is the political right par excellence of every individual and per se it is related to concepts such as democracy, sovereignty and citizenship.Voting is not just important for democracy but it is at its core. Democracy is bound by vote, legitimized and legalized by vote. The right to vote is one of the most critical ways that individuals can influence governmental decision-making. It is one of the fundamental political rights enjoyed by the individual and its importance is supported by its equality defined by the Modern constitutions and by international acts that protect and guarantee the right to vote as a central element of democracy and of the rule of law.[3]
The right to vote guarantees the opportunity for all voters, without distinction on the basis of strata or belonging to certain social groups to influence the formation of political will in a democratic society.[4]

Keywords: Analysis, voting, fundamental right.

Introduction

The right to vote, as the right to freely elect representatives and to elect oneself as a representative, has gone through important stages through history which have marked the removal of restrictions that have been made many times to this right for political economic and social reasons.
Successive political and economic crises of the last 10 years in Europe have brought a growing dissatisfaction of citizens towards politics in general and governments in particular. This dissatisfaction has opened the door to the phenomenon of non-participation in elections which today is largely extended especially among young people.[5]

[1] Ancient Greek democracy available at https://www.history.com/topics/ancient-greece/ancient-greece-democracy.
[2] John Locke "Second treatise on goverment", IPLS&Dita 2000, p. 95.
[3] The Foundational Importance of Voting: A Response to Professor Flanders, 2013, available at https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1297&context=law_facpub
[4] See Decision no. 40, dated 16.11.2007 and Decision no. 43, dated 5.6.2017of the Albanian Constitutional Court
[5] Op. cit. La sfida aperta tra voto e non voto, available at https://www.benecomune.net/rivista/nu meri/

1. The international law and the right to vote: international and regional instruments

The right to vote is recognized in international treaties and declarations adopted by the United Nations and by regional treaty organizations such as the Council of Europe and the Organization of American States. The right to vote is a well-established norm of international law. Significant international treatiesclaim to universal and equal suffrage. Regional human rights systems in Europe and the Americahave mechanisms to enforce the right to vote that have been applied in a limited way[6].

The Universal Declaration of Human Rights (UDHR) as the preeminent global aspirational document on human rights in its Article 21 lays out the right of people to participate in government and enjoy universal suffrage.[7]

The UDHR is non-binding and its provisions are not accepted in toto as international law, so Article 21has not been accepted as generally enforceable customary international law.Article 25[8]of the International Covenant on Civil and Political Rights (ICCPR), in contrast to the UDHR, takes its binding effect from its ratification for the state signatories. The text of this article closely tracks the language of Article 21 of the UDHR. An important distinction,between article 21 of UDHR and article 25 of ICCPR is that the second specifies that only citizens shall have the right to vote. The covenant protects the right to vote of every citizen but requires from themember states to take the measures necessary to ensure the effective opportunity to enjoy the right by the citizens.[9]

After the Second World War, a long process of implementing and enforcing political rights for women begins. Only in 30 of the 51 original member states of the General Assembly did women enjoy the right to vote. As late as 1952, women's suffrage was guaranteed in less than 100 countries around the world[10].On December 20, 1952, the General Assembly adopted the Convention on the Political Rights of Women by which it establishes the right of active and passive electorate for women and the right to hold public functions. the preamble of the convention reports the principles contained in art. 21 of the Declaration of Human Rights.

According to the Preamble to the European Convention of Human Rights, fundamental human rights and freedoms are best maintained by 'an effective political democracy'. Since it enshrines a characteristic principle of democracy, Article 3 of Protocol No. 1 is accordingly of prime importance in the Convention system.[11]

liberta-partecipazione/la-sfida-aperta-tra-voto-e-non-voto/.

[6] The International Status of the Right to Vote, available at http://archive.fairvote.org/media/rtv/kirshner.pdf

[7] Article 21 of the Universal Declaration of Human Rights, 1948 "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

[8] Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

[9] http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CCPR+General+comment+25.En?Op enDocument10/27/03.

[10] Ibidem.

[11] Guide on Article 3 of Protocol No. 1 to the European Convention on Human Rights, available at https://

Article 3 of Protocol 1 to the ECHR provides that States Parties shall hold free elections at reasonable intervals, by secret ballot, under conditions which enable the free expression of the opinion of the people in the legislative elections. In terms of the right to vote, the European Court of Human Right enforces Article 3 of Protocol 1 of the European Convention, which states: The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature. Beyond the Convention, Europe's liabilityfor the right to vote is confirmed by documents and regulations of the Organization for Security and Cooperation in Europe and the European Union.

Modern constitutions as well as international acts which deal with fundamental human rights and freedoms provide without any distinction the enjoyment of the right to vote. This right is exercised through the establishment of an electoral system that guarantees the secrecy, freedom and equality of the vote, ensuring the citizens their being politically active, thus forming the essence of the role they should have in a democratic system.[12]On the national level, in Albania the right to vote is sanctioned in the highest acts in the hierarchy of regulatory sources such as, the Constitution, the Electoral Code, the law for the political parties, the jurisprudence of the Constitutional Court and the Electoral College.

2. The right to vote in Albania: origin and evolution

The origin of the right to vote in Albania is closely related to the foundation of the state. In this sense we can say that the right to vote in Albania appears when the Albanian state is founded in 1912.

The right to vote, as the right to freely elect representatives and to be elected as a representative, has gone through important stages which have marked the removal of several restrictions that have been made many times to this right for political, economic and socialreasons.

The election of the people's representatives is foreseen for the first time in the Organic Statute of 1914 which provided for the creation of a National Assembly with a representative character.[13]

The statute provided that in addition to the election of members of the Assembly by the High Commissioner, the Prince and ex officio members should have representatives elected by the people. Elections were decided when to be taken by the Prince[14] and to be representative of the people.[15]The restrictions on the right to vote created a

www.echr.coe.int/Documents/Guide_Art_3_Protocol_1_ENG.pdf.

[12] Prof.Asoc.Dr. Evis Alimehmeti, Ma. ErindMerkuri "International regulation of the right to vote in an historic perspective" available at https://www.academia.edu/28828425/Rregullimi_nd%C3%ABrkomb%C3%ABta r_i_t%C3%AB_drejt%C3%ABs_p%C3%ABr_t%C3%AB_votuar_n%C3%AB_nj%C3%AB_perspektiv%C3 %AB_historike_International_regulation_of_the_right_to_vote_in_a_historical_perspective_.

[13] Organic Statute of Albania, Vlora 10 April 1914, article. 40, "Assembly is the legislative body of Albania"

[14] Ibidem,article 16 "The prince calls the voters to elect the National Assembly".

[15] The members elected by the people were three from each prefecture (sanxhak), and were elected by non-direct vote. In the sub-prefectures (nahijet), the city council had to elect a delegate. The delegate was to meet with members of the municipal council and the Kazakh council. This electoral body elects two delegates who go to the center of the prefecture (sanxhakut) and elect the representatives for the National

fairly narrow body of voters. On the basis of this it is difficult to admit that this was a statute of a representative nature.[16]What stands out is that the candidates for the Assembly had to meet certain criteria such as to have Albanian citizenship, residency in Albania, be thirty years old and have the ability to read and write. The Statute did not provide for this last criterion for exercising the right to vote, but it could be deduced that the voter should at least be able to read and write. The vote was not expected to be the same and had the same weight for all, but the principle of equality of all citizens was enshrined in the Statute[17]. Furthermore, neither the principle of the personality of the vote nor that of secrecy was sanctioned, although the Statute provided that the vote of the members of the Assembly was personal,[18]It is obviously difficult to talk about the existence of universal suffrage, if only because the right to vote was rather limited.[19]

The right to voteas part of the fundamental rightshad not gained much practice since the proclamation of Albanian independence because before 1912, Albania was governed according to the Ottoman system. After the proclamation of independence, legislative activity was oriented towards the Western European legal systemsmodels. The right to vote and the equality of citizens was foreseen and affirmed since the Statute of the Albanian State, it was reconfirmed by the Statute of the Republic of 1925, which also provided the principle of the incompatibility of the office of deputy with other state functions. These principles that were also confirmed in the Statute of the Kingdomof 1928[20].

The Statute of the Kingdom proclaimed Albania a "parliamentary and hereditary democratic kingdom"; Ahmet Zogu I was the King of the Albanians. Ahmet Zogu's intention was to establish a new organization of the state concentrated in his hands and throughout his time in power he held firmly in power.[21]

The Statute of the Kingdom did not sanction the principles of the right to vote but only the equality of citizens before the law and the equality of political and civil rights[22]. It also conferred on the electoral law the task of establishing the criteria for the active electorate[23]. The capacity for passive electorate was provided, however, in art. 20 of the Statute. Only Albanian citizens who had reached the age of 30 and who enjoyed political and civil rights could be elected as deputies, the limits were sanctioned in the electoral law.

During the period of occupation of the Albanian state from 1939 to 1945, in truth, there is no question of the right to vote. The occupation of Albania by Italy put an end, albeit temporarily, to the existence of the independent Albanian state.At the end of the Second World War, Albania was in a very difficult situation with numerous problems.[24]

During the communist regimeAlbania approved two constitutions, that of March 14,

Assembly with an absolute majority.

[16] Aurela Anastasi., "Constitutional law, lectures, 2001, p. 41.

[17] Organic Statute of Albania, Vlora 10 April 1914, article. 27, "All citizens are equal before the law".

[18] Article 59,"Each member of the Assembly votes personally. The vote is made by getting up, or sitting down, or by roll call".

[19] Anastasi A., "The history of the constitutional law in Albania (1912-1939).

[20] Statute of Albania Kingdom, 1928.

[21] Aleks Luarasi, History of the State and of the law in Albania, 2007.

[22] Statute of Albania Kingdom, Article 194 and 195.

[23] Ibidem,Article 19.

[24] Olsi Vangjeli "The right to vote in the Albanian and Italian legislation", 2017, p.65-70.

1946, modified in the early 1950s and that of December 28, 1976 which moved in the direction of isolation and was amended in 1983. The right to vote was the fulcrum of the electoral system and of the constitutional law of the Albanian People's Republic. The approval of the 1946 Constitution followed that of a series of important laws on the right to vote.

Until that time, the right to vote had not gained significant experience. The legislative activity was oriented towards the assumption of the typical scheme of Western models. For the first timewas ensured, the formal declaration of democratic principles including the well-known principle of general, personal, equal and secret voting.

However, the 1946 Constitution, in perfect contrast to the Western democracies, inserted in the text the principle of the imperative mandate, the cardinal principle of the constitutions of the socialist states.[25] The communist regime, extremely authoritarian in Albania for more than four decades was one of the most ferocious communist systems in Eastern Europe.

The organization of the state was under the control of the will of the Enver Hoxha and the Central Committee. The approval of the 1976 Constitution was a further step towards the isolation of Albania from Western countries.[26]The Constitution of 1976 had not enshrined the principle of separation of powers as the first pillar of the democratic organization of a state. Albania further consolidated the power of the Communist Party.In the Constitution of 1976 was sanctioned that: *"The People's Socialist Republic of Albania is a state governed by the dictatorship of the proletariat, which expresses and defends the interests of all workers".* All state power was of the people[27].The representative bodies were elected on the basis of a vote conceived, theoretically, as general, equal, direct and secret.

The 1976 Constitution once again provided for the mandatory mandate and the right of revocation of the representative. According to article 8, paragraph. 2 *"Voters have the right to revoke their representatives at any time in the event that they have lost their political confidence, when they do not carry out their instructions or when they act against the law. The organization of the elections is regulated by law".*

The state bodies activity of was based on the formal principle of the superiority of the People's Assembly which was elected for a four-year mandate. The People's Assembly was the highest body of state power, holder of the sovereignty of the people and the state; it was also the only legislative body[28]. The People's Assembly consisted of 250 deputies who were elected in electoral districts, each of which included the same number of citizens[29]. Albanian citizens who had turned 18 had the right of active and passive electorate. Only citizens who had been deprived of the capacity to act by court order or who had been convicted of a crime for which the criminal law expressly provided for such a sanction were excluded from the right to vote[30].

The right to vote and parliamentarism has not been able to take root in Albania not only from the low socio-economic level, the low education and the lack of a democratic electoral tradition but also from the communist dictatorship which lasted over four

[25] Ibidem, p.68.

[26] The Constitution of the People's and Socialist Republic of Albania was approved with law no. 5506, of 28.12.1976, Official Gazette no. 1, November 1976.

[27] Article 5 of the Constitution of the People's and Socialist Republic of Albania of 1976.

[28] Article 66 of the Constitution of the People's and Socialist Republic of Albania of 1976.

[29] Article 68 of the Constitution of the People's and Socialist Republic of Albania of 1976.

[30] Article 43 of the Constitution of the People's and Socialist Republic of Albania of 1976

decades.
In December 1990, Albania started a new page of history and On March 31, 1991, were held the first pluralist elections after almost 67 years. The elections took place on the basis of the old electoral legislation still in force. On April 15, 1991, Albania had the first pluralist parliament.
On April 29 was approved, the law "On the main constitutional provisions" a sort of *interim* constitution which sanctioned "Albania as a parliamentary republic" that"National sovereignty derives from the people and belongs to the people"[31]. For the first time, was sanctioned the principle of the separation of powers but not even the balance of powers the people exercise power through the representative bodies and through the referendum, the representative bodies are elected by universal suffrage with free, equal, direct and secret vote[32]. The right to vote, the legal regime of the elections and all related issues are governed by the law "For the election of the People's Assembly of the Republic of Albania", amended three times.
In November 1998, after a popular referendum, the provisional constitutional provisions were replaced by the new Albanian Constitution. The fundamental principle guaranteed wasthe principle of separation of powerswithout which the very functioning and organization of the Albanian Parliament and consequently on the right to vote cannot be guaranteed. The provision of this principle is insufficient without the provision of adequate institutions or instruments that ensure the full practical realization of the right to vote. The Albania Constitution itself provides a multiplicity of important principles and standards without which the concrete realization of the right to vote would be impossible. The 1st paragraph of Article 45 of the Albanian Constitution attributes an individual right and at the same time defines a collective entity the "*electoral body"* made up of all citizens who have reached the age of majority who are entrusted with the exercise of popular sovereignty. [33]
Therefore, the people, as human being, have the power to take part in the formation of the political-social order. In every democracy is presumed that to the people belongs thesovereignty and all powers derive from the people, and the people are subject and bearer of the constituent power[34]. Only in this way the parliament is legitimized through the vote expressed by all citizens.

3. To vote or not to vote: the nowadays paradox of youth abstention

Theissue of abstaining from the exercise of the right to vote has been part of the political agenda and of the public debate in Albaniaduring the past decade and comes even more in attention after the last elections in Albania that took place in 25 April 2021.[35]
In our recent past, after the fall of communism in Albania, there was a kind of moral obligation that bound citizens to the parties and as a result of that, participating in the

[31] Article 1 of the Law n. 7491, de l29.04.1991 On the main constitutional provisions, art. 3 "The basic principle of state organization is the principle of the separation of legislative, executive and judicial powers", article 3,
[32] Ibidem, Article 3.
[33] Olsi Vangjeli "The right to vote in the Albanian and Italian legislation", 2017, p.89-90.
[34] Article 2 of the Albanian Constitution, 1998.
[35] La sfida aperta tra voto e non voto, available at https://www.benecomune.net/rivista/numeri/liberta-part ecipazione/la-sfida-aperta-tra-voto-e-non-voto/.

elections, nowadays the decision of not exercising the right to vote has been accepted under the guise of political convictions.

Today in the presence of this phenomenon that is growing almost everywhere and constantly in Europe producing potentially devastating effects on the stability of democracy, scholars have long raised questions such as: What pushes a significant part of the electorate, mainly young people, refusing to exercise the right to vote? And, above all, what change would be needed to reverse this growing dissatisfaction trend?

The right to vote ties individuals into the social order, even if a person chooses not to exercise that right. Voting represents the beginning in a democratic system because everything else follows the right to vote. Participation in elections is much more than just a benefit, is a foundational value.[36]

Through the vote, citizens express which political organization can best represent and defend their interests and the interests of the state. In this way, the right to vote allows citizens to express their political views and influence the decision-making process of the government. In this dual function, is manifestedthe ambivalence with which the legal nature of the vote is identified between the exercise of an individual's right and the exercise of a collectively assigned public function.[37]

It is precisely the exercise of political rights and mainly the right to vote that marks the transition from the sovereignty of the state to that of the people. Theenlargement of universal suffrage is a product of the process of democratization of the legal systems in the constitutional state. Is this event that shows more than ever the strength of the vote as a democratic instrument[38].

As we saw the right to vote in the historic perspective in Albania,we can deduce that it is always up to the state to remove the obstacles which prevent the free development of the personality towards a richer participation in the life of the community.

This reflection is also an invite to all the Albanian society to not only make herself aware of voting laws, but also to participate in political process by voting - to stem the abstentionist phenomenon. [39]

Albanian politics should reflect and seriously focus attention especially on the new generations of voters. Young people in Albania are fewer and fewer each year. To mend the distance with young people,governments, should act on the perceptions young people have of the official political world and the possibility of changing it, offering positive experiences of knowledge, trust and recognition in the relationship with the institutional world.[40]

By exercising the right to vote, the voter is given the opportunity to influence the manner and quality of the functioning of the legal order, making the citizen more responsible for the role he has in running the life of the country. This is in fact the essence of democracy.[41]

[36] Joshua A. Douglas"The Foundational Importance of Voting: A Response to Professor Flanders", available at https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1297&context=law_facpub.

[37] OlsiVangjeli "The right to vote in the Albanian and Italian legislation", 2017, p.89.

[38] OlsiVangjeli "The right to vote in the Albanian and Italian legislation", 2017, p.89p.90.

[39] OP-ED: As Previous Generations Did, Make a Plan to Vote, available at https://www.theusconstitution.org/news/counterpoint-as-previous-generations-did-make-a-plan-to-vote/

[40] Op. cit. La sfida aperta tra voto e non voto, available at https://www.benecomune.net/rivista/numeri/liberta-partecipazione/la-sfida-aperta-tra-voto-e-non-voto/.

[41] Prof.Asoc.Dr. Evis Alimehmeti, Ma. Erind Merkuri "International regulation of the right to vote in an historic perspective" available at https://www.academia.edu/28828425/Rregullimi_nd%C3%ABrkomb

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Relations of the Albanian language with other languages in the religion sphere

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Abstract

Analysing direct or indirect contacts of a language users with users of neighbouring or dominant languages, as well as analysing their role in the status of the langue, history and culture of a people at a certain period and sphere of the language, this study focuses on the relations of the Albanian language with other languages in the religion terms sphere.
This study builds mostly on the work of Eqrem Çabej, "Etymologic Studies in the Field of the Albanian Language", but also on the work of other etymologists, Albanians and foreigners. The terms found in their work are analysed in this study to reach to the conclusion that the Albanian language has borrowed and given terms of the religion sphere perhaps more than of any other sphere. Questions about which languages the Albanian language has been more in contact and why are addressed in this study. Also, in the focus of this study are the periods of history in which the terms are borrowed/given and the religious developments of the times when they have occurred.

Keywords: language, religion, Latin, Greek, Turkish, Catholic, Orthodox, Muslim.

Introduction

In a globalised world it is understandable to encounter interactions between languages of peoples that communicate among others because of being neighbours or for other commercial, political, scientific, or religious reasons. They exchange between them temporary permanent elements. Obviously, this is not a process belonging solely to the present – nowadays it simply has become more intensive. Sapir stresses that languages, same as cultures, are rarely self-sufficient. "Because of this, speakers of one language come into direct or indirect contact with speakers of other languages, who may be neighbours or from a dominant culture" (Sapir, 1921, p. 14) They can borrow words depending on the nature of their contact. Therefore, the borrowed words may belong to different spheres of life. An etymologic analysis of words used in one sphere of life or another can serve as a microscope for the history and culture of a people or ethnic group.
This study focuses on the relationships of the Albanian language in the religious sphere with languages of neighbouring countries and other important languages, like Latin and ancient Greek, which have served as cultural sources for many modern languages. Given that two major religions dominate in Albania, Islam (Sunni and Bektashi) and Christianity (Catholic and Orthodox),an analysis of language relations with neighbours is important. In this study we rely mainly on Eqerem Çabej's voluminous monography "The Etymology of the Albanian Language", which represents the most complete scientific work in the field of Albanian etymology. However, it should be noted that not all the Albanian words, recent and old, are included in Çabej's monography. This is also true for words of the religious sphere.

However, analysing all the religious terms included in the 6 volumes of Çabej's monography is sufficient to determine if the Albanian language has borrowed more than has given words in this sphere of life.

The analysis

We start the analysis with the word *fe* (religion) itself. Often Albanians that have been in contact with important languages like English, Italian, French, German, use the word *religjion (*derived from religion, religione, religion, Religion, respectively). However, the word *religjion* cannot be found in Albanian dictionaries. On the other hand, according to Çabej, the Albanian word *fe* can be found in the wrings of the earliest Albanian writers like Buzuku, Budi, Bardhi, Bogdani (Çabej IV, 1996, p. 153-154), which shows that it has been part of the Albanian lexicon for centuries.

Looking back at the oldest etymologic dictionary of the Albanian Language (written two centuries ago by the renown albanologist Gustav Meyer), the word *fe* is considered as a poetic shorten form of the Italian word *fede* (faith) (Meyer, 2007, p. 147). However, Meyer doesn't elaborate, according to Çabej, who differently from Meyer, did not simply prepared an etymologic dictionary. He looked at the earliest sources of words by studying "branches of words, their geographic dissemination, history and environment, so that their study would be complete and on sound philologic foundations" (Çabej I, 1982, p. 69).

Çabej finds the origin of the word *fe* at Latin word *fides,*where the *i* and *e* in the two vowels of the Latin word were gradually merged in a long *e* in one vowel in the Albanian word. (Çabej IV, 1996, p. 154). Actually, this deep analysis of the word *fe* served as the motivation for this study, which looks at each of the words from the religious sphere that Çabej included in his 6-volume monography. However, as stressed in the introduction, not all the Albanian words, recent and old, are included in Çabej's monography and this is true for words from religious sphere, too.

After selecting all the words from the religious sphere in Çabej's monography, we found no word with autochthone origin. They have mostly Latin, Greek and Turkish origin.

Obviously, the Latin-Greek origin dominates in Christian terms. In the year 380 AD, Christianity was accepted as official religion in the Roman Empire and since then it became a powerful force in the political and cultural life of Europe and the Middle East (The religions book, 2013, 202-203). At that time, Latin was the most influential language in all spheres of life (including religion) in the Balkans, which had been for centuries part of the Roman Empire.

As a result of this dominance of Latin and Christianity in the territory where forbearers of Albanians lived, many religious words of today in the Albanian language have their origin from Latin (Demiraj, 2013, 160). Thus, Christian terms in the Albanian language from Latin "have phonetic changes that point to a very old origin" (Demiraj, 2013, p. 163). Demiraj brings examples like *adhuroj* (adore), *apostull* (apostle), *ferr* (hell) etc., which based on their phonetic changes, seem to have entered the Albanian lexicon since the Roman Empire times, despite the influence of Italian during Medieval period. Borrowings from Latin have also happened after the fall of the Roman Empire, especially with the first publishing of Christian literature in Latin during Medieval times in Albania. As examples of that period's literature can serve

words like *anatemë* (anathema), *arkangjel*(archangel), *axima-të* (Pesach or Passover), *famulli* (parish) *ungjill* (gospel). Some of those words from those times are currently used only in Northern Albania, among Catholic Christians: *bagëm* (holly oil used in Catholic rituals), *kullana* (the last day of the year), *mënjill* (the supper before a religious holiday) etc.

Çabejbrings the example of an Albanian word with Latin roots that cannot be currently found in languages of Latin origin like Italian, French Spanish etc. According to Çabej, the word *kërshëndella* (Christmas) is the only reflex of the Latin *Christi natale* that can be found in any language in the world. Nowadays the word *Krishtlindje* (Christmas) is more popular, but it is a neologism simply translated word for word from modern Greek. Another example is*matrikula*(godmother), a word with Latin roots that cannot be found in languages of Latin origin like Italian, French Spanish etc. Çabej cites several Albanian words with Latin roots that are still in current use, like *agjërim* (fasting), *antifonë* (antiphon), *balsam* (balsam), *i kërshterë* (Christian), *kreshmë (from Latin quadrāgēsima,"lent, forty-day fast"), kryq (*cross*),meshë (*mass*), dom/don*, *ndrikullë (*godmother*), pashkë (*Easter*), ungjill* (gospel) etc.

After the fall of Roman Empire, contacts between the two sides of the Adriatic Sea continued and even intensified during the rise of city-states in Italy, and especially during the rise of Venice. Starting in the 10-th century, borrowings from Italian appeared in the spoken Albanian (Demiraj, 2013, p. 168). Obviously, Italian words appeared in the religious sphere, too. Çabej finds among the oldest borrowing from the Italian langue the word *xhudhi* (Jew), that comes from an old defunct dialect of Italian. Newer borrowings from Italian are abundant: *abaci* (abbacy), *karma* (karma) *katekizëm* (catechism), *kerubin* (cherubin), *nunciata* (announcer), *ofice* (liturgy).

Some borrowing in the Albanian religious lexicon, same as in other spheres of life, have followed indirect paths. Thus, some words of Latin origin have entered the Albanian language through the Byzantine Greek in the period after the fall of the Roman Empire (*nun*>godfather). On the other hand, some words of Ancient Greek origin have entered the Albanian language through Latin (*kishë*>church).

