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This number of the scientific journal EUROMEDITERRANEAN includes the papers presented in English in the International Scientific Conference “South East Europe as a Common Market” organized by the Mediterranean University of Albania and EURAS.

The Plenary Session of the International Scientific Conference “South East Europe as a Common Market” organized by the Mediterranean University of Albania and EURAS took place at Tirana International Hotel (Balshaj Hall) on Saturday 14/3/2015.

The first part of the Plenary Session “The future of South East Europe” was opened by Prof. Dr. Anastas Angjeli, Member of the Albanian Parliament, of the Academy of Sciences of Albania and founder of the Mediterranean University of Albania.

Opening remarks were made by the Prime Minister of Albania HE Edi Rama, Prof. Dr. Felix Unger, President of the European Academy of Arts and Sciences, Dr. Mustafa Aydin President of Euras and Prof. Dr. Muzafer Korkuti President of the Academy of Sciences of Albania.

In the to next to panels “Fostering regional cooperation in South East Europe” and “Challenges of education in South East Europe” speeches were held by many participants including the Minister of European Integration of Albania Ms. Klajda Gjoshaj and the Vice Minister of Education of Albania Mr. Arbjan Mazniku, Dr. Joseph Mifsud, Dr. Ivanka Pavlova, Dr. Bashkim Rama, Dr. Muzafer Baca, Dr. Cristiana Cristureanu, Dr. Prasejnit Kumar, Dr. Veselin Vukotic, Dr. Nexhmi Dumani, Dr. Abdelhamid El-Zoheiry, Dr. Bülent Akarcalı.

During the second day of the Conference there Thematic Sessions of the Conference were held at the Mediterranean University of Albania. Over 150 participants from various Universities of the region presented their papers during the thematic sessions.

The conference dealt with issues of the economic and financial situation of the region, the post global crisis period, particularly in the Eurozone, the current and future challenges, the perspective of the regional development in the new economic approaches as well as the European perspective of non EU countries. Cases from all the countries of the region were taken into consideration, national experiences were compared and recommendations were given for deepening the regional economic cooperation, increasing trade and commercial exchanges between countries as well and intensifying the political and social dialogue among countries of the region.

RULES ON MAKING RESEARCH ON THE SPOT IN CASE OF SOME IMPACT EVENTS IN SOUTH EAST OF EUROPE

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ABSTRACT

Rules on-site investigation is composed of five goals, clearly defined by their purpose. First is promptness principle, because the conduct of research on the spot shortly after the act helps in finding and exploiting evidence that could be destroyed or suffer changes. The second rule is that of unique management for the research team. If team has more than one team leader operation may encounter some difficulties or the research may be superficial. So to avoid unwanted situations is very important for team to have only one leader. The third rule is that of objectivity investigation on the spot. This rule is not only about objectivity versus case, is about objectivity in search of evidence too, in case of failure it would create unpleasant situations, like failure in other principle too. The fourth rule is that of participation in an organized way on the spot. Methodically carrying out the operation in a sequence and definite order is mandatory in this principle. And fifth rule is that of effective use of vehicle technical-scientific forensic. Application of technical means to forensic crime scene investigation is one of the key factors that facilitate the effectiveness of this activity. Of course this activity is done only by specialists in forensic. For on-site investigation to precede smoothly these principles must be respected.

Keywords: *rules, investigation, spot, objectivity, operation.*

1. PROMTNESS

Making crime scene investigation without delay to ensure the discovery and recovery of material evidence of the crime before they are destroyed or incur changes.

The practice of the prosecution proves that the crime scene investigation delayed reduce the effectiveness of this activity, implicitly, the chance discovery on time and complete investigation of the crime.

In the case of violent crime (murder, theft, robbery) or accident, investigation of the crime scene operatively required and the need for research orientation of the offense, including the basis for, according to data obtained, the most real versions of the nature, circumstances and offender. Rule operability crime scene investigation is achieved by minimizing the time required to move the scene applicants and therefore depends on the level of organization of the prosecution.

Where there is a well developed system of information and coordination of competent state bodies in fighting crime which are established and operated a permanent basis, specialized teams able to move urgently on the spot, provided with transportation and having forensic necessary technical equipment, visiting the places the time aspect is usually flawless.

2. A UNIQUE MANAGEMENT RESEARCH

On-site investigation is a procedural activity to carry more people participating.

By law, crime scene investigation is made of the prosecuting authority. In necessary cases the person conducting the prosecution may call to participate in on-site investigation, a specialist on the matter. Place of research can be surrounded by enforcement of public order. External examination of the corpse to where it was found is of the prosecuting authority and with the participation of forensic medicine in judicial or other physician if unable to attend first. If necessary to examine the corpse attract other specialists. In some cases the criminal investigation leader of the research team includes specialist forensic research purposes due to the traces of the crime, technical specialist to investigate the scene of an accident. The team can be hired police officers with operational functions or law enforcement.

In extraordinary cases (homicide, catastrophic accidents, etc.) on site, can move people responsible subject (judicial police officer, prosecutor, head of the authority of research, government representatives). Validating the management and coordination of team members and others involved by a single person, single management principle research spot assign this activity an organized endeavor to avoid chaotic element in the work of research participants.

The person conducting the criminal investigation body not attend the examination of a person of the opposite sex if it is necessary to undress. In this case physical examination is done by a doctor. In the examination of equipment are prohibited actions that humiliate his dignity examined or endanger health. So in conclusion, it should be noted that unique leadership during the crime scene investigation requires fair organizing and conducting this activity from the very beginning to its end a person without replacing them.

This means that regardless of the number of participants in crime scene investigation and their departmental affiliation, the team first arrived on site and perform research begins after certain methods, procedures, directions, etc., due to his superior, one of judicial police officers.

The other teams arrived on the scene can then be included in the research only with the driver already organized and carried out the above-mentioned action. However, they meet the mandatory particulars of the person who runs crime scene investigation and will be included as part of the action given by the prosecution in the report, compiled the first team arrived at the scene.

Such a condition exclude several repetitions of the action data to the proper organization and conduct of research, avoid elements of chaos, disorder and superficiality in the work of the participants in the action, so important prosecution.

To ensure effective research, objective, and complete in all respects, except for high professionalism will help and some qualities of judicial police officer and spirit of observation, learning, attention, persistence and patience. Research hasty and superficial never helps uncover traces of the crime or the offender, but, conversely, only cause additional complications of criminal investigations.

3. OBJECTIVITY RESEARCH ON THE SPOT

Regarding the procedural activity in question, usually involves examining successively objectivity and consistent space where committed the act, all existing objects on the spot, face researched causally linked, categorically excluding subjective factor.

The criminal investigation must not subordinate the on-site investigation of subjective explanations of crime, versions that are necessary at first sight or were developed on the basis of unverified data. Moreover, it must be guided by all sorts of assumptions that usually coming from the people involved in research on the spot.

If the situation clearly requires development of certain versions of these are taken into account only to guide the work of law enforcement to carry out operational and emergency other research, such as searches, seizure of property and documents, listening to people, etc.

Conclusions on the nature of the offense, the offender's personality, how activated and other circumstances that are the subject of proof in hypothetical terms will be set only at the end of the activity, based on the analysis of the findings of facts existing at the moment of the crime scene.

4. CONDUCTING RESEARCH ON THE SPOT IN AN ORGANIZED

Provides coordination of the work of the research team members, conducting them methodically in a particular order and sequence.

Compliance with this rule is a prerequisite to proper conduct of the pleading in question, discovering evidence and other material means of proof.

The head of the criminal investigation must specify at the outset of their duties to each member of the research team, including those with operational responsibilities and security, and to coordinate their actions well planned. For example, in the event of theft by burglary, criminal police officers can be empowered with tracking tools used by criminals and stolen goods.

Forensic specialist will be responsible for raising and preserving the traces and objects bearing traces of the crime.

The technician will photograph or print videomagnetică scene tape, and tracks objects in space research.

All these activities will sort by the need to protect all, the possibilities of application of certain scientific and technical means proper forensic situation and of course, according to the two phases of research to spot the general observation and detailed research of the objects.

5. EFFECTIVE USE OF TECHNICAL AND SCIENTIFIC FORENSIC MEANS

The practice of the prosecution prove that the technical means to forensic crime scene investigation is one of the key factors that facilitate the effectiveness of this activity.

Using the technique of equipping judicial prosecution bodies, amplifies perceptibility and other traces of the crime as evidence, ensuring therefore the efficiency of research.

Scene preserves a number of changes in forensic latent known as the traces indivisible, such as their fingerprints, created by hand sweat absorbent surfaces (paper, cardboard), blood stains on surfaces with homogeneous color blood microumele textile, hair, additional factors of the shot, whose research is unthinkable without putting them out by technical means forensic illuminating devices, including invisible radiation, optical techniques to increase disclosure materials and conservation.

By interpreting scientific and technical specialists can provide some data of certainty or probability that the prosecution when doing research on the spot, they can use them to answer the following questions in particular:

a) Where the offense was committed?

The room that was ready, attempted or committed the crime of utmost importance in truth. In determining the space to place the offense lies in its exact measurement and especially in its storage using photography or film, an important role is forensic specialist.

Securing the crime scene sketch photo and drawing are also scientific and technical problems of interpretation of the findings of the forensic specialist site that provides accurate data judicial bodies, particularly precious.

With photo judicial forensic specialist is measured three-dimensional crime scene or trace objects discovered by the laws of geometrical perspective, applying mathematical calculations.

By using photogrammetry can achieve a precise outline of where the offense was committed.

The space in which to prepare, attempted or committed the offense of particular importance. Depending on the particularities of each type of crime committed, must find a convincing answer to the question why the offender has chosen or accepted only as a place to commit the crime, a certain area that, very likely, the same size, to be determined subsequently by the team for conducting research on the spot? It should be accepted that the perpetrators, at least for crimes committed with premeditation, show great care to understand where to conduct illegal activity, all going to assimilate and exploit every detail, which can be important. Also, in the case of offenses that premeditation is less noticeable or no question, place where the offense has its importance, should be regarded at least as an element or factor conducive to the offense.

Nature of the crimes allegedly committed, requires certain features to determine the place of the crime. The team once before and moved to spot will contact you found directly follow conducting criminal activity. In the investigation of criminal offenses which resulted in the death of one or more individuals, team, constituted for conducting research on the spot, will examine:

- the place where the body was discovered;
- has been suppressed where the victim lives or harmful action was performed, which resulted in death;
- where the death occurred;
- the place where the body was dismembered;
- the place where the body was stationed in so far as it was taken;
- the areas, adjacent room or portion of land where traces and as evidence that related to the deed.

In the research rape can examine:

- where the injured party was moored;
- route it had to follow, being forced by the offender;

- where it was hidden, arrested, immobilized, etc., to maintain sexual acts and / or after them;

- where the injured party was obliged to maintain sexual acts, where it tried to resist, etc. ;

- where were performed sexual acts;

- where they occurred, possibly track of maintenance sexual acts.

Researching theft or robbery is necessary to consider:

- places where there were stolen items - housing, offices, or places where it operates corporate, transportation, etc;

- access routes used by the offender to enter the area where they were to leave the property and place where the offense;

- the route that the goods were transported and which possibly perpetrator was chased by the police, the injured party or witnesses;

- where they were hidden assets and / or where to hide the perpetrator;

- where the injured party or other person become adjacent secondary passive subject, if the offense of robbery, was threatened, hit, immobilized and dispossessed;

- the route which the injured party has tried to flee to escape the aggressor;

- where the injured party was abandoned after committing the crime.

If damage caused by an explosion or fire, examination may concern:

- where the explosion occurred;

- where the fire started;

- the area in which acted blast and / or spread fire;

- doorways and that the goods are destroyed;

- places that can be discovered means to initiate fire or explosion production.

Knowing the place where the offense was committed, is a valuable clue to the correct formation of the circle of suspects. Since the case will be considered persons domiciled, resident or working in or near the surrounding area, people attending certain places in the area where they rendezvous with the people in your social circle vicinity of the place where the offense committed, etc., every time, special attention must be paid with a criminal past or likely to commit criminal acts.

In some cases, the place where the offense is an important milestone for the legal classification, the nature of which is related to special legal circumstances, often placing the issue of aggravation of punishment, namely the existence of a crime or a qualified forms of competition offenses. Although distinct sections, each category separately traces were analyzed reasons of interpretation, I consider it appropriate to give, and here some examples to be better understood and reasoning correlations specific scientific approach to

work investigation, with direct reference to crime scene investigation and its specific problems.

For offenses committed in that place is important for misleading the judicial bodies, the perpetrators are interested to remove as much investigation of this place, sensing the danger of association between this person and their criminal activity.

b) When the offense was committed?

Determining the exact time when the offense allows the judiciary to determine the other activities of the offender and enables them to remove Alibis which it relies for its defense.

Spot can find additional clues and objects, interpreting specialist who is able to provide accurate data about elapsed time, eg in case of air disasters, watch the aircraft was found at 3:12 p.m., and to determine precisely the moment when the disaster occurred, to appeal to the knowledge of specialists. The technical-scientific interpretation, they determined that time it locked clock coincided with the moment of impact between the aircraft and the mountain slope.

Accurately determine the period of time that criminal activity was performed appreciate that required by considerations:

- determining the possibility that a person could have committed the offense while avoiding the possibility of other explanations and interpretations arise, how they spent time in the critical suspects if they were seen at the scene or in its surroundings;

- determining if further offenses, the start time and the consumption;

- the tracing and activities prior deed, of the person injured, the incidents covered by it with other people, goods and values that you own or have the legal security in time of the offense, the state where he was, interests which watching them immediately;

- the possibility of eyewitnesses, who are people who naturally had the opportunity to be at the place where the offense, the period of time when it was committed, etc.

Time is the key element that is envisaged by criminals, next place when designing their alibi - that conjuncture with a central role in the defense filed by a person suspected of a crime, creates belief, leads to the idea that an offense may have been committed by anyone, except the true criminal. The perpetrator hurry - when anticipated that investigators will establish a link between the injured party, and he act that will cause them to include it in the circle of suspects - to make their presence felt in environments where there are more people who, if necessary, can confirm his presence. Try to stand out, often bravând useless,

even in dealing with law enforcement. It can perform some minor, then gives caught in the act, not just to be able to determine the presence of a certain time, and this with relatively clear boundaries, in another place, respectively, in the place where the offense which is investigating.

Age traces created in connection with the offense, should be considered for at least two major reasons, namely: establish the most appropriate methods of survey and examination on the spot and aim for surveys to be placed on discovered traces.

The time is particularly important for the legal classification of criminal conduct. Murder in the first degree of interest, to facilitate or conceal the commission of any crime, theft committed at night, during a disaster, infanticide - in which the killer must act committed by the mother immediately after birth - sexual offenses reported to age person; However, given by way of example, are dependent on time, the time of the offense. The causes and conditions that generated favored or influenced commission of one or another of offenses is circumstantial time when studied in the investigation of crime.

c) How committed the offense?

The answer to this question allows the judiciary to know how the perpetrator entered in the criminal field, as acted for the offense, the methods and means used, measures to mask the offense committed and the place where he went.

To establish the route of the offender and how the offender has an important role scientific-technical interpretation of the mechanism of formation of traces that can be left in situ by the perpetrator, the objects or means used to commit the offense.

The situation on the ground has often requires the application of more sophisticated means to detect weapons, tools, explosives or drugs hidden in particular, metal detectors, explosive and bodies of radiometers.

The determination of this issue requires a correct interpretation of the whole complex of traces, set in place the offense. As much interested in the notion of all or whole, can be accepted only in theory - as the perpetrator entered or entered instead of the offense; As has materialized in concrete criminal intention or what he did, what activities conducted in pursuing criminal purpose; how he secretly tried to hide the fact that measures taken to secure refuge - where were surprised - or to his defense before the judiciary; and so on Always something appears or appear, to be clearly linked to criminal behavior ACTION side.

The issue must be detailed in terms of importance that is given in the survey, analysis or how to how committed the offense in order to identify

the perpetrators and proving criminal activity in all its important aspects will be presented below, some considerations on notions *criminis ITER*, *modus operandi* and *saliens punctum*.

Iter criminis, in terms of notional is accepted as being, in fact, way, way, path, the path traveled by offenders in achieving the resolution of criminal judgment of the preparatory phase to the commission of the crime. It is recognized that the action criminal doctrine, as it develops, through several stages.

News reveals four phases of criminal action: phase of decision; acts preparatory phase; execution phase; consequences production phase.

- # *Of decision phase* is characterized by intense debate, perhaps fighting internally consciousness of a person who aims at the design and assimilation decision to commit a crime. An offense, as, indeed, any act of man, may begin as a concern, as a psychological process that develops: the thought, the idea that they can get some satisfaction committing a crime begins deliberation, take into account the advantages, disadvantages, risks; take the decision that, in principle, final, not, however, ruled out its corrosion - fear grind more than is acceptable - meanwhile appears greater satisfaction can often easier to obtain, etc.
- # *Documents preparation phase* is not necessarily mandatory, but most of the material or the execution of the crime involves training - procurement of data, information about the place, the people, the goods at the best time for moving action; often have procured weapons and other means, to be used to commit the offense or only be able to be used, as needed, for self-defense or to give more consistency criminal action. Without proper training, often can not conceive the transition to offense. Preparing facilitates and enables the execution, it is placed immediately after the decision is made and before the execution of the crime, can be analyzed, sometimes even as an act of execution.
- # *Execution phase* is perhaps the most important in criminal activity because, through them, the decision is made criminal. It is considered as a case in relation to the main result, socially dangerous offender sought appears in context effect. Enforcement may experience a certain amount of time until consumption. Depending on the length and complexity of the activities that make up the execution, to configure an entire reference system containing traces of committed, so that it becomes possible to discover, analyze and interpret them in order to identify the perpetrators and establish all relevant aspects for investigation. Not to forget the possibility of interrupting the execution, the withdrawal of one or more

- perpetrators, research gaining complexity accents difficult to predict at the beginning of the criminal investigation - the accuracy and rigor of the judicial approach, at least if the question is about important social values.
- # *Consequences production phase*, the last in logic and chronology conduct criminal proceedings is likely to emphasize, highlight the danger of social conduct criminal offending. Each result, which can be set a certain causal connection with work done by the perpetrators, acquires particular relevance in the investigation plan - first in its analysis of the cell or an end, but of course beyond.

There are one or more persons and a purpose, and among them, there is something clearly determined and shaped in plan real criminal conduct. On the surface, it could be said that the *modus operandi* has its place can be found between the two parts - one as a starting point, another, as your destination. I appreciate that person, purpose and conduct constitutes a quadratic unit that the power connections through the synergy that characterizes the action of its components can not be divided. Man assimilates everything, need not abstract, but human action can be mechanical, but not necessarily humanized aim also is unreal, is subjugated human, must match, if only to project human need. Clearly this one, considering that occurs with objectivity, take account of human nature.