Among Albanian words in the religious sphere, there are also words that have penetrated into the Albanian lexicon through the medieval Greek, after it became the official langue of Byzantine Empire. Most of them are used only in the Orthodox Church lexicon, because according to Xhevat Lloshi, "there are two separate lexical traditions, one Orthodox and one Catholic" (Lloshi, 2011, p. 278). In the 11-th century a monumental break happened in the Christian Church – known as The Great Schism – which was related to the papal authority and broke the Church in two parts, the western part (Catholic) and the eastern part (Orthodox)(The religions book, 2013, 203). The Theodosius line, which separated the two, passed in the middle of Albania. The northern part of Albania remained under the influence of Rome (following the Catholic rituals) and the southern part remained under Constantinople's influence (following the Orthodox rituals). In the Catholic Church the language used in liturgy was Latin and the Orthodox Church the language used in liturgy was Medieval Greek. The latter influenced the spoken Albanian in general and in the religious sphere specifically, not only in the Orthodox South, but in the Catholic North, too. Thus, the word *ajazmë* (holy water), which was borrowed from Byzantine Greek and was used throughout south-eastern Europe, can be found today as a toponym in the northern city of Shkodra for one of its neighbourhoods, Ajazmë, because of the processions of

the Holy Water celebrations that used to take place in the past (Çabej II, 1976, p. 24). Similarly, the words *kallogjer* (monk), *kallogrekallogrinjë* (nun), have entered into the southern Albanian dialect (as well as into Romanian and Serbian languages) from modern Greek, but the word *këllogjën* (monk), used in the northern Albanian dialect is borrowed from Medieval Greek (Çabej V, 2014, p. 28-29)

Currently, the word *manastir*(monastery), borrowed from modern Greek, is used all over Albania, but an older form, borrowed from Medieval Greek, *munështir*(monastery), is still preserve in remote parts of Northern Albania and in older Albanian diaspora (Çabej V, 2014, p. 279). The words*kumbarë*(in Southern Albania) and *kumar*(in Southern Albania) both mean godfather and are both borrowed from modern Greek (which in turned has borrowed it from old Italian). Other words borrowed from medieval and/or modern Greek are used only in the South. Examples include: *dhespot* (bishop), *dhiatë* (Testament), *dhjak* (deacon), *efqeli* (elegy), *igumen (*abbot), *kamillaf* (hat of an orthodox priest/monk), *miro* (Holy oil), *naforë* (sacramental bread,), *pendikosti* (Pentecost).

As mentioned in the introduction, some of the religious terms in the Albanian language are borrowed directly from Turkish, after the islamization of a part of the population, following the Ottoman invasion of the Balkans in the 14-th century. During the 5 centuries of the Ottoman rule, many Turkish words entered the Albanian lexicon and especially the religious lexicon in those territories where the population was protolyzed into Islam, which was the official religion of the Ottoman Empire (Demiraj, 2013, p. 175-177).

In Çabej's "Etymologic Studies", religious terms borrowed from Turkish are rarer. Examples include *ahiret* (the afterlife), *bajram*(religious holiday), *fetva* (religious order), *iftar*(feast after breaking fasting), *musliman*(Muslim), *myfti*(community religious leader), *dervish*(dervish), *haxhi*(hadji). While these terms are borrowed directly from Turkish, some of them have entered the Turkish language from Arabic, like *fetva*, *myfti, haxhi* etc., or from Persian/Farsi, like *dervish, musliman* etc.

Some religious terms have double etymologic paths. Thus, *amin/amen* (amen) has an Aramaic root. In the Albanian language it has entered through two different roots: In regions where Christianity is predominant, through Medieval Greek and Latin (*amen*); in regions where Islam is predominant, through Turkish (*amin*). Similarly, the word *anatemë*(anathema) entered the Catholic North through Medieval Latin and the Orthodox South through Medieval Greek.

Very few religious terms in Albanian are borrowed from Slavic languages. The isolated examples can be found only in the lexicon of the Albanian Orthodox Church, but none in that of the Albanian Catholic Church. Those very few examples are borrowings from Old Bulgarian, such as *kolendra* (herbs used in church for aroma). According to Mayer, this Old Bulgarian word has a Latin root, whereas Jokl thinks that it has come to Bulgarian through Medieval Greek. Çabej leans more towards Meyer. Similarly, the words *kume* (godfather) and *rusica* (Pentecost) are borrowed from Old Bulgarian, but are used locally only in some parts of south-eastern Albania.

Conclusions

Analysing all the words of the religious sphere in Çabej's "Etymologic Studies", but also relying in works of Meyer, Jokl, Demiraj, Topallietj., we arrive to the conclusion

that all of them are borrowed from different language – none of them have old Albanian roots. The vast majority of them have Latin, Greek and Turkish roots. However, Latin is the predominant root of religios Albanian terms.

In some cases, Albanian religious words have double etymologic paths.Some have entered both from Greek and Turkish, depending on the regions where Orthodox Christianity or Islam is predominant. Other words have entered both from Greek and Latin, depending on the regions where Orthodox or Catholic Church is predominant. There are very few borrowings from Slavic languages (mainly from Old Bulgarian) in the Albanian religious lexicon, because those languages themselves have borrowedheavily Greek and Latin.

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Employing the 'Essential Facilities' Doctrine in the Digital Economy: 'Data' and 'Indispensability'

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Abstract

A vital area that explicitly aims to balance the costs and benefits of utilizing innovations and progressive business practices between the different market participants is the competition law framework. The latter dates back to the first antitrust laws introduced in the United States and has inevitably found its way to the legal frameworks of most of the countries in the world, also becoming an indispensable part of the harmonized supranational system known as the European Union (hereafter the 'EU'). The primary constitutional sources are to be found on the Treaty on the Functioning of the European Union (hereafter the 'TFEU'), which have provided a sound basis for the foundations of the competition framework, albeit complemented through secondary legislation and the vital role of the Court of Justice of the European Union (hereafter the 'CJEU') and the Commission as the EU-wide regulator tasked with enforcing and supervising EU competition law. These elements have arguably been effective in combating the issues arising in the context of competition thereby maintaining a healthy regulated market up to date to the extent that there have been little incentives for rethinking both its normative and practical dimensions.[1]

Keywords: 'Essential Facilities' Doctrine, Digital Economy, Data, Indispensability.

Introduction

Nevertheless, the rapid rise of the information technology has introduced completely unforeseen markets which have raised doubts regarding the effectiveness of competition law in delivering upon its end goals. Consequently, it comes as no surprise that competition authorities, both at the EU and national (Member State) level, have engaged and initiated expert reports to better understand how the operability of

[1] At the microeconomic level, a meta-retrospective of 29 ex-post evaluation studies finds that mergers that have been unconditionally approved by competition authorities in the EU result in a price increase of 5% on average. Remedied mergers, on the contrary, are not followed by a price increase. This evidence suggests that in the EU, merger remedies have been effective in eliminating anti-competitive price effects. At the macroeconomic level, model simulations indicate that the merger interventions and cartel prohibitions (including their deterrent effects) taken by the European Commission over the period 2012-2018 may lead to a 0.3% increase in GDP and a 0.2% increase in employment in the medium term (Ilzkovitz et al. 2020). Moreover, the overall price reduction associated with these decisions (including their spill-over price effect across industries) can reach 0.4%. See inter alia Ilzkovitz, F, M Cai, R Cardani, A Dierx and F Pericoli (2020), "The macroeconomic and sectoral impact of EU competition policy", in F Ilzkovitz and A Dierx (eds.), Ex post-economic evaluation of competition policy: The EU experience, Wolters Kluwer; Ilzkovitz, F and A Dierx (2020), Ex post-economic evaluation of competition policy: The EU experience, Wolters Kluwer; F. Ilzkovits and A. Dierx 'Ex post evaluation of competition policy: The EU experience'' (2020) available at: <https://voxeu.org/article/ex-post-economic-evaluation-competition-policy-eu> accessed on 28 May 2021.

digital markets is unfolding within the current competition law framework. One can mention the European Commission's report on "Competition Policy for the Digital Era",[2] the UK Furman Report on "Unlocking Digital Competition",[3] the German "Competition Law 4.0" report[4] etc. which essentially revolve around some core issues resting on the very features defining these emerging markets:

- high returns to scale (meaning that the cost of producing a digital service is much less than proportional to the number of customers served);
- network externalities (meaning that the more users join a digital technology, e.g. a social media platform, the more convenient it becomes); and
- the 'economics' of data as an input for many digital services (meaning that, where applicable, those with significant data collection and processing capabilities have a sizable competitive advantage).

These can lead to high barriers of entry, due to the increasing economies of scale through minimal marginal costs, and the data-driven network effects that they generate. In that regard, data is a crucial component of the business models of digital platforms, and control of data confers market power to such platforms.[5] Accordingly, there have been increasing calls for a revision of certain doctrines, such as is the case concerning the essential facilities doctrine in order to withstand the challenges presented.[6] Among the different doctrines developed in the context of competition law, the *essential facilities* is a highly controversial one since it goes against well-established principles (i.e the freedom of contract) and Charter rights (namely, art. 16 and art. 17), by requiring a monopolist to share access to its facilities, albeit upon strict conditions.[7] The EFD doctrine has developed under Community law in the context of CJEU case law with the established criteria being set out in the *Bronner* judgment. [8] The Court has laid down clear limits to the application, thus meaning that only when the facility owned by the dominant undertaking is *indispensable to replicate* by a competitor would an *unjustified refusal* to grant access to it be rendered abusive. It is therefore noticeable that the court aimed at striking a very careful balance between the need to protect incentives to investment and the demands of a competitive economy. Nevertheless, this has been developed in the context of an infancy-internet-development whereby the evolution of powerful digital sectors, and its economic implications thereof, were unforeseen.

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[2] Available at https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf.

[3] Available at https://assets.publishing.service.gov.uk/government/uploads/system/upload s/attachment_ data/file /785547/unlo cking_digital_competition_furman_review_web.pdf

[4] Available at https://www.bmwi.de/Redaktion/DE/Publikationen/Wirtschaft/bericht-der-kommission-wettbew erbsrecht-4-0.pdf?__blob=publicationFile&v=12.

[5] United Nations Conference on Trade and Development 'Competition issues in the digital economy, eighteenth session (2019) https://unctad.org/system/files/official-document/ciclpd54_en.pdf 4, accessed on March 4, 2021.

[6] Coupled with concerns regarding other core concepts such as that of 'dominance' or 'harm', to better address distortions from digital markets. See inter alia the European Parliament's Committee on Economic and Monetary Affairs, 'Challenges for Competition Policy in a Digitized Economy' (15 July 2015, IP/A/ ECON/2014-12) 52.

[7] By requiring a monopolist to share access to an established 'essential facility' the doctrine affects the self-determination and personal sphere of conducting business as protected from the well-established principle of freedom of contract.

[8] Oscar Bronner GmbH & Co. KG v. Mediaprint Zeitungs-un Zeitchriftenverlag HmbH & Co. KG and others (Case C-7/97, [1999] 4 C.M.L.R. 112).

1. 'Data' in the digital economy

Data has taken prominence as a vital component to the development of the digital economy. Its economic implications have been recognised by both the World Economic Forum (which considered personal data to constitute an economic asset) and the European legislator in the Digital Content Directive. [9] In that regard, technological advances enabling the collection, analysis and storage of growing amounts of information have strengthened the ability and the incentive of companies to gather and use personal data.[10] Consequently, online companies including social networks and e-commerce platforms seek to collect its consumer's data in return for free access to their functionalities. One can therefore distinguish the economic ('currency') value adopted with regard to the role of data. [11]

Data is nevertheless subject to categorization: (i) volunteered data, (ii) observed data, and (iii) inferred data or as otherwise referred to as 'metadata'.[12] There is also a distinction made between the concept of 'big data' and personal data. The former relates to '*high-volume, high-velocity and high-variety information assets that demand cost-effective, innovative forms of information processing for enhanced insight and decision making*';[13] whereas personal data is defined by the GDPR as '*any information relating to an identified or identifiable natural person*', therefore entailing that big data is not necessarily personal data, but rather an accumulation of all three categories previously referred to and the extensive processing conducted therein. The access to such big data, entailing complex accumulation and processing, creates particular competition concerns in lack of effective interoperability, coupled with extensive eco-systems which characterizes big tech companies. As such, it constitutes a requisite component that effectively forecloses markets on the one hand, while conferring (substantial) market power on the other. The role of data is therefore induced depending on the context in which it is utilized. While it may be employed as a means providing the exchange for the service received, it may also be utilized as a means for extensive processing such as to *confer market power* (also by its ability to incentivise innovation for a company seeking to gain or maintain dominance in a specific market). In light of this, data should not be strictly characterized as a 'digital currency', but also as a facility in itself that has the potential to benefit the society by fostering innovation, while serving as a means to increase market power, in some

[9] See Article 3(1) of the proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content (proposal for a Digital Content Directive), 9 December 2015, COM(2015) 634 final. It essentially provides for the scope of the Directive to apply to instances where personal data is used as a trade with regard to the services received online.

[10] Speech former Competition Commissioner Almunia, 'Competition and personal data protection', Privacy Platform event: Competition and Privacy in Markets of Data Brussels, 26 November 2012, SPEECH/12/860.

[11] American telecommunications company AT&T gives consumers who agree to be tracked online a discount of 29 dollar per month on their broadband subscription and Amazon sells Kindle tablets and e-readers at a discounted price to consumers who are willing to accept targeted advertisements to be displayed on the device. See in that regard M. BERGEN, 'AT&T Gives Discount to Internet Customers Who Agree To Be Tracked. Customers Must Pay $29 More to Avoid Targeted Ads', Ad Age, 18 February 2015, available at http://adage.com/article/digital/t-u-verse-ad-tracking-discount-subscribers/297208/.

[12] World Economic Forum, 'Personal Data: The Emergence of a New Asset Class', January 2011, p. 7.

[13] Gartner IT Glossary, 'Big data', available at http://www.gartner.com/it-glossary/big-data/.

cases amounting to an abuse of dominance by limiting competition. The issue then becomes the characterization of data as an essential facility in light of the current criteria, particularly with regard to 'indispensability'.

2. Practical and legal concerns: employing the essential facilities

2.1 limitation on innovation - The first normative issue concerning the essential facilities doctrine is its potential to curb incentives to innovate as recognized by the Advocate General in the *Bronner* decision.[14] This view represents *in part* a classical economic theory which regardes monopolists as being more desirable as opposed to the state of perfect competition due to the ability and potential to innovate. This rests on what Schumpeter calls "creative destruction", which regards capitalism as an evolutionary process where old technologies are replaced by new ones. Consequently, a monopolist has greater incentives (and also more potential) to invest in R&D, particularly because it has a better prospect of reaping the benefits resulting from inventions (while being in a constant pressure for retaining its dominance in the market).[15]

Nevertheless, the authors of this paper sustain that, in light of the dynamic development of these emerging digital markets and the fierce competition for developing the next 'new' invention, the approach brought forward by Arrow is more appropriate. According to the latter approach it is competition, as opposed to monopoly, which is seen as favoring innovation.[16] Arrow argues that a monopolistic competition inevitably leads to a 'replacement effect' referring to the limitation on the monopolist's incentive to innovate, which is particularly true when the monopolist does not expect a new entrant.[17]

One could nevertheless argue that monopolists invest in R&D to pre-empt new entrants, however this should be applied carefully especially since in most cases where new entrants constitute potential competition in the digital market they are acquired by the dominant undertaking(s).[18] Moreover, one ought to explore whether the increased R&D accounts for research serving its users, or for further development of algorithms to enable more effective advertsing (or finer consumer targeting and price discrimination) which can qualify as a 'predatory innovation'.[19] In such cases, the 'replacement effect' may well constitute a shift towards 'predatory innovation' where the (new) central aim is to diversify and multiply the extent of collecting user data in order to enhance the eco-systems and lock-in effects. This mitigates the concern that intervention by way of imposing a duty to supply access to the facility

[14] Opinion of Advocate General Jacobs in Oscar Bronner GmbH & Co. KG v Media- print Zeitungs, C-7/97, ECLI:EU:C:1998:264, para. 57.

[15] In Schrumpeter's view, this forms an ever present threat that disciplines before it attacks and that is effective as a bombardment in comparison with forcing a door. See J.A. Schumpeter, Capitalism, Socialism and Democracy, Routledge, 1942 (version published in 2003), p. 100-101.

[16] K.J. Arrow, "Economic Welfare and the Allocation of Resources for Invention" in H.M. GROVES (ed.), The Rate and Direction of Inventive Activity: Economic and Social Factors, National Bureau of Economic Research, 1962, (609).

[17] This in turn implies a decrease in innovation.

[18] These often fall below the threshold of the merger control regime. This is an issue however which goes beyond the scope of the present paper since it pertains to the effectiveness of merger control in the context of digital markets.

[19] Schrepel, Thibault, Predatory Innovation: The Definite Need for Legal Recognition (July 1, 2017). 21 SMU Sci. & Tech. L. Rev. 19, Available at SSRN: https://ssrn.com/abstract=2997586.

can decentivize innovation, especially where the innovative discourse has shifted towards collecting user data. Such approach serves for entrenching the incumbent's market power while foreclosing competition, which in turn deters innovation in itself, as opposed to having increased competition where all the incumbents can effectively utilize the big data - this would in turn be a driving factor of the new EU approach of 'competition in innovation'.[20] This however requires careful scrutiny and close cooperation between the competition law and data protection authorities, such as to ensure that compliance with requirements such as consent of the data subject (where applicable), or the successful anonymisation of the data is adhered to.

2.2 Indispensability - A very important limitation to the applicability of the essential facility doctrine is the *indispensability* requirement, which sets a very high threshold since a mere economic disadvantage would not suffice to satisfy the strictness of this rule - this element is vital to ensuring a balance with the right to freedom of contract. However, it is substantially harder for data to qualify for the indispensability criteria due to its very nature constituting for a large amount of Internet user data available online. In that regard, it is also important to mention the merger cases regarding the acquisition of WhatsApp by Facebook (initiated by the EU Commission), or the decision in the United States Federal Trade Commission in *Google/DoubleClick*, where it was established that the data available to Facebook and Google respectively did not create competition concerns insofar as the data was not unique such as to constitute an essential input to a successful online advertising.[21] However, it should be noted that both these cases are isolated to the instance of online advertising products. In the authors' view, there should be a highly scrutinized approach on a case-by-case basis with regard to the use of data *for offering services of quality*,[22] as to establish the indispensability of the data, particularly in light of the (potential) eco-system, lock-in effects, viability of reproducing the equivalent data necessary and the degree of interoperability, in order to restore 'equality of arms'. As Graef submits, in situations where a dataset is protected by strong network effects or economies of scale and scope, the fact that an incumbent remains dominant in the market may merely result from the market situation grown around the dataset instead of from its competitive success.[23] Consequently, it should be pointed out here that there is also development in Member State level in the EU, where competition authorities have found the dominant company to be in violation of their dominance for exploiting the 'unfair' advantage deriving from their dataset - i.e. the Belgiam competition authority made clear that for establishing whether this practice amounts to abuse it was necessary to look at the circumstances in which the National Lottery had built the database as well as at the possibility for competitors to reproduce the database. Regarding the latter, it

[20] See Communication from the Commission - Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements (EU Horizontal Guidelines) [2011] OJ C11/1, par. 120.

[21] See Statement of the Federal Trade Commission, Google/DoubleClick, FTC File No. 071-0170, 20 December 2007, p. 12, available at http://www.ftc.gov/system/files/documents/public_statements/418081/071220googledc-commstmt.pdf, and Case No COMP/M.7217 – Facebook/WhatsApp, 3 October 2014, par. 187-189.

[22] This is particularly important since the data amounts to an essential input dictating the operability of a service and the extent to which it can attract customers.

[23] Inge Graef, 'Data as Essential Facility - Competition and Innovation on Online Platforms', the Interdisciplinary Centre for Law & ICT (ICRI), of the Faculty of Law of KU Leuven, p.269.

reiterated that, given its nature and size, the data could not have been reproduced by competitors in the market at reasonable financial conditions and within a reasonable period of time in the view of the Belgian competition authority.[24] While the factual scenario is different from that where use of data is a prerequisite for the offering of quality services, the reference made to reasonable financial conditions and a reasonable period of time when assessing the possibility for competitors to reproduce a database should in the authors view take prominence when determining the extent of indispensability (in the context of the essential facilities doctrine) of reproducing an equivalent dataset as such as to allow for effective competition on the merits.

Concluding remarks

Digital markets are challenging the conventional understanding of conducting business. Companies are increasingly relying on accumulation and processing of user data to the extent that it is also used as a digital currency where services are offered for free in return for the collection and processing of the data. The latter thus accounts for a currency, while nevertheless constituting an essential input that determines the viable extent of offering a quality service such as to be able to attract consumers - this in turn implies the ability to confer market power and to foreclose markets by limiting consumer choice and innovation in the long run. This paper therefore argues for a liberalization of digital markets with regard to control and access to data, in order to strengthen the new approach of competition in innovation; as opposed to the stale approach where dominant undertakings can impede through predatory innovation to the extent of foreclosing competition by enhancing their eco-systems and market power thereof. In that regard, data constitutes for an essential 'infrastructure' which may nevertheless fail to satisfy the *indispensability* in the context of the essential facilities doctrine due to its very nature accounting for a wide availability. However, the extent of indispensability will depend on the context for which access is sought - as witnessed, advertisement purposes do not satisfy the nature of indispensability of the data, since there will continue to be a large amount of Internet user data that are valuable for advertising purposes. Consequently, distinction should be made between data for advertisement purposes, and data as an essential input determining the quality of a service. In the latter context, there should be an assessment on a case-by-case basis as to establish the indispensability of the data, particularly in light of the (potential) eco-system, lock-in effects, viability of reproducing the equivalent data necessary and the degree of interoperability, in order to restore 'equality of arms'. In this respect, the approach by the Belgian competition authority may provide guidance, where the 'reasonable financial conditions' and a reasonable period of time' for duplicating the data would constitute for the testing criteria as regard the indispensability, in order to ensure that certain services are not under the exclusive control of the companies possessing the largest amount of data.

[24] Belgian Competition Authority, Beslissing n° BMA-2015-P/K-27-AUD van 22 september 2015, Zaken nr. MEDE-P/K-13/0012 en CONC-P/K-13/0013, Stanleybet Belgium NV/Stanley International Betting Ltd en Sagevas S.A./World Football Association S.P.R.L./Samenwerkende Nevenmaatschappij Belgische PMU S.C.R.L.t. Nationale Loterij NV, par. 69-70.

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Freedom of expression as a constitutional right the case of Albania

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Abstract

The principal objective of this paper is the study of one of the most significant, among equal, human rights, recognised as a Constitutional right in the major part of the democracies of the World, as well as sanctioned in almost all declarations and conventions that are focused mainly in the protection of human rights; that being The Freedom of Speech.
More than two decades have passed since the fall of the Berlin Wall that symbolised the eradication of the state's censure toward the right to freedom of expression that for many years had been a characteristic of the communist countries, of which, unfortunately, Albania was an active member for more than forty-five years. Regardless of these many years of democracy in development, duly recognising the economic and social progress of the country, it appears that we are still fighting with our past and that we find it difficult to detach ourselves once and for all from a totalitarian mentality that lasted half a century, to wipe away the stagnant reminiscences, and to build a new approach toward the veneration of the core of human harmony; the respect of the fundamental human rights, including the freedom of speech.
Together with the explanatory theoretical part, this paper will analyse some practical issues of the constitutionally derived freedom of speech and expression in Albania, as well as fractions and citations from analysis and comments of some of the most renowned critics in the fields of parliamentary framework and media.

Keywords: Freedom of Expression; Fundamental Rights; Positive and Negative Rights; Building Democracy.

Introduction

The history of the Freedom of Expression - now a Constitutional right in our country - and democratic constitutionality in general is unfortunately very poor. Although, referring to the History of State and Law in Albania, the tradition of rules, laws, and orders is quite ancient. Anyway, the rights are usually referred to some extent guaranteed only to the upper strata and nobility of Albanian society. Meanwhile, very little is known about the internal statutes of the Illyrian Principalities and Principalities of Arbri. "Kanun" is one of legislative bouquets inherited from generation to generation, as an oral tradition. Kanun is a kind of statute with constitutional power that has been respected in most Albanian areas. It is obvious that the Albanian areas could not have only one general legislative code because Albania has been occupied by the invading hordes over the centuries. This is the reason that according to Prof. Dr. Shefqet Hoxha there are at least 7 legislative codes or provincial "Kanun", 6 of which are published: Kanun of Lekë Dukagjini; Kanun of Labëria; Kanuni of the Mountains; Kanun of Mirdita; Kanun of Puka; The Kanun of Dibra and the still unpublished Kanun of the north-eastern area of Luma, the province where the city of Kukës is located.
These codes have many differences but something is in common for all of them: ***The***

Freedom of Expression's Lack. According to Kanun codes, the right to express was not only an almost exclusive privilege of men, but there was also hierarchy among men. First, the elders had the right to speak, who were also positioned near the fire in the men's room. The last to talk about family matters, or even problems related to relationships with others were young boys, while the right of women to expression was almost completely missing. Women could never speak before men, of any kind, not even for the decision to marry[1].

In the period of the National Renaissance, and with the recognition of the independence of Albania from the European States, legality began to evolve from the Kanun Code to the Basic Law of Albanian Republic[2]. The Basic Law of Albanian Republic was proclaimed after the victory of the revolution by Fan S. Noli; despite the short time. During the years of the regime of King Zog I, the right to expression had a good impact; until the moment when he left and Albania was occupied by the Nazi-fascists. The darkest period of Albania about Freedom of Expression was after 1944. Under the justification of the Dictatorship of the Proletariat, the two constitutions adopted in 1946 and 1976 sanctioned the rights of the citizens of the Albanian mono-party republic, which were clearly not consistent with the Universal Declaration of Human Rights. Furthermore, the Criminal Code of the Socialist Republic of Albania sanctioned measures of imprisonment and internment for persons who spoke out against the dictatorial regime of the proletariat and "popular" power.

In the late 1980, after the fall of the Berlin Wall, which also marked the fall of "red" hegemony in many communist countries of Eastern Europe, Albania also began its path towards democratization of the country. After a communist isolation of almost half a century, Albania began its path of building a Republic, on the basis of Constitutional Democracy, not with a proper constitution, but with a special Law on the Main Constitutional Provisions[3]. Although not a proper Constitution, this law in a cursory way defined the observance of human rights in Article 8 which specifically stated:

- "The legislation of Albania Republic recognises and respects the generally accepted principles and norms of international law.
- Strict and uniform application of legal norms is mandatory for all state bodies, political parties, other organisations, officials, as well as other natural and legal persons.
- "All citizens are equal before the law."

Recognising and guaranteeing the observance of internationally sanctioned norms, the Main Constitutional Provisions of the Law showed the way to guarantee the fundamental freedoms and evolution into a proper section of the Constitution. After the first failure of the referendum in 1994, the Constitution of the Republic of Albania was approved by the Albanian Parliament on October 21 1998 and was decided by a popular referendum. After this moment, many constitutionalists, local.

[1] Kanuni i Lekë Dukagjinit – Charper 2 – Nye i Nandët, http://www.kanuniilekedukagjinit.blogspot.com/.