The investigation is based on the traces created and determined directly by the behavior of the offender. All, seen in the widest sense of the term, are impregnated with individual elements specific to each person individually, and not just in terms of its identification, but completely private, in terms of explaining all sides act. Of course, it is very important to establish the identity of the perpetrators, but, equally important, must accept it and determine the criminal action, concretely, what did the perpetrator in the field offense, to achieve the goal.

Punctum saliens or minutiae, is the element that customizes a mode of operation. Perhaps here is helpful to understand how operating in a similar way to that in which we accept a popular creation. There are, in theory, need to do something. It devised a way to achieve this, a so-called know-how, which is assimilated, while several people interested in achieving. Each of the persons that will use the same operating an offense assimilating operation, instinctively, if not consciously try, on the one hand to improve, customize it, or rather, customize it so that it adapt to personal characteristics, both physical and psycho-behavioral ones. That result of this adaptation is the mode of *punctum saliens*.

d) Who committed the offense?

Keeping traces offense, perimeter that you will keep investigating team, first traces participants. If the material mode of operation, the bridge with research on the spot, in the narrow sense, it is, first, the traces of the tools used by participants in the crime, here and now, as the opportunity to discuss with priority on itself traces of the human body. Observation must be accepted with reservation, since the mode of operation and clarify the issue, as, in fact, the entire judicial approach, aims, perhaps above all, identifying the perpetrator. There is no question of a priority or a direct link between a specific category and absolute trace and solve a problem, but rather, affinity, work practice emphasizing a particular priority - the discovery of traces of a category is associated with, the automatically with a specific problem.

Making illegal activity entails in terms of psychological experience of emotional tensions particularly intense, concrete actions of perpetrators in the crime field, influenced by various factors such as: lack of time, the unpredictable, the resistance of the victim, meet obstacles, not contemplated in the preparation of the crime, etc., which generates experience a sense of fear and precipitation, resulting in decreased alertness, negligence or even with behavioral crises. It is a fertile ground for the emergence of valuable evidence for investigation, the perpetrators left the body, clothing items, shoes and other accessories worn when committing the crime in the criminal field. We must not forget the trail position, presence or absence of evidence that could be made compulsory as a result of their activities at the scene.

Interpretation appearance of the crime scene, corroborating pluridisciplinarity elements lead to the establishment of May relevant elements of identity of persons Involved in the offense. You do not have outbid the Importance of Another aspect over. Every detail can be important, and the environment is a whole person, There is an interdependence Between the two elements. Man turns environment Often Creating a new reality consistent with the temperament, skills, abilities, Its own way of being. Environment, in turn, enhances human action, intensity of feelings and desires shape Creates Needs Them and offers ways of meeting. Accordingly, once Deployed on-site Investigation Will observe, analyze and interpret Every detail, seen both Independently and the entire system, Which is integrated perimeter, Which is operating.

Irrespective of the method is essential to establish, in fact, determine the identity of the perpetrator based on the characteristic elements of the crime scene, operating with notions such as:

- collection and evaluation of primary data;
- the offender profiling - the accumulation of data on the offender's background, education and culture, physical and behavioral characteristics;

- consistency interpersonal social behavior - concerns the possibility of a link between behavioral characteristics in the course of criminal activity and manifested in the behavior nocriminal, in ordinary life, from how the offender relates to people in your social circle and those in a way or another participated in unlawful activity;

- characteristics crime - are considered likely to provide different types investigators most likely characteristics of the offender and thus of its actions is similar to what is known in classical doctrine notion of mode of operation;

- criminal past - it is an analysis of the perpetrator's criminal experience on which they obtain important data to complement the operation;

- alert forensics - somewhat paradoxically are considered here offender knowledge on techniques, methods, technologies, etc. they use or have them handy investigators to investigate the case. Such assessment shall consider establishing opportunities for the perpetrator intended to hinder research in the idea of escaping liability;

- profiling victim - try linking peculiarities, strengths and weaknesses, etc. the victim and the perpetrator person. It evaluates the compatibility, attractiveness of the victim.

e) Why was the offense committed?

Science criminal procedure iterates as interest, in the field of mobile legal categories and purpose. Being characteristic of voluntary human motive and purpose constitute a psychological element that contributes to the decision to act in a certain way and to boost the will to carry out the decision, both for socially useful activity and in that of antisocial activity. If the motive makes it to appear in consciousness perpetrator need some activities that leads to satisfying internal impulse goal requires clear representation of the result of that activity.

Important for investigation is to establish that reason, that reason, the offender took the offense. Judicial practice attaches great importance of linking individual participants illicit activity and its consequences. Relations within this quadratic are necessarily complex.

Rational behavior is that every act has a justification, the individual acts in one way or another, depending on and achieve goals - when actuated occurs under specific pressure treatment penal this becomes pregnant.

An offense involves a problem, otherwise behavior would be sublimated and boosted the limit of society, would not exceed the so-called criminal threshold. When the problem develops to a certain level, it becomes possible not to be a reason, a reason to act behavior - at least in common, supported in social - or if you persist, it is in the range irrational becomes stupid , bizarre,

etc. The act is devoid of meaning getting current sense only in a value system governed sick connections. For example, if a murder were used to suppress the victim's life, means and methods common to reach a high of individuals; the victim was not involved in conflicts or tense situations to escalate; following the death of the victim is found a situation favorable for economic or other reasons certain individuals - they will become the obligation, suspects and, certainly, in turn, will be identified criminal hand. In the same situation, lack of interest - favorable situation - the situation gets out of control, no one seems to no longer understand anything, and if, in conjunction with the deed can not be established presence in the area of an individual with severe psycho-behavioral, there likely to remain with the author unidentified murder.

In conclusion, the technical means that contribute to setting objective forensic crime scene and research results.

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NEW INSTITUTIONAL ECONOMICS AND ECONOMIC DEVELOPMENT OF THE REPUBLIC OF KOSOVO

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ABSTRACT

The purpose of this study is the analysis of the new institutional economics, according to parameters and criteria that will be reviewed to determine the developmental aspects of the Kosovo's economy, especially those parameters that affect the growth and economic development, as: free movement of capital, contract enforcement, information costs, risk transfer costs, free competition and its application in practice. Economic growth and development implies a very complex and multidimensional process, in which influencing many factors as economic, technical and technological, institutional, geographic, demographic, political, social, cultural, etc.. Newest development theories emphasize that economic growth depends on political institutions and their capacity to define in a more clear and acceptable way its common goals. Given the political dimension of the capacity of the state, certainly should be considered also institutional approach of development i.e. political dimensions of the institutions that support economic development. Selection of these criteria does not mean that the existing criteria of the new institutional economics are exhaust from the point of view of accelerating the economic growth and development of the Republic of Kosovo in future periods.

Keywords: *new institutional economics; economic thought; economic development; transaction costs; property rights*

1. INTRODUCTION

Contemporary theory of economic development has broadened our knowledge by explaining of why some countries are rich and other countries are poor, by analyzing institutions, namely the norms of behavior that enable the acceleration of economic growth. Within the new institutional economics, the institutional aspect of economic growth increasingly is being treated, and particularly the origin of some institutions. What are those institutions that accelerate economic growth, and which are the ones that slow the economic growth? Why in some countries have been created certain institutions that bring higher efficiency, and in some other countries institutions have much lower efficiency? These questions and dilemmas, respectively the research to find answers to these questions, in recent years are bringing more and more together the economics science with the justice science.

A well-regulated legal system in a country represents a value for both, economists and lawyers, but their motivation up somewhere is different. Lawyers, view the system as a value of its own, while for economists such a system has institutional value, since such regulation ensures maximizing economic efficiency and social Welfare. At first we must emphasize that the current institutional environment is not suitable to sufficiently affect the proper and adequate acceleration of growth and economic development.

For states that are under transition period, representatives of this field present and provide adequate proposals that will affect the acceleration and strengthening of institutional innovation, which in the short term will provide an efficient legal system, an efficient competition law, consumer protection and an effective regulatory system that will affect the creation of a safe and sustainable financial system.

Key terms on which the new institutional economics relies, are: institutions, economic development, capital, contracts, etc.. Within this concept are presented different dilemmas: why some countries in a successfully and highly efficient way are organizing their economies, while other countries are failing to realize the growth and economic development, or achieving an insufficient economic development that does not provide demographic investments? Numerous authors are arguing that the answer to this question is primarily determined by the importance and the role of the institutions in the economies of these countries.

2. NEW INSTITUTIONAL ECONOMICS AND ECONOMIC DEVELOPMENT OF KOSOVO

Because of the very specific and serious past, and also very long delay in the process of transformation and transition, the economic development and new institutional economics in Kosovo, according to almost all development indicators has significantly stagnated in comparison with the countries of the European Union and Western Balkans (*Based on public institutions index, which is estimated by The Global Competitiveness Report. Kosovo is not on the list of countries analyzed, but the Western Balkan countries have a lower ranking).

After World War II onwards, within the theory of economic development are profiled mainly two economic concepts, the first, the traditional concept of economic development that emphasizes mainly the primary importance of the state as the initial instigator of the development processes and secondly, neoclassical concept that emphasizes the crucial role of the market, prices and different stimulants of economic development.

After the destruction of the socialist-centralist system, almost on all former socialist countries has dominated the neoclassical concept, where all states of the region, as well as Kosovo after 1999, were treated by centralist-planning virus through transitional standard package. This transitional package was based on the principles of the Washington Consensus, which is prepared on the basis of the neoliberal model of economic development and the same was strongly supported by the IMF and World Bank. This model in most transition countries was based on the full operation of the free market, to which is achieved through rapid and massive privatization. Recent years many experts and representatives of new institutional economics emphasize that the models that offers the neoclassical school of economic development, noting hypothetically that production, economic growth and the differences between industrial countries and developing countries can be explained by focusing on basic elements (resources), technology and preferences are not sufficient for good and efficient economic results.

Neoclassical theory in most cases was an inappropriate tool for analyses and for determining economic policies that will promote efficient economic development. Relying on efficient markets to foster efficient allocation of the vast majority of resources, the neoclassical economics does not reflect many institutional requirements of particular importance to enable the creation of such markets, calculating that rational decision makers in certain markets due to the action of the information, will improve their previous decision,

if the same is proved to be wrong. This is further strengthened also by the conclusion of one of the most prominent scholars of the modern economy, Stiglitz, who points out that "Self-regulating market is not able to respond to these requests. This was confirmed by the contemporary economy, in which in the period of dominance of the free market - market fundamentalism, the state has supposedly saved many times the self-regulating apparatus of the financial system, eventually the financial collapse in 2008" (Beroš, 2013).

Long dominance of neoliberal concept, in most cases regarded as a withdrawal of the state from the economy, as well as reducing the political and institutional capacities in order to implement the control of economic processes. Typical neoliberal formulas in most transition countries are implemented through the full liberalization of financial markets, liberalization of the labor market, complete removal of restrictions on flows of goods and capital, increasing the participation of foreign capital, privatization of the public sector, and a restrictive financial and monetary policy.

But, on the other hand, is emphasized that efficient markets are a function of institutions that enables measuring and enforcing contracts with as less costs, ie. as low the transaction costs are lower, so and markets will become more efficient (Shavell, 2009, p. 291-330).

Understanding the institutions can be defined that institutions are the system of established rules and the social dominant rules that structure the social interactions. In most cases, institutions as a term is used in the sense of defining the organization as Ministry, state agencies, administrative bodies, universities etc., but in this treatment will be used in a slightly different meaning. The impact of institutions on economic development can be determined after determining the two meanings, (1) that institutions are important for economic development and (2) that the analysis are possible through the economic theory instruments.

3. THE IMPACT OF INSTITUTIONS ON ECONOMIC DEVELOPMENT

Institutions are essential for economic development, which help explain market failures and provide explanations for the role of the state in the economy. Institutions consists of formal constraints, such as constitutions, laws, rules, property rights etc. and informal constraints, such as the code of conduct, agreements, self-imposed rules of conduct etc. (North, 1994, pp. 359-368).

Measurement of institutions includes: measuring the quality of institutions, social capital, social and political features and political instability. Numerous researches made in this field have verified that the quality of institutions and

social capital have positive correlation with economic development, while social features and political instability have negative correlation, while for the political features of institutions is not defined the significant interdependence in relation to economic growth (Aron, 2000, pp. 99-135).

If institutions are defined in such a way that will stimulate the economic activity and increase productivity, then this institutional arrangement, indirectly by allocating the resources, will stabilize the economic growth. Productivity as a ratio between inputs and outputs of production will increase if achieved to reduce overall costs, transactional costs and transformative costs. The first, relates to the measurement and enforcement of contracts and the second is related to the physical costs of production.

Transactional costs are reduced through institutional changes, while transformative costs are reduced through innovative technological change. Institutional and innovative changes affecting reduction of transactional costs (and with it also the increase of productivity, and in the last instance in the economic growth) are those institutions that enhance the movement of capital, reduce information costs, reduce the costs of risk transfer, and increase the efficiency of contract enforcement.

Building genuine institutions that enable and stimulate the free movement of capital, gains even more importance due to the law of the tendency of the rate of yields to fall and simple account that in a country where there is more capital in proportion to the number of inhabitants, capital yields will be decreased. Since the lack of capital in developing countries affects and is reflected in increased yields of capital, then increased of its movement is crucial (Stiglitz&Driffill, 2000, p. 741).

The development of the capital market and the ability of the market to more efficient allocation is a key precondition for meeting the previous criteria. Although the free movement of capital and investments (including individuals, goods and services) is guaranteed by the Constitution of the Republic of Kosovo (article 119.2 dhe119.6), this is not happening during these years, primarily due small market that Kosovo has, no confidence of the population, the lack of public information, the non-existence of adequate legislation etc. (capital market in the Republic of Kosovo was opened for the first time in 2012 with Regulation of Ministry of Finance-CBK no. 01/2014 for the primary and secondary market securities of the Government of the Republic of Kosovo and over the years many auctions were held with the participation of primary stakeholders, but turnover is symbolic and with very short maturity).

4. INSTITUTIONAL ENVIRONMENT, RISK TRANSFER AND CONTRACT ENFORCEMENT

The institutional environment appears also as a constraint to successful management. Informal institutions, in most cases in different analyzes are taken as input and provides the institutional space in which they operate, such as customs, habits, traditions, norms, cultures etc. But, in this case also the religion is of particular importance. This level of informal institutions is often outside of the economic and political scope.

The institutional environment that occurs through formal institutions is the first level of economization that should be changed as soon as possible, while the management, dealing with the last unit of economic action and it is the transaction. At this level of reality, in the practical way is reflected functioning of the social and economic system. Often times, since also the actions of formal institutions are not perfect and free of charge, participants in the transaction are oriented in a private and alternative solution aiming to resolve the dispute and that in the form realize mutual benefit (notary services, private bailiffs, arbitration, bankruptcy administrators, etc.).

In most cases, changes in institutional environment are developed more slowly than changes at the management level. An institution to change in general, it is not enough to change only the formal rules, which is in the state authorities responsibility, but should also influenced in informal rules, which are created according to the specific logic and dynamics, but on the other hand, should not left aside the application of these rules.

Demands for the efficient economic institutions cannot be created timely, which largely confirms the continuous demand for this type of institutions in the Western Balkans countries and their very fragile success in creating these institutions. Many of these countries for years are waiting to put the adequate policies and transform existing institutions from which will benefit their citizens.

The main sources of institutional change according to Douglas C. North, are relative price changes and change of preferences (North, 1997).

In the period so far in Kosovo, the international community on numerous occasions, by wanting to change the parallel inherited institutions or those created in the last decade of the 20th century, they often have used the mechanism of relative price change (through the blocking or permitting of economic aid or donations, or through setting conditions for membership in regional or global organizations), or some decisions that were in full competence of local institutions, but that cannot be implemented by them. In the event that local decision makers would not agree fully with the international community

requirements, according to this logic, this approach would have a limited success. Changing the formal rules (laws) is the ultimate goal of approach of changing the institutions. But on the other hand, to make this policy effective, special attention should be paid to informal constraints and enforcement mechanisms. Since 1999, Kosovo was administered by UNMIK, while the Self-Government bodies and the Parliament had limited competences, while The Fourth Pillar of UNMIK was the main decision-maker and responsible for increased economic development. In 2002, it founded the Kosovo Privatization Agency (KPA), where its primary duty was the privatization of socially owned enterprises, in which process and decision-making on the KPA Board, the dominant role have had the international representatives.

From the perspective of economic policy, it can be said that the process of institutional change is greatly under the influence of force structure between different groups of interest, then the cultural and religious tradition. These factors depending on the proper orientation of actions can influence that certain institutional rules more easily be accepted. As stable institutions can be considered only those institutions that have the support of the whole society, which often can hardly be achieved, especially in the Western Balkan countries, in particular in the Republic of Kosovo, in which the ethnic divisions still remain very pronounced.

Risk transfer costs in different transactions can be very high, if it is carried out only by one subject or contracting party. For this reason, the importance of developing the capital market consist on the intention of diversifying the risk in smaller portions and extending to as many entities or participants in a certain market. Risk of fire and costs of insurance from possible fire, e.g. to a person (landlord) will be very high, if he as a person will cover the whole eventual costs. But, with the purchase of an insurance policy against a possible fire, he will share the possible risks and costs with another market participant, which in this case is the insurance company. Presentation and distribution of risk in the capital market usually takes place through the Joint Stock Companies.

Developmental projects, the construction of manufacturing facilities and projects of new lines within the existing production capacities are expensive and quite risky, and on the other side it has no sufficient guarantees that through market participation will be achieved safe return from the invested funds. This is the main reason, and also most individuals do not have sufficient funds but also the courage to face with such a project. But when a big investment, is distributed in larger numbers of individuals (Shareholders), then the overall risk will be shared between the shareholders, but also the incurred costs will be easily covered.

Cases dealing with risks, the economic theory puts them in direct relation

to the development of the capital market, in which case the rapid development of capital markets would enable the highest level of risk management, and the opposite. Faster and efficient implementation of contracts, resolving business disputes, etc. does significantly influence the investment decision-making. Judicial system of the Republic of Kosovo is not currently providing a quick and efficient resolution of business disputes, for various reasons, such as inefficient processing of cases, primarily due to the accumulation of many cases from the past decade that have not yet been resolved, inadequate management of courts and prosecutors' offices at different levels, lack of professional staff with adequate experience in economic and financial fields etc.

Freedom is not only the basis of assessment of success and failure, but is also a key determinant of individual initiative and social effectiveness. The alternative of strong enforcement of the law is the existence of mutual trust and mutual separation of responsibility and commitment (Sen,1999, p.39).

Preservation and enforcement of contracts often have been exacerbated or prevented in situations where the morality of the market and the business confidence are dysfunctional and nonexistent. Viewed in the long run, the state should engage in more extensive promotion of these two "business values" that are part the informal institutions. So far in Kosovo is still not provided any measure of social values that will be supported by the existing political system.

5. CONCLUDING REMARKS

Institutional innovation, in terms of establishing more efficient and effective institutions, can only be done if there is support of the whole society, but given the limitations set forth in Kosovo, as possible change of the Constitution, some laws and other internal and external restrictions, the achievement of this goal in Kosovo is very difficult. In what form the support should be created for the establishment of these efficient, consistent and stable institutions?

New institutional economics elaborates that the way to achieve this goal has to do with action in informal institutions, affecting in various measures to increase the trust in institutions, and this goal can be achieved in two ways: first, the continuous explanation of the mutual interdependence of personal and common benefits, and their indivisibility to all citizens of Kosovo, and secondly, on increasing the costs for the negative impacts of certain individuals or groups of interest in the stability of institutions.

In relation to the formal institutions, the responsibility of every Government should be building institutional infrastructure, i.e. providing of efficient legal system, effective laws in all segments of society, efficient

regulatory system that would ensure a safe and sustainable financial system.

Some key indicators of the state of the Republic of Kosovo institutions have a tendency of a slow improvement, but at a lower level compared with other Western Balkan countries, such as protection of property rights, legal certainty and guarantee of signed contracts, protection of intellectual property rights, guaranteeing free competition, consumer protection, burden of state regulatory, etc.

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TRANS ADRIATIC PIPELINE AND OPPORTUNITIES FOR THE DEVELOPMENT OF THE ALBANIAN AND REGIONAL GAS MARKETS

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ABSTRACT

From a self sufficient power producer Albania has been transformed into a net importer since year 1998 and security of supply still remains a challenge. Several efforts to diversify the sources of supply have been faced with the need of significant investments and difficulty to recover them. The choice of Trans Adriatic Pipeline (TAP) in year 2013 as the winning project amongst Nabuco, IGI and SEEP constitutes a real opportunity for the development of the natural gas market in Albania and the whole South Western Balkan region.

The EU "third energy package" reforms the respective power and gas sectors with the aim of developing competition via third party access for the benefit of power and gas consumers and enhancing the security of supply. On the other side infrastructure investments are significant and can be discouraged by heavy regulations that makes exemptions a necessity. Albania as a Contracting Party of the Energy Community is now in the process of transposing the third Directive into the energy sector legislation. However prior to this the Albania Energy Regulator jointly with the Greek and Italian energy regulators took the decision of third party access exemption for the TAP project. The decision enables the TAP business case as well as the development of local markets in line with the new EU gas market model. The paper aims to provide details on how the decision has handled all these aspects.

Keywords: *Natural gas, Albanian natural gas market, third party access exemption, investments*

1. INTRODUCTION

Even though the fossil fuels are the primary sources of the CO₂ emissions that are held responsible for the climate changes, they are expected to remain for a long time yet the main energy supplier of the human activity. All fossil fuels are polluters, but the environmental pollution caused by natural gas is much lower than coal and oil. For each unit of energy delivered, natural gas generates 30% CO₂ emissions less than oil and 45% less than coal. Natural gas prices are also cheaper than oil. Use of natural gas and renewables have the highest growth among other forms of energy. [3]1

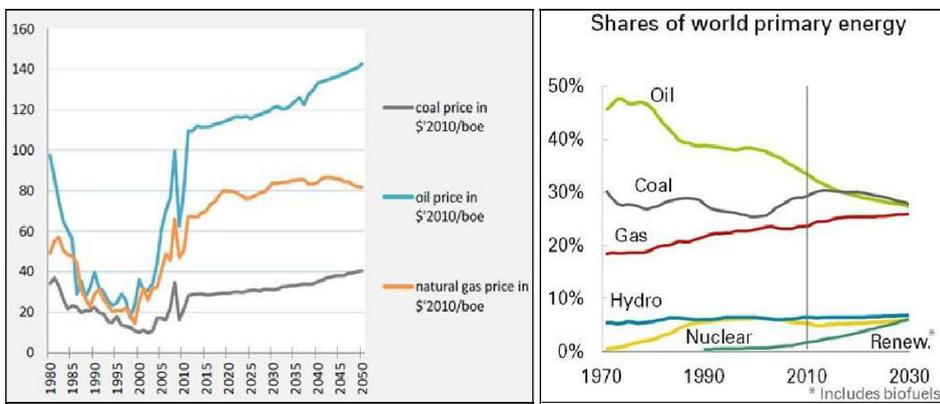


Figure 1. Fossil fuels prices fluctuation and the worldwide share of the primary energy resources (Source: BP Enegy Outlook 2012)

The worldwide-proven reserves of natural gas are estimated to be 187.3 trillion (10⁹) NM³, and based on the current annual world consumption, they can last for approx. 55,76 years. The largest gas fields are located in the Middle East and Russia [4].

Table 1 Natural gas reserves distribution and fluctuation in time (source: statistical_review_of_world_energy_2013)

Region	By the end of 1992 (10⁹ M³)	By the end of 2002 (10⁹ M³)	By the end of 2011 (10⁹ M³)	By the end of 2012 (10⁹ M³)	% of Total	Ratio Reserves/Yearly production
North America	9.3	7.4	11.2	10.8	5.8%	12.1
Central and South America	5.4	7.0	7.5	7.6	4.1%	42.8
Europe and Euro-Asia	39.6	42.1	58.4	58.4	31.2%	56.4
Middle East	44.0	71.8	80.4	80.5	43.0%	> 100.0
Africa	9.9	13.8	14.7	14.5	7.7%	67.1
Asia and Pacific region	9.4	13.0	15.5	15.5	8.2%	31.5
	117.6	154.9	187.8	187.3	100.0%	55.7

The efficiency of use and the lower price make the use of natural gas particularly attractive to the residential sector [6].

Due to its lower negative impacts on environment and the abundant reserves, the natural gas is considered as the transitory fuel from use of fossil fuels towards clean and renewable energies. Fukushima nuclear accident contributed to an increased importance of natural which together with a number of other developments have led to the so called “golden period” of natural gas. Currently natural gas covers 23% [7] of the primary worldwide demand and until 2030 it is foreseen to increase up to 31%.

By taking into consideration all the negative environmental impacts of the fossil fuels, the EU adopted in 2007 the “Package on Climate and Energy” aiming to reach by 2020 a reduction by 20% of the greenhouses gas emissions, an increase of energy efficiency by 20% and an increase by 20% of the power generation by renewable resources. Even though the financial crisis of the last years has highlighted new priorities, environment remains a primary focus for

the EU. Its long term objective is to reduce the greenhouse gas emissions by 80-90% in year 2050 versus year 1990 [8].2

The use of natural gas in the EU has significantly increased reaching 25% of the fuel mix in 2010 while the trend remains positive. The main consumers of natural gas are the power generation and the residential sector (*shown in the Table 2*)

Table 2 Primary energy resources and natural gas main sectors of utilization in EU-27 (Eurostat)

EU-27 Energy Consumption by fuel (%)				EU-27 Gas consumption by sector (%)	
Fuel	1990	2000	2010	Sector	2009
Natural gas	17.8	22.8	25.1	Power generation	37.4
Solid fuels	27.2	18.6	15.9	Industry	19.9
Oil	38.0	38.3	35.1	Transport	0.6
Nuclear	12.3	14.1	13.5	Services	11.3
Renewables	4.2	5.6	9.8	Households	30.9
Other	0.4	0.5	0.6	Other	-

2. EU POLICY OF DIVERSIFICATION OF SOURCES OF SUPPLY

The energy crisis caused by the interruption of the natural gas supply in January 2009, due to Russian-Ukraine conflict, followed by supply difficulties during the strong winter of 2011-12, and the uncertainties of security of supply, have led the EU to make the diversification of its sources of natural gas supply one of its main strategic goals.

The Caspian area (Turkmenistan, Azerbaijani, Iran and Iraqi) constitutes the richest part of our planet of proven natural gas reserves. Western Europe, one of the largest consumers of natural gas, is located in a favourable geographical position that makes possible its direct connection with this region via large diameter pipelines that remain competitive versus LNG.

Out of four projects; ITGI (Interconnector Turkey-Greece-Italy), TAP (Trans Adriatic Pipeline), Nabuco and SEEP (South East Europe Pipeline) that

were part of the competition for the transmission of the natural gas from Shah Deniz 2 toward EU, the Trans Adriatic Pipeline project resulted the winner being the most feasible one. On December 17th 2013, the process was finalized by signing all necessary agreements. Trans Adriatic Pipeline, which passes through Albania, will be part of the infrastructure that will transmit the natural gas from the Turkey-Greece border to Italy.

3. EU ENERGY AND NATURAL GAS MARKET REGULATION

During the last decades, European Union has undertaken a deep transformation of the power and natural gas sectors, aiming their liberalization and promotion of competition. The aim of the reform is to create an open and competitive market in which commodities are deliberately exchanged between the different actors of the market. The reform has been embodied in a number of directives approved by the EU parliament, primary for the electricity sector which are followed by the natural gas sector. In 2009 the EU approved the Directive 2009/73/EC and the Regulation EC/715/2009, otherwise known as the third legislative package on energy. The scope of the reform is to create equal opportunities to all actors in the market and to promote the competition. Its main mechanisms include:

- Ownership unbundling of the vertically integrated undertakings into separate and independent companies dealing separately with either upstream activities, or transmission or distribution.
An undertaking performing any of the functions of production or supply cannot directly or indirectly exercise control or any right over a transmission system operator.
- Unbundling of transmission system owners and storage system operators
- Secure third party access. Only the removal of the incentive for vertically integrated undertakings to discriminate against competitors as regards network access and investment can ensure effective unbundling.
- Strengthening of the authority of the regulatory authorities for market functionality based in the transparency, equality and non-discrimination principles
- Enforcement of 10 year network development plans for TSO's and DSO's.
- Establishment of a single gas market between the Member States and promotion of exchanges with non-member countries.
- Adoption of Network Codes for the EU integrated system.

Part of the third package is also the creation of institutional structures such as Agency for the Cooperation of Energy Regulators (ACER), aiming to coordinate the activity among the EU energy regulators.



Figure 2 Natural gas transmission system in EU and the TAP project pipeline (red), Nabuco pipeline (blue) and South Stream (yellow) (<http://www.entsog.eu/mapsdata.html>)

Albania is a member of the Energy Community whose main goal is the adoption and implementation of the *Acqui Communautaire*² in the field of energy by all its Contracting Parties. Albania has recently adopted the third package for the electricity sector and is now close to doing the same for the natural gas sector too. The new draft of The Natural Gas Law consists mainly on a transposition of the requirements of the Directives 2009/73/EC and the Regulatory EC 715/2009.

In compliance with the regulatory 715/2009/ (EC) [9], all Natural Gas Transmission Operators of the EU member countries but not only, are already members of the “European Network of Transmission System Operators for Gas (ENTSOG)”. For Albania, the unbundling of Albpetrol and establishment of an independent Transmission Operator System development of its own capacities is of primary importance.

² EU legislation

4. IMPORTANCE OF NATURAL GAS FOR ALBANIA

4.1 ALBANIA'S ENERGY NEEDS

The relatively high pace of economic growth of the last two decades have been accompanied with a continuous increase of energy demand at an average level of 2% per year.

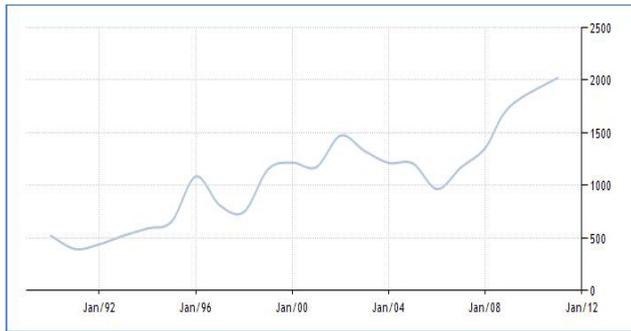


Figure 3. Albania Electricity Consumption kwh/capita/year (1990-2011) Source: <http://www.tradingeconomics.com/>

In addition, since year 1998, Albania has also become a net importer of electricity. The only exemption is year 2010 due to the unusual high rainfall of that year. In the absence of investments to construct new power generation capacities, the imports have been constantly increasing. The domestic production is based almost 100% in hydro and remains therefore highly exposed to rainfall.

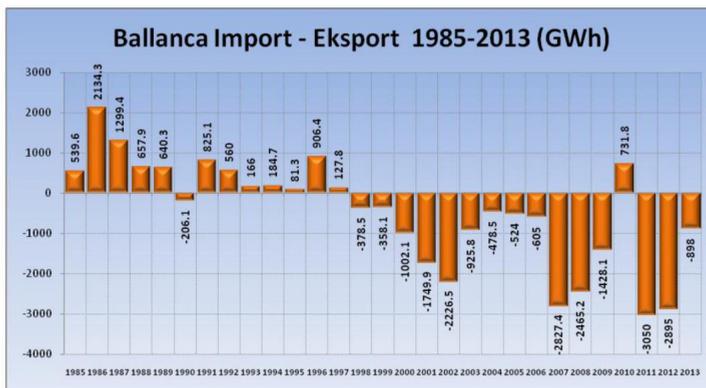


Figure 4. Power import-export balance for the period 2002-2011. (Source: System Transmission Operator (OST), ERE Annual Report 2013).

Such reality has made evident the need for the expansion of the import capacities of the power interconnection lines with the regional network as well as construction of new base load domestic generators like TPP.

4.2 NATURAL GAS SECTOR HISTORY

Natural gas production in Albania (associated gas not considered), began in 1968 after the discovery of Divjaka gas field that had an average annual production of 70,000,000 NM³/year.

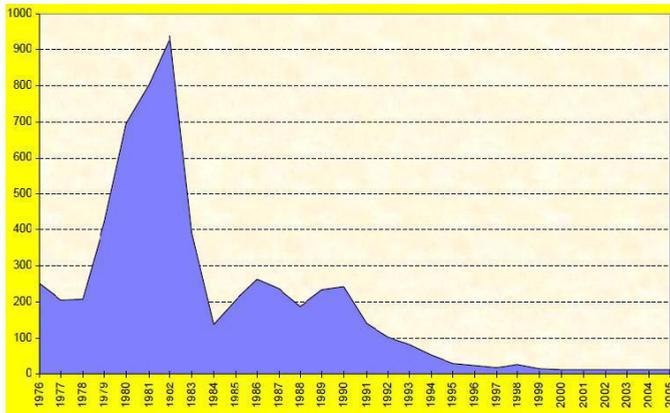


Figure 5 Historical production of natural gas in Albania (source Albpetrol)

The country's maximum production was reached in year 1982 with 937,000,000 NM³/year, while the cumulative production is at the level of 3 billion NM³. Out of a total of more than 500 wells drilled for gas, currently only 20 are still producing at very low yields (200-300 NM³/day). The annual production remains only 20 million NM³.

The main consumers in the past were; the chemical industry (Azotic and Urea-Fier), TPP, Oil refineries, steel factory of Elbasan etc. The depletion of existing gas fields and the lack of interconnection with neighbouring gas networks caused the extinction of gas related industries in the city of Fier. A limited amount of gas has been used in the residential sector in the cities of Kuçovë and Patos.

Albpetrol, the public Oil & Gas Company, inherits nearly 400 km of pipelines and other gas installations. The system is in very poor technical conditions and its maintenance and development is not encouraged by the low level of natural gas production.

Recently, another potential source of gas supply for the Albanian market has been announced. It consists of a new gas field discovery next to Shpiragu Mountain near Berat. The first news have been announced as very promising but its development would need a few more years until production starts.

4.3 NATURAL GAS DEMAND

The first and most evident consumer of natural gas in Albania is the Thermal Power Plant (TPP) of Vlora. Its construction has been completed since year 2010 with an initially installed capacity of 97 MW that can be expanded up to 300 MW. It can run on diesel D2 as well as on natural gas. Due to some technical reasons in the cooling system but also due to high cost of D2 diesel, this plant is not functional. Natural gas that could make its power production more attractive is not yet available.

Its gas consumption for the already installed capacity of 97 MW, working in base load, can reach up to 130,000,000 Nm³/year. If the capacity expands to 300 MW then its consumption can reach up to 0.45 BCM/year [11]. Vlora's TPP has been identified by a number of studies³ [1], [11], [15], as one of the main "anchor loads" that will contribute to the feasibility of the so called Gas Ring of the Energy Community.

There is also a wide range of other potential natural gas consumers in Albania that includes: Steel factory of Elbasan, Cement factories, Fieri TPP, industrial area of Durrës-Tirana, EOR methods in existing oil fields of Albania, oil processing and refining in the region of Fier-Ballshi, shift of current consumers of LPG to natural gas etc. The current consumption of the LPG in the SME's and residential sectors is over 100,000 Ton/year (approximately 115,000,000 NM³/year⁴).

A more careful assessment of the natural gas demand needs further research and will be the subject of the current gas master plan study, expected to start very soon with the support of WBIF⁵. At the current level of information and analysis, a rough estimation of the initial gas demand can range between

3 "South East Europe Regional Gasification Study", Economic Consulting Associates, Penspen, EIHP. 2008. This study emphasizes the need to construct at least 2000 MW power generation capacity in the whole western Balkan region. Such anchor loads will need an annual consumption of 2-3 BCM/year.

"Development of Power Generation in South East Europe: Update of Generation Investment Study". 2007.

4 IGU Natural Gas Conversion Guide

5 Western Balkan Investment Fund

0.2 - 0.4 BCM/year. Considering a good economic growth, the gas demand could quickly reach up to 0.5 BCM/year. In mid to long term, the yearly consumption is expected to reach at the level of 1 BCM/year.

5. GAS MARKETS IN THE WESTERN BALKAN COUNTRIES

The Western Balkan countries represent diverse realities regarding the status of development of their natural gas sectors. Greece, Croatia, Serbia and Slovenia have established and developed their national natural gas networks from a number of years. Bosnia-Herzegovina and FYROM are in the first steps of such developments, while Kosovo and Montenegro do not have yet any development of this kind. Albania has a rich history in the petroleum sector, but the depletion of the existing gas fields has led to the extinction of this sector. The current gas supply of the western Balkan countries is secured via their domestic production (Croatia and Serbia) combined with imports of mainly Russian gas and some via Ravithousa LNG terminal in Greece.

The natural gas supply of the region has been in the focus of several researches [10], which have reinforced the common conclusions;

- The region is made up of small national markets hardly able to support additional or new investments
- Existing markets are strongly dependent on a dominant (single) supplier
- Gas systems are poorly interconnected (if at all!) and therefore there is small room for synergies
- There is very limited access to third party supplies and routes
- Market rules are either inexistent or very poorly or poorly developed and non-harmonized.
- There is no real trade between the countries and no competition.
- However there is will to support the diversification of gas supplies and the development of the immature gas markets and increase the links between them (all joined the "3rd package")
- All contracting parties of the energy Community are looking for help from regional projects

Therefore, an efficient way for the gasification of the region is the construction of the Gas Ring, made up by a number of pipelines, which will be able to connect all countries of the region taking into consideration also the existing networks. Still the gas ring idea could not realise in the absence of a source of gas. Nowadays TAP represents a real opportunity for the Gas Ring.