[2] After the Triumph of Legality, the victory of Ahmet Zogu against the revolutionaries led by Fan Noli, in 1925 the Basic Law of the Republic of Albania was proclaimed. This republic, based on the model of the French Third Republic (1870-1940), was a parliament headed by a powerful president, who was the head of state as well as the chief executive (government).http://sq.wikipedia.org/wiki/Kushtetuta_e_Shqip%C3%ABris%C3%AB.

[3] Law Nr. 7491, datë 29.04.1991 "Për Dispozitat Kryesore Kushtetuese",http://eudo citizenship.eu/NationalDB/doc s/ ALB%20Ligji%20nr.7491, %20date%2029.4.1991% 20Per% 20dispozitat%20 kryesore%20kushtetuese.pdf

and international law experts have evaluated the Albanian basic law as one of the most modern and in full compliance with European standards.

This we can see in the second part of it, where the Fundamental Human Rights and Freedoms are sanctioned, almost in the same form as the Universal Declaration, or the European Convention on Human Rights. In the Article 22[4], the Constitution guarantees the Complete Freedom of Expression of any local or foreign citizen living in the territory of Albania Republic; as well as prohibits any kind of prior encroachment on free speech and print and electronic media.
One of the most important articles that follows in the regulation of the status of Fundamental Freedoms, is Article 17, which in the first point, defines the right that the legislature has to issue laws and instructions in full compliance with the constitution and international instruments of the right to restrict these fundamental freedoms. However, if we see the European practice, and at the same time the Constitutional obligation that self-determines the observance of international conventions, in the second point of the same article, the obligation to respect the limitations and definitions of the European Convention on Human Rights is determined with the public interest as well as that of the person, persons or institution damaged by the exercise of freedom of expression.

1. The positive and negative sides of Freedom of Expression

As mentioned above, the Albanian legislation, from the Constitution to the simplest laws, including international instruments which have become internal parts of the legislation, focuses on the protection and respect of citizens' rights.
The freedom of Expression is one of the constitutional rights that has both a positive and negative sides, which not only expand the range of constitutional democracy but give numerous opportunities to all citizens of Albania. As mentioned above, for as long as freedom, dignity, and integrity of others are guaranteed, Freedom of Expression as a Positive Right guarantees everyone the opportunity to express themselves in all possible ways, through written or even electronic way, as well as directly to anyone. The most active actors, consumers of Freedom of Expression, with a positive precondition, are Mass-Media, Civil Society with its bodies; and fewer citizens, who often appear oppressed, inactive and unwilling to exercise their right to free expression.
While The Freedom of Expression as a Negative Right, is more formal, and has to do with the right of everyone not to express themselves. In most cases it is associated with the right of persons arrested for not to say anything that could incriminate them without the presence of a lawyer; the right not to plead guilty; the right not to testify against a relative or even a family member. All these are summarized in Article 32 of the Constitution of Republic of Albania[5].

[4] Constitution of the Republic of Albania - http://justinianiipare.com/DOC/kushtetuta_al.pdf,– Article 22,
1. Freedom of expression is guaranteed.
2. Freedom of the press, radio and television is guaranteed.
3. Preliminary censorship of the media is prohibited.
4. The law may require the granting of authorization for the operation of radio or television stations.
[5] Constitution of the Republic of Albania. Article 32.
1. No one can be compelled to testify against himself or his family, nor can he plead guilty.

The problem lies in what I personally consider to be a misunderstanding of the negative right not to express oneself in the case of being aware of a crime, especially for victims of physical and sexual violence. Whereas in Article 300, the Criminal Code of Albania, defines the criminal offense of Failure to Report a Crime; Dualism and reluctance is almost permanent in cases of consumption of acts of Physical Violence, especially in the family, as well as acts of violent sex, both minors and adults.
In this case, The Constitutional Right to Freedom of Expression is clearly presented with a negative precondition to not express oneself by not denouncing the Crime; on the other side of the scales of justice, the Criminal Code defines the obligation to denounce the crime, not only in respect of law, but also to prevent other crimes. This is putting the wider public interest before the personal one. The problem lies in the fact that such cases are extremely sensitive as they relate directly to the dignity of the person - the victim or the abused, which prefer not to speak so as not to damage their image in the eyes of the public. While this is not an "Albanian phenomenon", on the contrary it is more widespread in the ratio of inhabitants in many countries of the world, in our country it is reinforced by the reminiscences of an old mentality and the Old Doctrinal Laws, or Kanun.
Except unreported crimes by the victims, the Negative Right to Freedom of Expression has been misunderstood by most of Albanian society, still very selfish and personal in mentality. Reporting of crimes by potential witnesses is extremely low and often unclear even when reaching the witness bench in Court. This is due to the fear of revenge because in a country like Albania law enforcement agencies do not function completely to ensure the order and life of witnesses[6].

2. Freedom of Expression and Mass-Media (Case- Wikileaks)

Mass - Media does not recognise the Negative Right to Freedom of Expression when it's done the review of events involving crimes against life and sexual crimes against persons. Justification is always permanent; *Black News sells!* Rare are the cases when the news of the black chronicle is not in newspaper headlines or news that opened the central editions, being treated in detail and often even exceeding the obligations not only of the Code of Ethics that stipulates that
"Journalists should respect the honour and reputation of individuals who become objects of their professional interest" but also the Criminal Code that explicitly prohibits the publication of the generalities of juveniles who are involved in various crimes, or images of dead persons, or shocking images regardless of time bands.
Protection of Freedom of Expression and guaranteeing Positive and free expression for all media is not only a Constitutional obligation, but has already become a kind of Standard which values and ranks states according to their achievements in guaranteeing a Democratic and Constitutional state. The achievement of these standards is assessed by the Report on Freedom of the Press, published by the Freedom House organization. According to this report, Albania is ranked 102 out of 196 of them, a partially free press[7].

[6] Millions of Crimes Go Unreported – CBS News Report of February 11, 2009, http://www.cbsnews.com/stories/2002/09/09/national/main521212.shtml
[7] Albanian Code of Ethics and Media - Media Institute Publication, page 7- http://www.osce.org/sq/albania/21235

However, the evaluation of this report reflects more the use of Negative Right by the Media, considered independent of financial power, than the positive one, which is the core of the legal discussion. In general, the right to express oneself without censorship in advance, as described in Article 22 of the Constitution of the country, can be said to be guaranteed, or more precisely, it can find the necessary space to become vocal in one of the multi-channels provided for the transmission of free journalistic thought. An article on the Social Media Blog wrote[8]:

Freedom of the press does not mean that journalists knowingly publish lies or stupid mistakes. If journalists write something false or publish facts they should have known or should have suspected to be false and make no attempt to determine their accuracy, then they may be sued for slander, defamation.

Defamation (writing that is intentionally false and damages a person's reputation, makes him the object of contempt and hatred by the public or damages the reputation of his business), gossip (same as defamation, except of being transmitted orally) and slander (again, similar to defamation and gossip except that false information, transmitted orally or in writing, is intended to damage the reputation of the person to whom the information relates) are forms of lawsuits which may be brought by a person whose reputation, career, business or family have been damaged by the transmission of untrue information (facts). It is important to know that slander, defamation and gossip are individual rights and not state rights. The government cannot sue the press for defamation, slander. It is also important to know that these constitute civil lawsuits, which means that they are compensated in cash. In a democracy no journalist should be imprisoned for writing articles, no matter how inaccurate or unpleasant they may be. "Eventually, these civil lawsuits are filed against journalists and the press after the article has been distributed and read[9]."

As above, it is impossible not to be part of the discussion about Julian Assange and Wikileaks, the latest media phenomenon, which has not only shocked the world with the materials it has published, which include an extraordinary number of secrets sent by different embassies in the world to the US State Department, that proves that in Albania you can undertake to publish and debate almost everything. But in fact, should everything be published and widely debated? Maybe in respect of the main instruments of law, should our country react in some way to this phenomenon that has already occupied the front pages of world newspapers?

Article 10 of the European Convention on Human Rights provides as follows: "Everyone has the right of freedom of expression. This right shall include freedom to hold opinions and to receive information and ideas through any media. This article shall not deprive States of the right to license broadcasting to televisions or cinematographic enterprises[10].

In addition to guaranteeing rights, the Convention has also imposed restrictions.

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[8] Freedom House – Freedom of Press Report, http://www.freedomhouse.org/uploads/fop11/FOTP2011Booklet.pdf

[9] Freedom of Expression and Information as a Constitutional Right - Your Voice, Albanian Social Media, http://www.zeriyt.com/jurisprudence/liria-e-shprehjes-dhe-informimit-t28931.0.html.

[10] Article Ten of The European Convention on Human Rights - Council of Europe – The European Convention on Human Rights, Rome 4 Nëntor 1950, 1. "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises."http://www.hri.org/docs/ECHR50.html,

Point 2, of Article 10 which guarantees freedom of expression, the Convention states[11]: *"The exercise of these freedoms, as it carries obligations and restrictions, may be subject to formalities, conditions, restrictions or penalties, as described in law and are necessary for a democratic society; in the interest of national security, territorial integrity, or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for the prevention of the dissemination of information received in a confidential manner, or to preserve the authority and independence of the judiciary*[12].

It is clear, both syntactically and legally, the Constitutional right to Freedom of Expression is indeed guaranteed to both citizens and media, but in the same article, the restrictions are described which may somewhat suppress freedom to provide information. If we refer to the Council of Europe Guideline on how we should understand Article 10, we will notice that it says: *'The expression' protected 'under Article 10 is not limited to words such as written or spoken, but also extends to drawings and images; and actions aimed at expressing an idea or presenting information*[13].

The above extract, taken from the instruction of 2003, reflects two of the many decisions that have unified the case law of the European Court of Human Rights, and at the same time have decreased the gaps created after the first release of confidential information by a large number of American embassies around the world. However, the questions that have not yet been resolved by the lawyers of Constitutional and European Law in our country, as in many European countries, converge on the point: Should we intervene?

The clash within the constitutional rights, created by Wikileaks, is between two rights and confidentiality due to the protection of national security which are: The Right to Information and The Right of Freedom of Expression, despite the two points that are sanctioned by Article 10. So the publication of these confidential documents, with American origin, has National Security been endangered; and most importantly, does the interest of the general public prevail over state bureaucracy and government secrets?

Judging by the three types of information that Wikileaks has published which includes
1) Statements,
2) Information from Unconfirmed Sources and
3) Comments of the outgoing US Ambassador,

I think it can be done a kind of difference, both in the analysis of the exercise of the Constitutional right to Freedom of Expression, and in the analysis of the balance of this right in the face of the issue of National Security.

Cable Analysis: 08TIRANA470-Title: Ex - ShShPFA Tells His Story

At a meeting requested by him, the former Chief of General Staff of the Armed Forces, Gen. Luan HOXHA, told Ambassador John L. Withers, that:

[.....] during the second part of the project, at the beginning of 2007, he was instructed by Mediu, to address his concerns directly to Prime Minister Berisha (for the knowledge of Topalli and Mediu), given the direct pressure by telephone from "a

[11] GjEDNj – Myler kundër Zvicrës – 1988.

[12] A Guide to Implementing Article 10 of the European Convention on Human Rights (2003) - Page 9, http://www.humanrights.coe.int/aëare/GB/publi/materials/998.pdf.

[13] GjEDNj – Chorherr kundër Austrisë – 1993.

young man" who was later confirmed as Shkëlzen Berisha, the prime minister's son, to continue delivering high-calibre ammunition without delay. "

In a report of Diplomatic Facts, without questioning the veracity of the facts, especially by the Ambassador of the United States, and the clear division between Unconfirmed Comments and Sources, or "rumours circulating"; we can do an analysis not only of the above publication, but of all series of publications provided by the Wikileaks portal[14].

It is a fact that most of the published documents are Confidential or Secret. Even under the law and instruments of international law, any publication of them would constitute a serious violation of the laws and the Constitution of any country becomes part of these publications.

In this case, but also in some other publications, the Albanian state and its officials have been mentioned in issues, comments or unconfirmed information. This case, which was immediately published in all Albanian media, but not only, addresses some of the essential elements related to Freedom of Expression.

First: The Positive and Negative rights that Mr. Hoxha has had to speak, or not in relation to his knowledge regarding the issue of cartridge trafficking in the dismantling factory in Gërdec.

Second: The right of Assange and Wikileaks to express themselves through publication, always with the highest interest, the publication of the facts necessary to be known by the Albanian public, guaranteed internationally by the European Convention, as well as the unified practice through decisions mentioned above in the cases of Austria and Switzerland.

Third: The right of the Governments involved to maintain confidentiality in the name of protecting national and possibly legal security in certain cases.

In the end, the confrontation is between maintaining state secrecy in the name of protecting National Security, in the face of the Security of the Outline of Democracy, guaranteed by the instruments of law and in whose name, governments come to power and then work in countries with constitutional democracy. And the question is: *How much should the public know?*

In this case I believe that, the publication of this article, despite the way it was shot in the hand, is a great service to Freedom of Expression for the public and for a state with a fragile democracy as Albania. This is because only in this way it is possible to get acquainted with concrete facts about the way in which the power entrusted by the Sovereign is exercised; facts which in a functioning democracy should have been served to the Albanian public by the exercise of Freedom of Expression, before the Court, or in one of the Numerous Media that Albania has today, and not as an "accident" of the negligence of the US State Department. It is not a matter of disclosing state secrets; this is affecting strategic military plans, or the proliferation of Secret Service agents, a case which would be punished by anyone. According to the statements of Gen.'s Luan Hoxha on the Wikileaks article, we have to do with a pressure and a threat due to duty; these elements are punishable by the Criminal Law of the Republic of Albania.

In the absence of civil society bodies which must not only come out in defence of Freedom of Expression, but hold strong positions in support of constitutional

[14] WIKILEAKS – "Viewing cable 08TIRANA470, former chod tells his story: gerdec claims another" http://wikileaks.org/cable/2008/06/08TIRANA470.html.

democracy, especially in such cases; I think making public with the aim of informing the public and at the same time maintaining an attitude towards the phenomenon is the best possible way to exercise constitutional rights, including Freedom of Expression.

3. Freedom of Expression and Parliament

Since the adoption and entry into force of constitution of 1998, Albania is a Parliamentary Republic, where the Assembly of Albania is the main collegial and law-making body, from which should emerge democracy and efforts to strengthen the state of law. The very notion of Parliamentarism is at the core of its existence, the broad debate, the clash of opinions, the opposition based on facts or beliefs. In other words, Parliamentarism means the maximum of Freedom of Expression.
The constitution of the country specifies that: "The deputy's mandate begins the day he is declared elected by the respective election commission". This means that from that day this representative elected by the will of the people has the right to fight in the name and in the service of his electorate, always through debate, without legal intervention except in the case of defamation.
"The deputy is not responsible for the opinions expressed in the Assembly and for the votes given by him. This provision does not apply in the case of defamation[4]. A provision, carefully foreseen by the legislator, is the main guarantor of the exercise of the duty of the deputy of the Parliament of Albania, in respect of the mandate, which carries with it the protection of the veil of immunity. This is the reason why the deputies of the Parliament of the country, have usually exceeded the targets with their statements regardless of the place, time, topic or person to whom they have sent their statements and often their unfounded accusations and in the form of media spectacle. This kind of deduction leads to the conclusion that despite the fact that the legislator has given a great deal of breadth and freedom of action to the members of the Assembly, he has also set legal limits that must be respected, so as not to abuse the attributes of Power. If carefully observed, the provision contains within it the Geographical Space within which it has power, namely: "[....] in the Assembly ...". With a simple analogical reasoning, outside the Parliament, the Member of Parliament, although protected by the mandate, and prosecuted without the approval of the assembly, can nevertheless be subject to a possible request for exceeding the competencies with Freedom of Expression, if this occurs, without being the case of defamation.

Conclusion

Fundamental human rights and freedoms, otherwise known as Constitutional rights, are designed for the purpose of protecting every individual from possible injustices and state arbitrariness. These freedoms and rights, guaranteed by various international and domestic instruments, stand as a barricade against any attempt by government power in countries with constitutional democracies to interfere in the lives of its citizens. It does not matter if they are summarized in the Bill of Rights or listed as articles of Chapter II of the Constitution; they constitute an inalienable corpus of guarantees for a democracy as inclusive as possible. Freedom of Expression is shrinking more and more every day; always in the name of protecting life from the

bad, terrorism, and bad part of human character unlike other species that populate the planet. The most widely used expressions in the world media now is: *"Freedom of Speech is not so Free Anymore!"*

In Albania the Freedom of Expression is expressed to another dimension. Unfortunately, it is twisted by ruling politics where the state is always at war to overthrow the Fourth Power and Civil Society through sanctions and the purchase of silence, instead of working to improve the State Super-Structure and guarantee respect for the Fundamental Rights of all in the name of prosperity. It is not strange that officials or former senior officials of the state and major political parties choose to use their Freedom of Expression at the Diplomatic Doors, instead of addressing the people with respect and listen and support them.

In Albania, in the framework of respecting the Constitution of the country and conventions, the Freedom of Expression is theoretically guaranteed, ratified by the Parliament of the Republic of Albania. The problem is that the logical census of free expression, distrust of political representation, and reluctance to raise doubts are practical weapons that are rusting day by day due to surrender to censorship of free speech and Freedom for expressed thoughts uninfluenced by anyone.

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Portali WIKILEAKS – "Viewing cable 08TIRANA470, former chod tells his story: gerdec claims another"http://wikileaks.org/cable/2008/06/08TIRANA470.html.

GjEDNj – Myler kundër Zvicrës – 1988.

GjEDNj – Chorherr kundër Austrisë – 1993.

The effect of Bridging Social Capital on Firm Performance-The mediating role of Explorative Innovation and Exploitative Innovation

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Abstract

Despite the increasing interest in the effects of social capital on SME innovation and firm performance, there is still little empirical evidence regarding the mediating effects of innovation on the relationship between different social capital dimensions and SME performance, especially in developing economies and the tourism field. The study investigates the effects of bridging social capital on explorative and exploitative innovation as well as its impact on firm performance. It further explores innovation's effect on performance and the mediation on the relationship between bridging capital and firm performance in tourism clusters context, in Albania.

A survey method was used to collect the data on a sample of 129 firms operating in clusters in the tourism industry, analyzed through a multiple regression model. SPSS multiple-mediator Hayes's PROCESS macro and the bootstrap resampling method were applied to test the hypothesis.

The findings suggest that bridging social capital positively affects performance and the two dimensions of innovation. Still, only exploitative innovation mediates the bridging social capital's positive effect developed from managerial social relationships on firm performance. The exploitative innovation was found to affect performance positively, while explorative innovation was not.

This study's findings provide insights regarding the mediation role of innovation on the relationship between bridging social capital and firm performance, in the surveyed tourism clusters firms. The work of this paper deepens our understanding of the interrelationship between bridging social capital, innovation, and firm performance, significant to the strategic management of firms in emerging economies.

Keywords: Bridging social capital; exploitative innovation; explorative innovation; tourism, Albania.

Introduction

Despite economic globalization, the regional dimension attracts much interest from scholars in different disciplines regarding elements that foster economic development. Firms in developing countries' contexts are looking for business growth and innovation opportunities inside but mostly outside their regions' boundaries. Traditional views of regional development have focused on economic factors and resource exploitation without considering social capital as a strategic resource for innovation performance and sustainable development. The resource-based view and social capital theory views the networks and social relationships as a source of potential innovation, being considered a powerful resource for creating and exchanging knowledge and information. In small regions, in transition economies

dominated by SMEs, firms often face problems related to finance management, marketing capabilities, limitation of resources and knowledge, which are also the bases for innovation. In these contexts, relational aspects often play a crucial role as antecedents of innovation and firm performance.

The importance of social capital for the survival and success of entrepreneurial firms has been widely acknowledged and empirically demonstrated (e.g., Fischer & Pollock, 2004; Larson, 1991; Oliver, 2001; Pennings et al., 1998; Zucker et al., 1998). Social capital facilitates access to resources and information (Adler & Kwon, 2002; Leana & Van Buren, 1999; Nahapiet& Ghoshal, 1998) enhances organizational performance in emerging economies (Acquaah, 2007). Furthermore, interpersonal interaction influences informal resource access and exchanges across organizational boundaries (Bouty, 2000). Access to information and resources is associated with innovation (Powell et al., 1996).

There are few channels through which social capital exerts its influence on innovation. Ismail et al. (2014) evidence a direct relationship between social capital and innovative capabilities in women-owned tech SMEs context in Malaysia. Parra-Requena, Molina-Morales, & Garcia-Villaverde (2010) evidence a positive influence of the cognitive dimension of social capital in a firm's ability to innovate in a context of a footwear industry cluster. Innovation capabilities mediate the firm social capital – export performance relationship in evidence from exporting SMEs in Ghana (Easmon et al., 2019). On the other hand, there is evidence regarding innovation's role in businesses' performance and success (Rubera et al., 2012; Easmon et al., 2019). Thus, innovation could be considered as a positive mediator in the relationship between social capital and firms' performance.

The study draws on an empirical survey in the tourism industry in Albania, based on a sample of 129 firms located in seven different tourism clusters and districts. It investigates the effects of bridging social capital on explorative and exploitative innovation as well as its impact on firm performance. Furthermore, it explores innovation's effect on firm performance and the mediation role on the relationship between bridging capital and firm performance in Albania's tourism industry context.

The paper is organized as follows: the second section provides an overview of the literature on the link between bridging social capital, innovation (explorative and exploitative), and performance, highlighting the mechanisms of the interrelationship, particularly the mediation role of innovation. Section three discusses the methodology and procedures, while the fourth section presents the analysis, and section five concludes with the main findings and implications. Finally, some conclusions are drawn underlining the role of bridging social capital as a determinant of performance and the mediation role of innovation in this relationship.

1. Literature Review and Hypothesis

1.1 The Social CapitalPerspective

Social capital is one of the most used and discussed notions of social behavior (Lin, 2017; Lin et al., 2016), and its concept and definitions have evolved between economics and sociology.

Nahapiet and Ghoshal (1998, p. 243) define social capital as "...the sum of actual and potential resources embedded within, available through, and derived from the network of relationships possessed by individuals or social units". Coleman (1988;

1990) is often quoted on defining social capital as a function of the individual social structure, facilitating their behavior and producing advantage. Adler and Kwon (2002) associate the notion to the goodwill in relationships, information, influence, and solidarity it makes available to the actors. Putnam (1995, p. 67) defines social capital as "...features of social organization such as networks, norms, and social trust that facilitate coordination and cooperation for mutual benefit", while Woolcock (1998) associates the concept with the information, trust, and norms of reciprocity inhering in a network. Most of the definitions have in common the network and access to resources available with it or through it,

The network perspective of social capital that builds on the concepts of "structural holes" and "network closure" Burt (2000) and "strong ties, weak ties" (Granovetter, 1973) brings two dimensions of social capital: bonding and bridging social capital. According to this perspective, bonding social capital is created as a result of the strong interconnected actors in the network, while bridging social capital is a result of brokerage connections between otherwise disconnected segments or actors (Burt, 2000).

The social capital theory considers the networks and social relationships as a source of potential innovation, being considered a powerful resource for obtaining new knowledge or improving existing ones (Tsai, 2000). Furthermore, social capital fosters mutual exchange in the network and affects the innovation process by shaping the amount and diversity of knowledge.

1.2 Bridging Social Capital and Innovation

A firm's success and long-term survival depend on its ability to innovate. That is why innovation and its antecedents have been of interest among scholars in different studies. Innovation drivers have been associated, among others, with resources, capabilities, diversity, and decision-making (Van Riel et al., 2004). Firms rely on networks to access operational resources, technological know-how, and relationships with other actors (Ford et al., 2003).

The role of the social capital in shaping the amount and diversity of information received through networks in innovation has been discussed by scholars especially in cluster studies. These networks contribute to knowledge, information, skills and experience exchange, providing an opportunity to the firm to create new knowledge or improve existing one (Chen and Huang, 2009; Lin, 2007). Access to and control over information and resources are associated with innovation (Rogers, 1995; von Hippel, 1988).

The firm can cover the customer's needs more quickly and with reduced risks when they have information regarding these needs through customer relationships (Enkel et al., 2009), thereby increasing orientation towards innovation. Furthermore, the relationships with suppliers can provide information and added expertise regarding new or improved technologies, new design ideas, alternative or improved materials allowing for faster improvements and quick response to the market changes (Ozer and Zhang, 2015).

In clusters and networks with a solid structural and bonding capital, the closure of relationships often generates information redundancy, myopia, and inertia (Hakansson and Ford, 2002; Nahapiet and Ghoshal, 1998), the reason why information from these closed relationships is not always novel and relevant to innovation.

External information exchanged between heterogeneous groups or agents potentially opens firms to new business opportunities and new markets, new technologies, partnerships, or investment options. These external relationships with non-local networks, agents, or institutions provide faster access to novel tacit knowledge, fundamental to develop innovation (Farmaki, 2015; Partanen et al., 2014) and serve new markets or better serve existing customers' needs.

Tether and Tajar (2008) argue that firms use the networks with agents and specialist providers such as consultants, private research organizations, and universities as partners in innovation or as informal sources of information and knowledge used for innovation. Several other studies show a direct positive relationship between possessing a network of contacts with various environment agents and product innovation (Rothaermel and Deeds, 2006; Partanen et al., 2014, Vega-Jurado et al., 2015). Thus, the following hypotheses are proposed:

H1. Bridging Social Capital has a significant effect on product explorative Innovation

H2. Bridging Social Capital has a significant effect on product exploitative Innovation

1.3 Innovation and Firm Performance

Firms have to innovate in order to survive and perform in dynamic competitive environments. Innovation is one of the possible mechanisms by which organizations can gain a competitive advantage through unique organizational resources (Barney, 1991). Innovation occurs while exploiting existing capabilities and resources or by exploring new ones. Exploitative innovation is associated with improvement, refinement, efficiency, knowledge selection, and implementation to incrementally improve existing products to meet existing markets' changing needs (Benner & Tushman, 2003; March, 1991). Explorative innovation is associated with radical change, variation, and discovery activities of research, exploration, experimentation to create novelty, new products, new markets (Benner and Tushman, 2003; March, 1991).