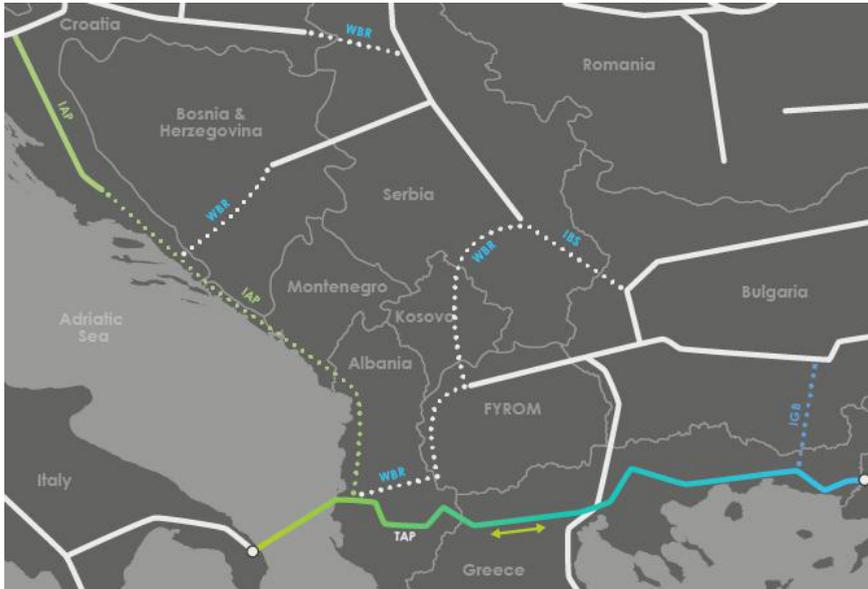


Figure 6. TAP allows the construction of the Ionian Adriatic Pipeline (IAP) as part of the Natural Gas Ring of the Energy Community

6. TRANS ADRIATIC PIPELINE AND ITS BUSINESS CASE

Trans Adriatic Pipeline (TAP) is part of the Southern Gas Corridor through which the gas of Shah Deniz 2 field will be transported towards Turkey and European gas markets. TAP pipeline starts in the Turkey-Greece border near Kipoi where it will be connected with TANAP (Trans Anatolian gas pipeline). It will cross Greece, Albania and Adriatic Sea and lands near San Foca in Italy. It will be approximately 870 kilometres long (Greece 545 km; Albania 211 km; Adriatic Sea 105 km; Italy 8 km). Its highest point will be 1,800 metres in Albania's mountains, while its lowest will be 820 metres beneath the sea.

TAP aims to be built in two phases; initially at a capacity of 10 BCM and at a second stage expand up to 20 BCM as availability of gas from the region would increase and demand would develop.

The pipeline in accordance to the requirements of the EU directives will offer the possibility for physical reverse flows.

TAP is a transmission system operator being built from a consortium of companies, part of them being developers of the Shah Deniz 2 field. The

main target of Shah Deniz 2 gas buyers is the EU gas market. For this reason and in order to ensure the return on investment, TAP requested the Energy Regulators of Greece (RAE), Albania (ERE) and Italy (AEEG);

- Third Party Access Exemption for first 10 BCM.
- Exemption from regulated tariffs for all initial and expansion capacity. Same TAP tariff to be applied to all shippers.
- Exemption from Unbundling.
- Exemption from regulated tariffs for Reverse Flow

The above exemptions have been requested for a period of 25 years from the Commercial Operation Date, equivalent to the duration of the long-term contracts.

7. ENERGY REGULATORS DECISION

7.1 LEGAL BASIS

TAP application for exemptions was submitted simultaneously to the three Energy Regulators of Greece, Albania and Italy. Both Italy and Greece are EU member states and had already implemented the third package (Directive 2009/73/EC and Regulation 715/2009/(EC)) into their national legislation while Albania, as a Contracting Party of the Energy Community was still operating under the second package (Directive 2003/55/EC and Regulation 1775/2005).

- Third Party Access exemptions are dealt by Article 22 under the second directive, while they are dealt with by Article 36 under the third directive which is more elaborated.
- Under the consideration that Albania is a Contracting Party of the Energy Community and the adoption of the third package was a short term objective⁶, ERE decided to undertake the assessment of TAP application for exemptions on the basis of the third directive jointly with the two other regulators.
- The review process was made in line with the requirements and processes provided by the third directive. The Regulators joint decision also known as Final Joint Opinion [1] was finally reviewed by the DG Energy of the European Commission for the case of Greece and Italy and from the Energy Community Secretariat for the case of Albania.

⁶ Albania is expected to have the third package implemented within the first half of year 2015.

7.2 TAP AND LOCAL CONTEXT IN THE ENERGY REGULATORS DECISION

Considering the significant investments needed for the TAP pipeline system construction as part of the Southern Gas Corridor, and the return on the investments as well as the needs for the development of the national and regional gas market development, the Energy regulators had the challenging task to find an appropriate solution that would fulfill both needs. The regulators' decision consists on the following;

- The initial 10 bcma of TAP will be used to bring SDII gas volumes to Italy (Greece and Albania); All buyers of SDII gas will have capacity in TAP
- The additional 10 bcma will be –potentially- allocated to all those who participated in the Expression of Interest phase of the market test, through the Binding Phase (within 2013).
- What is left will be offered to the market, via regular market tests at least every two years.
- Virtual reverse flow (min 5bcma) will be fully regulated and offered to the market at a Tariff equal to 5% of the forward flow tariff.
- Additional Entry and Exit Points will be built at any time; Three (1 in Albania and 2 in Greece) will operate immediately starting from the first day of operation
- A common regulatory framework is designed for TAP from all entries to all exits, including a Tariff Code and a Network Code

7.3 BENEFITS FOR ALBANIA AND THE SOUTH EAST EUROPE (SEE) GAS MARKETS

The joint Energy Regulator's decision enables;

- Immediate forward inflows of Azeri gas from the East to the West via Italy and further North. Hub to hub exchanges will expand TAP contributions into the other EU hubs.
- Immediate inflow of "Italian-African-EU" gas from the West to the East mainly via virtual reverse flow.
- Potential for future gas inflows and outflows from various sources to various destinations. The announced discovery of Shpiragu condensate field could be questionable without access to markets that is now expected to be provided by TAP. In addition, new discoveries that could happen in Greece or elsewhere can benefit the Albanian market too.

- Continuous possibility for gas trade, both for long and short term products (more than 10% of the capacity in the long run)
- Possibility to impose capacity caps on dominant market players by regulators. For the case of Albania, due to the lack of existent gas market yet the decision provide a high level of flexibility for the ERE in its decision making.
- Full compatibility with the future “hub-to-hub” Gas Target Model
- Provides all elements for breaking the “vicious circle” in the SEE gas market and contribute to its deepening, expansion and integration to the Internal Energy Market of the EU
- Creates real conditions for the development of the Gas Ring starting with the Ionian Adriatic Pipeline (IAP) that will further diversify the sources of supply and enhance competition.

7.4 ADDITIONAL POSITIVE IMPACTS FROM TAP FOR ALBANIA

Further to the previously mentioned benefits, some other positive impacts for Albania include:

- TAP will constitute a considerable foreign direct investment (FDI) for Albania. It will also generate job employment and revenues and also attract additional FDI [1], [12].
- TAP will intensify the development of the gas sector in the country.
- The pipeline will help Albania to continue its commercial and physical integration with

Europe, increasing the country’s regional and geo-strategic significance while promoting continuous stability

- Diversification of primary sources of energy and therefore higher security of supply;
- Vlora’s TPP can be transformed into an effective investment by generating power in base load at comparable cost with imported electricity.
- The technical loses in the electro-energetic system will decrease due to a better distribution of power generators in the southern part of the country;
- The power generated by existing hydro power plants in the country can take benefit of its “Green Nature” through exchanges with CO2 producers in the EU market;

- The existing HPP combined with the natural gas TPP will create the appropriate technical conditions for the development of the renewable energy generators that need substantial balancing capacities;
- Due to its competitive price and facility of use, the usage of natural gas is expected to develop quickly particularly in the raw materials production industry like brick and cement factories, steel sector and the SME's;
- Use of the natural gas as primary fuel is expected to contribute to the improvement of the country's energy intensity;
- In long terms, the use of the natural gas is expected to give positive impacts in the maintenance of the power distribution network, environment and forestry protection by substituting electricity and fuel wood use for heating purposes in the residential sector.
- The construction and starting of the operation of TAP will create the basis for the development of the domestic and regional natural gas infrastructure like the IAP (Ionian Adriatic Pipeline) project. The IAP route goes through the entire Western Depression (flatlands) starting in Fier, and may serve simultaneously to gasify the central and northern part of the country and can save costs by being both part of the national and regional transmission systems .

7.5 THE EXPECTED PRICE OF THE NATURAL GAS IN THE ALBANIAN AND REGIONAL GAS MARKET

The basic factors expected to define the natural gas prices in Albania, are the neighbouring gas markets' the Greek and the other gas markets, but the most important is the Italian gas hub known as

"Punto di Skambio Virtuale (PSV)". PSV represents a liquid and well diversified market [13]. TAP technical design and the Energy Regulators' decision [1] enables virtual and physical exchange of gas flows between PSV and the future Albanian and other western Balkans markets, which makes the influence of PSV very significant. Therefore any investment analysis needs to take PSV gas prices into account. They have been historically higher, but latest developments provide a better correlation with the other EU gas hubs [2].

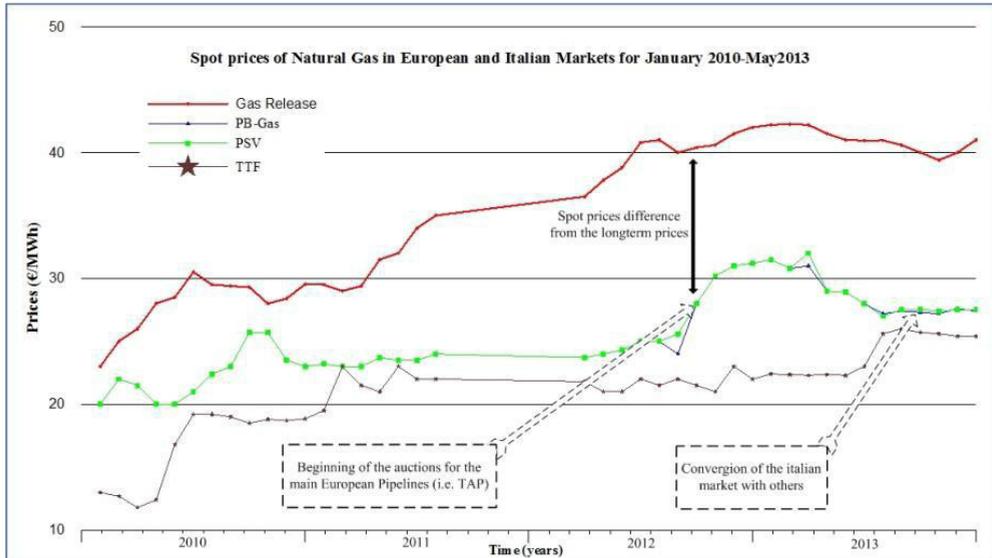


Figure 7 Italian and European Natural Spot and Long-term Prices
(GME Annual Report 2012)

8. CONCLUSIONS

1. The implementation of the third package on the natural gas sector and the Final Joint Opinion of the Energy Regulators of Greece Albania and Italy, provide a very good solution for the TAP business case and also for the development of the natural gas markets of the western Balkans.
2. TAP offers a real opportunity for natural gas supplies of Albania. It will have numerous positive impacts not only for the gas and energy sector but in the whole country's economy.
3. Due to low tariff of virtual reverse flows, western Balkan markets will benefit from the flexibility of supplies, while the gas prices will be substantially influenced by PSV prices.

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THE INFLUENCE OF THE MANAGER CHARACTERISTICS IN THE METHOD OF DECISION-MAKING

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ABSTRACT

The environment where the business organizations currently operate is becoming more and more competitive and it requires the encountering of a series of challenges. The economic environment made the managers more attentive to the decision-making. The adaptation with this environment is conditioned by finding and using efficient decision making methods. The study deals with issues that have to do with the importance of using the contemporary methods in decision making and the role of managers in this direction. The hypothesis is drafted based on the expert's opinion as well as the business organizations' managers' opinion is considered. The confirmation of the hypotheses is thought to be carried out using the econometric multinomial model and the logistic binary one factorial model.

***Key words:** decision maker, analytical methods, econometric multinomial model, logistic binary one factorial model, etc.*

INTRODUCTION IMPORTANCE OF PROBLEM

Business management is a difficult managerial endeavor as it is faced with a variety of problems and challenges conditioned upon the environment in which businesses operate. "Companies are currently confronted by exceptional challenges caused by the unpredictability and complexity of their competitive

environment" (Sinofsky and Iansiti, 2010). All these factors lead that business engages to different kinds of decisions, expanded not only during different time-spans, but also confined in a given reference-period.

In this context decision-making is an activity faced by professionals of different fields. In some professions, decision-making is part of the daily intellectual activity, therefore it acquires special importance. Such a profession is the manager's profession, which is permanently confronted with various challenges in and out of the business environment, requiring a range of decisions to be taken. This makes the decision to be an activity of great responsibility, because the manager has to choose between different alternatives. According to Das (2008): "A decision is a choice between several alternative courses of risky or uncertain action". Bhushan and Rai (2004) point out: "Decision-making can be considered as the choice, on some basis or criteria, of one alternative among a set of alternatives".

As seen, the decision maker constitutes one of the foremost components of the decision-making model. "The concept of intellectual capital (IC) is very important". (WIIg, 2004). According to WIIg (2004) the importance of intellectual capital consists in: "IC assets come in many forms. Personal IC assets consist of knowledge and understanding that a person possesses and owns in the forms of mental models, concepts, facts, rules, memories of incidents and situations, and many other manifestations". Characteristics of the decision maker orient the decision to a considerable extent. "Klein and Cooper in a collaborative research task with the British Ministry of Defense observed that human decision processes always take place within the subjective world of the individual decision maker. One Decision-maker can see the same objective situation in a completely different way from another" (McLucas, 2003). Likewise, Simon (1997) assesses in a broader perspective the role of the decision maker in the decision - making process. "In designing decision-making organizations, we must understand not only the structure of the decision to be made, but also the decision-making tools at our disposal, both human and mechanical - men and computers". (Simon, 1997).

The influence of decision-maker, as identified by the decision-making model, reflects on the business performance. This is why the decision-maker is a key factor to the model. Cannella and Monroe (1997) attribute the decision-makers' influence to the demographic characteristics. To this respect they state: "Demographic variables such as a top manager's functional background and formal education have also been associated with organizational outcomes" (Cannella and Monroe, 1997). It is very important to take into account the decision maker's background because the demographic characteristics condition individual behavior. According to Elbanna and

Child(2007) individual characteristics condition professional skills: "In this case, decision-makers are seen to be rational within the limits of their own capabilities (i.e. bounded rationality)". Additionally, the decision maker individuality must be viewed within the organization context. In this regard, Hensman and Sadler-Smith (2011) say: "The individual decision maker operates within the social context of the organization hence s/he needs to be able to articulate her/his intuitions." But the decision - makers' professionalism, besides the individual characteristics is conditioned upon the information needed. Turpin and Marais (2004) assess the problem in this way: "The rational manager view assumes a rational and completely informed decision-maker ("economic man") as described by neoclassical microeconomic theory around the middle of the previous century".

But, one of the addressed issues is the classification of decision-making methods. Related to the classification of decision making methods, a vast number of researchers have outspoken. Specifically Covina, Slevin, and Heeley(2001) state: "A technocratic management style implies a heavy reliance on quantitative decision-making tools and an overall propensity to be systematic, analytical, and scientific when making top-level business decisions. At the other end of the technocratic dimension is an intuitive-experience based decision-making style". Additionally, Nygren and White (2002) claim that: "Decision strategies in both simple and complex tasks have often been characterized as being intuitive or analytical". Anderson (2002) declares: "There are, basically, two ways to prioritize items on a list: intuition and analysis." Whereas, Dane, Rockmann and Pratt (2012) state: "Critical to the present investigation, intuitive decision-making differs substantially from analytical decision-making".

The using of one or the other method is conditioned by the individual characteristics of the decision maker. According to March(1994) the decision maker individual characteristics are thus defined: "The decision maker would consider all possible individuals, characterized by relevant attributes (their skills, attitudes, and price)".

The main purpose of this paper is to evident realistically impact of some of the characteristics of the manager in determining the method that decision.

METHODOLOGY

The offered methodology for this paper previews:

Desk work: focuses on researches in the respective economic literature, questionnaire preparation, data processing and coming to conclusions.

Terrain work: terrain researches and analysis focused on the businesses subjected to study and survey. The necessary data for the research conduction

were provided by the questionnaire prepared for this purpose. The sample is composed by 30 experts and 14 managers of big business which operate in food industry. The localization criterion from the geographical point of view is selected Tirana.

The limitation of this study is the number of managers involved in the paper and this because the research will also include medium-sized and small businesses in the future.

ANALYSIS OF RESULTS

Experts have the opinion that the use of analytical methods in decision-making is a key factor for business success. However, they state that in using contemporary (analytical) methods in decision-making, a considerable influence is also the role of the decision-making manager. In this context, they believe and consider some characteristics of the manager or factors that condition his/her attitude. As such, experts think that there are demographic characteristics of the manager himself/herself (age, experience and education orientation) or other factors of motivation urging. Each of these factors, but also seen all as a whole direct the activity of the manager towards using analytical methods in decision-making. However, this still to be proved.

Referring to the data on that part of the interview that affects this paper, it is considered the econometric multinomial model to see how the level of analytical methods in decision-making depends on age, experience, education profile and motivation.

In the data related to the above characteristics of the manager, there are quantitative variables and qualitative variables, what made mandatory that the latter be quantified, considering the specifics of each variable. Variables with two varieties (dummy variables) are: the profile of education and motivation. On the other hand, as a multinomial variable it is considered the scale (density) of using analytical methods in decision-making. So, the quantifying of variables is realized as it follows:

$y_1 =$ dense use of analytical methods, $y_2 =$ partial use, $y_3 =$ do not use analytical methods

profile of economical education= 1, profile of non-economical education= 2
motivation =1, non-motivation=2

The data gathered from decision-making managers quantifies as above have been shown in the table below:

y (use analytical methods)	X ₁ (Profile)	X ₂ (Motivation)	X ₃ (Age)	X ₄ (Experience)
3	0	0	54	18
1	0	1	30	5
3	1	1	56	30
2	0	0	42	6
2	0	0	51	18
3	0	0	43	10
1	1	1	46	8
3	1	1	49	10
3	1	0	55	28
2	1	0	49	20
3	0	1	45	21
2	1	0	40	10
3	1	0	54	20
3	1	0	53	9

1-Multinomial logistic non-ordered model

Warnings

Unexpected singularities in the Hessian matrix are encountered. This indicates that either some predictor variables should be excluded or some categories should be merged.

The NOMREG procedure continues despite the above warning(s). Subsequent results shown are based on the last iteration. Validity of the model fit is uncertain.

Model Fitting Information

Model	Model Fitting Criteria			Likelihood Ratio Tests		
	AIC	BIC	-2 Log Likelihood	Chi-Square	df	Sig.
Intercept Only	30.760	32.038	26.760			
Final	28.523	34.914	8.523	18.237	8	.020

Pseudo R-Square

Cox and Snell	.728
Nagelkerke	.855
McFadden	.681

2-Multinomial logistic ordinal model

Model Fitting Information

Model	-2 Log Likelihood	Chi-Square	Df	Sig.
Intercept Only	26.760			
Final	18.908	7.852	4	.097

Link function: Logit.

Goodness-of-Fit

	Chi-Square	df	Sig.
Pearson	20.069	22	.579
Deviance	18.908	22	.651

Link function: Logit.

Pseudo R-Square

Cox and Snell	.429							
Nagelkerke	.504							
McFadden	.293							

Link function: Logit.

Parameter Estimates

		Estimate	Std. Error	Wald	df	Sig.	95% Confidence Interval	
							Lower Bound	Upper Bound
Threshold	[Y = 1.00]	9.919	6.427	2.382	1	.123	-2.678	22.517
	[Y = 2.00]	12.410	6.865	3.268	1	.071	-1.045	25.864
Location	X3	.243	.158	2.370	1	.124	-.066	.552
	X4	.045	.119	.143	1	.705	-.188	.278
	[X1=.00]	.876	1.447	.366	1	.545	-1.961	3.712
	[X1=1.00]	0 ^a	.	.	0	.	.	.
	[X2=.00]	.125	1.303	.009	1	.923	-2.428	2.678
	[X2=1.00]	0 ^a	.	.	0	.	.	.

Link function: Logit.

a. This parameter is set to zero because it is redundant.

Both multinomial models (trinomial) are non-valid!**3- Binary logistic Model (dynamial)**

Dependent Variable: Y

Method: ML - Binary Logit

Sample: 1 14

Included observations: 14

Convergence achieved after 5 iterations

Covariance matrix computed using second derivatives

Variable	Coefficient	Std. Error	z-Statistic	Prob.
C	16.04731	10.24505	1.566348	0.1173
X1	1.432352	1.902370	0.752930	0.4515
X2	-1.509513	1.652862	-0.913272	0.3611

X3	-0.349230	0.242026	-1.442947	0.1490
X4	0.004189	0.131524	0.031848	0.9746
Mean dependent var	0.428571	S.D. dependent var		0.513553
S.E. of regression	0.471588	Akaike info criterion		1.588037
Sum squared resid	2.001561	Schwarz criterion		1.816272
Log likelihood	-6.116258	Hannan-Quinn criter.		1.566909
Restr. log likelihood	-9.560713	Avg. log likelihood		-0.436876
LR statistic (4 df)	6.888912	McFadden R-squared		0.360272
Probability(LR stat)	0.141876			
Obswith Dep=0	8	Total obs		14
Obswith Dep=1	6			

The model is:

$$Y = 1 - \text{@LOGIT}(-16.04731399 + 1.432352006 * X1 - 1.509512627 * X2 - 0.3492304422 * X3 + 0.004188803142 * X4)$$

This model is non-valid.

Experts pretend that all the above characteristics affect (influence) the level of using analytical methods in decision-making. Trying to prove this connection it was considered all the factors (characteristics). However, the relevant econometric models resulted invalid, what makes evident the fact that the connection among characteristics of the manager supposed from the experts, taken all as a group, and the level of using analytical methods, cannot be proved. This might have been caused even from the limits in the paper.

In this conditions, we can only prove the influence of special variables.

4-Binary logistic one factor model with age X_3 as a factor.

Dependent Variable: Y

Method: ML - Binary Logit

Sample: 1 14

Included observations: 14

Convergence achieved after 5 iterations

Covariance matrix computed using second derivatives

Variable	Coefficient	Std. Error	z-Statistic	Prob.
C	11.61814	6.640428	1.749607	0.0802

X3	-0.249562	0.138035	-1.807963	0.0706
Mean dependent var	0.428571	S.D. dependent var	0.513553	
S.E. of regression	0.442714	Akaike info criterion	1.255183	
Sum squared resid	2.351943	Schwarz criterion	1.346477	
Log likelihood	-6.786279	Hannan-Quinn criter.	1.246732	
Restr. log likelihood	-9.560713	Avg. log likelihood	-0.484734	
LR statistic (1 df)	5.548869	McFadden R-squared	0.290191	
Probability(LR stat)	0.018493			
Obswith Dep=0	8	Total obs	14	
Obswith Dep=1	6			

The modelis:

$$Y = 1 - \text{@LOGIT}(- (11.61814053 - 0.2495624987 * X_3))$$

Only this model is valid. It shows that chances of using analytical methods are lowered with the increase of age (X_3). As it is seen in the model, with the increase of the age of the manager, the chances of using analytical methods in decision-making are lowered. Regarding this fact, we can consider these problems:

- With the increase in age (the decision-making manager) people gain the necessary intellectual capital, what makes them being led by a more intuitive decision-making.
- By analyzing this phenomenon in the context of current environment, we can list another reason and more actual the fact that from the investigation made until now, it results that decision-making managers analyzed in general are of an average age over 45. This is the age that mostly dominates the decision-making managers, what limits the necessary knowledge on analytical methods, and as a result it makes it difficult even their use to total lack.
- In addition, we must consider even the background of managers. It is important to make evident the fact that the state as a study subject, is a post-communist state. This affects the activity of managers and makes them have limits that have characterized this period.

5-Binary logistic model with independent variable X4 (experience)

Dependent Variable: Y

Method: ML - Binary Logit

Sample: 1 14

Included observations: 14

Convergence achieved after 3 iterations

Covariance matrix computed using second derivatives

Variable	Coefficient	Std. Error	z-Statistic	Prob.
C	1.797020	1.392545	1.290458	0.1969
X4	-0.144896	0.092780	-1.561713	0.1184
Mean dependent var	0.428571	S.D. dependent var		0.513553
S.E. of regression	0.480638	Akaike info criterion		1.424142
Sum squared resid	2.772156	Schwarz criterion		1.515436
Log likelihood	-7.968997	Hannan-Quinn criter.		1.415691
Restr. log likelihood	-9.560713	Avg. log likelihood		-0.569214
LR statistic (1 df)	3.183433	McFadden R-squared		0.166485
Probability(LR stat)	0.074388			
Obswith Dep=0	8	Total obs		14
Obswith Dep=1	6			

The model is:

$$Y = 1 - \text{@LOGIT}(-1.79702026 - 0.1448957136 * X4)$$

This model is almost valid. (Prob = 0.88). Even the experience has negative influence. This result is not favourable. (The more experience, the lower the chance to use analytical methods).

The experience of the manager plays an important role in the business management, because the experience makes it possible that the knowledge the manager can be turned into conviction and this gives the manager considerable trust in achieving his/her functional duty. It is this conviction that Anderson, Sweeney, Williams, Camm and Martin (2012) think it is more an art than a science.

The given situation in the model shall be considered in the context of businesses in Albania, generally of those who do not have a completed organized body with all content departments, what makes possible the professional distribution of duty.

CONCLUSIONS:

Keeping in mind the opportunities and barriers of Albanian businesses to develop in the future and especially to be supported in their development way some of the issues that should be remembered are:

- ✓ The decision making is a complex problem of the business activity. This complexity is conditioned by present business economic situation and its perspective, the financial state of the business, the business risk, cost, etc.
- ✓ Based on surveys, analyses, evaluations as well as based on the opinion of interviewed experts and managers it is noticed that the use of contemporary (analytic) methods in decision making, in general is not sufficient.
- ✓ Currently, can be concluded that the characteristics of the decision maker such as his/her age and experience orient the using of method on decision making.

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THE REGIONAL TRADE AS AN IMPETUS FOR THE FURTHER ECONOMIC DEVELOPMENT OF THE WESTERN BALKAN COUNTRIES

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ABSTRACT

The paper focuses on benefits and opportunities that the regional trade offers to the participating countries, under the circumstances of globalization and riskiness from global expansion of the negative effects and consequences from the not completely overcome world financial crisis. The analyses in this paper are focused on the regional trade relations between Western Balkan countries and possibility for using the regional trade as a great impetus for further economic development of this region. Western Balkan countries as small and vulnerable developing countries are constantly under the influence of each global crises and especially the latest crisis in the Euro zone.

Considering the fact that, the European Union is the main trade partner of the Western Balkan countries, they should make their efforts to redirect their trade flows between themselves and develop the intra-regional trade, in order to avoid the current and potential future instability of the European region. This process will lead to less dependency on the EU and less sensibility to all instabilities and insecure in the Euro zone, from one side and to greater collaboration and mutual support between Western Balkan countries in direction of common surpassing of all structural weaknesses of these countries and undertaking structural reforms in order to accelerate their further economic development, from the other side.

Key words: regional trade, development, EU, Western Balkan countries, reforms, collaboration.

INTRODUCTION

The Western Balkan Countries (WBCs) have common imperfections, problems and challenges considering their common history and the transition process that successively were spreading from one country to another. The WBC's economies are also similar according to the size, the level of development, the main characteristics and their advantages and disadvantages. These countries have always been designated as a very vulnerable region and potential hot spot for problems and conflicts and a numerous unsolved issues and dilemmas. Therefore they were titled with the name "Tinder Keg".

Beside the numerous imperfections and black spots, the WBCs present very complex, complicated and diverse reality. This region is very significant for the Europe, from one side as a whole that connects the Central Europe with the South East part of the Old continent. But, from the other side, the exact diversity and vulnerability of the region is "frightening" the European Union from including this region in the European family, due to the unsolved problems and issues within and between the countries of the region.

The European Union has many reasons to say NO further enlargements towards the WBCs and after the last but one enlargement (2007), the EU even increased and complicated the membership criteria. Now, the WBC in order to become eligible for entering the EU should get through long process of preparation and improvement of the Balkan reality and adjust all diversities towards the EU criteria.

Although the WBCs are still not EU member countries, they inevitably perceive and suffer the consequences of the Euro zone crisis. Therefore, the WBCs should use the benefits and opportunities that the regional trade offers to the participating countries, under the circumstances of the negative effects and consequences from the not completely overcome world financial crisis. They should use the regional trade as a great impetus for further economic development of this region. The WBCs as small and vulnerable developing countries are constantly under the influence of each global crises and especially the latest crisis in the Euro zone.

Considering the fact that, the European Union is the main trade partner of the Western Balkan countries, they should make their efforts to redirect their trade flows between themselves and develop the intra-regional trade, in order to avoid the current and potential future instability of the European region. This process will lead to less dependency on the EU and less sensibility to all instabilities and insecure in the Euro zone, from one side and to greater collaboration and mutual support between Western Balkan countries in direction of common surpassing of all structural weaknesses of these countries

and undertaking structural reforms in order to accelerate their further economic development, from the other side.

1. The state of the WBCs before and after the Global financial crisis

Before the start of the Global financial crisis, the WBCs were developing very well, achieving rapid growth of the economic output, shown by the GDP growth rates compared to the average EU27 GDP growth rate.

During the period 2005-2007 the WBCs used to have GDP growth higher than the average (6-7%)¹ of the EU countries. But the world financial crisis has done its own. As the crisis was spreading through the EU, the economic growth and sustainability of the WBCs was slowing down and many of these countries asked for help and support by the International Monetary Fund (IMF). The data in table 1 shows the WBCs GDP growth rates before and after the great financial crisis.

Table1. Real GDP growth rates of the Western Balkan Countries (2005-2014)
(Annual percent change)

WBCs	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Albania	5.7	5.4	5.9	7.5	3.3	3.8	3.1	1.3	0.7	3.3
B&H	3.9	5.7	6.0	5.6	-2.7	0.8	1.0	-1.2	1.2	2.0
Kosovo	3.8	3.4	8.3	7.2	3.5	3.2	4.4	2.5	2.5	3.9
Macedonia	4.1	5.0	6.1	5.0	-0.9	2.9	2.8	-0.4	3.1	3.2
Montenegro	4.2	8.6	10.7	6.9	-5.7	2.5	3.2	-2.5	3.4	2.8
Serbia	5.6	3.6	5.4	3.8	-3.5	1.0	1.6	-1.5	2.5	1.0

Source: World Economic Outlook: Recovery strengthens, remains uneven; IMF April 2014

According to the data in the table we can see that, the period before the crisis all WBCs have increasing GDP trend, especially Montenegro in 2007 when the annual GDP growth rate is 10.7%. During 2008 all countries from this region have a modest GDP growth rate, because the financial crisis was just starting and it was still not spread worldwide. But, the next year 2009 the WBCs have already perceive the distorting effects of the crisis, when some of the countries such as Bosnia and Herzegovina, Macedonia, Montenegro and Serbia had negative GDP growth rate of -2.7%; -0.9%; -5.7%; and -3.5% respectively.

After the sharp decline of the GDP growth, 2010 is a year of stabilization

1 European Economic Forecast – Spring 2010” by DG Economic and Financial Affairs

when all WBCs had positive GDP growth rate, although it was not on the previous max level during 2007-2008.

During 2011 the WBCs have modest growth of the GDP in order to decrease once more in 2012 due to the second stroke of the global financial crisis that significantly affected the Euro zone. In 2012 Bosnia and Herzegovina, Macedonia, Montenegro and Serbia for the second time registered negative GDP growth rate of -1.2%; -0.4%; -2.5% and -1.5% respectively.

The following years 2013 and 2014 are years of stabilization process when the WBCs are trying to achieve the GDP growth rates of the year 2011.

The global crises had three main effects on the Balkan region²:

- Due to the crisis preoccupation the EU delayed the further enlargement towards the Western Balkan;
- The crisis struggle is exhausting the governments` resources and attracts the attention from the necessary accessible reforms;
- The new regime of economic governance and the new membership criteria introduced by EU, will lay stress on the economic and financial policies of the candidate countries.

The WBCs are going to recover from the crisis, but they have to go through a hard period because they are very sensitive and vulnerable countries, which have continuous lack of favorable financing and supporting mechanisms from the Euro zone. The recovery process of the WBCs occurs more slowly and afterward then in developed countries in the rest of the Europe. The crisis did not affect only the GDP growth, but also the unemployment, the government debts, the public finance, FDI and funds.

Regarding the trade balance of the WBCs, all countries are net debtors which mean that, the import significantly exceeds the export. Due to the financial crisis, the EU has changed its standpoint regarding the further enlargement towards the South East and undertook measures for delaying this process, whereupon the EU introduced additional conditions and criteria (Stability and Growth Pact-SGP) as an excuse for the candidate countries.

In accordance to the new criteria, the candidate countries should ensure stability and compatibility of their economies with the economies of the rest member countries. The purpose of the new criteria is, EU to prevent further disaster and to provide feasible recovery and restoration.

The main SGP criteria pillars are:

2 "The Western Balkans: Between Economic Crisis and the European perspective", Institute for Regional and International Studies, Sofia, 2010

- The government deficit should not exceed 3% of GDP on annual level;
- The government debt should not exceed 60% of GDP at the end of the previous fiscal year;
- The inflation rate should not exceed 1.5%

It is a fact that the WBCs do not fulfill these criteria, wherewith their entrance into the European Union is getting much further away.

2. THE REGIONAL TRADE INTEGRATION OF THE WESTERN BALKAN COUNTRIES

The efforts for the international trade regionalization do not occure only in the recent dacedes. During sixties there were several attempts for making Regional Trade Agreements (RTAs), but they were unsuccessful. Even in the 1930 is noticed great fragmentation and separation of the world trade system into competitive blocks.

Regional Trade Agreements have played significant role in the political history. The first custom union was created in Germany in 1834³ by 18 small countries. The base of RTA is the Most Favoured Nation clause (MFN), which was implemented for the first time by the Great Britain in the early years of the XIX century⁴.

After the First World War, the great efforts of the UK and the League of Nations for reintroducing the MFN clause in the regional trade agreements are unsuccessful, whereupon the world is divided on two blocks, the English Commonwealth, Central Europe and others. With signing the General Agreement on Tariffs and Trade (GATT) in 1947, it was introduced the MFN principle in the article 1 of this Agreement, but at the same time was allowed and anticipated a concession from this clause in the article XXIV, where it was anticipated a possibility for concluding Regional Trade Agreements and it states "*a group of countries can form a free trade area or custom union, eliminating all barriers between contracting parties*"⁵.

The conclusion of the RTA`s has its own advantages and disadvantages. One of the main advantages is the high level of liberalization and promotion of the trade between the signatory countries due to the removal of all obstacles and barriers that distort and limit the trade exchange, further higher level

3 W.Handerson, *The rise of German industrial power 1834-1914*, University of California 1975, p.36

4 A. Yanai, *The function of the MFN clause in the Global trading system*, IDE APEC study center, working paper series 01/02 - No3. March 2002.

5 General Agreement on Tariffs and Trade GATT 1947

of collaboration between signatory countries and development of the intra-regional trade.

One of the main RTA's disadvantages is discrimination, respectively placing other non signatory countries into unfavorable position because in the trade with these countries, the contracting parties do not apply the mutual benefits and concessions that they otherwise apply within the agreement.

The RTAs have generally shown trade creation effect in the trade within the integration and also it can be concluded that the level of integration within the Agreement has great importance for the level of trade creation. This new trend of regionalism has been proved as less harmful for the third countries that are not members of the RTA and less harmful for the whole international trade system, because with the new RTAs in the process of trade liberalization are included more products and instruments compared to the previous Agreements, which leads to increased level of integration.

The WBCs are not left behind this popular process of regional integration. The benefits from this mutual collaboration mainly between the neighbor countries are obvious and the WBCs are making efforts for utilizing them. Especially the ex-YU republics have intensive trade cooperation including Albania in the recent years. The level of interdependence between these countries is obvious, whereupon the occurrences and changes in one country inevitably have influence to the development of the other countries in the region.

Therefore, the countries of this region, non-EU members, have their own regional trade integration, created by the revised Central European Free Trade Agreement signed in 2006 (CEFTA 2006)⁶. This agreement creates a free trade area in the region for goods.

This paper will point out the importance of strengthening the regional trade integration, utilizing CEFTA 2006 as an impetus and instrument for further economic development of the Western Balkan Countries. CEFTA 2006 includes measures which allow easier trade, such as elimination of tariff and non-tariff barriers, introduction of standards, sanitary and phytosanitary measures, cooperation and reconciliation of customs and other authorities for simplifying and adjusting the administrative procedures.

Up to now, CEFTA 2006 has increased trade flows among the neighbor countries in the region, which proves that it has strength and capacity to provide additional impetus for improving the regional economic cooperation, focusing on the intra-regional trade between the Western Balkan Countries. CEFTA 2006 has replaced 32 bilateral free trade agreements that were previously in force between the WBCs. Due to the CEFTA's activity the intra-regional exports

6 The signatory of CEFTA 2006 beside WBCs is also Moldova.

have increased substantially since 2003 and doubled between 2004-2007⁷, but it is still below the full potential of the regional integration.