Several empirical studies have shown a positive relationship between innovation and performance. Vincent, Bharadwaj, &Challagalla's (2004) study draws upon a meta-analytic database of 83 empirical studies that indicate that innovation is significantly and positively related to superior performance. Easmon et al. (2019) demonstrated that innovative capabilities positively affected firm performance outcomes in their evidence from exporting SMEs in Ghana. Another evidence from firms in the Albanian context confirm a positive relationship between explorative innovation and firm performance but no significant relationship between exploitative innovation and firm performance(Busho, 2021).In addition, in their study in Albanian SMEs, Prifti and Alimehmeti (2017) show no significant evidence between innovation and performance. Innovation contributes to creating a competitive advantage in the marketplace that, in turn, will provide organizations with superior performance (Ahuja, 2000; Han et al., 1998).

Thus, we propose that:

H3. Explorative Innovation has a significant effect on firm performance.

H4. Exploitative Innovation has a significant effect on firm performance.

1.4 Bridging Social Capital and Firm Performance

The importance of social capital for the survival and success of entrepreneurial firms

has been widely acknowledged and demonstrated empirically (e.g., Fischer & Pollock, 2004; Larson, 1991; Oliver, 2001; Pennings et al., 1998; Zucker et al., 1998). Social capital influences firm outcomes, such as financial performance (Acquaah, 2007; Baron & Markman, 2003; Reed et al., 2006); affects the internationalization process (Lindstrand et al., 2011; Meng et al., 2016), SME competitiveness (Hunter and Lean, 2014) and firm value creation (Nahapiet and Ghoshal, 1998). Florin et al. (2003) also argue a strong and positive relationship between social capital and firms' sustainability. In addition, there is evidence that there is a positive relationship between social capital and firm performance (Boohene et al., 2019; Ciambotti and Palazzi, 2015; Clarke et al., 2016; Easmon et al., 2019; Marjański et al., 2019; Meng et al., 2016).

In developing economies, firms poses more limited resources, and the social capital's role in accessing information and knowledge becomes crucial. Acquaah (2007) highlights the effects of managerial networking and social relationships in organizational performance in an emerging economy context. The social capital role becomes even more critical in clusters and closed local networks characterized by strong norms, social trust, and mutual recognition (Nahapiet and Ghoshal, 1998). These social networks facilitate greater information density and more reliable information exchange than market networks (Easton, 1992).

Bridging capital refers to the "building of connections between heterogeneous groups" (Putnam, 2000). These relationships are likely to be more fragile and more likely to foster social inclusion and the exchange of new information and resources.

Crescenzi et al. (2011) evidence the role of the bridging capital as a critical driver of innovation performance when operating as a channel for the exchange of non-redundant and complementary knowledge for firms in the Italian clusters' context. He evidences the nature of the social networks rather than the intensity as instruments that bring in complementary knowledge (Crescenzi et al., 2011).

Geletkanycz& Hambrick (1997) also reported a positive effect of the firm executives' external ties and social relationships in firm strategy alignment, which in turn affects firm performance. In an empirical study in China, Peng & Luo (2000) demonstrate that managers' personal ties with executives at other firms and government officials contribute to superior organizational performance. They evidenced enhanced market knowledge and new market opportunities as possible direct benefits of such relationships (Peng and Luo, 2000). In some emerging economies, the entrepreneurs' bridging social capital such as political connections or a willingness to share power with external investors can enhance firm performance, as is the case with Chinese entrepreneurial SMEs (Ding, Zhang & Cao, 2013).

In other words, weak ties are fundamental in spreading information and new knowledge because they operate as a bridge between otherwise disconnected social groups (Ruef, 2002). Hence the following hypothesis is proposed:

H5. Bridging Social Capital has a significant direct effect on firm performance.

1.5 Bridging Social Capital, Innovation and Firm Performance

The positive effects of bridging social capital in firm performance, as discussed in session 2.1, have been supported by various studies in the literature. The role of the social capital in shaping the amount and diversity of information received through networks in innovation has been discussed and supported broadly by scholars especially in cluster studies. These networks contribute to knowledge, information,

skills, and experience access and exchange, providing an opportunity to the firm to create new knowledge or improve existing one (Bouty, 2000; Chen and Huang, 2009; Lin, 2007), which in turn are associated with innovation (Becker, 1970; Powell et al., 1996; Rogers, 1995).

The effects of innovation in firm performance are also widely acknowledged (Vincent, Bharadwaj &Challagalla (2004). A firm's exploitative innovation would contribute to improved products and processes, which in turn contribute to increased customer satisfaction, increased sales, or improved efficiency, cost reduction, improved performance (Fritsch and Meschede, 2001). A firm's explorative innovation produces new products to serve new markets, new processes associated with higher returns and performance.

Organizational capabilities, including network ties, provide organizations with the inputs required for innovation that, in turn, can provide the organization with superior performance (Eisenhardt & Martin, 2000). Thus, innovation could be considered as a mediator in the relationship between bridging social capital and a firm's performance.

Despite an increasing interest in the effects of network social relationships on firms (Casson &Giusta, 2007; Hoang &Antoncic, 2007), relatively little empirical evidence has been reported on direct or indirect linkages between the three factors: social capital (bonding and bridging), innovation and firm performance. Most empirical evidence regarding the relationship between social capital and performance, or social capital and innovation, was effectuated in developed countries, with very vast cases from emerging economies.

In their study on 141 small technology-based firms, Soetanto and Jack (2018) evidenced that the relationship between internal slack resources and performance is mediated by exploitative innovation, while exploratory innovation mediates the relationship between external slack resources and performance.

Thus, we propose the following hypothesis:

H6. Explorative innovation positively mediates the relationship between Bridging Social Capital and performance

H7. Exploitative innovation positively mediates the relationship between Bridging Social Capital and performance

Research model

In this paper, explorative and exploitative innovations are posited to mediate the relationship between Bridging social capital and firm performance. A positive effect of bridging capital on both types of innovation as well as on performance is alsohypothesized. In addition, this research model assumes a positive effect of explorative and exploitative innovations on firm performance. The social capital theory stands as the theoretical underpinning for our proposed model. We arguethat bridging dimension of the social capital enables firms in tourism clusters to introduce innovations that will finally contribute to improved firm performance.

2. Method and procedures

2.1 Data Collection and Sample

The sampling frame consisted of 284 firms in 7 tourism clusters, based on six different

regions in Albania. These clusters were the object of development projects that had in focus entrepreneurship development and economic growth. Investigating the antecedents of improved firm performance and the relationship between them was particularly interesting for the researchers and development entities operating in the respective areas.

The sample of 284 firms was randomly selected from a database of 756 companies extracted from the databases of respective municipalities. According to the definition of the Eurostat on NACE Rev.2, the sample has considered nine different subsectors in manufacturing and services. Of this sample, 129 (17%) firms responded to the questionnaire survey. The owners, administrators, or firms' managers were selected as informants for the data collection, considered in charge of innovation activities. The Statistical Package for Social Sciences (SPSS) version 20 and Process (Hayes) Syntax was used to analyze the data. As a nonparametric resampling procedure, bootstrapping analysis was used to test mediation as a suggested method for multiple mediation models and small samples (Preacher and Hayes, 2008; Shrout and Bolger, 2002).

2.2 Measures

The measures for the operationalization of the constructs were based on existing literature. Respondents were asked to evaluate their agreement or disagreement with the statements provided. While the performance construct items were framed around a seven-point Likert scale, the items of the other constructs were framed around a five-point Likert scale (1 indicated strongly disagree and five indicated strongly agree).

Independent variable

Bridging Capital was measured with items adapted from Vilaseca (2002) and Tiwana (2008). The six-item construct yielded a Cronbach Alpha of 0.772 (standardized Cronbach Alpha coefficients), follows thin accordance with the recommended criteria. According to Nunnally (1978) and Hair et al. (2006), coefficients of 0.7 or more are considered adequate.

Mediators

ExploitativeInnovation is measured with items adapted from Jansen et al. (2006) based on four questions with a five-point scale related only to the existing products and services. The manager was asked to rate if their firms refine the provision of existing products and services if they regularly implement small adoptions to existing products and services, introduce improved existing products and services for the local market, and expand services for the organization's existing clients. The eight-item construct yielded a Cronbach Alpha of 0.769 (standardized Cronbach Alpha coefficients) according to the recommended criteria.

Explorative Innovation is measured with items adapted from Jansen et al. (2006) based on four questions with a five-point scale, related only to creating new products and services. The manager was asked to rate if their firms experimented, invented, or commercialized new products and services and accepted demands beyond their existing products and services. The six-item construct yielded a Cronbach Alpha of 0.734 (standardized Cronbach Alpha coefficients), follows thin accordance with the recommended criteria.

Dependent variable:

Performanceis is operationalized on five items, based on Auh& Merlo (2012); Delaney &Huselid (1996). The five items generate a Cronbach Alpha of 0.922, which is an

excellent indicator for the construct. The firm managers have been asked to compare their firm performance to their most direct competitor, through the items' answers ranging from 1 (if it was much worse) to 7 (if it was much better).

2.3Results

In order to test the hypothesis, the bootstrap resampling method was applied using SPSS multiple-mediator Hayes's PROCESS macro (Hayes, 2013). The 95% bias-corrected confidence intervals were generated using 5.000 bootstrap samples generated from the database. Table I shows the results of all direct and indirect effects that allow us to test all our hypotheses. The bootstrapping results show that bridging capital (BSC) positively and significantly affects explorative innovation (β=0.451, $p<0.001$) and exploitative innovation (β=0.425, $p<0.001$); therefore, hypotheses H1 and H2 are supported.

Concerning the hypothesis H3 and H4, the results show that exploitative innovation is positively related to firm performance (β=0.2377, $0.01 <p<0.05$) while the relationship between explorative innovation and firm performance is not significant (β=0.1285, $p>0.05$). Based on these results, hypothesis H3 is not supported, while hypothesis H2 is supported.

The results show a positive relationship between bridging capital and firm performance (β=0.286, $p<0.01$), supporting hypothesis H5.

Bootstrapping results (5.000 samples; 95% confidence interval) show a confidence interval range between 0.015 and 0.1961 for exploitative innovation. This range does not contain a zero which indicates that the mediation effect of exploitative innovation (H7) is significant. Furthermore, there is no significant mediation effect of the explorative innovation on the bridging capital–performance relationship (H6) since the confidence intervals range between -0.026 and 0.1638, containing a zero. Thus, our mediation hypothesis is supported only for hypothesis H7.

Model	R-sq	Coeff B	SE	LLCI	ULCI
BSC-RI	0.2035	0.4511***	0.792	0.2944	0.6078
BSC-II	0.1806	0.425***	0.803	0.2661	0.5840
RI -PERF		0.1285*	0.1046	-0.0784	0.3354
II - PERF		0.2377**	0.1031	0.0336	0.4417
BSC-PERF (total)	0.198	0.445	0.079		
BSC - PERF (direct)	0.2864	0.286**	0.0862	0.1154	0.4565
Total (indirect)		0.159	0.0541	0.0611	0.2754
BSC- RI - PERF		0.058	0.0482	-0.0261	0.1638
BSC - II - PERF		0.101	0.0462	0.015	0.1961

Note: '***' $p<0.001$; '**'$p<0.01$; '*'$p<0.05$

3. Discussion

This study analyzes and evidences the effects of the bridging dimension of social capital in firm performance as an essential resource that provides access to valuable and new information to the firm, a crucial element for innovation. Furthermore, our study analyzes the mediation effects of the explorative and exploitative innovation on the relationship between bridging capital and firm performance. To test the

hypothesis, we used bootstrapping method through the Hayes Process Macro – which allows for re-sampling, providing a higher study power, and lowering the risk of falsely rejecting the null hypothesis (Hayes, 2013).

We confirmed the hypothesis that bridging social capital positively affects firm performance. This result is in line with previous studies (Gargiulo and Benassi, 1999; Crescensi et al., 2011; Geletkanycz and Hambrick, 1997; Peng and Luo, Ding & Zhang, 2013; Vincent et al., 2004) and confirms the role of bridging social capital as a source of external knowledge and access to other resources that in turn contribute to the overall firm performance.

The results also revealed a positive relationship between bridging social capital and both exploitative and explorative innovation. This result is in line with previous studies (Partanen et al., 2014; Chen and Huang, 2009), which argued that bridging social capital contributes to knowledge, information, skills, and experience exchange, providing an opportunity to the firm to create new knowledge or improve existing one which in turn contribute to innovation.

Our research shows a positive relationship between exploitative innovation and performance, which is consistent with previous studies (Popadić&Černe, 2016; Li et al., 2010). It does not support the positive effect of explorative innovation on performance being inconsistent with (Li et al., 2010; Martínez-Pérez et al., 2019) that show a positive relationship between both forms of innovation and performance.

In addition, very notably, our results show that exploitative innovation plays a mediating role in the relationship between bridging social capital and firm performance. In contrast, the mediating effect of explorative innovation on the relationship between bridging capital and performance is not significant. These results are inconsistent with studies that evidence a mediation effect of the explorative innovation on the relationship between bridging capital and performance (Soetanto and Jack, 2018; Easmon et al., 2019;Wen, et al, 2020).

Limitations and Future Research

This study presents some limitations, which also indicate some directions for future research.

Firstly, our study focuses on tourism clusters in Albania. The generalizability of our conclusion requires further testing for other economies. Secondly, the study is cross-sectional; therefore, we could not well observe the changes and interaction between variables overtime.

An avenue for further investigations is to examine the model in other industries and contexts. The other direction for further research would be to investigate the direct and indirecteffects of other dimensions of social capital such as bonding capital on innovation and performance. In addition, it would also be interesting to study the relationship between social capital and innovation performance through other variables such as network capabilities, knowledge management, entrepreneurial orientation, environment.

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The concept of rule of law, its implementation and distortion

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Abstract

The rule of law is considered one of the key dimensions that determines the quality and good governance of a state.
The rule of law requires that both citizens and governments be subject to laws known and accessible to them. This affirms the principle of equality before the law and fundamental guarantees such as the presumption of innocence. Moreover, the ECHR has clearly stated that the rule of law / rule of law is a notion 'from which the whole Convention is inspired.[1]
The experience of other countries with consolidated democracies has served as the main way to establish and strengthen democracy in our country. However, during the journey to establish and strengthen the rule of law, in an effort to bring the place closer and unite in a more dignified form European countries, it is seen that the essence of the rule of law has been distorted. Rule of law mechanisms have not been set in motion in line with standards for ensuring and guaranteeing law enforcement.
Thus, the paper will not address in detail the factors directly related to the distortion of the rule of law but will provide an overview of this concept along with some important requirements (elements) which affect the creation of a free society, with social and economic security, respecting fundamental human rights and freedoms.
So, some different "interpretations" have allowed authoritarian actions / inactions not to reflect the true meaning of the rule of law today.

Keywords: rule of law (rule of law), authority, administrative decisions, corruption, interpretation of law, separation of powers, etc.

Introduction

The rule of law has evolved over the centuries and is a product of historical developments. In countries that follow the tradition of the civil code, the rule of law was influenced by the Austrian legal theorist Hans Kelsen who helped draft the 1920 Austrian Constitution.In his view, the rule of law requires a hierarchy of norms within the jurisdiction rule with the constitution at its peak. All laws are subject to compliance with the constitution and government action is limited by this legal framework.[2]
As a general principle of human rights law, this requirement of legality implies the rule of law (crimennullum, nullapoena sine lege). So, as a concept, human rights and the rule of law are inseparable.[3]The rule of law also requires a clear legal basis for intervening with human rights standards. Also, insists that the law applies to everyone and that no one is excluded from the law or is above the law, whoever he is, or whatever the reason for the action.[4]

[1] Engel v Netherland.
[2] The Rule of Law: Its Origins and Meanings Anthony Valcke Senior Rule of Law Advisor, American Bar Association Rule of Law Initiative Solicitor (England & Wales).
[3] See UDHR, Preamble and Article. 3; Millennium Declaration, adopted by the UN, UN Doc.A / RES / 55/2.
[4] SLYNN Foundation, London, UK, IMPLEMENTATION OF HUMAN RIGHTS IN PRACTICE, January 2016

The rule of law is the foundation of all democratic societies. A proper system of controls and balances preserves the separation of powers, ensures accountability and increases consistency. In order to maintain trust in public institutions, the principles of legality, legal certainty, the prohibition of arbitrary executive power, judicial independence, impartiality and equality before the law must be respected. The role of national and European courts is crucial in ensuring effective judicial protection[5].
Democracy, the rule of law and fundamental rights are interrelated, interdependent and mutually reinforcing. One cannot exist without others. They should be promoted in a horizontal, integrated and inclusive way.[6]
The concept of "Rule of Law" is the bloc on which modern democratic society is founded, which refers to a government based on the principles of law. For the successful functioning of the policy it is necessary to have law enforcement. Laws are made for the well-being of people to maintain harmony between conflicting forces in society. One of the main objects of law-making is the maintenance of law and order in society and the development of a peaceful environment for the advancement of the people. The concept of Rule of Law plays an important role in this process.[7]
The term "rule of law" entered the spoken language only in the nineteenth-century thanksgiving of the writings of the British constitutionalist Albert V. Dicey.[8]According to him, the rule of law consisted of three interrelated elements[9]. First, the rule of law requires that no person be subject to punishment except for a violation of a predetermined law, and it is the ordinary courts that are the proper place to determine whether such a violation of the law has occurred.[10]Therefore, the rule of law is incompatible with the "extensive exercise, arbitrary or discretionary powers of coercion" by government officials. Second, under the rule of law everyone is equal in the eyes of the law. This means that government officials should not enjoy special immunities (other than the monarch) and should be held accountable for their actions before the ordinary courts. Third, at least in the United Kindom where there is no comprehensive written constitution, the rule of law derives from judicial recognition of the rights of individuals. This aspect of the rule of law consists of the set of legal safeguards that protect individuals from arbitrary actions taken by the government, with courts authorized to act as custodians of those safeguards.[11]
According to Dicey, the third component has been the subject of various interpretations. Despite legal safeguards that may be enacted to ensure a comprehensive system of controls and balances over government abuse, a state's constitutional framework should not be seen operating in a cultural or social vacuum. This helps to explain why the UK, which does not have a comprehensive written constitution and where the executive and the legislature (and until recently the judiciary) are intertwined,

5https://eu2019.fi/en/-/how-to-strengthen-democracy-the-rule-of-law-and-fundamental-rights-ideas-emerging-from-a-presidency-conference.
6https://eu2019.fi/en/-/how-to-strengthen-democracy-the-rule-of-law-and-fundamental-rights-ideas-emerging-from-a-presidency-conference.
7https://www.lawteacher.net/free-law-essays/administrative-law/origin-and-concept-of-rule-of-law-administrative-law-essay.php.
[8] The Rule of Law: Its Origins and Meanings Anthony Valcke Senior Rule of Law Advisor, American Bar Association Rule of Law Initiative Solicitor (England & Wales).
[9] Ibidem.
[10] Ibidem.
[11] The Rule of Law: Its Origins and Meanings Anthony Valcke Senior Rule of Law Advisor, American Bar Association Rule of Law Initiative Solicitor (England & Wales).

is seen by many as the stronghold of the rule of law. This is because the ideals of justice and fairness are deeply ingrained in British cultural traditions. The rule of law can flourish in the absence of a specific law the mechanisms contained in a written constitution.[12]

The origin of the concept of the rule of law

The concept of Rule of Law is very old. In the thirteenth century Bracton, a judge in the reign of Henry III in a way introduced the concept of the Rule of Law without naming it as the Rule of Law. He wrote: "The king himself must submit to God and the law, for the law makes him king".[13]

Edward Coke is said to have been the creator of the concept of the Rule of Law when he said that the king should be under God and the law and thus justified the supremacy of the law over the claims of the rulers.[14]In India, the concept of the Rule of Law provides that the Law is the King of Kings.[15]The credit for developing the concept of Rule of Law belongs to Professor A.V. Dicey who in his classic book "Introduction to the Study of the Law of the Constitution" published in 1885 tried to develop the concept of the Rule of Law.

According to Diecy, no man is convicted or may be legally compelled to suffer in the body or in goods, except a special violation of the law normally established before the ordinary Courts of the country.[16]This confirms the fact that the law is absolutely supreme and excludes the existence of arbitrariness in any form. According to Diecy, where there is discretion of the field, there is room for arbitrariness.[17]So Dicey estimated that every person, regardless of his level or condition, is subject to the ordinary law of the field and is subject to the jurisdiction of the ordinary courts.[18]

What about the rule of law today?

In a broader sense the Rule of Law means that the Law is supreme and is above every individual. So, no individual in whatever legal or economic situation he is, whether he is rich, poor, ruler or governed, etc. is above the law and they must obey him. In a narrower sense, the rule of law means that governmental authority can be exercised only in accordance with the written laws, which are approved through a defined procedure. The Rule of Law principle aims to be a protection against arbitrary actions by government authorities.[19]

It is noticed that the rule of law shows problems in practice, regarding its implementation. Therefore, we can confidently say that the implementation in practice of the elements or standards of the rule of law principle, is one of the main challenges

[12] Ibidem.

13https://www.lawteacher.net/free-law-essays/administrative-law/origin-and-concept-of-rule-of-law-administrative-law-essay.php.

[14] Ibidem.

[15] Ibidem.

[16] Ibidem.

[17] Ibidem.

18https://www.lawteacher.net/free-law-essays/administrative-law/origin-and-concept-of-rule-of-law-administrative-law-essay.php.

19https://www.lawteacher.net/free-law-essays/administrative-law/origin-and-concept-of-rule-of-law-administrative-law-essay.php.

facing the Albanian state and society today.[20]Therefore, a number of problems are rightly identified that are related to the rule of law, ie, the implementation of the principles of the rule of law, such as guaranteeing the proper functioning of Parliament, on the basis of constructive and sustainable dialogue between all political parties; the adoption of laws requiring the required majority in Parliament; guaranteeing elections in accordance with international standards; strengthening public administration; implementation of strategic reform in the judiciary, better protection of human rights, and implementation of anti-discrimination policies, etc.[21]
The rule of law requires that both citizens and governments be subject to laws known and accessible to them. This affirms the principle of equality before the law and fundamental guarantees such as the presumption of innocence. A key feature of the rule of law is that laws should not be made in the interest of particular persons. However, what happens in reality? Are government mechanisms clear according to the requirements of the rule of law? what applies in reality is the fact that those who rule can make their own laws, so the laws are easily changeable. This indicates a lack of legal certainty, loss of trust and human rights violations.[22]
The separation of powers between the branches of government (executive), the legislature and the judiciary is the essence of the rule of law. The law, the administration that implements them and the special decrees (court decisions) are distinct from each other. Failure to preserve the formal differences between these three powers leads to a conception of the law, rather as an authorization for power, rather than as a guarantee of freedom equally for all. Separation of powers allows government authorities to control and balance each other, to ensure that everyone is acting within their constitutional mandate.[23]
Essentially the rule of law stipulates that all persons (individuals, institutions and governments) are subject to and are subject to the same law. The adoption of this principle recognizes the supremacy of the law and determines that it is the law, and not those in power, that constitute the basis and structure for governance.[24] The rule of law or the rule of law has been interpreted in different ways, but it must be distinguished from a purely formal concept, according to which every action of a public official, who is authorized by law, has been done or should be done to meet the requirements of the law.[25]
However, legal scholars and commentators have acknowledged that increasing economic inequality can undermine a well-functioning democracy and the rule of law. Economic and social inequality increases political polarization, disrupts social cohesion and undermines trust in our institutions and support for democracy and its values.[26]

[20] D.Biba, Xh.Zaganjori, Implementing the rule of law in Albania, në "Political Thought", N. 32, Shkup, 2010.
[21] Ibidem.
[22] See Rule of Law / Rule of Law Report, Approved by the Venice Commission, at its 86th Plenary Session (Venice, 25-26 March 2011).
[23] SLYNN Foundation, London, UK, IMPLEMENTATION OF HUMAN RIGHTS IN PRACTICE, January 2016.
[24] Ibidem.
[25] Ibidem
26http://www.sigurdsonpost.com/2020/04/26/the-decline-of-the-rule-of-law-experiencing-the-unimaginable-in-western-society-economic-and-social-inequality-has-the-power-to-dramatically-reshape-democracies/.

The rule of law is not merely complementary to majority democracy, it is a precondition for its formation and articulation.[27]

Conclusions

Democracy and the rule of law presuppose each other; neither can exist without the other. The principles of free elections, pluralism, separation of powers, protection of the constitution, controls in public administration, independence of the judiciary and the judiciary, freedom of the media and the protection of fundamental rights, all form integral parts of democracy and the rule of law.There is no constitution in Europe that does not clearly define these principles.[28]Access to the justice crisis is a daily reminder that one's legal right is often without medicine due to an inability to pay. This has a corrosive effect on the rule of law, fostering dissension, suspicion and the prevailing view that the law applies and is designed for the privileged.[29]

And the rule of law is a difficult thing to learn because it is much more than a kind of narrow definition of what we can put in a definition of the rule of law, the idea that no one is above the law, the idea that law is the way governments act, the idea that government action can be reviewed by the courts, all of these things are a kind of essence of a definition of the rule of law.[30] But they do not achieve what is really special about the rule of law, its implementation in practice.

If the rule of law were not a significant thing in our society, access to justice would not be important because it would be the same kind of space of power and prejudice and discrimination in which we would see, that we use the law for tried to object. So even the flawed law, which changes is important to him, is an important value in a system governed by law. It's not perfect but it's worth the fight and it's worth the effort to improve it.[31]

The ECHR also has and continues to have an essential function in maintaining the rule of law by applying many of its principles through case law. The rule of law is categorically and indisputably at stake. Covid-19 is also threatening the Rule of Law and has brought so many examples of people in authority ignoring the very rules they themselves are imposing and seeking to be followed by the people.[32]The rule of law is a critical factor in the advancement of democracy, rooted in equal rights and accountability.[33]

Although Albania has pursued fundamental reforms in its efforts to ensure sustainable institutions, a functioning democracy that supports the rule of law and guarantees respect for human rights, but again a functioning rule of law system that ensures that the law works in equality for all is a critical aspect of the country's

27https://www.coe.int/en/web/dlapil/-/the-rule-of-law-dynamics-and-limits-of-a-common-european-value.

28http://www.hungarianreview.com/article/20171117_new_challenges_facing_democracy_and_the_rule_of_law.

29https://www.forbes.com/sites/markcohen1/2020/01/07/2020-vision-focus-on-defending-the-rule-of-law/?sh=6efab153b9b9.