All ex-YU republics are aware about the importance of the region as a significant market for exporting their output. They have two main groups of trading partners – the EU (28) and their neighbor countries. The current objective state is that, the WBCs export is mainly dependent on the demand from the EU countries because almost the half of their exports is directed to the EU-28 countries. This fact should be used as a further and additional impetus for redirecting the WBCs trade flows towards the CEFTA 2006 countries.

Intra-regional trade is very important for all countries, for Montenegro, Bosnia and Herzegovina, Albania and Kosovo at the import side and for Macedonia and Serbia at the export side. Intra-regional exports of Western Balkan countries have reached the share in their total exports of almost 30% in 2008⁸. But, unfortunately like all countries in the world, the WBCs have been hit by the world economic crisis and they were also facing internal problems as they are not able to produce a sufficient budgetary income and attract more FDI. Due to the crisis, exports have declined by between 10% and close to 50%.

1.1 Trade performance of the WBCs within CEFTA 2006

The data in Table 2 shows the intra-regional trade flows between CEFTA 2006 countries after the global financial crisis, where we can see significant changes in the intra CEFTA exports and imports during the period (2011-2014). CEFTA 2006 integration has shown big resilience in the period of world crisis and this point out the importance of making trade as easier as possible.

Tabela 2. CEFTA parties share in Intra CEFTA exports and imports (%)

	2011		2012		2013		2014	
	Export	Import	Export	Import	Export	Import	Export	Import
Albania	2.4	4.9	3	5	5	6	10	8
B & H	20.3	29.3	18	29	16	22	15	11
Macedonia	12.2	8.5	11	8	14	14	14	10
Montenegro	2.5	12.1	3	12	5	19	40	38
Moldova	0.1	0.1	0	0	0	0	/	/
Serbia	35.9	18.1	36	18	57	21	21	4
Kosovo	1.1	12.9	1	12	3	18	43	28
Croatia	25.5	14.2	28	15	/	/	/	/

Source: Author's calculations based on CEFTA Trade Statistics (2011-2014)

7 CEFTA Trade Statistics

8 Ibid.

According to the data in Table 2, **Albania** has not considerable share in the intra-regional trade between WBCs, (the average share in intra CEFTA exports is 5.1% during the period 2011-2014 and the average share in imports is around 6%). This state is due to the Albania`s great level of trade collaboration with Italy and the EU (28), which exports and imports for 2014 are 54% and 28% respectively with Italy and 25% and 30% respectively with the EU(28) - (see Table3).

Albanian economy is based on several pillars:

- Remittances
- Investments in construction
- Tourism
- EU`s pre-accession programs
- Natural resources and agriculture

All sectors in Albania have been hit by the global crisis and like all other Western Balkan countries; Albania has serious problems with the unemployment, corruption and traditional problems with the organized crime. However, Albania has continued to play a constructive role in maintaining regional stability and fostering good relations with other Western Balkan countries. The next step that Albania needs to undertake is to work more on enlarging and deepening the trade relations within CEFTA integration in direction of increasing the intra-regional trade between WBCs.

In reference to the **Bosnia and Herzegovina** we can see that in 2011 this country has overtook the largest share in intra CEFTA exports and imports during the analyzed period, 20.3% and 29.3% respectively. In the following years the B&H share in the intra CEFTA trade has been decreasing for the account of increase export and import towards the EU (28) and Germany (see data in Table3). After the great negative impact of the world crisis on the Bosnia`s fiscal account, B&H has made little further progress towards a functioning market economy and in areas such as transport, customs, taxation, education and culture.

Related to **Macedonia**, the data in Table 2 shows that, during the analyzed period except in the year 2012, has increasing share in the intra CEFTA export and import, where the average share in the intra CEFTA export is 12.8% and 10.1% in import. Similar to B&H, Macedonia in 2014 has increased its share in export and import towards the EU (28) and Germany, whereupon 35 % of Macedonia`s export is directed to EU and 16% to Germany, and 52% of Macedonia`s import comes from EU and 12% from Germany (see data in Table3). The global crisis has hit Macedonia severely, pushing back reforms as secondary priority and slowing down the EU integration. The crisis also

caused a fall in industrial output and export, fall in retail trade and services, in turnovers and profits and in FDI, but after several years of recovery Macedonian economy notes increasing trends in above mentioned areas.

During the period (2011-2013), **Montenegro** has a modest share in the intra CEFTA trade around 3.5% on the side of export and around 14.3% on the side of import. This is due to the significant trade relations of Montenegro with the EU, Croatia and the Rest of the World (see data in Table3). But, during 2014 the relations are significantly changed where the Montenegro share in the intra CEFTA export is 40% of the total Montenegro exports and the intra CEFTA import accounts for 38% of the total imports. **Montenegro** as a smallest Western Balkan country and a tiny republic is a significant example how should be developed the future trade relations between WBCs towards greater regional integration. The independence that Montenegro gained in 2006 caused an unprecedented boom in the economy caused by huge FDI inflow in tourism and real estate sectors. Because the economic boom was based mostly on FDI, the global crisis hit Montenegro very seriously in the beginning of 2009. But, Montenegro used the chance to successfully overcome the negative effect of the crisis faster than its regional peers due to the small size of the country and greater flexibility.

Relating to **Serbia**, it is the biggest factor in the WBCs region in terms of territory and population. Serbia has been one of the fastest reforming Western Balkan countries. Regarding the share in the intra CEFTA trade, Serbia had robust share in the Intra CEFTA export with 36% in 2011 and 2012 and even 57% in 2013, compared to the share in import of 18% in 2011 and 2012 and 21% in 2013. During 2014 Serbia`s share in intra CEFTA trade had sharp decline to 21% on the export side and even 4% on the import side. This state is due to the remarkable growth of Serbia`s export towards the EU of 43% and its import from EU of 50% of the total Serbia`s import (see data in Table3). Beside the CEFTA region and the EU, third trading partner is Italy where Serbia allocates 18% of its export and imports 12% of its total import in 2014.

The financial crises also hit the Serbian economy and caught it unprepared, but it managed to stay on its feet. The high level of export and import dependency (almost half of the total export and import volume) on the EU market, makes this country very vulnerable and sensitive on the all potential instabilities and insecure that might happened in the future within the Euro zone.

As far as **Kosovo** is concerned data in the table shows that, Kosovo has very slight share in the intra CEFTA export of only 1% in 2011 and 2012 and 3% in 2013. During this period 12% of the total Kosovo`s import was coming from the CEFTA countries in 2011 and 2012, and 18% in 2013. In the year 2014,

CEFTA countries are the main trading partners of Kosovo where 43% of the total Kosovo's export is allocated within CEFTA and 28% of the total import comes from the CEFTA countries. The second export destination of Kosovo is Italy with 24% and the third is the EU with 16% on the export side and 29% on the import side (see data in Table3).

This state in Kosovo's trade balance is due to the weak and indirect influence of the crisis, because Kosovo has limited participation in the system of international economic relations.

Table3. Export and Import by countries in 2014 (%)

	Intra CEFTA		EU		Italy		EFTA		RoW*		Croatia		Germany	
	Export	Import	Export	Import	Export	Import	Export	Import	Export	Import	Export	Import	Export	Import
Albania	10	8	25	30	54	28	1	4	2	13	1	1	/	/
B & H	15	11	46	37	/	/	2	1	6	9	11	11	16	12
Macedonia	14	10	35	52	/	/	1	1	3	11	2	2	41	11
Serbia	21	4	43	50	18	12	1	1	6	10	3	2	/	/
Montenegro	40	38	18	31	5	/	2	1	10	6	19	6	/	/
Kosovo	43	28	13	29	24	/	3	1	8	11	1	2	/	11

*Rest of the World

Source: Author's calculations based on CEFTA Trade Statistics 2014

CONCLUSIONS AND RECOMMENDATIONS

The process of approaching towards the European Union for the Western Balkan countries proved to be a double-edged sword. During prosperous years it helped their growth, economic recovery and integration into the global economy, but during years of crisis it pushed them into recession and instability.

Therefore, the Western Balkan countries should use the current deadlock state of the EU's enlargement and put together not only economic forces and abilities of the countries but, also their political and legal forces. Instead of long waiting time even for obtaining a date for starting negotiations with the EU, these countries should help and support each other in order to promote their economic development. The WBCs need to mobilize their human and institutional potential in order to successfully complete the process of societal, economic and political modernization and finally to wipe out the bad and negative perception and association for the WBCs, as countries with large scale of organized crime, corruption and grey economy.

Greater regional trade integration between the WBCs represents an important basis for trade growth and economic development of the region. The current level of WBCs regional integration does not represent the maximum commercial potential of the region. The change of export structure toward higher value added products are a precondition for growth in export competitiveness. Also, the insufficiently used potential of the regional trade is partly due to the non-tariff barriers to the Intra CEFTA trade, especially the administrative barriers which have the most negative impact on the intra-regional trade.

Therefore, their regional cooperation should also include better coordination of national policies in various areas and implementation of regional initiatives as an impetus for stimulating growth in the medium term. This could be implemented very easy considering the small size of these economies and economic linkages inherited from the former Yugoslavia.

In addition, other forms of regional economic cooperation could also contribute to further economic growth in the areas of R&D, energy, transport or other specific industries. Industrial policies should also be considered at the regional level, by creating trans-national networks and supply chains that could be mutually beneficial. Also, enterprises from the Western Balkan countries could create multinational companies, which can be more competitive on EU markets than small national firms.

The WBCs should integrate in the intention to become less dependence on the EU economy and other countries out of the region, because each negative occurrence, insecure and instability that could happen in the European region will inevitably escalate on the Western Balkan region. No one can guarantee that instabilities and crisis like the last ones will never happen again.

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THE IMPACT OF THE REFORM OF EDUCATION IN EU INTEGRATION THROUGH ALTERNATIVE UNIVERSITY TEACHING MODELS

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ABSTRACT

The impact of the reforms in education in the EU integration is visible through alternative university teaching models. The change in educational paradigm – from accredited qualification to certified skills significantly defines the impact of reforms in education in the countries from the South East region. The paper presents this impact revealing alternative university educational models in the social environment of information civilization and knowledge economy. No doubt they play their role here since information has become a major resource for all spheres, politics, economics, healthcare, culture and education. Special attention is paid to the so-called Classical alternative educational models like Universal educational models, Virtual schools, Virtual colleges, Virtual universities, Blended learning, Automated assessment systems, etc., but also to more innovative alternative educational models such as a European university complex, University scientific research institutes, summer universities and university youth academy for knowledge management. The cloud infrastructure in educational services has been mentioned as a tool for applying more flexible hybrid educational models.

EU integration reform processes cannot remain unaffected by the impact of the reforms in educational services thus leading to the European dimension of measuring knowledge and knowledge management in the countries of South East Europe.

Key words: *impact, reforms, education, new technologies, classical university models, alternative university models, cloud computing in education.*

Ever since the Bologna declaration (1999) and the Lisbon strategy (2000), Europe has been trying to provide more competitive and attractive education. Countries introduce policies that will help integrate their political systems, social structures and economies. No wonder the most radical changes in educational systems occur on the European continent for it becomes clear that the benefits from higher education and research in all spheres are substantial. No less irrelevant is this process in the countries of the South East region, where in the aspiration to be modern and economically better, countries of the region have adopted sweeping changes in education to be compatible and comparable to the leading EU educational practices but at the same time keeping the rich diversity of innovative learning styles, methods and higher education cultures. Although the diversity within European higher education is still visible at a national level, there has been an improvement in transparency, quality, growth, efficiency and excellence, which means that Europe can be one of the strongest educational and economic leaders of the world.

The impact of educational reform in EU integration

There is a paradox, it seems, in the higher education, seen as resistant to change and keeping to old traditions and the higher education concerned with knowledge economy, the growing need for human capital and the policy links between research, education and innovation have made higher education a sector of major reform processes, on both the

national and the European level. Economic development and knowledge economy have changed their requirements towards education bringing about the shift in measuring the outcomes of education: from ACCREDITED QUALIFICATION to CERTIFIED SKILLS. This conclusion takes higher education to a new level with a special focus on the influence of reforms on the internal life of higher education institutions.

The above-said makes it clear that the impact of educational changes towards EU integration based on knowledge as a resource form the foundation of the knowledge economy including the South East region:

- Knowledge and education become the most significant factor of the producing economy;
- The role of the human capital is growing and for that matter – life-long learning in particular;
- The share of the services in the economy is expanding thus marking an increase in the knowledge hiring business services;
- Information Infrastructure and Information Technologies begin to play an even bigger role;
- Innovations become key characteristics of economies and a major form of turning knowledge into wealth.

Universal educational models

As mentioned before, the paradox is whether education should stay as a keeper of traditions or adapt to new ways of offering quality and innovative research methods. It seems that a combination of both is the right way of approaching the matter. Educational systems usually comprise seven naturally occurring stages:

- Pre-primary education;
- Primary education (first degree of basic education);
- Lower-secondary education (second degree of basic education);
- High-secondary education (third degree of basic education)
- Vocational high-school education;
- First stage of higher education (Bachelor's degree)
- Second stage of higher education (Master's degree)

If we, in accordance with the established practice in Europe, try to expand that basic ladder and add one eighth stage, i.e. the PhD, then we speak of the formation of trained workforce as the potential of the global educational system. An important property of the 8-stage universal model, therefore, is its ability to adapt in different social and economic situations and conditions, as well as the simplicity of its functionality and practical implementation.

Classical alternative educational models

The existence of alternative models is not something unnatural or unusual. The classical alternative educational models can be applied to all the spectrum of the eight-stage educational ladder presented above. They are sort of imitative models for where the common traditional models are not applicable and hard to practically implement. They are:

Virtual Schools

This is a school where the pupils study online rather than being virtually present at the school. This mechanism, or let's say educational technology, is applicable not only in regions where pupils have no access to an educational institution (high up in mountains or islands). This model is suitable for pupils who do not wish to physically go to school due to psychological reasons, are ill or just unable to go due to physical injuries for instance. This model of classical alternative educational practices is often chosen by pupils or students who wish to study subjects outside of the compulsory subjects in the curriculum, knowledge that is unavailable to them in the local school. It is also applicable to youth who are kept under a strict regime in places (prison or hospices) with limited access. In Europe the number of virtual schools is relatively small but they are becoming a real alternative to traditional educational models:

(http://www.eurodl.org/materials/contrib/2006/Glenn_Russell.htm)

Virtual Colleges

A virtual college is an institution for high-school vocational education where trainees study at home or in their working place most of the time. The trainees have reached a level of self-sufficiency in life. This is a good alternative to traditional training or re-training courses as professional knowledge and skills area is important in the life-long learning idea, where people's professional knowledge and skills are placed in the context of academic learning. For the successful realization of such educational practice, unified understanding of the countries of the South East region should be reached on the aims and mission of professional high education. IT should be seen not as an objective but as a means of education and very careful syllabuses of the training should be drawn in order to achieve sustainable results.

Virtual Universities

Virtual universities are on-line based educational institutions where students can study from home or at their working place, the idea being to receive university education without actually physically attending seminars or lectures. The so-called 'open' virtual university offers free access to everyone wishing to be educated adopting an open approach to the syllabuses. Modern political and economic realities, however, impose compromises considering cultural differences and the issue of financing such an alternative to the classical educational model. Virtual universities are slowly transferring the educational content online replacing the traditional educational resources (print, TV and printed communications) with teaching only through online resources.

Blended Learning

Blended learning is a combination of physically attending lectures plus online learning resources and information and communication activities. There have been criticisms to this approach as to being more expensive without expanding the quantity of the learning material. Other discussion points here are whether reducing physical attendance actually contributes to cost efficiency or if personal interaction with the tutor is replaced by online interaction will this increase tutor's personal time loss and possibly the cost of re-training? These issues are to be discussed and implemented in practice.

Training based on resources

Mass Open Online Courses (MOOC) have appeared in the context of Open Educational Resources (OER) as part of university practices. The model of MOOC is characterized by:

- Free access. MOOC participants do not have to be enrolled in university courses in order to use MOOC and they don't have to pay for using them;
- The scale. The majority of traditional courses (even online) depend on the ratio of students to tutors (often 20 to 1), but the "popularity" of MOOC shows that this type of training is designed to support a limitless number of students;
- MOOC are fed with a large number of electronic resources and materials with integrated various demonstrative tools.

We could here quote UNESCO whose OER and MOOC documents in particular refer to them as teaching, didactic, methodological or research learning materials issued with a licence of intellectual property allowing its free public use, adapting and distribution. And the Open Educational Practices (OEP) have been defined as a "concept based on key principles of a new theory of learning - connectivism - a variety of teaching approaches, teaching as networking and collective decision-making, teaching and learning as a process, not as a state. MOOC eliminate spatial and time frames, they are global and fall beyond the scope of a university. MOOC increase independence and enhance motivation of students to acquire skills necessary for professional work in the global digital world.

(http://iite.unesco.org/oer_and_digital_pedagogy/oer/online_courses/)

Automated Assessment Systems

Automated assessment systems allow for the enhancement of the process providing opportunities for several versions of forming grades in the system, thus avoiding the subjectivism in marking that so many tutors complain about.

Having in mind the concern expressed by university tutors on the degree of developing critical thinking habits in students and also the need for greater practice in students' academic writing skills, reducing the application of automated assessment systems still raises a concern. Practices of alternative models are suggested all the time, but here is a collective proposal of alternative educational practices:

Mass application of various presentation techniques

These assist in a better ordering of information and a higher degree of visualisation. Therefore, they do not only encourage the tutor's interest but also the students' attention in the professional use of modern information technologies. Interactivity is needed if this model of presenting information is to be implemented and the attention of the students should be engaged to guarantee better student concentration.

A mobile computer for the primary school

One of the options for overcoming the numeracy inequality on the current stage of developing integration opportunities through education is the personalization of computer devices from a very early age. This means providing a personal computer to each child regardless of their place of living with a constant Internet access. The idea is still debatable but it means that each student will be able to use the information and communication technologies in accordance with their age group. Teaching is done by teachers constantly using the computer and communication devices, thus ensuring cheap schooling that even the state can afford to maintain, providing excellent educational quality where adding ICT is just a natural pace forward. Although there are parental doubts and concerns as to the health implications of using ICT as well as the argument that ICT deprive children of the freedom to communicate face-to-face with their peers, in reality the institutionalising of computer applications in primary education actually does play an important role in the transition towards a knowledge economy.

Virtual Secondary School

The stress in this form of education is on the unified high-quality teaching of subjects necessary for university admission; It is usually financed by the state; Each student is 'attached' to the school in the neighbourhood where the rest of the common subjects are taught. This is an economically justified approach as in many countries governments insist that children under 16 should be physically present at school classes. Flexible solutions are found in this way to avoid the ban on creating virtual schools. Whatever disadvantages

distance learning has, for example superficial teaching of learning content, not enough face-to-face contact with the teacher, problems with practical lessons and experimental schemes, this approach actually contributes to financing not just each and every student, but each educational course at the school, therefore eliminating the low quality of teaching in remote regions and poor city suburban areas.