30https://www.lawsociety.bc.ca/our-initiatives/rule-of-law-and-lawyer-independence/rule-of-law-matters-podcast/what-is-the-rule-of-law-vs-rule-by-law/.

31 Ibidem.

32 https://www.childandchild.co.uk/blog/the-absolute-imperative-protecting-the-rule-of-law/

33http://www.sigurdsonpost.com/2020/04/26/the-decline-of-the-rule-of-law-experiencing-the-unimaginable-in-western-society-economic-and-social-inequality-has-the-power-to-dramatically-reshape-democracies/

development. In this regard, there is a need for effective and impartial systems of civil and criminal justice.[34]To enable the rule of law to be maintained, mechanisms must be put in place to ensure co-operation and co-ordination.[35]This includes a strong constitution sanctioning a judiciary that has the power to declare the government's unconstitutional actions, and a legislature that holds the executive accountable. This requires mechanisms to allow citizens to report violations and corruption, as well as independent bodies to investigate and secure redress.[36]

The rule of law is a major source of legitimacy for governments in the modern world. A government that embraces the state of leadership is seen as good and worthy of respect. Rule of law means that government officials and citizens are proper and respect the law.[37]

A society in which government officials and citizens are obliged to respect and abide by the law is a society that lives under the rule of law.[38]

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[34] See Rule of Law / Rule of Law Report, Approved by the Venice Commission, at its 86th Plenary Session (Venice, 25-26 March 2011)

[35] EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), April 2020

[36] See Rule of Law / Rule of Law Report, Approved by the Venice Commission, at its 86th Plenary Session (Venice, 25-26 March 2011)

[37] Brian Z. Tamanaha, The History and Elements of the Rule of Law

[38] W. Burnett Harvey ,"The Rule Of Law In Historical Perspective, 1961

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http://www.sigurdsonpost.com/2020/04/26/the-decline-of-the-rule-of-law-experiencing-the-unimaginable-in-western-society-economic-and-social-inequality-has-the-power-to-dramatically-reshape-democracies/.
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The role of civil society in reconciliation in Western Balkans countries, initiatives toward future progress

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Abstract

Western Balkan countries are now from many years toward the road of european integration. The policy on conditionality of European Union requires for this countries to conclude reforms and meet the crietria to join the EU. In this context, one of the conditions set by the EU, is to build a strong regional cooperation and to achieve reconciliation between countries and between peoples of Western Balkans.
European Union has supported the Western Balkan countries in the pre –accession phase constantly, not only financially but also in the peace-bulding process and structures. In this context the proccess of reconciliation in countries where the wound of the past are still present is foundamental to build strong and healthy societies.
This paper aims to anlyze from the perspective of a qualitative methodology, based on research on literature and legislation the role of civil society and it initiatives in the reconciliation proccess in the Western Balkan countries. During this article we will try to analyze the support and role of EU, Berlin proccess and other initiatives in coordination of civil society toward reconciliation and also in supporting this societies moving from divided past to a shared future and their efforts to develop muttual understanding and respect.

Keywords: reconciliation, civil society, initiatives, pre-accession, integration.

Introduction

Interstate war and conflict is a negative phenomenon as it weakens the economy and weakens the role of the state in the international arena, creates the possibility of violation of fundamental rights and freedoms and the opening of wounds which are transmitted in the future leading to a long destabilization. Likewise, wars are conflicts that affect all aspects of society, whether in the political, social, economic and cultural aspects, the way they are developed and changes the interaction of individuals in society (Parver. C, Wolf.R, 2008). The escalation of the conflict leads to the loss of public trust in previous values, principles and norms and in justice and even further can lead to divisions of different groups of society on ethnic, racial or religious grounds by breaking the connecting bridges between them.
Something very important is that it negatively changes the involvement of civil society in the conflict as it disrupts the organizational structure, the means of communication by reducing the possibility of concrete actions by them and also weakens the ability of governing structures to lead or even worse helps them become authoritarian.
In countries that have emerged from previous conflicts, the achievement of peace and stability depends heavily on the processes and progress of transitional justice,

whether in terms of criminal justice processes or other peace-promoting projects. One of the key mechanisms of transitional justice and one of its most important components is precisely the reconciliation process which serves to clarify the facts and achieve stability. Reconciliation is a process through which the actors involved aim to prevent the return of conflicts and to build peace and interpersonal relations between people, as well as between people and the state in cases where this balance has been destroyed due to civil wars.

This is a multi-dimensional concept which develops depending on the conflict situations, specific actors involved and the character that the post-conflict situation may have. From this we understand that reconciliation solutions that may be considered successful in one situation may not have results in another. So, the actors involved in this process must be well aware of the situation, the mechanisms through which they will intervene in this process and the objectives they want to achieve through this process. The idea of reconciliation is that it is an intermediate point between the conflicting past and the common future, it is a mechanism that enables a society, why not a region to be transported from one phase to a new era for it.

Building peace and stability has been a permanent objective of the international community, but we must say that it has not always been successful as long as external and internal conflicts are present. However, the truth is that in post-conflict societies it is very important to appreciate and take into account the important role that civil society has in peacebuilding, because regardless of external actors or the will of governing structures, this process would be ineffective without civil society or public trust in these initiatives.

1. The role of Civil Society and its importance

Civil society is an important element and an influential social formation in the development of the state and society. We have mentioned it constantly and we will do it in the future because of its special role in building peace and stability in the Western Balkans region and in achieving reconciliation at all its levels. But what is civil society today and what is its composition today? In fact there is no absolute definition for the concept of civil society as it is a broad concept that may include a series of social formations and on the other hand may have a different composition from one state to another as the groups influencing this framework are different in each state.

Scholars describe civil society as the voluntary action of individuals who share the same values that stand out from the state, family or market, as non-governmental actors, various organizations, associations and voluntary groups, as well as networks of varying sizes, densities, and levels of interconnectedness, religious, professional, social, cultural organzaitions, NGO-S. Civil society should not only be understood as NGOs, but also as churches, business associations, traditional leaders, women's and youth associations, diasporas, etc. These are all actors that can play a seminal and catalytic role as a societal asset, and need to be positively engaged in the process. Civil society is important as it serves as an observer of the actions of the government, serving to promote the rule of law and democracy, and even more so to the principle of balance of power. On the other hand, when conflicts are interstate, it is difficult to reach a consensus of political elites without their interaction with civil society,

which has the opportunity to create the right network between influential elements in civil society, thus guaranteeing and facilitating the peacebuilding process. Civil society interacts with intergovernmental structures, but also with the most important structures of economic development and can even influence or overshadow the market.

Some of the most important functions of the civil society organization are that they protect citizens while advocating public interes. Civil society serves as a controller of government activity by holding government leaders accountable for their actions. In the post-conflict countries civil society helps socializing citizens' behavior, building community, mediating between citizens and state actors and delivering services necessary for the functioning of society, civil society leaders and organizations provide an important perspective that sheds light on a particular community's needs and cultural characteristics.

However, we must keep in mind that the role of civil society and its composition varies from country to country and what is important varies depending on the context in which events take place in which it seeks to influence. In post-conflict countries, the structures of civil society that may influence the reconciliation or peace process are determined by the way the conflict develops and the actors involved. Thus in one country religious leaders may have a high role in the process of normalizing relations, while in another country they may have been participants in the conflict and consequently could not be part of this process.

2. Relation between the role of civil society, reconciliation and peacebuilding

Civil society as a bridge between the state and individuals can serve at different stages of the reconciliation process. Thus civil society can help to design a better agenda for reconciliation, giving its perspective as the best recognizer and representative of social formations and their interaction, so that not only reconciliation of opposing political parties is included in this framework but also the involvement of certain population groups (Hinton, 2017).

While government or international leaders may be unaware of the importance of the cultural context in which they are implementing postconflict initiatives, civil society involvement will provide the cultural context and understanding of particular community attributes. Despite its important role, civil society needs to act in concert with and not replace state functions, thus creating a way in which citizens become active players in their society in order to ensure that their interests are protected and governmental initiatives are culturally appropriate to a particular situation.

Civil society, being a multidimensional formation with a very heterogeneous composition, has the potential to directly influence the implementation of the reconciliation process, but what is more important is its capacity to support and protect the victims or the groups that have suffered during the conflicts. An important part of the contribution that civil society makes towards reconciliation is the support even after this process to make its result a sustainable one and to prevent their return of the conflics in the future. It is very important for civil society to be active in post-conflict societies, especially when the conflict has involved many states and has arisen among itself, as it should be the leader of the process but also the factor or actor that ensures the continuity of the reconciliation agenda.

An important function for civil society is to promote dialogue between the parties in a much wider area than the political one, by expanding the space of reconciliation and dialogue with groups affected by the violation of fundamental rights and freedoms or abuses, often playing the role of advocate for these groups in order to increase their influence and on the other hand their credibility in this process.

Civil society can also contribute in ensuring that the gender dimension is mainstreamed throughout the entire process. Moreover, if the state does not take responsibility for parts of the reconciliation process, such as documenting war crimes, civil society needs to ensure that this is done. In the former Yugoslavia, organized families of the victims and survivors tried to find their relatives and thereby became important stakeholders in dealing with the past. Equally, veterans also became essential peace advocates in the post-Yugoslav reconciliation process.

Peacebulding is a process that aims to neutralize the conflict and prevent its recurrence by ensuring a lasting peace and building the necessary structures and mechanisms to regulate relations between the parties to the conflict, so it is emphasized by the binomial prevention and dealind peacefully with conflicts. Peacebuilding is not an easy process, beacuse the ending of war and conflict doesn't neccesary produce peace in an absolute meaning, because the ending of violence doesn't mean the reconciliation, healing the past wound and democratization. Just the ending of the conflict produces only negative peace while the positive peace needs more efforts to be achieved.

While the peacebuilding process includes the prevention of armed conflict, the management of conflict and post-conflict peacebuilding, civil society can help in the three of them but its role its more noticeable and indispensable ate the stage three.

Conflict resolution involves both peacebuilding and rebuilding of physical structures; it is not simply ending armed conflict, but identifying underlying societal structures that first led to the conflict. In post-war rebuilding, civil society specifically can play an important role by monitoring the implementation of the peace agreements and the related reform agenda; strengthening transition to democracy; and helping to organize and apply plans for physical, economic and institutional reconstruction.[1]

One of the objectives of peacebuilding is justice. Transitional justice involves a series of mechanisms to achieve the ultimate goal of peacebuilding and reconciliation. But we must keep in mind that this is a process that can be a very long one, it is not always effective and it is not always addressed to all perpetrators because in some cases only the main figures who have committed these acts can be subject to litigation.

In these conditions, according to international law, it is the duty of the state to re-establish restorative justice. Restorative justice, being a new concept, has a different approach to conflict resolution, as it focuses on achieving reconciliation through the processes of compensating victims, apologizing, finding the perpetrators, appologises and accepting of fault from them, and rehabilitating these categories in society, making public the damages caused to the victims and the violence exercised against them, etc.

Another way in which it can be achieved is to set up truth commissions and reconciliation. It is here that civil society groups make an extraordinary contribution, both in participating in these commissions and in being involved in structures that aim to achieve the final objective of the process.Restorative justice through truth

[1] Building just societies: Reconciliation in transitional settings, Work-shop, Accra, Ghana, 5-6 June 2012.

commissions can serve as a beneficial alternative to traditional justice systems while providing an opportunity for both state and civil society activism. Truth commissions are a good place to start for lasting reconciliation processes, promoting public discourse about previous injustices.

3. The role of civil society in Western Balkans

The region of the western balkans, which after the dissolution of the former Yugoslavia has experienced constant conflicts which have brought many victims and other problems of economic and social nature of the post-conflict period. As we have already mentioned above, the conflict in this region has two levels in terms of regulation, which must be worked on simultaneously: intrastate and interstate conflicts.

The common point of solution in both of these plans are precisely the transitional justice processes, the punishment of perpetrators, the compensation of the injured, the administration of justice for the victims, the discovery of the truth about the crimes and abuses that occurred, the discovery of the perpetrators and the publicizing of the damage suffered by the victims, the provision of justice and reparations for the missing persons, as well as the reintegration of the victims and the rehabilitation of the abusers. However, transitional justice and the reconciliation process, as an important part of it, would be impossible if it took place only in the institutional framework or judicial procceses, as this would lead to only superficial reconciliation and interpersonal relations could remain unstable.[2]

Adding to the fact that conflicts are also of an interstate nature, it is necessary, through the reduction of political tensions, hostile attitudes and harsh rhetoric, to establish bridges of cooperation through joint projects in all countries of the region, which will contribute in building dialogue, peace and stability in this region. A very important factor that has contributed to this process has been the European Union, which has linked its prospect of enlargement to the region with the stability of the region and a number of initiatives have been taken in the framework of reconciliation, and on the other hand, in its enlargement strategies,reconciliation is mentioned as an essential element.

The EU understands reconciliation primarily as the result of the normalization of state relations, as re-establishment of normal diplomatic and political relations between sovereign countries that have been divided by war. An ideal outcome of reconciliation, and at the same time a sign of its success, is economic and political integration in the EU. A central aspect of the EU discourse on reconciliation in the Balkans is the notion that the region should come to terms with history, that the past should be put to rest, and that people and politicians should focus on the future. [3]

However, as we have noted above, the reconciliation process, regardless of the specific characteristics it may have and regardless of the dimension in which it takes place, will not be successful without the involvement of civil society and its initiatives

[2] Building just societies: Reconciliation in transitional settings, Work-shop, Accra, Ghana, 5-6 June 2012.
[3] Quaker Council for European Affairs (QCEA), The EU and the Western Balkans, Grassroots Peacebuilding and Enlargement.

Conclusions

In post-conflict countries the role of civil society is crucial, in terms of peace building and what is most important in terms of achieving reconciliation. Civil society is a balancing factor between groups in conflict as well as between state authorities and the population. civil society not only defends the interests of the population but also opposes the authorities of the state power in order to achieve a balance between them and on the other hand has the potential to intervene as an impartial factor in the conflict. In a post-conflict state and society, the stronger the civil society, the faster the stability and the more consolidated the democracy.

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Evaluation of earthing systems and improvement of their performance

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Abstract

Earthing systems are used to divert large currents to the ground. Lightning strikes, for instance, can cause medium-sized, rapidly increasing currents and voltages in electrical power systems that require controlled earthing distribucion. Hence, for example, a properly designed earthing system capable of distributing large currents safely on the ground, regardless of the type of cause, is required. In high voltage transmission and distribution systems, these safety measures must minimize damage to the electrical equipment of the power system and protect human beings from any danger. The main factor that determines the effectiveness of these schemes is soil resistance. Here, the performance of earthing electrodes will be studied, taking into account their high frequency and transient behaviour.
In general, substation earthing networks consist of a system of conductors submerged in ground covering a surface in relation to the dimensions of the substation. Additional components may include metal parts of cables, and earthing conductors of line poles. These earthing systems come out of the substation and are solidly connected to the earthing network. The performance of these components is difficult to predict, because the soil has a specifik, non-homogeneous resistance ranging from 10 Ωm to 10,000 Ωm.

Keywords: Earthing systems, earth currents, random voltages, lightning impulse, earth resistance, earth electrode performance.

Introduction

Typical soil conditions are important, especially its specific resistance is one of the key factors determining the resistance of any grounding electrode. Most soils and dry rocks are low conductors of electricity. Exceptions to this are some minerals. However, when soils contain water, their specific resistance drops and they can then be considered moderately conductive, even though they are very poor compared to metals.
Specific resistance is determined by:
a) Soil type
b) Chemical composition of soil
c) Concentration of salts dissolved in water
d) Total moisture content
e) Temperature
f) Grain sizes and their distribution.

1 Standard lightning impulse currents

Lightning pulse is characterized by three parameters, current point magnitude (I_P) (or current crest), current peak time (T_1) and half-time peak current which is the time required for the current pulse to decreases by half the size of its peak (T_2). Fig. 1 shows the standard shape of the lightning pulse.

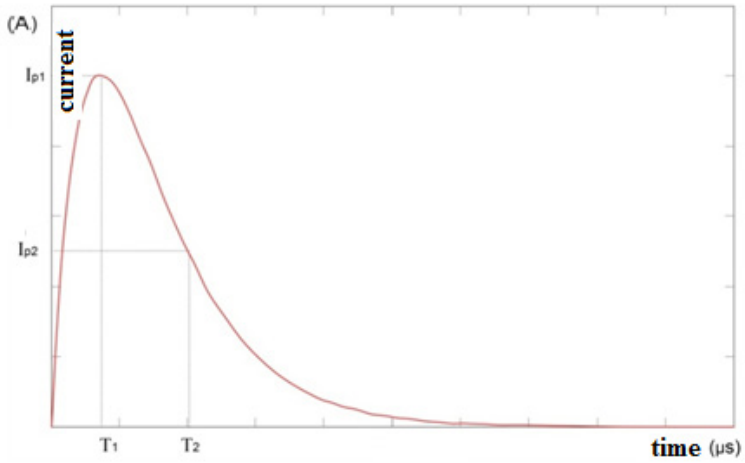


Fig. 1 Lightning pulse waveform

2 Earthing electrode modelling

The modelling of earthing electrodes, horizontal and vertical earthing conductors as well as earthing networks is performed, based on the methods of electrical circuits with concentrated parameters R, LC and G, with their methods of analysis with loss lines with constant parameters. , distributed as well as with current methods of analysis, based on the solution of Maxwell's equations (such as that of finite differences, finite elements and that of solving integral equations by the method of moments). Approximately, the use of electromagnetic field theory is considered more reliable to predict the behaviour of the earthing electrode at high and random frequencies Throughout this work, the software based on electromagnetic field theory has been used to simulate different earthing electrodes..

3 Safety issues of earthing systems according to transient currents

The design of the earthing system in terms of electricity frequencies, is based on meeting safety requirements through control of touch and step voltage. However, earthing standards contain the basis for determining the transient performance of the earthing electrode in terms of safety. This may be due to the lack of data regarding the tolerable thresholds of the human body depending on the impulse currents.
IEC 479, indicates the thresholds for ventricular vibrations due to energy frequencies, but without specific instructions regarding the lightning switching source.
IEEE 80 states that touch and step voltage for random shock types or high frequency sources considers that the human body can tolerate higher current magnitudes for

lightning discharges than for electric frequency currents.

4 Conducting the earthing electrode under pulse conditions

By definition, the impulse resistance of the earthing electrode is called the ratio of the maximum value of the voltage (overvoltage) to the maximum value of the current parameters are the pulsed band of lightning current [1 MHz] as well as the power source with frequency 50 [Hz]. (see fig. 2). In it we have two curves, one is built with impulse current crest 0.450 [kA] and the other 3.6 [kA]. The length of the horizontal electrode is 110 [m].

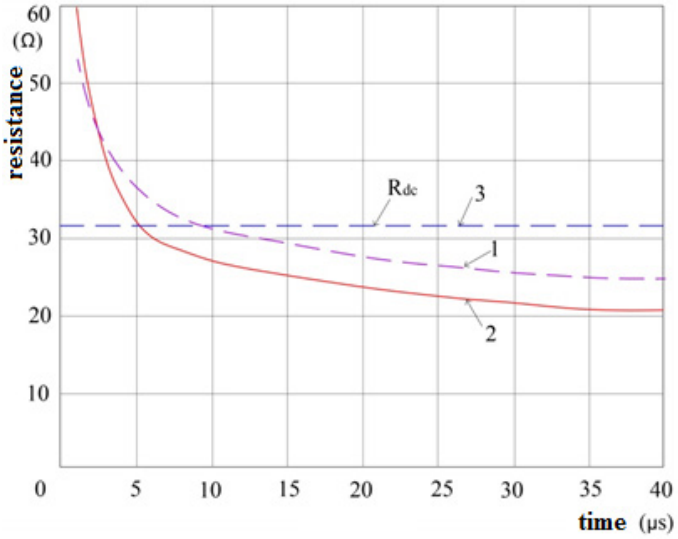


Fig. 2: Impulse resistance of a horizontal grounding electrode, with length L = 110 [m];
1. Crest wave 0.450 [kA]; 2. Crested wave 3.6 [kA]; 3. Wave with f = 50 [Hz].

5 Calculation of earthing resistance

The complete resistance of the longitudinal electrodes of the copper earthing conductor to the power frequency is important only if the electrode is very long, more than a few hundred meters. For typical electrodes with concentrated soils, the inductive component is negligible, and therefore, such electrodes can be considered to be mostly low frequency resistors. Dwight [1] proposes various formulas for calculating the earthing resistance of several rod configurations; a short horizontal conductor, a horizontal disc sunk into the ground, a horizontal strip sunk into the ground and a ring of wire sunk into the ground. The proposed expression (1) is based on the analogous relationship between capacity and resistance

$$R = \frac{\rho}{2 \cdot \pi \cdot C} \qquad (1)$$

where: R – is the resistance of the electrode,

ϱ – is the specific resistance of the soil and

C – is the capacitance between the electrode and its image with the ground surface

and is given by the following formula:

$$C = \frac{l}{\mathrm{h}\,\frac{2 \cdot l}{a}} \qquad (2)$$

where: l – is the length of the electrode and

a - is the radius of the electrode.

Hereinafter, we present in summary, in table I, some formulas for calculating the earthing resistance, for vertical electrodes.

Table I Different expressions for calculating earthing resistance at vertical earthing electrodes.

Tagg [2]	$R = \frac{\rho}{2 \cdot \pi \cdot l}\left[\mathrm{h}\left(\frac{4 \cdot l}{a}\right) - 1\right]$
Sunde [3]	$R = \frac{\rho}{2 \cdot \pi \cdot l}\left[\mathrm{h}\left(\frac{4 \cdot l}{a}\right) - 1\right]$
Laurent [4]	$R = 0{,}366 \cdot \frac{\rho}{l} \cdot \mathrm{h}\,\frac{3 \cdot l}{d}$

where:: ϱ - is the specific resistance of the soil,

l - is the length of the electrode,

a - is the radius of the electrode, and

d - is the diameter of the electrode.

6 Earthing electrode modelling

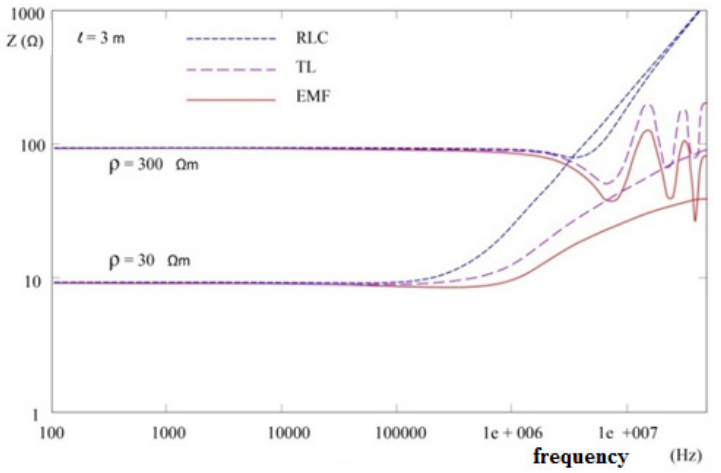
The total resistance of the earthing electrode can be calculated using the modelled circuit or based on the field theory technique. The circuit modelling is performed with concentrated or distributed parameters that describe the model as a series resistance with inductance and parallel to the conductivity and capacitance of the ground electrode. Concentrated parameters were used to analyze simple low-frequency ground electrodes. Studies from [5] - [7], have shown that using models with concentrated parameters to analyze the earthing electrode at high frequencies can lead to inaccurate estimates of the magnitude of the total earthing resistance at the frequencies of high, models with distributed parameters, provide a more accurate assessment of electrode-ground performance [5] - [7]. Approximation to field theory offers advantages over the circuit model and can be used to analyze complex conductors and arbitrarily submerged underground, such as the earthing systems of large transmission substations and power plants. Likewise, it can be used to calculate the electric and magnetic field in the space around the ground electrode. The validity of these models depends on the type of earthing system.

Transmission line models [5] - [7] have been used to describe simple grounding electrode models, but for larger and more complex grounding systems, modelling

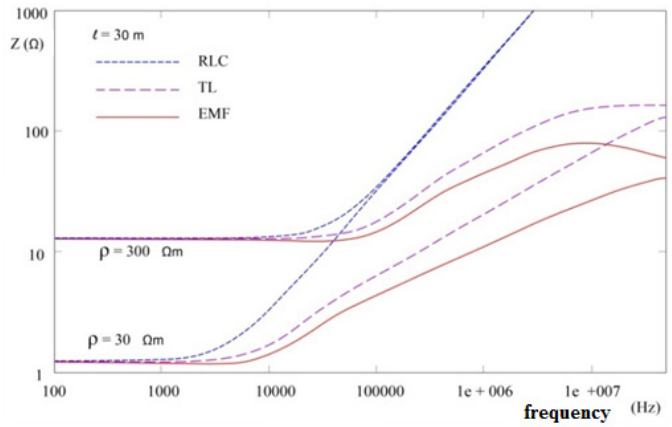
with electromagnetic field theory [8] - [10] gives more accurate predictions and is easier to use. Two authors [7], make a comparison between the circuit with concentrated parameters and the circuit with distributed parameters and the methods of electromagnetic field theory - EM, approximating the modelling of an earthing rod for a wide range of frequencies, with rods of length 3 [m] and 30 [m], with specific earth resistance 30 [Ωm] and 300 [Ωm].
The results showed significant changes in high frequencies. The results are summarized in fig. 3. As can be seen, at high frequencies, the model with concentrated parameters overestimates the value of resistance, compared to the EM model which gives much better results [7], whereas the model with distributed parameters predicts values similar to those obtained from the EM model.

7 Earthing electrode under pulse conditions

The behaviour of the earthing electrodes to which a certain equivalent scheme refers, and the approximation is that with concentrated parameters. From the action of pulses with a certain bandwidth of frequencies, in the equivalent circuit, its behaviour is at first a function of the wavefront time as well as the size of the current crest and the specific ground electrical resistance. The higher the specific electrical resistance of the earth, the greater is the earth resistance.
Depending on the frequency of the input source of the equivalent circuit, the earthing resistance will also change. Of course, when the length of the earthing electrode changes, so does the law of change of the earthing resistance as the frequency increases,and so does its behaviour. In fig. 3, the earthing resistance is given, as a function of frequency, where as parameters are the specific electrical resistance of the earth and the type of analysis.



a) L = 3m



b) L=30 m

Fig. 3. Comparison of total resistance as a function of the predicted frequency for two electrodes with different lengths and different values of specific ground resistance. [7]

Berger [9] also tests on a 110 m long 6 mm diameter conductor immersed in depths of 20 [cm] and 30 [cm]. From these pulsed current tests, it was found that the resistance falls in value below the power frequency resistance. Berger [9] conducted experiments on a spherical electrode, with a radius of 1.25 [cm], half immersed in a 2.5 [m] hemispherical pit filled with different soils.

The peak pulse of the applied current ranges from 3.8 [kA] to 11.4 [kA] with increasing times between 3 [μs] and 30 [μs]. When the pit was filled with water, the results from the pulse tests showed a resistance consistently equal to the value in the energy frequency. However, for different soils with specific resistance between 300 [Ωm] and 57 [Ωm] different resistance values are obtained. The results showed that, when the magnitude of the current is less than a certain threshold value, the curve in characteristic V-I shows a linear correspondence of the power frequency resistance. Nevertheless, when the current exceeds the threshold, the characteristic curve indicates that the resistance drops below compared to 50 Hz.

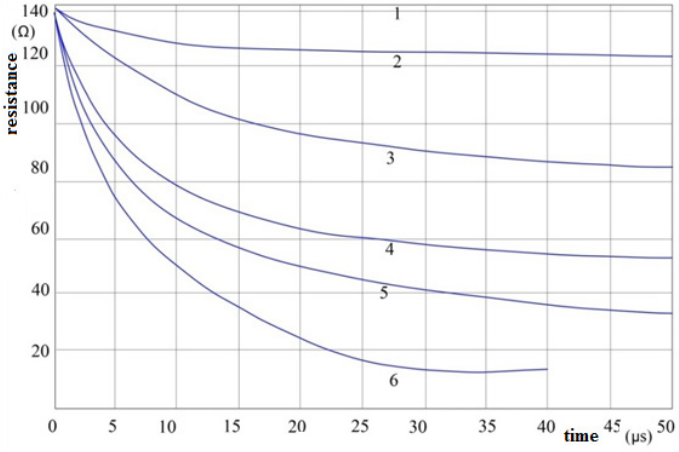


Fig. 4 Earthing resistance with respect to time, for different impulse currents 1) i_{max} = 0.250 [kA]; 2) i_{max} = 0.560 [kA]; 3) i_{max} = 0.975 [kA]; 4) i_{max} = 1,800 [kA]; 5) i_{max} = 2,400 [kA]; 6) i_{max} = 5,300 [kA].

The increase of the pulses from the impulse currents leads to the so-called ionization of the earth, consequently, reducing the resistance of the earth. In fig. 5, the curve of the dynamic model of the soil ionization process is presented. As seen, with increasing current density, the specific electrical resistance of the earth changes (decreases) and with decreasing current density, it increases again, according to a special hysteresis loop..

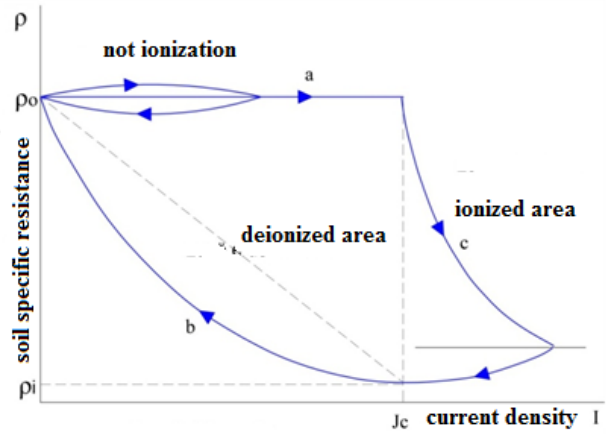


Fig. 5: Dynamic model for soil ionization process, reproduced by [20]

Velazquez [13] and A.Ametani [14], developed a dynamic model of rod electrodes taking into account the ionization process of the soil. In this model, the radius of the ionized area was varied and divided the electrodes into a number of segments where each has a different current density.
Capacity is reported to become dominant when the specific ground resistance is more than 1 [kΩ]. The study has been extended to include electrode lengths ranging from 30 [m] to 150 [m] underground and with specific resistances ranging from 1 [kΩ] to 5 [kΩ]. It was found that the behaviour of grounding electrodes depended on the electrode length, ground specific resistance, electrical permeability and pulse waveform.
R.Kosztaluk. Loboda.M, Mukhedkar.D [15] performed tests on four concrete pour electrodes representing a tower. Peak currents up to 26 [kA] were applied, with peak time increases of 3 [μs] and 35 [μs], respectively. The results showed that for small values of current, the measured impulse resistance was the same, as much as it was for 50 Hz. If the peak current increases to 2 [kA], we will have a decrease in the resistance value. This reduction is attributed to soil ionization. Geri. A, Veca. M. G, Garbagnati. E, Sartorio. G. [16] performed high voltage tests, on a 1 [m] long vertical steel rod on the ground and a 5 [m] long horizontal steel conductor. Current pulses with amplitude up to 30 [kA] and duration 2.5 [μs] have been applied. Impulse resistance is defined as the ratio of peak voltage to peak current.
It was found that the impulse resistance for the rods in the large current area was reduced from 18 [Ω] to 6 [Ω] and for the conductors from 10 [Ω] to 4 [Ω]. It is observed that the voltage peak precedes the current peak for vertical rods. It is considered

that the reason is the higher inductance of the horizontal conductor, compared to the vertical rods.
In Fig. 6, it is shown how the impulse and earthing resistance changes, for an earthing conductor of known length, as a function of the ridge current.

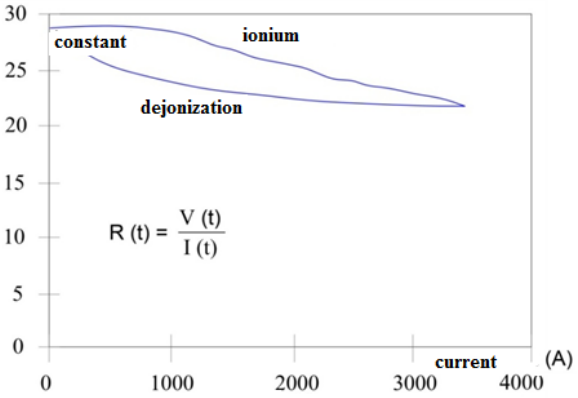


Fig 6: Impulse resistance of the earthing conductor, as a function of peak current due to the ionization effect of the earth around the earthing conductor.

Skioka. S, Hayashida. H, T. Hara, Ametani. A. [17] performed field tests on three types of earthing electrodes: a) an 8.1 [m] long rod immersed in concrete, b) a 17 [m] long rod immersed in the ground and c) a mesh with dimensions 34 [m] x 24.8 [m] sunk into the ground. Peak currents up to 40 [kA] and increasing pulse time from 1 [μs] to several [μs] were used. In the case of a rod immersed in concrete, the impulse resistance decreases with increasing current as can be seen in fig. 7. However, the resistance of the earthing network, turned out to be independent of the current, and this is attributed to the large surface area.

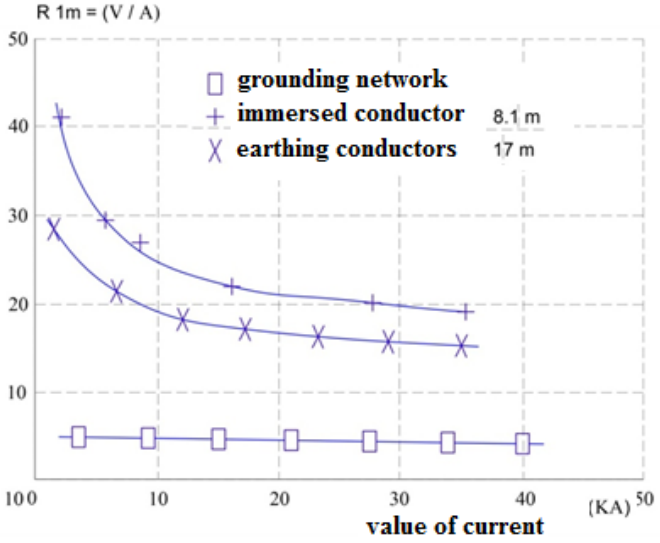


Fig.7: Earthing resistance of three different electrodes in the ground, against the value of peak current [18].

In fig 8, it is shown how the voltage (overvoltage) changes in a horizontal electrode with a length of 50 [m] as a function of time and a system formed by 4 horizontal electrodes connected to a common node.

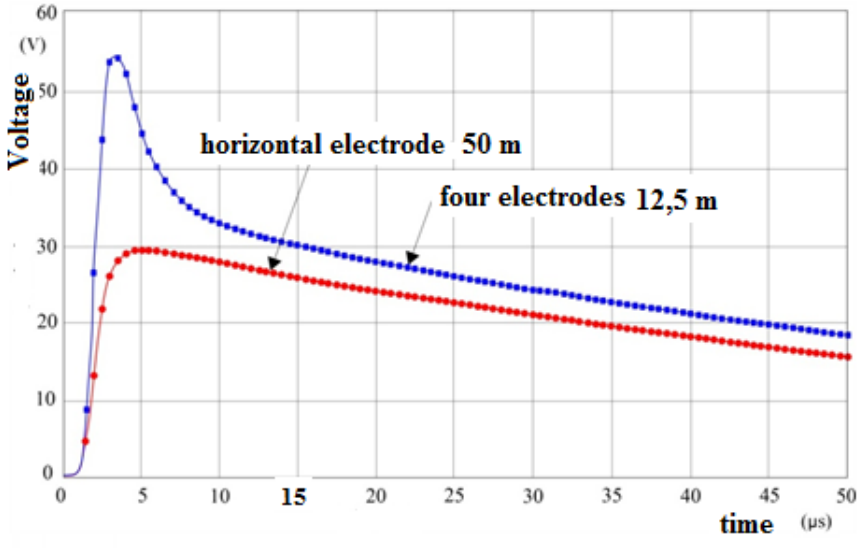


Fig 8. Overvoltage dependence arising in an earthing system with four electrodes connected to a node, each 12.5 [m] long and one electrode with L = 50 [m]
The impulse current of lightning, is 30 [kA], with shape 5/75 [us], according to [19].

Conclusions

1 - The given formulas for the earthing resistance of horizontal and vertical electrodes in soils with known specific electrical resistances, from the analysis made are valid for small frequencies, about 50 [Hz]. Our study showed that if the same electrode is subjected to high frequency sources, then, the impulse grounding resistance differs greatly from the grounding resistance for low frequencies.

2 - The impulse resistance of the ground or that of the fast transient process, lasting several microseconds, differs dramatically from that for low frequencies. This is due to the influence of its parameters, R, L and C, i.e. inductive, capacitive and active resistors.

3 - Impulsive earthing resistance, or transient process resistance, of earthing systems, depends on electrical and geometric parameters. Here, we include the shape and structure of the earthing system, soil parameters (ρ -soil specific resistance and soil dielectric constant- ε)

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The role of digital media in foreign language teaching

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Abstract

Optimization and loosening up of lessons are frequently used keywords in the field of foreign language didactics. To what extent are media effective or even necessary? Does it make sense to use media in literature lessons as well? Is it possible to use audiovisual media to convey German-language literature to foreign cultural learners in such a way that they can be spontaneously received? In the context of this work the attempt is made to deal with these and other questions in more detail and to present the media didactic literary landscape.
In the first part of the thesis we go into the fundamentals of the topic of "media". For example, different media terms are defined and different types of media are presented. Their functions and the didactics of their use in foreign language lessons are also presented. Based on the literary didactic theories, in the second part of the thesis we will deal with the question of how these theories can also be applied to media didactics in the field of German as a foreign language and thus the effectiveness of the use of media, especially in literature lessons, can be determined. This part emphasizes their important role in supporting German lessons abroad and in conveying literature.
Audiovisual media are presented in various forms such as radio plays, filmed literature - television fiction films, multimedia textbooks and other forms.

Keywords: digital media, foreign language, types of media, literary.

1. Media in foreign language teaching

The concept of communication is limited, if one starts from the basics of a communicatively oriented foreign language teaching, not only to productive language performance, but includes all comprehension and communication performances, be they direct or indirect, direct or symbolic, graphic, acoustic or audiovisual conveyed (see Edelhoff 1986, p. 15).
The use of the media in foreign language lessons contributes to the exploration of the meaning of foreign language expressions, both spoken and written. Often the media in foreign language lessons have only been used unilaterally to intensify and individualize learning processes. As carriers of linguistic information, however, they are more than that: They are both the object and the means of foreign language teaching, they

1. are used to convey information in different types of text, channels and codes to the learner as well as the transfer of such information by the learner to others,
2. Promote learning processes through intensification, visualization, concretization, segmentation, repetition and create simulated foreign language situations as learning situations (ibid 1986, p. 16).

1.2 Types of Media

The distinction between visual media, auditory media and audiovisual media characterizes media and forms of learning according to the sensory channel they

express. The visual media address the sense of sight, the auditory media the sense of hearing, and the audiovisual media both sensory modalities.
As visual media Ankerstein (1982) understands photos, blackboard drawings, drawings, flash cards, slide projections, magnets and sticky boards, film and television, video cassette recorders or optical discs as visual media
According to Beile (1989), an auditory medium consists of a technical device, e.g. tape recorder, cassette recorder, record player or radio, and the corresponding sound carriers, e.g. tape, audio cassette, record, compact disc, radio waves. Auditory media share the following common functions:

1. Teaching authentic, spoken language (thus diversity and originality of language models, enrichment and expansion of foreign language teaching);
2. Possibility of repeating as often as you like.

"Teaching that appeals to both ears and eyes. Image and sound are presented together and understood by the learner as a unit.An audiovisually supported foreign language lesson can not only be designed by means of audiovisual teaching materials such as sound film and television, but can also consist of a suitable combination of different auditory and visual aids (Köhrigen 1973, p. 28)

1.3 Media functions

Edelhoff (1986, p. 16 ff) differentiates the functions of the media in foreign language teaching into primary and secondary functions. In the following we briefly summarize its presentation "Foreign language learning with the media":

-Primary functions

First and foremost, the media are carriers and mediators of information. In books, newspapers, magazines, posters, etc., encrypted information is given via letters and symbols, which has to be unlocked. The communication activity is in most cases reading and understanding in silence, in rare cases reading aloud as well.

-Secondary functions

Edelhoff (1986) writes the following about the secondary functions of the media in foreign language teaching: In addition to the primary functions of the media in the network, namely the transmission of authentic language, they also fulfill secondary purposes resulting from the teaching and learning of the foreign language.
The exercise possibilities offered by the tape, for example, must in any case be used extensively for secondary purposes, as the tape can save the program and student utterances and make them repeatable as required.
The book also has this double function: in addition to the presentation of authentic texts, exercises can also be printed and possibilities can be shown how the student can be instructed in learning. Pictures (e.g. as slides, film strips, photos and images in the book or as poster prints) communicate individual problem impressions, make circumstances and factors visible and serve as an opportunity for communication in class. This is particularly noticeable when using the overhead projector in foreign language lessons. Image and symbol combinations are projected as communication opportunities and facilitate the simulation of a foreign language situation.

2. Literature classes and media in the subject of German as a foreign language

2.1 Literature and mass media

As an introduction to this part of my work, I would like to briefly address the problem of the connection between literature and mass media because the question arises of ignoring the diverse relationships in literary research.

2.2 Audiovisual media in literature lessons

Lange (1990) comments on the topic of audiovisual media in literary lessons as follows: Literature lessons are traditionally committed to books as the leading medium. The focus of literary lessons is on printed texts, from reading books to independent literary texts (ibid. 1990, p.684).

According to Lange, the non-observance or rejection of audiovisual texts in German lessons has its causes in the traditional conservation-pedagogical attitude of the sciences and state institutions concerned with education, which are skeptical of modern developments: radio, cinema, television, etc. Didactic research since the end the 1960s tried to break this tradition. The foundations of the reorientation are general processes of change in social consciousness, the checking and questioning of traditional norms and values as well as a changed understanding of society, science and education based on these requirements. This development was reflected in German lessons in the examination of linguistics and in literature lessons in the change in the concept of literature. The educational thinking that had prevailed up to that point lost its importance insofar as the pupil with his needs and interests now became the focus of classroom reflection, his self-discovery and realization became the overall educational goal (cf. ibid. 1990, p.684).

In the literary didactic discussions of the 1970s, besides trivial literature and pragmatic texts, film and television films were also taken into account; their teaching significance has been reflected on and discussed since then, and teaching attempts have been carried out (cf. ibid. 1990, p.684).

But it lasted until 1980 that a Germanist day dealt with the topic of media and German lessons (cf. Schaefer 1981). The German Association of Germanist day in 1980 addressed the relationship between "media and German lessons", which at the time was considered to be in need of clarification. The two sponsors of this congress, the German Association of Germanists, Section of German Teachers, and the State Institute for Teacher Training (Stil) could assume that:

„ ... the majority of the teaching German teachers during their studies did not deal with content-related, formal and methodological issues that are now known to be media-specific. This deficit is mainly explained by the rapid, in particular technical, development of the audiovisual media in the last two decades: production, distribution and reception conditions were subject to major changes in the short term. " (see Schaefer 1981, p. 7)

While the subject didactics adapted relatively quickly to the changed content, the German language and literature studies are largely still reluctant. In teaching practice, the mass media and their products, especially advertising and newspapers, have already received appropriate attention. Film and television, on the other hand, are very seldom the subject of lessons compared to radio plays. This has to do with their complexity, their technical communication, but also with the qualifications of the

teachers and has to do with economic problems of teaching (cf. Lange 1990, p.685).

2.3 Literature didactic theories and audiovisual media in the field of German as a foreign language

In the following, the historical development on the topic of literary didactics in the field of German as a foreign language is described and the role that audiovisual media play in relation to these literary didactic developments is examined in more detail. Only with the rehabilitation of literary studies in German and in foreign language classes at the end of the 1970s (cf. Mainusch 1979) with the new approaches inspired by the aesthetics of reception in literary didactics that put the recipient at the center, with the paradigm shift to a foreign cultural German literary study and with the turn to a communicative, learner-related foreign language teaching, literary texts in foreign language German lessons were able to regain the meaning that their linguistic - aesthetic and didactic - pedagogical potential (cf. Esselborn, 1990).

In 1979 Weinrich demanded against the "boredom of language teaching" its "literalization or reliteralization", referring to the "aesthetic function" of literary language (cf. Weinrich 1983), which is described by structuralist poetics as a turning back of the everyday transivance of language is described on itself through structural overdetermination, which is to be compared with the interest of language teaching, which is shared between subject and language, which, like literary reading, corresponds to slowed down, more intensive and de-automated reading. The resistance of poetic language should spark the interest and imagination of learning (cf. ibid. 1983).

However, a new approach to literary texts had to be found, which on the one hand required the didactic aids of the communicative approach to foreign-language text indexing (cf. Neuner et al. 1981), on the other hand the concept of literary didactics based on the traditional schematic development of content and form of texts, as supposedly objective conditions, dispense with the formal, aesthetic and linguistic analysis of the text. Literature is no longer limited to "high literature" and no longer an object of edification or wordless empathy, but allows a fine, critical and productive handling of the texts according to the interests and needs of the addressees and their specific foreign cultural perspective. This made it possible to introduce the new didactic approaches in the newer foreign languages at the end of the 1970s (cf. Esselborn 1981).

In 1980 Widerlacher designed the theoretically systematic framework for a "literary research on the subject of German as a foreign language" (ibid. 1980), which apart from the foreign cultural external perspective and the targeting of the addressee, an expanded, functional concept of literature and the general learning goals of "cultural maturity", "intercultural communication skills "(cf. Göhring 1980) and" self-understanding ".

German literature as foreign culture demands a specific "intercultural hermeneutics" (Wiederlacher 1985, Krusche 1985), which starts from the cultural foreignness of the texts and the culture-specific foreign attitude of the recipients and, instead of just looking for what is one's own in the foreign, respecting distance and relying on the hermeneutic circle. (Krusche 1985).

Mummert designed the model of a "communicative literature lesson" (cf. ibid. 1984), which combines reception-oriented literature didactics and learner-centered

communicative foreign language lessons with ideas of the "communicative didactics" of the 1970s of learning in partnership and the free development of the whole person, including emotionality and physicality.
With regard to the above-mentioned literary didactic theories, Esselborn (1992) comments on the role of literary texts in foreign language teaching as follows:
"Literary texts, there is now unanimous agreement, have completely different dimensions than traditional textbook texts, their reading requires aesthetic interest, imagination, emotionality and life experience, they are not to be used for conventional language work, which they use words for their own language production. Reception aesthetics and text grammar, cognitive theory and psychology of understanding have in the meantime analyzed the complex process of reception of literature in more detail and ultimately also fundamentally changed literary didactics "
According to Esselborn, the role that literary texts take on through literary didactic theories also influences media didactics. For him, literary texts or literary genres also include feature films, television games or television features, etc. In the following quote from Esselborn one can clearly see the relationship between literature in foreign language teaching and audiovisual media:
"Literary texts are ultimately also feature films, television games or television features, and the new approaches to their development are closely related to the new foreign language literary didactics. Audiovisual texts, video films, etc., like literary texts, also require a different approach and understanding than traditional textbook texts. They always convey much more than just language and create a holistic reaction to the complex, visual, motor, acoustic, linguistic, musical and always film-specific - aesthetically prepared information. (... ..) In addition to language skills, they also require competence in (culturally related) visual communication (visual literacy), as should be conveyed by media didactics in the rhetoric of foreign language teaching. "

3. Filmed literature television fiction films

If you want to work with films in German as a foreign language class, as a teacher you are faced with similar didactic problems as when reading extensive novels: The complexity of the events, the amount of material, the time required, and the difficulties in understanding make the conception difficult for the foreign-language learner or spectator. The result is that films are often received only superficially and are not understood in terms of language, geography or structure. The teacher works to fill gaps in the lesson, to enrich the book reading without a conceptual idea with the cinematic representation or they are simply used for entertainment and loosening up in the classroom. In the rarest cases, the use of films is preceded by didactic considerations as to how the abundance of visual, verbal and auditory information for the lesson could be prepared in such a way that it does not exceed the capacity of the learning or viewer to absorb it. (see Borries-Knopp, 1993, p. 61)
Bechtold / Gericke-Schönhagen (1991) believe that film is the medium of our time. You are not of the opinion that the use of films in foreign language lessons is an entertainment element or a "time killer": "When used correctly, feature films offer the widest possible working surface - in terms of diversity, intensity and effectiveness - for teaching German as a foreign language" (ibid. 1991, p. 6)

3.1 Filmed literature in foreign language lessons.

Linguistic goals

You experience the spoken word in its situational context of language in authentic situations. Instead of the teacher's role and the teacher's voice as a medium of language experience for the learner, constitutive factors of the speech act are presented in the film with a high approximation of reality

Linguistic goals that should result from the use of film adaptations in foreign language lessons are as follows:

1. Expansion of linguistic competence. The learner should expand his vocabulary and get to know certain dialect deviations from the language in the film.
2. Listening and reading strategies. The learner should develop reception techniques while listening and reading that enable him to understand complex texts.
3. Speech strategies monological: The learner should develop speech strategies that enable him to express his opinion about the film and to describe the filmic events as described.
4. Speech strategies dialogical: The learner should develop speech strategies that enable him to exchange his or her attitude with others.
5. Writing strategies. The learning should be instructed to record what has been seen in key words and to express its attitude to it in writing.

Film-specific exercises

Film-specific exercises must take into account the properties of the medium from which they are derived, i.e. they must deal with the processes of perception, cognition and emotion that are typical for film reception. A media-specific exercise typology includes comprehension exercises on the lexical level, communicative-situational exercises and exercises on the level of complex understanding. (see Schwerdfeger 1989)

4. Summary

The technical possibilities, including their forms of application, which are offered in the field of media didactics, such as hearing materials, video materials, etc., are so numerous that it would be desirable to make the best possible use of them. The goal of institutions like Inter Nationes should be the expansion and thus the increased production of textbooks. Because it is sensible and even necessary to use audiovisual media in foreign language lessons, precisely in order to optimize and loosen up the lessons for the reasons already mentioned: Use of mother tongue in class, maintaining the pupils' motivation to learn, etc. I think it is particularly important at the same time, the many linguistic and cultural insights that can be gained through the visualization and that guarantee clarity during the presentation. The use of the media in literature lessons is of course also useful when it comes to understanding foreign language lessons in the sense of Hundfelds (1990) as "Understanding Lessons". In my opinion, the media are making an increasingly important contribution to better intercultural understanding.

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An overview of the nature and impact of the Albanian nationalism in the Balkan developments of the early 19-th century

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Abstract

There is no doubt that Albanian nationalism had its obvious role in the affirmation and realization of the Albanian issue, the essence of which was the earlier declaration of autonomy and further the independency, as well as the creation of the Albanian state. Researchers of the history of the Balkans and the researchers of the Albanian history as well, see the birth of the Albanian nationalism as shaped there by the second half of the nineteenth century. Also, as a strong turning points in the interests of the Albanian nationalism, were the years of creation and the activity of the Albanian League of Prizren, 1878-1881, but also the years 1896-1897, a time when the Albanian nationalism had an extension and development of unprecedented until then. In another view, the Albanian nationalism is defined as a specific nationalism, because it was developed not with the religion as its epicenter, but with the language. On the other hand, regarding to the religion, the existence of some religious faiths often forced the Albanian activists to seek the modeling of the Albanian nation by overcoming the affiliations of religious beliefs among Albanians. At the same time, the Albanians selected and implemented another tactic in their efforts to achieve national independence. They managed to moderate their ethnic ambitions with a clear goal of securing the consent of the Great Powers of the time, which was ultimately an essential factor in achieving the ultimate success. The Albanian nationalist movement, proven and matured through armed uprisings that culminated from 1910-1912, using the Balkan Wars that plagued the Balkans in the years 1912-1913, naturally led to the declaration of independence and the creation of the first independent Albanian state, on November 28, 1912.

Keywords: nationalism, Albanian, Balkan, war, state etc.

Methodology

Through this paper, I managed to use a qualitative research methodology, with primary and secondary data which are the result of reviewing a fairly extensive contemporary and archival literature regarding to the purpose of the study that this topic will follow to the researchers. The implementation and realization of the goals and objective, this study tries to achieve through the implementation of a scientific Methodology where the base is in-depth research and comparison, and analysis through the facts arising from archival sources in the historic area, documentary collections, as and utilization of assets, documentary material and published domestic and foreign historical literature.