A College of the OER Type

This educational model implies the mass use of Online Educational Resources and automated assessment systems to provide at low cost qualification competences with an international certificate or a certificate by the provider (Cisco, Microsoft, MikroTik, etc.). It helps the respective government to approve of a suitable approach for independent assessment of educational results; It is a sufficient proof to exist; not oriented towards the “profitable” higher education market, but to a policy of quality training of students. One of the greatest advantages of this model is that it does not overload the learning process with issues of the quality of the learning process but rather directs the efforts to forming working skills and competences sought by employers. Although not paid much attention by the venture funds as in the States or the UK, this model just makes governments confess that training at a secondary vocational level is a vital sector and should not be ignored.

European University Complex

This model has received a quite reasonable development having been founded in 2011 for research within the EU. The model is archetypal as in many aspects it represents what in the past were polytechnical institutes in some countries. This is an institution with the functionality of a wide profile. Quality of teaching is appreciated here and is respectively rewarded; practices are compulsory and regularly monitored; a varied form of education is offered to suit student’s needs – distance form of education, blended learning or one-to-one (Sunday schooling, summer universities and practices). Thinkers of the humanitarian sciences are generated ready for e-business. It provides the opportunity to cooperate with other universities and representatives of the employers’ associations for the monitoring of state examinations and the opportunity of receiving an international diploma qualification (such as an international baccalaureate). This kind of formation establishes connections with international partners for lobbying in government and international circles and introducing transnational quality criteria; It comprises the spheres of applied sciences universities, university colleges and vocational training colleges (at a Bachelor’s degree level) with the mission of professional training

(Cisco Academy, fashion and design academies, etc.) thus becoming a kind of bridge between professional education at a Bachelor's level and further specialization bringing the barriers between the different levels to the minimum. In other words, the desired university specialty from the respective level of training is reached through a smooth transition reducing the number of drop-outs as it goes from level to level. The advantages of such organization of the educational process are clear: low cost of the training courses for each student and not much of a state funding; no hidden education subsidies – all levels and forms of education have transparently calculated fees. However, such organization is difficult to implement without a national system for school leaving examinations and without the will and support of the state. The contributions to the national policy are evident in the fact that governments have to dispose of standard pedagogical research as a benchmark of teaching quality; The model for an open access means breaking away from the relation at a national level between university – industry (this relation here has mostly local dimensions).

A Digital Bridge between Traditional Universities

The reason to include this archetype here is to demonstrate that traditional top universities can also be transformed to work in a digital environment. One of the features of this model is the cooperation of specialised institutions in research institutes based on the 'common services' principle in order to reduce costs without affecting their differentiation. The stress is on the campus as a basic but not the only place for studying – 'short-distance education' is distributed between auditoria of the main campus and other 'premises'. It's a research and project training without a break from the basic syllabus. Thus the formation of research culture of the first-year students is fostered, special attention is paid to the case-study training and accelerated training is provided to gifted and talented students. Basic values of the traditional and leading universities are kept as there is room for ubiquitous Master programmes for 2, 3 or 4 semesters thus bringing the disadvantages, if any, to the minimum. There are many contributions of this model to the educational policy, one of them being a reminder to governments to stop the policy of promoting the most prestigious and best universities when it comes to quality and funding; Governments do understand that they could commission by competition the research and educational programmes and not just traditionally hire the most famous universities. This could refer to tried and tested educational institutions within the countries or abroad. This mechanism is facilitated by the free access to research results and education in a way that scientists and tutors in a

country and outside the country have access to all research resources (books, magazines, databases, laboratories, learning corps, etc.)

Modern Alternative University Educational Models

The existing and already demonstrated its efficiency model on the basis of the link between 'knowledge and economic development' conceptual model of knowledge economy has proved that the economy towards EU integration dictates its requirements therefore changing the educational paradigm – from ACCREDITED QUALIFICATION to CERTIFIED SKILLS. We have already paid attention to such a model that corresponds to this innovative change. It's about the so-called **European University Complex**. We have already discussed the peculiarities, advantages and disadvantages of this model and now we can claim that it largely comes and meets the expectations of the new educational paradigm. Nevertheless and in addition to this model we are prepared to suggest two new alternative university educational models based on thorough research and the experience of the State University of Library Studies and Information Technologies (ULSIT).

University Scientific Research Institutes

Scientific research institutes are university structures where no university specialty is covered but high-quality training occurs and scientific projects are carried out. Usually the staff of such an institute will comprise a director – a university tutor who is positioned somewhere else within the structure of the university as a permanent contract signee. There is also a scientific secretary, project coordinator and section managers, with the same legal status. The relatively small number of administrative staff provides the opportunity for certain flexibility in winning and working on perspective scientific projects. Training activities with this alternative educational model occur only to students with a special status – MA students and PhD candidates, to meet the needs of the university itself or when working on other institutional needs under legitimate contract relationships.

Open Training Practices and Summer Universities

This type of practices is a moral and legal trademark of the SLSIT. The organization of practical students' activities is led completely by actively involved and well-prepared students. Students are involved in organizing themselves establishing contacts with local structures and building up stable two-side relationships. If a tutor's participation is needed, then this is very subtly done without robbing students of the initiative. As for the so-called summer universities, they again include mutual participation of students and

local structures, the leadership here being taken by experienced tutors. The aim of practices and summer universities is to prepare appropriate practical habits and skills in young people both for independent scientific work and for the challenges of real life.

University Youth Academy for Knowledge Management

The Knowledge Management Academy is a contemporary university alternative educational model that enables young people in a university structure to organize their scientific and training activity in accordance with the syllabuses of the university as well as with their visionary wishes and interests. In general, the Academy is headed by a prominent and respected scientist and a tutor. All the other administrative positions are distributed among young not yet habilitated assistants and/or are PhDs. Apart from a chairperson, this educational model also has a chief scientific secretary and an administrative secretary keen on the organization and administering of scientific research. Depending on the subject matter of the university's development, the Academy may open various scientific sections whose heads are called scientific secretaries. They are supposed to be PhDs. Scientific sections consist of about 8 to 10 people – young scientists, PhD candidates and students. They all have declared interests in acquiring sufficient skills for their practical fulfilment in life.

Cloud Computing University Model

Cloud computing is a term used to describe a virtual environment where all the necessary computer resources, software programmes, information content and the actions on their maintenance and provision are concentrated, which does not require the end user to know the real location of such systems. As a matter of fact, these are quite real material resources but it is because we do not know where they are, to our minds they are mostly virtual and are located somewhere in the clouds, hence the name of the term. In this way, the concept of a cloud turns into a basis for innovative solutions, new business models and educational opportunities allowing a more effective use of the Internet by each and every user.

It is widely discussed today the opportunity to use cloud structures in the university administration and educational programmes, projects and training courses. With the necessary IT resources, IT systems and IT experts, it is now possible to introduce cost effective educational practices; the investments that would have been necessary to serve various university departments and other university units and structures could be combined to form a centralised cloud model that all university structures take advantage of, thus economising on

scale. The cloud structure serves as an information and educational environment to students. It is of use not only for administrative purposes (information on admission campaigns, curricula, syllabuses, exam dates, exam results, course fees, cloud information board for events, seminars, lectures and conferences) but also an educational ambience with the potential to help students develop their subject matter and specialty competence. It enables the students:

- 1) To work directly with concepts, notions and environments; to accept the role of an experimenter, to check out hypothesis and draw conclusions on the basis of gathered information, to work in conditions of a group or a team. This allows for the deeper acquisition of ideas and establishing links between new concepts and previously studied material;
- 2) To work in conditions of the real world. The cloud computing educational environment allows the more exact modeling of different situations and conditions of the real world where eventually new knowledge will be applied;
- 3) To flexibly use information and communication technological resources, to work with the studied material in different ways and applying various approaches, to create and supply production demonstrating the results of the training process in particular forms and formats. Thus, the information and education environment created within the cloud representing a space for individual modifications of the people (tutors and students) in educational aims, is an effective means for the development of the knowledge and knowledge management of the students. In the light of the impact of the changes of education in the European integration of the South East region, the building of information educational environments does not only refer to the aspects of the professional activity of tutors, but the specific activities in the virtual environment of students and their independent field of study in the preparation of a wealthy knowledge economy of the region.

A good solution to the outlined ideas on cloud computing in educational environments would be the creation of a site within the local intranet of the university with file archive sections, a reference system, a learning materials system, an information search system, as well as communication opportunities between users. The library of reference materials should contain not just text information but also diagrams, schemes, clusters, illustrative materials, video fragments, audio files. The most significant of all, perhaps, is the organization of the workstation of the student. Each course participant should be able to create

their own calendar of events, to draw a graphic scheme of their individual route of participation in the course of study, to select the most suitable for them means of communicating and publishing of their work. In order to raise the effectiveness of the process of developing professional competences and life-long learning skills, the resource database of the cloud should include products as a result of the scientific studies of students – competitive exhibitions, site publications of the most innovative and creative scientific research results, stimulating learning activity publications, and raising motivation events and case-studies. The results of student activity especially those of post-graduates could serve as a role-model for the students-to-come. The analysis of the results from the activity archived production would allow the assessment of the educational quality in the cloud. The works of students could be saved in the forum of respective sections of the archive, the results of the completed tasks can be fixed in different student blogs the best creative works can be posted in special sections.

The Portfolio as an Alternative Assessment Tool of Educational Processes

An alternative way to assess students' achievements in the context of alternative educational models and the impact of reforms of education in the EU integration processes of the South East region is the Students' Portfolio. There is no better way of measuring the suggested shift in the educational paradigm: from ACCREDITED QUALIFICATIONS to CERTIFIED SKILLS than measuring competencies and the competence of future specialists, a leading criterion for the quality of the university courses for what determines the necessity of new pedagogic dimensions objectively reflecting students' achievements. The essence lies in the idea that the portfolio as a diagnostic tool is based on the idea of the competence approach and the knowledge economy society. The portfolio is seen as a kind of authentic assessment applied in the practically-oriented education and projecting the assessment of the formation of the necessary skills and knowledge of the personality of the student in conditions or situations close to real life situations. Unlike the testing approach, which gives no complete and full picture of the students' level of preparation, the authentic assessment or the "student centred learning" seems from this angle much more transparent and standardized. An example of the application of the portfolio as an alternative to traditional assessment tools could be the so-called "achievement files", used in educational institutions in Germany in order for each student to build up evidence of the level of achievement of each step of the educational process and the acquisition of practical skills.

Conclusion

As Prof. Anastas Angjeli rightly observes in his book *Transition and Economic Freedom in Albania* that "...economic development in Albania can be attributed to many factors...the development of the business community, greater freedom of speech through the media and the increase in the role of the civil society". In the context of our paper, we see the role of the reform in education through alternative university teaching models in the EU integration aspirations of the South East region in what Prof. Angjeli refers to as "the civil society". In his own words: "...it is obvious that a healthy relationship between government and business, government and civil society, government and media and any other indirect relation among these will greatly help into achieving those grand goals set forth by the European union."

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ANALYSIS OF ALBANIAN AND EUROPEAN UNION LEGISLATION REGARDING OLIVE AND OLIVE OIL

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ABSTRACT

The study of existing national legal framework regarding Olive cultivation, processing and trade including legislation related to olive oil and organic farming.

The following aims at analysing existent Albanian relevant legislation regarding olive grove and olive oil production. The paper focuses on important aspects of the legislation which affect the cultivation of olive and the production of olive oil such as issues related to property of agriculture land, olive cultivation, trade and legislation on "BIO" products certification. The general objective is to include in one brief paper, information that might be used to all categories of subject involved in the mentioned activities and make it easier, even for non-experts, to obtain the necessary legal information on olive and olive oil production, processing and trade.

The general legal overview of EU legislation in place which affects the cultivation, processing and trade of olive and olive oil. The task is not easy, taking into account that the amount of pieces of legislation to be examined is significant and that this field, as agriculture in general, seems to be a very dynamic one, with important amendments in the years. In any case, it seems worthy to try to provide legal

information since Albania aspires at being part of the European Union and, hopefully, Albanian institutions, organisations, commercial companies and farmers will have to deal also with EU legislation in the future. The eventual accession of Albania to the EU will open a new and significant scenario in the future, full of challenges and risks. The following overview might be helpful to both state and private actors and respectively; to the first ones to undertake all the necessary measures that Albanian legislation, policies and administrative capacities be in line with the EU requirements and; to the second ones to adopt all measures in order that their production activities and products comply with the standards imposed by the common market.

It should be mentioned since the beginning that the cultivation, processing and trade of olives and production of olive oil are not and could not be, regulated by a single legal provision. Dispositions affecting the mentioned activities are found in different norms regulating different aspects of agriculture, such as provisions on financing, rural development, direct support schemes, competition, common organisation of markets, food quality and organic farming.

Keywords: *legislation. Albania, EU, olive oil*

OVERVIEW OF RELEVANT ALBANIAN LEGISLATION

1. BACKGROUND

The paper focuses on important aspects of the legislation which affect the cultivation of olive and the production of olive oil such as issues related to property of agriculture land, olive cultivation, trade and legislation on “BIO” products certification. The general objective is to include in one brief paper, information that might be used to all categories of subject involved in the mentioned activities and make it easier, even for non-experts, to obtain the necessary legal information on olive and olive oil production, processing and trade.

Olive oil

For the best comprehension on issues that regard the production and commercialisation of olive oil in Albania it is necessary to take into examination various pieces of legislations.

The Albanian Assembly has approved in 2013 a new law on production categorisation, labelling and marketing of olive oil and olive pomace oil.⁹ In

9 Law no. 87/2013, dated 14 February 2013 “On production categorisation, labelling and marketing of olive oil and olive pomace oil.”

the same year, the Council of Ministers issued the implementing secondary legislation.¹⁰

The law proceeds to give the definitions of the various types of olive oil and olive pomace oil. To be classified as olive oil, the oil should be obtained from the fruit of the olive tree solely by mechanical or other physical means under conditions that do not lead to alterations in the oil. Therefore, if oils have been obtained by the use of solvents or by using adjuvants having a chemical or biochemical action or by re-esterification process and any mixture with oils of other kinds, the oil will be classified as olive pomace oil.

A. OLIVE OIL

The olive oil is categorised into three distinct categories: virgin olive oil, refined olive oil and olive oil. The classification into one of the three categories is based on the percentage of oleic acid in 100 grams of oil.

1. VIRGIN OLIVE OIL

Virgin olive oil is oil obtained from the fruit of the olive tree solely by mechanical or other physical means under conditions that do not lead to alterations in the oil, which have not undergone any treatment other than washing, decantation, centrifugation or filtration.

Virgin olive oil is further categorized into olive oil suitable for consumption and olive oil not suitable for consumption.

Virgin olive oil, suitable for consumption is sub classified into the following categories:

(a) *Extra virgin olive oil*

Virgin olive oil having a maximum free acidity, in terms of oleic acid, of 0,8 g per 100 g, the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555.

(b) *Virgin olive oil*

Virgin olive oil having a maximum free acidity, in terms of oleic acid, of 2 g per 100 g, the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555.

(c) *Ordinary virgin olive oil*

Olive oil having a maximum free acidity, in terms of oleic acid, of no more than 3.3 g per 100 g, the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555.

Virgin oil not suitable for consumption is classified as *lampante olive oil*, which is virgin olive oil having a free acidity, in terms of oleic acid, of more

10 Council of Ministers' Decision no. 555 dated 27 June 2013, "On characteristics of quality and criteria for purity of olive oil and olive pomace oil".

than 3.3 g per 100 g, and/or the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555.

2. *REFINED OLIVE OIL*

The category of refined olive oil covers olive oil obtained by refining virgin olive oil, which do not alter the initial structure of the glycerides, having a free acidity content expressed as oleic acid, of not more than 0.3 g per 100 g, and the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555.

3. *OLIVE OIL*

Olive oil obtained by blending refined olive oil and virgin olive oil other than lampante olive oil, having a free acidity content expressed as oleic acid, of not more than 1 g per 100 g, and the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555.

B. OLIVE POMACE OIL

As stated, as olive pomace oil are categorized any kind of oils that have been obtained by the use of solvents or by using adjuvants having a chemical or biochemical action or by re-esterification process and any mixture with oils of other kinds.

Olive pomace oil is classified into three categories: crude olive pomace oil, refined olive pomace oil and olive pomace oil.

1. *CRUDE OLIVE POMACE OIL*

Crude olive pomace oil is olive pomace oil having characteristics as specified by Council of Minister decision no. 555. If it is intended to be for human consumption it needs to be refined otherwise it can be used for technical purposes.

2. *REFINED OLIVE POMACE OIL*

Oil obtained by refining crude olive pomace oil which do not alter the initial structure of the glycerides, having free acidity content expressed as oleic acid, of not more than 0.3 g per 100 g, and the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555.

3. *OLIVE POMACE OIL*

Oil obtained by blending refined olive-pomace oil and virgin olive oil other than lampante olive oil, having a free acidity content expressed as oleic acid, of not more than 1 g per 100 g, and the other characteristics of which comply with those laid down for this category by Council of Minister decision no. 555. It should be noted that this category cannot be marketed as "olive oil".

The law establishes that all natural or juridical persons who produce or market are subject to the provisions of this law and all producers should be

licensed according to the legal framework in place, unless the production is only for personal purposes. The licence for producing olive oil obtained from the National Licensing Centre according to the criteria established in law 9863, dated 28 January 2008, "On food" ("as amended").

Olive oil should be marketed only in appropriate package. Appropriate package means any package that hermetically seals the oil and if opened, it cannot anymore be sealed hermetically. Marketing without packaged is allowed only from the producers to the packaging subject. In addition, regarding storage, the law does not allow the storage and trade of virgin olive oils in refining facilities. In case the same factory has both refining and packaging facilities, storage virgin olive oils should be carried out in apposite containers which should be numbered appropriately. Additionally, it cannot be sold in unit of more than 5 litres. As an exception, it can be sold to units of up to 30 litres when its target consumers are places, centres or institutions of mass consumption such as restaurants, hospitals, cafeterias etc.

In addition to different categories of olive oil and olive pomace oil, the law 87/2013 has stringent criteria on labelling of olive oils. As an example, the law allows the labelling of the origin only for extra virgin and virgin olive oil. Additionally, the law provides for specific information to be contained by the label. For example, for extra virgin olive oil, the label should contain the following information: "superior category olive oil obtained directly from olives and solely by mechanical means". Furthermore, the label can contain additional non-compulsory indications such as 'first cold pressing', 'cold extraction', indications of organoleptic properties referring to taste and/or smell or indication of the acidity or maximum acidity. These indications, if used, should comply with the requirements of law no. 87/2013 and its bylaws.

With the aim of determining more technical criteria on the classification of olive oil and on the relevant rules food security the Council of Ministers adopted decision no. 555 "On characteristics of quality and criteria for purity of olive oil and olive pomace oil" ("as amended"). The decision provides for very detailed parameters of organoleptic and chemical indicators of different categories of olive oil and olive pomace oil.

Lastly, the law provides that the National Authority on Food can take administrative sanctions if infringements of the law occur. Such infringements include: non-enforcement or malpractice of olive oil categorisation; nonfulfillment of special conditions on production, processing, storing and marketing of olive oil; non fulfilling criteria on marketing and labelling etc. Additionally, the National Authority on Food can use the administrative sanctions provided for by law no 9863, dated 28.1.2008 "On food" (as amended).