Introduction

Regarding to the reasons for the development of nationalisms in the Balkan region, a well-known researcher like Nuray Bozbora argues that in the system of absolute Ottoman governance the lack of an institutional-legal framework that would meet the

needs of a light and comfortable trade activity for traders Christians, increased their desire for the creation of nation-states independent of the intervention of Ottoman customs (Bozbora, 2002). There is no doubt that Albanian nationalism has had its obvious role in the affirmation and realization of the Albanian cause, the essence of which was the earlier declaration of autonomy and further independence, as well as the creation of the Albanian state.

Body of paper

Researchers of the Balkans, the Albanian history as well as the researchers of their nationalism, see the birth of Albanian nationalism as shaped there by the second half of the nineteenth century (Clayer, 2009). Clayer writes that it enters into the same context as that of other nineteenth-century Balkan nationalisms: that of the progressive withdrawal of the Ottoman Empire from Europe in favor of the new Christian Balkan states and some Great Powers (Clayer, 2009). In this way, the Albanian nationalism has not been affirmed against and against everyone. Consequently, there were some special and key events in the history of the Balkans but also in that of the Ottoman Empire, such as the Eastern Crisis (1875-1881), and the Balkan Wars of 1912-1913, which were undoubtedly the turning point. in the development of Albanian nationalism (Clayer, 2009). Also, as a strong turning point in the interests of the Albanian nationalism, have been the years of creation and activity of the Albanian League of Prizren (1878-1881), but also those 1896-1897, a time when Albanian nationalism had an extension and development of unprecedented until then. In another view, Albanian nationalism is defined as a specific nationalism, because it was developed not with religion as its epicenter, but with the language (Brown, 1986). On the other hand, in relation to the religion, the existence of some religious faiths often forced Albanian activists to seek the modeling of the Albanian nation by overcoming the affiliations of religious beliefs among Albanians. Hence emblematic sayings such as: "An Albanian is Albanian before he is a Muslim, Orthodox or Catholic", or the famous slogan "the religion of the Albanian is Albanianness (Clayer, 2009). Further, as Clear observes, these statements were made the slogans of the Albanian nationalists, especially in front of the outside world. Nationalism among Albanians, "… was actively embraced by only a small number of Albanian nationalist vanguards, although, - as the young scholar Nicola Guy analyzes, it was accepted by all, even by representatives of the four religions, both in Albania and in the countries of emigration (Guy, 2012). According to her - "shqiptar Albanian nationalism was not a mass movement and took on popular proportions only in times of crisis, for example during long wars or only when it seemed that other alternatives had failed. Outside such crisis points, popular support waned and the promotion of an independent Albania often depended more on pro-Albanian organizations, such as the Albanian Committee in London (1912-1914) and the Anglo-Albanian Association (1918-1923), and from the policies of the Great Powers (Guy, 2012). Albanian nationalists tried to give up their dependence and the fate of the homeland on the Great Powers, from which they had suffered a great disappointment since the time of the Albanian League of Prizren, when these powers abandoned the Albanians and left them alone in a difficult time, unjustly punished by the decisions of the Berlin Congress (Duka, Egro, 2012). This behavior has been described quite clearly by Mischa Glenny in one of his

books, where he writes that at this moment, entering the history of modern times, Albanians feel as if the whole world was lined up against them. This feeling of the victim nation would not be constantly shared, Albanians were especially indignant at the surrender of the Ottoman authorities before the pressure of the Great Powers (Glenny, 2007). For these reasons, the Albanians were convinced and decided to seek the realization of their aspirations for the national cause, the autonomy and independence of their state in other effective ways. Such ways were the use of diplomatic means, but why not those armed with opponents, be they small states or even Great Powers. At the same time, the Albanians selected and implemented another tactic in their efforts to achieve national independence. They managed to moderate their ethnic ambitions with a clear goal of securing the consent of the Great Powers of the time, which was ultimately an essential factor in achieving ultimate success. The Albanian nationalist movement, proven and matured through armed uprisings that culminated from 1910-1912, using the Balkan Wars that plagued the Balkans from 1912-1913, naturally led to the declaration of independence and the creation of the first independent state. Albanian, on November 28, 1912. Arben Puto goes in the same line with this conclusion, who in a comment in the introduction of the last book of the researcher Paskal Milo writes that in this book an original theoretical and comparative analysis of development is made of Albanian nationalism as a precursor and finalizer of the creation of an independent Albanian national state (Milo, 2013). Whereas, the prominent Albanian historian Aleks Buda, has known the first half of the XIX century, "as the time when the historical process of consolidation of the Albanian nation takes place, the unification of which he saw not only on the basis of ethno-linguistic community and history common, but also of territorial unity (Milo, 2013). He saw this as the only form by which national life could achieve its full and unitary development. Another historian, Stefanaq Pollo, also defines the same time for the formation of national consciousness as a new higher spiritual formation, where a peaceful role was played by the ethnic consciousness of the Albanians (Milo, 2013). But the historian Milo goes even further as he offers another approach, a view that seeks the historical roots of Albanian nationalism earlier, in the time of the Albanian pashas. Even another history scholar, of a younger generation, sees the Paschal of Ioannina of Ali Pasha Tepelena, as a political structure impregnated with the beginnings of Albanian nationalism (Egro, 2011). It is already clearly distinguishable and accepted by many scholars of the history of the Balkans and Albania that Albanian nationalism has been more delayed than that of some other Balkan peoples. This delay has certainly had its reasons and explanations, which have been made known by scholars and authors of history, who have brought numerous arguments for them. Some of them find the arguments and explain the delay in the formation and consolidation of nationalism, which, according to Hobsbawm, "precedes nations." This happens, according to this author, because it is not the nation that creates the state and nationalism, but vice versa (Hobsbaum, 2012). Elsewhere, Hobsbaum wrote, referring to Ernest Gellner, that nationalism is essentially a principle according to which political unity and national unity must conform (Hobsbaum, 2012). Among the arguments for the reasons that brought the delay of Albanian nationalism in relation to other peoples of the region, the most important were undoubtedly two. First, the apparent closeness and special Ottoman-Albanian relations, as well as the apparent preference and privileged position of the

Albanians in the services to the Ottoman government in high positions of power and in the military ones of the Empire, in contrast to other Balkan nationalities. According to many sources dealing with this topic, one of them, Paskal Milo, who in his book wrote that Albanians in the Empire became great viziers (over 30 prime ministers), governors, ministers, deputies, pashas, became part of the Ottoman administrative, military, religious, cultural and educational elite. Of course, there were such elites, but on a modest scale, from other peoples of the Balkans within the Empire. But Albanians remained the most favorite, the most critical and the most integrated (Milo, 2013). Despite these special phenomena, this consent and integration also has its explanation in two essential arguments, clearly understandable. First is the fact that 70 percent of Albanians had converted to Islam, which was not the same for other Balkan peoples except Bosniaks. On the other hand, the inclusion of many predominantly Muslim Albanians in the high political, military and, of course, Ottoman administration hierarchy significantly influenced them to feel like a natural part of the Ottoman Empire, as long as Albania itself was part of the Empire and not a separate, independent state (McFie, 1989). This situation had hindered and delayed the wind and spirit of the National Renaissance and Albanian nationalism, leaving it decades behind most of the Balkan countries, which were already independent of the Ottoman Empire, which was now itself in a state of disarray. Also, due to the Muslimization of many Albanians, despite the motives that had pushed them towards this change, Albanian nationalism was labeled by Slavs and all Christians in the Balkans, "*Albanian Muslim nationalism*." Even, as the lecturer Nuray Bozbora had defined in a book of hers on this subject, nationalism was born "… as a reaction to the Christian Christian nationalism of the nineteenth century (Bozbora, 2002). Further, in the perspective and analysis of events, according to Bozbora, these efforts found their expression in the ideology of nationalism developed in the West and based on basic principles such as equality and freedom, taken under protection constitutional and institutional. In this context, the national movements that took place among the Christians of the Balkans were nurtured by ideologies imported from abroad. According to the logic of analysis and perspective of the lecturer Bozbora, seen in the context of the dissolution of the Ottoman Empire, Albanian nationalism, can be assessed as an attempt for legitimacy within the call for an autonomous Albania under Ottoman rule, the demands of leaders local to regain the previous positions of being de facto governors of the provinces, positions already lost during the process of liquidation of the traditional Ottoman state structure. Underlying this is the lack of the idea of national unity among Albanians (Bozbora, 2002). But of course, this nationalism was in the stage of nineteenth century nationalism and this had its causes or reasons which, according to this historian, are tribal traditions, religious differences, North-South cultural differences and Islamism.

Conclusions

The Albanian uprisings of 1910-1912 showed that the Albanian nationalism of the 19th century had already lagged behind and that the unified movement, as well as the decline of the power of the High Gate together with the thoughts of the Great Powers, led to the proclamation of Albania's Independence. But this labeling of Albanian nationalism was incorrect, because it was embraced by Albanians of all faiths, Christians and Muslims, inside and outside Albania, wherever they were. The

patience of all Albanians, now even Muslims, was exhausted towards the Ottoman Empire, because it had not protected them from the aggression of other states, as well as in terms of exercising their rights in relation to other Balkan nationalities. Now the Albanians were convinced that only the establishment of an independent state could save them from the annexationist intentions of their neighbors! Regarding to this phenomenon, with this selection of Albanians, a foreign author of Balkan history issues would write: "Albanians fell into a dirty trap. On the one hand tradition and Realpolitik had taught them to support the sultan. On the other hand, it was clear that the sultan was trying to maintain his authority through divisive politics (Glenny, 2007). The reason that significantly and consequently influenced the rapid formation and affirmation and maturation of Albanian nationalism was undoubtedly the lack of support at best by some of the states of the Great Powers. In these circumstances, the only way left for the Albanians was, as Clayer analyzed and defined - Albanian nationalism, had to develop differently from many other Balkan states, without an external support, for and against all and with a protective character (Clayer, 2009). However, although belated, slow, somewhat confusing, hindered, unsupported by the Great Powers and anathematized, Albanian nationalism managed to make the issue of their independence the leitmotif of all Albanians. This was clearly expressed in a series of uprisings with a national sense that, together, finally led them to the preparation and declaration of independence and the establishment of the independent Albanian state, on November 28, 1912. Here is how the researcher Guy describes this achievement of Albanian nationalism and nationalists in light of the imminent defeat of the Ottoman Empire by the Balkan League (Guy, 2012). Albanian nationalists declared their independence, as they no longer saw the sultan's sovereignty as a sufficient guarantee for protection of their rights, customs and interests. This was the opposite of what the League member states intended, one of the motives for which the League had entered the war was to stop the creation of an autonomous or independent Albanian state, which would hinder the League's chances of intervening as well as to claim this territory to its members.

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The role of the courts in assigning food obligation to children

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Abstract

The issue of protection of children's rights and interests has increasingly become a priority, because of their special importance. For this reason, protection of children's rights is being considered not only for child-centered laws and policies, but also for acts that directly or indirectly affect them. Not without purpose, acts in the field of children's rights define the child as an individual to give prominence to the protection of the best interests of the child, a standard already established in Albanian society.
Family legislation presents all legal rules and provisions, which guarantee, protect and resolve disputes in family relationships. In compliance with the principles set out, the Family Code, among other things, guarantees and considers as the highest primary interest, that of the child. The issue of protecting the best interests of the child is important and a duty of the parents, because in everyday life parents are the main actors (factors) in fulfilling obligations in relation to children. Also, family legislation provides, that spouses enjoy the equality of their rights and responsibilities in their relations with their children, not only during the marriage, but also in cases of its dissolution. So, it's important, that parents should make sure that the dissolution of the marriage does not affect their rights and obligations, that they have towards their children. Adherence to the principle of the best interests of the child it is an obligation of the parents in the context of building a stable family relationship, but it is also a task of key actors, as part of the integrated child protection system.
The end of the marriage marks the end of the marital relationship for the spouses, creating a post-marital relationship, the limits and modalities of which are defined in the court decision, with whom the marriage is dissolved. If after the dissolution of the marriage, spouses change status and are considered "ex-spouses", the status of being a parent in relation to their children does not change. So, it's understandable, that parental responsibility is not obscured by the dissolution of the marriage. Parents continue to have the right and duty to care for their upbringing, development, well-being, education and upbringing of children.
The parent-child relationship is a specific relationship, special and highly necessary for the normal development of children. With the dissolution of the marriage the relationship and the relationship between the parents change, but it is important that the relationship between parents and children remain unchanged.

Keywords: Children, Parents, Court, The primary interest of the child, Obligation for food.

Introduction

Family status and legal status of the child within the family, is a precondition for the existence of the alimony obligation of the parents towards him. Institute of parental obligation to children arises because of their relationship that is created by marriage, as well as out of wedlock, where the child has been recognized as a mother and father, or due to adoption. Obligation of the parent to feed the child is a legal obligation without compensation and of a personal nature, under which the father or mother is obliged to provide the means of subsistence for their children.
Albanian legislation clearly defines, that in the family the child is in a weaker position than other members, as it is unable to work and is unable to provide sufficient means

of subsistence. Parents have this obligation even when they do not live together or are divorced.
Obligation for alimony, regardless of its economic and social content, qualifies as a personal right, as it is in function of the realization of the primary values of the child. For the importance of these values it is presented as inalienable and cannot be compensated.
Due to the special nature and strictly personal character, alimony is intended to meet the vital needs of the child, who has no legal capacity and ability to work.

1. Overview of the role of the courts in assigning alimony to children

In politics on alimony after divorce, the role of the courts is particularly evident in the interpretation of due process for the execution of alimony decisions.
From an overview it is noted that the courts have established important practices for determining the alimony obligation and the amount of his contribution. Court decision making is based on the principle of protection of the interests of children, as the highest interest.[1]
However, practices have been different and there is no unification of factors, on which the court should be based to give the measure of alimony obligation. This shortcoming creates difficulties especially when a change in the amount of child support is required.
The Supreme Court of Albania has decided, that any change in the amount of child alimony, must be made by the court of the place where the children reside, in order to have a better examination of the conditions and circumstances in which they live.
It is important that courts establish an ancillary practice to reduce cases of non-execution of court decisions, which they have elaborated especially, in cases with object of enforcement actions. There is room here to raise a number of concerns, but more important is the fact that the judges in rendering the decision, to take into account the economic - social factors, formal and informal, in order to make an effective and enforceable decision. In this respect the court should be deepened, also commenting on the manner of execution of the decision-making for determining the alimony obligation, in order to be realistically applicable. Constitutional justice also has a primary role.[2]
However we can say that, in cases with the object of "determining the obligation for alimony" there is not yet a judicial jurisprudence to avoid cases of non-execution of decisions for the maintenance obligation for children, beyond a reasonable time limit. This has happened, not only because of the lack of legal sanctions, but also for the fact that in decision-making they are not properly specified, institutional responsibilities.
In our society constantly discusses the difficult economic situations and conditions of women after the dissolution of marriage, especially when there are children in the family structure. In most cases, the child is entrusted to the mother for upbringing and education, as the main exerciser of parental responsibility, while for the father of the child he is obliged to pay an alimony.
Primary responsibility to ensure, within the possibilities and financial means, the

[1] Based on the statistics presented in the Annual Report 2020, of the High Judicial Council.
[2] The Constitutional Court of Albania, in general, has clarified its position regarding the execution of final court decisions, as part of due process. However, its decisions on these issues have been more declarative, rather than effective character to aid the process.

living conditions necessary for the child's development are his parents, or other persons responsible for the child.
In our country, in most decisions for the appointment of a foster parent, the court has ruled on the custody of the mother. Conditions and economic situation in Albania is not at all favorable for divorced mothers and children. Practically, the income of the foster parent and the child after divorce are almost halved. This fact, in many cases, has influenced the limitation of material goods necessary for the upbringing and education of the child. This, increases the possibility, for children to exhibit antisocial behavior, exhibit group behavior problems, emotional symptoms, fall prey to abuse and drop out of school.

1.1. Procedural analysis of court decisions

The court first tries exhaustively to provide for the possibility of reconciliation. If no agreement is reached, then the court concludes with a general determination of the causes justifying the filing of a lawsuit by one or both spouses for the dissolution of the marriage. So the court must fully establish the conviction, that cohabitation between two spouses has become impossible and that marriage has lost its purpose.
At the end of trial, despite the debates, the parties tend to unify their claims, seeking that the marriage between them be dissolved. The reasoning is almost the same, marriage is formal and fails to produce real none of its economic, biological, moral and social functions. So the parties agree that the marriage between them has completely lost the purpose for which it was entered into.
With the dissolution of the marriage the quality of the spouses turns into "ex-spouses", but the quality of each parent in relation to their children does not change. Based on interpersonal parent-child relationships, parental responsibility is not violated by the dissolution of the marriage. Based on the principle of "*the best interests of the child*", the court makes a case-by-case assessment, depending on the concrete circumstances of the case, for the observance or not of this fundamental principle. Evaluation is also intertwined depending on the material possibilities of the parents, of physical development opportunities, moral and intellectual development of the child, of his maturity in conceiving the situation and the solutions he expresses through his thought.
The court before making a final decision regarding the manner of exercising parental responsibility, as well as regarding the right to visit the parents who will not be left with the child for upbringing and education, has the legal obligation to call a psychologist expert[3]. The purpose is to guarantee the minors, not only for the proper psycho-emotional state during the expression of thought, but also for the evaluation of relationships within the family, as well as determining the parental ability of both spouses.
The court, before deciding on the parent who will take care of the child, must fully evaluate the evidence taken at trial as: assertions of the parties, the opinion and wishes of the child, the opinion of the psychologist, the age of the minor child, the connections and affection they have with each of the parents, etc.

[3] According to Article 155 of the Family Code.

1.2. Legal basis used in court decision-making

Legal basis used in court decision-making is justified in interpretation by the primary interest of the child and is almost the same. Judges have set a standard, regarding the legislation applicable to the appointment of a custodial parent and for the assignment of alimony to the child.

To resolve issues with the object of trial "Dissolution of marriage and regulation of its consequences regarding the allocation of alimony for children" judges consistently use the following legal provisions: *"Articles 3 and 12 of the United Nations Convention "On the Rights of the Child"; Articles 2, 5, 6, 155, 157, 159, 192, 197, 198 of the Family Code".*

It has been noted that there are many lawsuits with the object of trial "Obligation to pay alimony for the child", are raised by mothers. These are lawsuits that originate mainly from parents who have lived together.[4]

It has recently been noticed that there are also many lawsuits filed by mothers, for cases with object of trial "The obligation of the debtor parent to pay the alimony for the child". The legal basis used by judges is not only the legal provisions listed above, but are also based on Articles 3 and 4 of the Family Code.

In their decisions the courts today, are being referred to more and more in International Conventions as well as in the practice of the ECHR, related to children's rights and the principle of their highest interest. It must be said, that this has had a positive impact on the fact that judges are trying to establish a procedural standard already referring to international acts ratified by the Albanian state.

However, their reference to these international acts, is related *only to the principles of parental responsibility and to the procedures of leaving children for the upbringing and education of one parent*. Thus, the reference to international acts and the practice of the ECHR, or other international mechanisms done only in relation to leaving the child for upbringing and education one parent and the right of appointment for the other parent and is not related to *the primary right of the child to receive alimony owed to the debtor parent,* in relation to the vital needs for well-being, development, well-being, education and training.

There is a growing tendency of the court to rely on so-called atypical evidence.[5]

Such in the civil process are also considered electronic communications (*e-mail or other electronic means of communication Viber or WhatsApp),*

between the parties involved in the conflict or between them and third parties, from which important facts can emerge, not only with the legal relationship between ex-spouses, but also on financial conditions and opportunities.

[4] Our court statistics on these types of lawsuits are lacking, therefore, it is not possible to monitor it more fully.

[5] In decision no. 136 dated 21.03.2017, the High Court has developed the concept of atypical evidence, clearly guiding the lower courts in allowing them to be considered, as well as the procedure for declaring the evidence unusable. "The college considers that any kind of evidence which is not expressly excluded by law as unusable is accepted by the court in civil proceedings, administrative and criminal, when related to the object of proof. The College considers that generally atypical evidence, more than evidence unforeseen and unregulated by law are evidence that carries mixed and intermediate elements of typical evidence. The typicality of the means of proof has to do not only with the form, but also with the content, while atypical evidence may have the form of a certain proof, while in the content they have elements of another proof ……. The Panel concludes that atypical evidence can be used in civil and administrative proceedings, and for atypical evidence the legal rules applicable to the corresponding typical evidence will apply even through the interpretation of these norms by analogy…"

Technological development has also promoted new forms of human communication, which should be reflected in the means of proof used by the parties during the civil proceedings, often encountered in conflicts or disputes of a family nature. Electronic communications are categorically appropriate to be categorized as an enterprise sanctioned in the Code of Civil Procedure, as they carry mixed features of an electronic recording or a written proof.[6]

1.3. Determining the amount of the contribution for alimony

It is the obligation of parents to contribute to the upbringing and education of their children as part of the exercise of parental responsibility that belongs to both parents, regardless of the dissolution of the marriage. Seeking alimony for the child is not included in the subjective consequences of the dissolution of the marriage and which are resolved by the court, only if the spouse requests them.

The best interest of the child requires, for the court to decide on the manner of exercising parental responsibility, which includes in addition to leaving the child for upbringing and education, the right to meet the other parent and the other parent's contribution to the child's upbringing. The court upholds the fact that the parent, that the child is not left for upbringing and education,

reserves the right to supervise the maintenance and education of the child and consequently should be informed of important solutions related to his life. He contributes in relation to his own resources and those of the other parent.[7]

In principle, with the decision to dissolve the marriage, the court determines which parent will be the child's guardian and the amount of the child support obligation.[8]

In our country, judges have set a standard for determining the amount of contribution, that the parent, to whom the child has not been left for upbringing and education, must pay.

Judges always reason, that the court in proportion to the economic situation of each parent and the needs of the child for upbringing and education, according to his age, determine the value of alimony.

Reasons on which the court relies in assigning parental custody and the determination of the amount of alimony is related to many evidences of factual nature such as:

- economic situation of the foster parent; the economic situation of the debtor parent
- age of the child / children, education of the child / children, upbringing of the child / children, health condition of the child / children;
- change of social conditions of the foster parent; changing the social conditions of the debtor parent;
- active working age of both parents, as well as if they enjoy full health
- the monetary cost required for raising and educating a child /children;
- salary of each parent / bank account balance on behalf of the debtor parent.

However, in fact the judges in assigning the maintenance obligation to the child, rely on elements such as: the ratio between the subsistence minimum and the increase in

[6] The Supreme Court has had the case, to maintain orienting positions during the exercise of review jurisdiction and in relation to these types of evidence, as it results in Decision no.92 / 2013. The Supreme Court has ruled that electronic communications although they do not have the typical form of evidence sanctioned in the Code of Civil Procedure should be allowed for review by the court and cannot be ignored as long as they contain valuable data on the underlying resolution of the conflict.

[7] See Article 158 of the Family Code.

[8] See Article 161 of the Family Code.

demand in the conditions of rising inflation and significant change in rising prices and living standards.

On the other hand, the court takes into account the source of income with which each parent provides livelihood and economic opportunity, the expectation and opportunity for employment of each of them, in relation to the needs of the children. The needs of the child are assessed in this case by age, state of health, level of intellect and its current psycho-motor development, as well as that of the needs for a good development, education and training suitable for them. The court also takes into account the fact, that regardless of which parent the child is entrusted with for upbringing and education, both parents have the same obligation to contribute to the well-being, education and upbringing of the child.

In determining value as a food contribution, the court must take into account in addition to the financial situation of the custodial parent, even the most basic and vital needs of the debtor parent, as well as the age and material needs of the child for upbringing and education.

Claim for alimony to a certain extent by the custodial parent is related to the costs of raising the child, age, education, health needs, etc. The court also based its decision-making on the child's standard of living during the time he was staying with both parents.

In conditions when our family legislation does not provide for a monetary value of the alimony contribution or alimony obligation, as regards the setting of a minimum threshold, as well as the maximum, the court in determining the amount of alimony is guided by:

- the best interest of the child;
- conception of alimony obligation, as an institution of family law and a protective measure in the best interests of the child;
- the principle of proportionality with the standard of living of the place where the child lives;
- subsistence minimum[9] in that district, city, village.

There are also cases when the decision to impose a measure of alimony was taken even in the absence of the parent, whose child was not left in custody. The court considered this action of the debtor parent as lack of cooperation, when it was done on purpose or there was reason to believe it was done on purpose not to contribute financially to the child.

Always in such cases, the court has left open the possibility, that in case of change of concrete circumstances, it will also have an impact on changing the court's decision on setting an alimony.

Conclusions

In our country many cases of divorce end with obvious consequences, not good for

[9] The subsistence minimum is the main social indicator, which is used to assess poverty and quality of life, as well as for the calculation of minimum wages, minimum pensions and basic social payments. The subsistence level in the country is known as the amount of money that each person should own to meet the basic needs of his survival as a human being(Albanian Encyclopedic Dictionary, quoted by ACER, 2016, p.13). The subsistence minimum is defined as the level of income which guarantees that consumption meets the requirements of the minimum of physical and social human beings (People's Advocate, 2015, pp. 8-10).

children. Ex-spouses, not only come to understand, that despite not living together anymore, should value maximally and with priority the relationship with children, as they continue to be the parents of their children. The reasons for a couple to separate are many, but there are few cases when they are realized with understanding. In most cases of divorce, as a result of the conflict that the spouses have between them, it turned out that the lost and most vulnerable part are the children. The dissolution of the marriage really changes the conditions and circumstances in the cohabitation of the family, but this fact should not negatively affect the upbringing, development and education of the child.

Quite an important element that is closely related to the best interests of the child it is also the assignment of alimony. In this sense, judges should refer to international acts, as they present some criteria on the way of assessing and determining the alimony for the child. These criteria, in order for the child to have the opportunity to have the best possible quality and standard, even though the parents are divorced and may not have a good relationship between them. What is suggested is the fact that the court in each case, should be strongly invested to assess the real financial capabilities of the debtor parent, in order to provide the child with a good quality and standard of living and not different from the previous one.[10]

Our family law does not provide for a monetary value of the alimony contribution or the obligation for alimony, as regards the setting of a minimum limit, as well as the maximum. The alimony obligation is an outsourced obligation. As such, it is undetermined by the will of the parties, therefore the meaning and range of the types of expenses to be taken into account in its calculation should derive from the interpretation of the law.

Under these conditions, the courts try to include everything in the obligation for child support which is necessary to meet the material and cultural needs of the child's life and more specifically, should include expenses for food, clothing, housing, heating, medical service, education, entertainment and any other activities necessary for a normal life. These should in no case be considered by the court as excessive expenses. The court always states with the reasoning that in determining the value of alimony, or the amount of alimony has been taken into account, not just the needs of the child, but also the "economic opportunities" of the parent forced to pay alimony.

The court pays special attention to the reasoning part of the decision related to the abandonment of the child raising and educating one parent and before deciding on whose custody the child will be, evaluates with priority and in particular:

- the degree of affection and the constant care that both spouses have shown for the growth of their child;
- living conditions of ex-spouses, as well as the financial situation of each if they can guarantee their child a healthy moral and physical development;
- psychological report, which presents a panorama of the emotional needs of the child;
- the conduct of the ex-spouses during the court process, if it is correct and cooperative.

In this context, it is suggested that the court should pay the same attention the link between the imposition of a maintenance obligation and the best interests of the child. The case law has assessed that the obligation to feed the child is related to the

[10] Arta Mandro-Balili,"Family Law. Family: Children, Marriage and Spouses" (Tirana: Emal 2009).

material well-being of the children, hence it is the essential obligation deriving from parental responsibility. In determining the obligation for alimony, the court starts from the best interest of the child, but also from the sources and concrete economic conditions of the parties. In the context of financial need, the court must give priority to meeting economic needs and the child's living conditions and not based solely on standard reasoning. The court in determining the measure of the obligation for alimony takes into account the needs of the children, as well as the economic and financial resources and opportunities of both litigants.

The dissolution of the marriage brings about a change in the family income for the parents, as well as affects the quality of life of the child. The exercise of parental responsibility is practically shared between two parents for the child. In this sense, since every parent has legal responsibilities and must take care of the child, the court must be based on the principle of proportionality to determine the measure of alimony.

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Topic: Proportional or Progressive tax? Taxpayers' attitude towards taxation (Poster presentation)

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Abstract

When one of the funding father said in 1789 that "Nothing is certain except death and taxes", maybe the people of time longed for a world where there will be no obligations in nature. What we have today is a taxation from and of any service that people use. This is done- of course, in order for the government to provide to its citizens all the necessities they need for having a worthy and uncomplicated life. There are different sources of taxes, but in this paper the author focuses on two of the most debatable ones. Tax on income and its rate calculated as a progressive one, towards its rate as a flat one. Despite the differences in calculation, what triggered the authors' attention was the attitude of people towards it. Since their incomes are getting taxed, people are more aware of this fact, whether how this process affects the States' budget or economy. The structure of the paper is as follows: in the first paragraph the author does a short historical background of taxes. The second one is focused on the people' attitude towards taxation. And the last, but not the least, is focused on the different application of tax on income rates.

Keywords: progressive tax, flat tax, fairness, growth of economy, social justice.

Introduction

Researchers have found archaic forms of taxation dating back around 3000 B.C, in Egypt. Originally they served as a commission, paid in nature to the Pharaoh.[1] Later on, tax collection enlarged in both Greek and Roman civilizations. In Greece for example, there was a dual system of tax obligations. Taxes paid from civilians were different than the ones paid from slaves.[2] As for the Roman Empire, taxes were paid from roman citizens and residents of annexed areas. Anyhow, in that period of time were acknowledged the following type of taxes: *on inheritance, property, on goods' consumption*[3] *and on customs duties.* It was only in the middle ages-in some regions in Italy and Germany- that due to the evolution of tax concept were acquainted the direct taxes. Particularly, the income taxes. The moneyless ones paid head taxes, whereas the wealthy ones net- worth taxes. Nevertheless, data have shown that the *income tax* we know today dates back in 1799, in Great Britain. Regardless that for the historical period of time, it served as an interim war quota.[4]

Nowadays governments collect taxes to provide and cover the costs for all the goods and other operational services provided for the society needs. The applied fiscal package varies from one country to another. Beyond any philosophic discussion of what is "*reasonable*", "*effective*" or *"right"*; a fiscal package shall serve the very basic

[1] https://www.britannica.com/topic/taxation.
[2] Ibid.
[3] https://onlinebusiness.northeastern.edu/blog/a-brief-history-of-taxation/.
[4] Ibid.

principles of taxation.[5] It was Adam Smith who laid down the foundations of such principles. At the core of any fiscal package shall be the capacity to pay. Any induced tax should be based on the persons' ability to disburse. This principle is closely related to the advantages such persons achieve from government expenditures as a result of their initial tax payment.[6]

1. Taxpayers attitude towards taxation

As for the people, their intention remains- in any given historic period- wealth maximization. Guided by their personal economic utility and fairness conception, they support that tax package which best suits them. Namely, paying less taxes. What the writer finds captivating in the following to be mentioned studies, is the fact that if taxpayers find thetax package as unfair- they tend to be more supportive to progressive tax. They use this '*fairness*" criteria firstly to distinguish whether the fortune is inherited or established throughout life. And if the fortune originates from passed down economic and social status, they tend to be more supportive towards progressive taxation asa tax level and its structure. To cut it short, the aforesaid personas credit the inherited wealth as arun of luck- therefore as deserved to be taxed more.[7]
The credence that taxpayers have on their government and its policy making, is another determining factor. Taxpayers use the fairness criteria to reckon also the governments' task workwith public finances. Progressive taxation is supported by the ones who consider the upsurge ofwealth persons as disproportionate. The latter are highly discussed in States that have been througheconomic recession. If people believe that their taxes are invested efficiently, they tend to renouncefrom a higher net income- as soon as it is materially being invested as a public utility. Authorsstudying such attitudes have reached in the following statement: the role of State all along thecrisis is crucial. Moreover, recessive periods shall not serve only to the already rich people. Other findings go beyond the principles of fairness and self- interest. Authors of these studies bringout supplementary criteria on why people favor more or less a given tax system. And these are:general financial information, economic knowledge and other subjective aspects. Additionally,they find no determining objective explanation why progressive tax is more attractive to masses.Answering this, they suppose that it is due to personal interests and impartial assessment.[8] As it is mentioned previously, personal approach toward tax system is a reflection of taxpayersperspective know-how on taxation. Progressive system is more popular just because people withlower income pay less. Per contra, the same persons lack information of the tax structure or itsvalue.
Taxpayers with lower earnings are the ones who uphold the progressive tax. Since their incomesare taxed less than the ones with higher incomes. Yet, the same people tend to support aproportional tax rate if they foresee that in the course of time they will be affluent. Shifting from one social status to a lower one, affects the odds- on

[5] Taxation and public finance: a philosophical and ethical approach, Robert W.McGee (2004).
[6] https://onlinebusiness.northeastern.edu/blog/a-brief-history-of-taxation/.
[7] Limberg, J. (2019). What's fair? Preferences for tax progressivity in the wake of the financial crisis. Journal. Of Public Policy. https://doi.org/10.1017/S0143814X18000430.
[8] Heinemann, Friedrich; Hennighausen, Tanja (2010) : Don't tax me? Determinants of individual attitudes toward. progressive taxation, ZEW Discussion Papers, No. 10-017, Zentrum fur Europaische Wirtschaftsforschung (ZEW), Mannheim.

of taxpayers creeds that their personal incomesmight be better protected by a flat tax rate.
Albeit being a non-determining factor in appearance, tax perception is a reflection of employment status. As follows, workers of the private sector who earn more than the ones of the public one- tend to favor more the proportional tax, because of higher net income.
Under the regime of a progressive taxation, higher incomes are expressed in more taxes. This might affect ones mindset toward the fairness of the system. Such persons find no encouragement to improve their economic circumstances and make more money, because the more they will earn- so much the more will be the tax's amount. To this end, it is up to the State and its actors to follow regulatory policies which tend to inform and educate citizens on the types of taxes they pay, the amount per each, how their *financial sacrifice* is being invested. Followed- as well as- by other policies which, despite the applied tax model (proportional or flat) tend to give incentive on citizens to actively improve their social-economic status.[9] Because any upsurge of inequality is considered to be a potentially menace to States' democracy. This is why, following the same line with taxpayers opinions as mentioned above- economists of the said studies suggest progressive tax as the cure to diminish it.[10]

2. Fiscal package in Albania

In Albania, the implementation of a democratic system was reflected even on tax laws. From 1992 until today, tax laws were amended quite often. The process of tax administration as well. Likewise even the tax administration has undergone in bureaucratic transformations.
This paper examines both the flat and progressive tax applied in Albania, in two different time periods. In 2008, after two years of discussions and objections, the Government of that time approved the flat tax system.[11]
Under the regime of a flat tax, all the incomes are taxed only during their circulation. Both personal income tax, and tax on profit are unified to a specific rate. Anyhow its success depends on the monetary policy of the State and the legislation. In some States- such as Estonia, Ukraine, Romania or Russia- it has turned out to be a fruitful instrument. Other countries as well are applying this tax as a result of the positive effects in their economy. What it does is the economic growth by incenting the generation of capital and sponging up foreign investments. Approximately one fourth of all European countries and almost all ex-communist countries with transitional economies have applied this form of taxation, both on personal and corporate income. It is considered to be a product of Carl Marx's ideology. As to him *"the application of progressive tax policy was the essential means of achieving a classless society[1]"*.[12]
The tax rate was 10%. It was calculated on the profit or on the total personal income. Quite a few measures were taken in order to avoid any negative effect from its collection. It was noticed an increase in the wages of the employees working in the public sector. The purpose behind was so that the flat tax rate would not involve their

[9] Ibid.
[10] See supra note 8.
[11] Dorela Kararaj, Assessing the advantages and disadvantages of progressive tax and flat tax in Albania (2016).
[12] Koprencka, Luciana; Cakrani, Edmira, Flat tax and Progressive Tax in Albania (2012).

income.[14]
Flat tax is considerate to have a more positive role in economy. It influences for good the labor market and the gross domestic product by enhancing incentives to work, save, invest and take risks. The application of a single level tax system is often associated with concept of fairness. That all the taxpayers are treated and paying similarly.
Its supporters list several reasons why it shall be implemented in by- laws. Firstly, it promotes the growth of economy. It boosts the increased work, savings and investment. People pay less taxes and consequently have more money whether to spend or invest. Secondly, it affects the instant wealth creation. To all the assets that produce income, their value tend to rise since the flat tax would increase the after-tax stream of income that they generate. Thirdly, taxpayers are treated more equally and fairly. Since the tax rate is always fixed, for all the levels of income. And lastly, it is easier to be calculated and collected from the administrative point of view. Notwithstanding, flat tax has its opponents. These authors sort out several disadvantages for the flat tax system. Firstly, that it penalizes taxpayers with low or medium personal income- and favors the wealthy ones. And secondly, the concepts of fairness or social justice are erased- since the well- to- does are taxes with the same rate as the people with minimal wage.
As for the progressive tax, its rate increases as proportionally with the income's increase. Its implementation divides taxpayers in categories based on their income level. Governments target is to support those people with a lower ability to pay. This is why, quite often it is considered as unfair to the ones who make more money due to their hard work. This might have an undesirable effect in long- time. It might cause tax- evasion and class conflict.
Yet the objective of its application is to promote the social justice, by overpassing the burden of paying more to those who can afford it economically. [13]

Conclusions

Taxpayers' attitude towards taxation is a reflection of their personal needs and expectations.Getting used with the fact that they will always pay taxes, they don't see this issue as a problem anymore. Their only concern remains how these taxes are being used by their government. But when it comes to the tax on personal income, they become more aware. They become supporters of one form of taxation or another- hereupon: flat tax or progressive one, based only on the personal interest.
This was noticed even in Albania, when the implementation of tax flat in 2008 took two years of debate. Anyhow, what we have now is a progressive tax- calculated in three different level of incomes. From 0 to 30,000 Albanian Leke the tax rate is zero. From 30,001 Leke to 150,000- it is 13% of the value over 30,000 Leke, and for the sum of 150,001- it is 15,600 Leke + 23% of the value over 150,000 Leke.[14]
Despite the supporters and opponents of each of the fiscal packages, important to say is that our economy and the followed social justice tends is better being served by the current type of taxation ,on personal income.

[13] see *supra note* 13.
[14] https://www.tatime.gov.al/c/4/96/108/tatimi-mbi-te-ardhurat-personale.

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Transfer pricing evolution in developing countries

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Abstract

Transfer pricing is the price used for internal sales of goods and services between profit centers within the same firm. The issue of transfer pricing has long been a source of frequent managerial concern and frustration. Compared with domestic business, pricing considerations for multinationals involved in international business are far more complicated. Multinational Enterprises (MNEs) are exposed to a greater variety of environmental disturbances than domestic firms. The constantly changing international environment can have a significant impact on multinational transfer pricing practices. There has been much discussion in the literature concerning the potential conflict over transfer pricing techniques used by MNEs to shift profits outside the borders of a host country. This happens whereby MNEs artificially lower their profits by manipulating transfer prices with their subsidiaries. While it is for each country to choose its tax system, this paper is focused at countries seeking to apply the "arm's length standard" to transfer pricing issues, as the approach which nearly every country seeking to address such issues will decide to take.

Keywords: Transfer pricing, developing countries, arm's length standard, domestic business.

Introduction

A lot of debate about tax and developing countries nowadays tends to focus on how to reduce revenue leakage through offshore tax havens. But there is another hot issue called transfer pricing which developing countries have to be mindful of, particularly if they want to avoid the risk of losing out on tax revenue from cross-border transactions carried out by multinational enterprises. How does it work? A large proportion of world trade is accounted for by cross-border trade taking place within multinational enterprises, subsidiary's results. The higher the royalties paid by the Albanian subsidiary, the lower the taxable profits in Albania. The Albanian tax authorities will be satisfied if they see that the royalties paid by the Albanian company to its headquarters in to the Country of the other company are not higher than those that would be paid to an independent enterprise for a similar transaction. But if the royalties are too high, there is a possibility that profits are being shifted out of Albania to reduce tax liabilities there. The "arm's length principle" is used to address such issues. Under the arm's length principle, one compares the remuneration from cross-border controlled transactions within multinationals with the remuneration from transactions made between independent enterprises in similar circumstances. The "arm's length principle" has become the international norm for allocating the tax bases of multinational enterprises among the countries where they operate. All OECD countries use this principle.

Increased globalization and trade liberalization, coupled with advances in information technology, have contributed to an increase in the number of enterprises expanding beyond their domestic markets. As a result, foreign direct investment (FDI) stocks and

the number and size of multinational enterprises have continued to increase (figure 1.1). In 2000 the United Nations Conference on Trade and Development (UNCTAD) estimated that there were 63,000 parent firms with 690,000 foreign affiliates (UNCTAD 2000); by the end of 2007, it estimated that there were 79,000 parent firms with 790,000 foreign affiliates (UNCTAD 2008).

This growth in FDI stocks and the number and size of multinational enterprise groups has not been limited to developed economies. The proportion of multinational enterprise groups with parent companies in developing and transition economies increased from less than 10 percent in 1992 to 28 percent in 2008 (UNCTAD 2010); of the 790,000 foreign affiliates estimated to have existed at the end of 2007, more than half were in developing economies (UNCTAD 2008). Imports and exports of merchandise and services have also risen in both developed and developing economies. Upon entering a new market, an enterprise generally faces various options regarding the form the new business activity will take. These options include direct exportation, establishment of a local representative office or branch, and establishment or acquisition of a subsidiary that is wholly or substantially owned and controlled.

When a multinational enterprise group establishes itself in a new market by incorporating or acquiring a local subsidiary or establishing a branch, the local subsidiary or branch generally engages in transactions with other members of the enterprise group. As a result, a significant portion of international trade now takes place between members of multinational enterprise groups, with estimates ranging from one-third (UNCTAD 1999) to as much as 60 percent.

Because of the common ownership, management, and control relationships that exist between members of a multinational enterprise group, transactions between them are not fully subject to many of the market forces that would have been at play had the transactions taken place between wholly independent parties. As a result, the prices charged—known as transfer prices—may be intentionally manipulated or set in a way that has the unintentional consequence of being unacceptable to external stakeholders.

This phenomenon is not limited to transactions within multinational enterprise groups. It also occurs in transactions between any other parties—such as family members or companies and

substantial shareholders— whose relationship may allow them to influence the conditions of the transaction.

Transactions between parties whose relationship may allow them to influence the conditions of the transaction - associated parties - can involve the provision of property or services, the use of assets (including intangibles), and the provision of finance, all of which need to be priced. A range of regulatory and non regulatory factors can influence the determination of transfer prices.

Transfer pricing is a neutral concept that simply refers to the determination of transfer prices for transactions between associated parties. As pointed out by Tax Justice Network, "transfer pricing is not, in itself, illegal or abusive. What is illegal or abusive is transfer mispricing, also known as transfer pricing manipulation or abusive transfer pricing."

Transfer mispricing arises as a result of abusive or inappropriate transfer pricing practices. Abusive practices include situations in which transfer prices are intentionally manipulated to achieve certain outcomes, and inappropriate practices

include situations in which the parties unintentionally use transfer prices that external stakeholders find unacceptable—because, for example, they are inconsistent with applicable laws, regulations, standards, or relevant commercial practices. Transfer pricing is one of the most important issues in international tax. Transfer pricing happens whenever two related companies – that is, a parent company and a subsidiary, or two subsidiaries controlled by a common parent – trade with each other, as when a Albanian-based subsidiary of Coca-Cola, for example, buys something from a Italian-based subsidiary of Coca-Cola. When the parties establish a price for the transaction, they are engaging in transfer pricing. Transfer pricing is not, in itself, illegal or necessarily abusive. What is illegal or abusive is transfer mispricing, also known as transfer pricing manipulation or abusive transfer pricing. (Transfer mispricing is a form of a more general phenomenon known as trade mispricing, which includes trade between unrelated or apparently unrelated parties)

It is estimated that about 60 percent of international trade happens within, rather than between, multinationals: that is, across national boundaries but within the same corporate group. Suggestions have been made that this figure may be closer to 70 percent. Estimates vary as to how much tax revenue is lashed by governments due to transfer mispricing. Global Financial Integrity in Washington estimates the amount at several hundred billion dollars annually.

The conventional international approach to dealing with transfer mispricing is through the "arm's length" principle: that a transfer price should be the same as if the two companies involved were indeed two unrelated parties negotiating in a normal market, and not part of the same corporate structure. The OECD and the United Nations Tax Committee have both endorsed the "arm's length" principle, and it is widely used as the basis for bilateral treaties between governments.

Many companies strive to use the arm's length principle faithfully. Many companies strive to move in exactly the opposite direction. In truth, however, the arm's length principle is very hard to implement, even with the best intentions.

Imagine, for example, that two related parties are trading a tiny component for an aircraft engine, which is only made for that engine, and not made by anyone else. There are no market comparisons to be made, so the "arm's length" price is not obvious. Or consider the case of a company's brand. How much is the Pepsi logo really worth? There is great scope for misunderstanding and for deliberate mispricing – providing much leeway for abuse, especially with regard to intellectual property such as patents, trademarks, and other proprietary information.

The resulting damage from the prevalent "arm's length" approach has been, and is, substantial. Governments around the world are systematically hobbled in their ability to collect revenues from the corporate tax system. Billions of dollars are wasted annually around the world on governmental enforcement efforts that have little chance of success, and on meeting expensive compliance requirements.

While nearly all European countries has had relatively mature transfer pricing rules for years, the rest of the continent is only recently showing progress in the matter. Romania, Bulgaria are making their way to the forefront with the recent introduction of their transfer pricing legislation, while legislation is in the pipeline in Albania, Macedonia, Monte Negro, Bosnia and Herzegovina.

There are a number of issues facing tax authorities concerned with transfer pricing in South East European countries. The biggest problem they have is that there is

no local comparable data in South East Europe. They have had a lot of pushback from the revenues saying they're not comfortable with the European benchmarking because they're saying you cannot compare a growing, developing continent like East Europe with developed European Countries which is in a relatively stagnant stage of growing.

On 4 October 2012, the United Nations (UN) released the draft text of the Transfer Pricing Practical Manual for Developing Countries and on 15 October 2012, the Committee of Experts approved it. The Manual reflects the thinking of developing countries — and also identifies the challenges faced by companies doing business within them — related to transfer pricing. The purpose of the UN Manual is to provide practical guidance to developing country governments, tax administrators and taxpayers. As such, the Manual has some notable differences compared to the OECD Guidelines. Like the OECD Guidelines, the Manual serves strictly as practical guidance, not as a legislative proposal or mandatory policy, and therefore much effort has been spent in trying to reflect complicated issues in a simple and clear fashion, in turn illustrated by many examples. The whole issue of transfer pricing and the role of MNCs is high on the political agenda of many governments, as can be seen from the communiqué of the latest G20 summit and the way that governments around the world are now focusing on how to help developing countries to build the capacity of their tax administration to deal with this and other tax issues. The publication of the draft Manual undoubtedly heralds a fresh focus on transfer pricing by developing country revenue authorities themselves. Recent statements by a number of African commissioners also show that transfer pricing is high on their agenda. With their attention ranging from issuing new local legislation, building and refining auditing practices and capability and increasing enforcement resources generally, its existence — although a work in progress — provides taxpayers a new level of insight into the continuing evolution of transfer pricing practices in developing countries and offers a framework around which companies can continue to build their transfer pricing policies and administration in developing countries. The Manual represents a most useful contribution to the transfer pricing debate and should help in encouraging governments to work together to find common solutions to practical problems that arise in the application of the arm's length principle. The Manual may also assist in helping business to get more engaged in the transfer pricing debate, working with tax administrations in developing countries to help them overcome two important constraints that they face in auditing MNCs: finding sufficient information on comparables and auditing the transfer pricing of MNCs.

Companies have a number of tax planning opportunities available to artificially reduce profits, obscure ownership, or outright evade tax. Transfer pricing refers to the pricing of goods and services traded within the same company, or groups of related companies. As prices for intra-company trade are not set by the market, these prices can be artificially inflated to shift profits to low-tax jurisdictions. Profit shifting can involve the leasing of machinery and sale of services from shell companies in low-tax jurisdictions, or intra-company lending and insurance provision at artificially high interest rates or premiums. Increased transparency on bearer shares, the physical documents that confer ownership of companies, as well as more mandated information sharing, will help tax administrators sift through corporate networks frequently consisting of dozens, sometimes

hundreds, of affiliates and related shell companies that trade between themselves.

Another common practice, known as "thin capitalization", is for companies to rely on debt financing for their operations - using little own equity, thereby taking advantage of tax deductibility for interest payments as well as reducing their cost of capital. A third method, known as false re-invoicing, makes use of the secrecy of tax havens to change tax-relevant invoicing information. In many developing countries, these practices take place in a tax environment that is already heavily tilted towards the private sector, particularly in the form of large tax incentives for oil and mining multinationals.

Conclusions

To benefit from new opportunities, strengthening tax administrations is fundamental. While there are challenges that will be faced by East European countries, important point is to that reform and adopt more efficient transfer pricing rules across the continent will ensure consistency with international norms; create an environment of reduced tax risk; and increase incidence of foreign direct investment. While it may have been shocking for British citizens to discover tax avoidance on their daily Macchiato, large-scale tax avoidance can in developing countries mean lost opportunities for millions of individuals, as countries are being deprived of the means to finance development. However, efficiently taxing the complex global value chains of oil and mining multinationals, while maintaining a fertile investment climate, remains beyond the capacity of many developing country tax administrations. Hiring and retaining highly educated and skilled tax administrators may be near impossible in countries where the pool of skilled university graduates is small, and the hiring environment dominated by better-paying jobs in local affiliates of multinational oil and mining companies. IT systems may be rudimentary, and the skills to design and run automated tax information systems unavailable. Against this backdrop, representatives from resource-rich developing countries, the OECD, the IMF, the EITI and the World Bank Group gathered to debate measures to reduce tax avoidance in the extractive industries. For resource-rich developing countries to be able to efficiently address poverty and inequality, without accumulating unsustainable levels of debt, such debate must translate to radically expanded action. Aid organizations can and must provide sufficient funding and technical assistance for meaningful strengthening of administrative capacity, governance and oversight in relation to the extractives sector, while building on recent achievements on legal and regulatory frameworks. Political will to implement such changes needs to come from governments, as well as from companies that seek to level the playing field with respect to tax-avoiding competitors.

A strategic approach to communication and public consultation plays an important role in easing private enterprises' concerns regarding the introduction of a transfer pricing regime. It should be integrated into the project formulation from the outset.9 Introducing transfer pricing regulation as part of a wider investment climate reform package may also help ease private enterprises' concerns, ideally resulting in a focus on the positive aspects of the overall reform package rather than the increased compliance obligations that the introduction of a transfer pricing regime requires.

The importance of the tax administration in limiting any adverse impacts on a country's investment climate when undertaking transfer pricing reform cannot be underestimated. A country's transfer pricing legislation can be appropriately designed to minimize the compliance burden, provide a level of certainty and limit instances of unrelieved economic double taxation; however, this can be completely undermined by poor administration. For example, inconsistent and overly aggressive administration may increase uncertainty and compliance costs for taxpayers and result in instances of unrelieved economic double taxation, thus negatively affecting both the perception of the country's transfer pricing regime and its investment climate. Ineffective administration on the other hand may result in decreased tax revenues, if, for example, multinational enterprises assess the tax administrations' transfer pricing capabilities as lacking and adjust their transfer pricing policies accordingly. To prevent these undesirable outcomes from occurring, tax administrations need to engage in substantial capacity building and develop appropriate administrative policies and procedures before a transfer pricing regime is introduced. Only with appropriate training and experience can the tax administration be expected to make informed decisions and exercise discretion appropriately and consistently, thereby limiting uncertainty, instances of unrelieved economic double taxation and the imposition of unnecessary compliance costs. Capacity building should encompass training on transfer pricing and related international tax issues (including tax treaties); soft skills; and, where necessary, English language courses.

In order to limit instances of economic double economic taxation and to best achieve the dual objective of protecting their tax bases while maintaining attractive investment climates, countries base their transfer pricing legislation on the arm's length principle. Numerous international organizations and regional bodies have published general or specific guidance on transfer pricing and related topics (or are in the process of doing so) which can provide useful guidance for policy makers, tax administrations and taxpayers alike.

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