2. FOOD SAFETY AND INSPECTION SYSTEM

This chapter will offer a brief analysis of relevant legal framework on the issues mentioned in the above title.¹¹ Olives and olive oils are food thus producers, processors and traders of these products are subject also to the provisions of the above mentioned law.

Some aspects of the law which might be really interesting to producers, processors and traders of olives and olive oils are those regarding food safety and inspections to verify that the standards of the law are met by the subjects.

Regarding food safety, it should be said that this means that agricultural products in general, olives and olive oils in our case, should not be dangerous to the health of the consumers. To ensure such result, a set of measures have to be taken in order to avoid any potential form of risk and to ensure the hygiene of the product which reach the consumers.

For the purposes of food safety, the law on food provides some important rules on labelling of products and hygiene standards of food processors.

In matter of labels, the law provides that it should contain all info regarding the name of the product, the ingredient list in case of composed products, the net weight, the expiring date, indication on conservation or use if necessary, name of the producer, processor or trader and the place of origin. The label should be in Albanian and more detailed rules are provided by the secondary legislation in place.¹²

Another important novelty introduced by the above mentioned law on food is the introduction of a self-control mechanism, according to the principles of HACCP for all food business operators.

Hazard Analysis Critical Control Points (HACCP) is considered as an important tool in matters of food safety. Basically this system consists in hazard analysis, identification of critical control points, establishment of critical limits, monitoring of the critical control points, eventual corrective actions and record keeping.

It should be stressed that the HACCP is only one of the tools in matter of food safety therefore it is necessary that also other tools, such good manufacturing methods, sanitation programmes or personal hygiene programmes are also adopted in the same time. The law provides also that there is a possibility for small food businesses to derogate to the above mentioned but the derogation can only be conceded by the Minister of Agriculture, Food and Consumer's

11 Law no. 9863, dated 28 January 2008, "On food" and other pieces of legislation

12 Council of Ministers' Decision no. 1344, dated 10 October 2008 "On labelling of food products".

Protection and only in case the small operator fulfils some hygiene standards deemed necessary to guarantee food safety.

The law provides that the monitoring of adopted instruments regarding food safety is with the National Authority on Food. Its inspectors are also in charge of verifying compliance of food industries with relevant technical and infrastructural requirements.

Inspections are carried out in any food business operator to verify compliance with food safety standards, without considering any compliance or no compliance with any food quality standards.

During the construction phase of a food processing facility, food operators are subject to inspections from local government units or local offices of central bodies according to the specific competences of these bodies. I.e. the Ministry of health is entitled to carry on inspections regarding public health issues or the local fire department can carry on inspections regarding the adoption of due fire control measures.

After the establishment of a food processing plant, they are subject to different inspections related to the respective specific fields from Tax Inspectors, National Authority on Food inspectors, Health inspectors, Environmental Inspectors and local government inspectors.

Overview of relevant EU legislation

1. Background

The following chapter aims at providing a general legal overview of EU legislation in place which affects the cultivation, processing and trade of olive and olive oil. The task is not easy, taking into account that the amount of pieces of legislation to be examined is significant and that this field, as agriculture in general, seems to be a very dynamic one, with important amendments in the years. In any case, it seems worthy to try to provide legal information since Albania aspires at being part of the European Union and, hopefully, Albanian institutions, organisations, commercial companies and farmers will have to deal also with EU legislation in the future. The eventual accession of Albania to the EU will open a new and significant scenario in the future, full of challenges and risks. The following overview might be helpful to both state and private actors and respectively; to the first ones to undertake all the necessary measures that Albanian legislation, policies and administrative capacities be in line with the EU requirements and; to the second ones to adopt all measures in order that their production activities and products comply with the standards imposed by the common market.

In order to understand the sources of European legislation it is important to know that it can be classified as primary legislation (Treaties) and secondary

legislation (Laws). Treaties establish the objectives and lay down the powers of the EU institutions. The two main sources of secondary legislation are Directives and Regulations. Most legislation is in the form of Directives, which set common objectives and deadlines for Member States to implement through the enforcement of appropriate national legislation. Conversely, Regulations have direct applicability, which means they do not have to be transformed into domestic law. They confer rights and impose duties directly on all citizens of the Union. The olive oil and table olives industries have to comply with all European legislation in force for food industries and with the specific one for the sector.

Agriculture is the field most comprehensively governed by the EU rules. Many of these rules have a direct effect on national legislations therefore they influence directly the rights of citizens. Some other rules are also binding to the member states which are required to adopt specific national legislation in order to give them full execution. So, directly or indirectly, EU law on olive cultivation, processing and trading may influence, in the future, also the rights of Albanian farmers, entrepreneurs, commercial companies and organisations.

2. *Marketing standards of olive oil*

To be able to compete with the European olive oils, olive oils producers of non-EU countries should make sure their oils are of a comparable quality. Furthermore, they should check with potential EU buyers whether there will be a demand market for their olive oils in the EU.

The EU consumers have shown great appreciation to olive oil since ever. Olive oil has certain properties, in particular organoleptic and nutritional properties, which, taking into account its production costs, allow it access to a relatively high-price market compared with most other vegetable fats.

These circumstances have convinced the EU Commission to lay down specific rules regarding quality, purity,¹³ marketing standards and labelling of olive oils.

To ensure the purity and quality of olive oil, the Regulation establishes in Annex I the physic-chemical characteristics for each category and organoleptic (sensory) characteristics for virgin olive oil in particular. The criteria relate to maximum contents for peroxides, sterols and fatty acids.

According to these criteria **virgin olive oils** are directly obtained from olives solely by mechanical or other physical means under conditions that do not lead to alteration in the oil and which have not undergone any treatment

13 Commission Regulation (EEC) no. 2568/91 of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant method of analysis

other than washing, decantation, centrifugation or filtration. The following designations and classifications apply:

- *Extra virgin olive oil*: Virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 0.8 grams per 100 gram (0.8%).
- *Virgin olive oil*: Virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 2 grams per 100 grams (0.2%).
- *Lampante olive oil*: Virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 2 grams per 100 grams.

Oils obtained by the use of solvents, adjuvants having a chemical or biochemical action, or re-esterification methods or oils mixed with oils from other sources can not classify in the category.

Refined olive oil is obtained from virgin oil by refining methods with not more than 0.3 grams of oleic acid per 100 grams (0.3%).

Olive oil is a mix of refined oil and virgin oil (other than lampante olive oil) with not more than 1 gram of oleic acid per 100 grams (0.1%).

Crude olive pomace oil is obtained from olive pomace by treatment with solvents or by physical means or oil corresponding to lampante olive oil (except for certain specified characteristics) exception made for oils obtained by means of re-esterification and oils mixed with other types of oils.

Refined olive pomace oil is obtained by refining crude olive pomace oil with not more than 0.3 grams of oleic acid per 100 grams (0.3%).

Olive-pomace oil is obtained by mixing refined olive-pomace oil and virgin olive oil (other than lampante olive oil) with not more than 1 gram of oleic acid per 100 grams (1%).

To ensure a uniform quality the Regulation furthermore establishes methods of analysis for the determination of the chemical characteristics. These methods are laid down in the following Annexes of the Regulation:

- Annex II: Free fatty acids, expressed as the percentage of oleic acid
- Annex III: Peroxide index
- Annex IV: Wax content
- Annex V: Sterol content
- Annex VI: Erythrodiol and uvaol
- Annex VII: Percentage of 2-glyceryl monopalmitate
- Annex IX: Spectrophotometric analysis
- Annex X A and B: Fatty acid composition
- Annex XI: Volatile halogenated solvents
- Annex XII: Organoleptic characteristics of virgin oil
- Annex XVII: Stigmastadienes
- Annex XVIII: Content of triglycerides with ECN42
- Annex XIX: Aliphatic alcohol content

The organoleptic characteristics refer to sensory properties, such as appearance, bouquet and taste. Organoleptic assessment may only be carried out by trained tasting panels approved by the EU Member States. EU Member States are allowed to impose administrative fines if the organoleptic characteristics of an olive oil are different from those which the olive oil described on the label.

The EU Commission approved also Regulation (EC) No 1019/2002 of 13 June 2002 on marketing standards for olive oil which was substantially amended several times. In the interests of clarity and rationality the said Regulation should be codified and for this reason approved Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil. The rules in place provide for specific criteria on marketing and labelling of olive oils at the retail stage.¹⁴

In reality, the provisions on labelling in this regulation are intended to be supplementary to the existing ones in Directive 2000/13/EC which require that indications shown on the labelling may not mislead the purchaser, particularly as to the characteristics of the olive oil concerned, or by attributing to it properties which it does not possess, or by suggesting that it possesses special characteristics when in fact most oils possess such characteristics.

Accordingly, the concepts of 'cold pressing' and 'cold extraction' should correspond to a technically defined traditional production method. Certain terms describing the organoleptic characteristics referring to taste and/or smell of extra virgin and virgin olive oils have been defined by the International Olive Council (IOC) in its revised method for the organoleptic assessment of virgin olive oils. The use of such terms on the labelling of extra virgin and virgin olive oils should be reserved to oils that have been assessed following the corresponding method of analysis.

The new regulation provides that olive oils in can be presented to the final consumer in packaging of a maximum capacity of 5 litres. Such packaging shall be fitted with an opening system that can no longer be sealed after the first time it is opened. In any case, there are exceptions to this rule when oil is meant for consumption in restaurants, hospitals or other similar collective establishments.

As mentioned above all olive oils sold at the retail stage in the EU must be labelled in accordance with the general labelling requirements of Directive 2000/13. In any case, a label may not mislead consumers regarding the characteristics of oils (composition, quality, origin, category, method of production, etc.).

¹⁴ Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil

In addition, specific information must appear on the labels of containers containing an olive oil that is considered fit for human consumption. In concrete, labels should contain the following information:

Extra virgin olive oil: 'superior category olive oil obtained directly from olives and solely by mechanical means';

Virgin olive oil: 'olive oil obtained directly from olives and solely by mechanical means';

Olive oil: 'oil comprising exclusively olive oils that have undergone refining and oils obtained directly from olives';

Olive-pomace oil: 'oil comprising exclusively oils obtained by treating the product obtained after the extraction of olive oil and oils obtained directly from olives' OR oil comprising exclusively oils obtained by processing olive pomace oil and oils obtained directly from olives'.

This information may appear on the label on the back of the container, provided that it is clear and indelible. The sales names of these categories must appear on the same field of vision on the label as the net quantity and the "best before date" indication.

The label or packaging of a container containing extra virgin olive or virgin olive oil must contain information on the 'designation of origin'. This means that a reference to the country of origin (geographical area) of the olive oil must be made. The EU regulation makes clear also that, in the case of blends of extra virgin or virgin olive oils originating from more than one EU member state or non-EU country, the label should describe the designation of origin using one of the following mentions, as appropriate:

- a) 'blend of olive oils of European Union origin' or a reference to the Union;
- b) 'blend of olive oils not of European Union origin' or a reference to origin outside the Union;
- c) 'blend of olive oils of European Union origin and not of European Union origin' or a reference to origin within the Union and outside the Union.

In the case of virgin or extra virgin olive oil extracted in a mill located in an EU member state or non-EU country other than that where the olives were harvested, the designation of origin must contain the following words: "(extra) virgin olive oil obtained in (the Union or the name of the Member State concerned) from olives harvested in (the Union or the name of the Member State or third country concerned)".

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Albanian Legislation

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- Law no. 9723, dated 03 March 2007 "On the National Registration Centre"
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- Council of Ministers Decision no. 3, dated 10 January 2007, "On incentives to the development of vineyards, orchards and olive groves"

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- Regulation (EU) no 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 of 17 December 2013
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- Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1999/468/EC)
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No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market

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PROGRAMMING IN THE ALBANIA OF INNOVATION AND THE NEED FOR INSTANT INNOVATION IN OUR EDUCATION RESEARCH ANALYSIS ON THE CHALLENGES AND ASPIRATIONS OF COMPUTER PROGRAMMING IN ALBANIA

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ABSTRACT

Nowadays, numerous innovative applications¹⁵ are being introduced with velocity. Artful and ingenious people strive to come up with new ideas that beyond individual benefits may transform the way we do things and change our lives. Innovation, as a means of indicating the overall human cultural development¹⁶, is seen even more critical than in the past. Because, as new ideas are being introduced, it is the competition that accelerates the wheels of their unstoppable change over time. Accordingly, our modern society requires highly educated and capable citizens as the primary source for innovation. This study will focus on the importance of computer programming inside the contemporary dimension of innovation, and the challenges and aspirations of computer programming education in Albania. Does it prevail as a key ingredient for innovation, and what can be done in order to fulfill the need for continuous and instant improvements in its best integration in our education? Up-to-date improvements in the way we teach programming are analyzed not only with the perspective of speeding up the process into the road to contemporary knowledge, but also with the aspiration of embodying and reconciling it with relevance as part of fundamental subjects, since elementary school¹⁷. This research analysis is simultaneously focused on the role of programming as a modern engine that

15 Computer applications spanning from all kinds of devices, personal computers, smartphones, tablets, and so on.

16 (Shavinina, 2003)

17 Introducing programming knowledge since elementary school is emphasized notably also by The President of the United States, Mr. Barak Obama. Link: <https://www.youtube.com/watch?v=6XvmhE1J9PY>

correlates education with innovation, and because it can be applied to almost any field or discipline, stands in need for an interdisciplinary approach toward its learning.

Keywords: *Computer Programming, Education, Innovation, Albania*

I. Introduction

Over the next few years it will be easy to see that we will need more jobs in computer science and probably there will be fewer people qualified for such jobs. It is not even hard to make accurate predictions seeing that none of the children you may ask will ever say that in the future they wish to become computer programmers. Kids may like to be doctors, actors, football players, teachers, or may be chefs, but they may find it hard to respond to your question of what a computer programmer is.

Computer programming however, is an important element found in all areas of our life, and certainly a key ingredient in the modern anatomy of innovation. While computer technology moves fast, its role as an integration bridge between disciplines as well as industries is also an interdependent, and yet, a brand new subject in need for encompassing¹⁸ all branches of education. It is meaningless to imagine someone learning to program without framing and visualizing relations across different fields or subjects. The need for innovative solutions is never limited or reserved for special domains but innovation must be accepted as a product of multidisciplinary knowledge and multi-faceted activities. A great role in the economic prosperity of any country and the whole world is attributed to talented people, as denoted by Shavinina in 2012¹⁹ who introduced also the concept of talent-based economy. It is crucial to keep in mind that innovation originates from within the individual, that is: from his or her new idea(s)²⁰. Indeed, innovative products and services have always been the unquestionable postulate for brands and companies competing in the fierce arena of global market. Creative and inventive employees with novel ideas are not only the underlying necessity for the success or survival of the companies, but also the masters for the future growth of countries, regions, and the world. Consequently, our modern society requires highly educated and capable citizens as the primary source for innovation, which in turn can bring into existence innovative solutions resolving present and future challenges.

18 Computer programming stands in need to be involved or integrated in all areas of our education.

19 (Shavinina, The Emergence of a New Research Direction at the Intersection of Talent and Economy: The Influence of the Gifted on Economy, 2012)

20 (Amabile, 1988)

II. The sync of innovation with education in the digital age - priorities and conditions in Albania

Innovation, discoveries, and explorations, have always been the perennial torch of the human culture and existence. All the human development is a unification of attributes resembling achievements in science, technology, education, and many doctrines, originating inherently from the human mind. Education, as a universal entitlement for we all and as the most common form of learning, moreover is embracing continual advancements in technology -which sometimes can be seen as racing cars that outdistance one another. In fact technology is unceasingly in guard for the next revolution, and the first to spot it is the first who may benefit the most. In conjunction with the increasingly harsh competition among companies and stakeholders in the global market, the urge for innovation is greater than in the past. Companies, as well as communities, are constantly dependent on innovation which successively requires truly knowledgeable and brilliant people that can produce innovative solutions or contribute to new ideas approaching current and future challenges.

As a factor of paramount importance, innovation in Albania has recently been supported distinctively. Since 2013, Albania has a Minister of Innovation and a lot of reforms are being done in synchronization also with other Ministries. Apart from other ambitious aspirations, the Albanian Government is working to provide modernized services in education for overcoming the digital gap and enabling the youth. The aim is to improve and extend the human capacities in order to increase the number of practitioners as well as the number of native providers of e-services²¹, and also consolidating the digital infrastructure in all the territory of the Republic of Albania. A greater budget is assigned for the digitalization of education, including the electronic management of education system, e-learning initiatives, and the creation of an electronic register. The process has started in about 60 high schools all over the country²², where 120 labs will be opened with all the facilities including tablets, computers, smart-projectors, and everything will be networked with access on internet. Emphasis is given to trainings for educators and the aim is to enable the development of knowledge through new technologies of information and communication. The situation till now has been not good, where problems include the lack of equipment and difficulties on internet access. The number of computers is very low and teachers aren't qualified as needed, and in a vast number of regions there are also teachers with very poor qualification. According to Kaçani et

21 Official Web Source (Ministry of Innovation, 2015): <http://www.inovacioni.gov.al/al/program/teknologjia-e-informacionit-dhe-komunikimit>

22 (Ministry of Education and Sport, 2014)

al., the technological progress and innovation are (along with appropriate economic policies) catalysts to increase the productivity of the capital and to ensure a sustainable economic growth. The focus in every sector should be the formation and training of the staff and the transfer of technologies. The authors also underline that Albanian workforce, although free, is unqualified, and one of the premier investments for innovation in Albania must be centered on the education of the new generation with contemporary knowledge²³. Concluding that Albania is on its last station toward the end of a prolonged transition, the common denominator toward our forward-looking road is certainly education.

“The performance of our education system needs to be increased in sync with technological developments, reflecting more on the alleviation of unemployment phenomenon, as one of the most serious social problems.” (Angjeli, 2010).

To encapsulate a conclusion, we must speed up to overcome our social problems as an athlete, jumping over this trilateral obstacle, where education needs to react correspondingly on changes and transitions in technology as well as by reflecting attentively the demands of the labor market. The first to react on changes - if we agree that academic institutions come second because of reduced influence and relative conservatory attitude²⁴ - it is the government, with the right policies and conditions that empower and facilitate the overall process and progression. Some of the main factors associating exclusively the role of government with innovation, and consequently the progress of education in line with contemporary expertise and ambitions, are centered as follows.

III. The role of government in innovation and education

It may hold a lot of discussion but the role of government in innovation is of vital importance. Even though it's not the government who invents or innovates in first place, it is government support, encouragement, and promotion that fuel-feeds the creation and sustainability of innovations. A substantial correlation is found to exist between innovation and economic growth, as stated in the result of the research conducted by Robert Solow - which made him also win the Nobel Prize. Solow's work suggests that innovation is more important to the growth of GDP than it is the accumulation of capital or the increase in the labor market²⁵. The reasons may be numerous but the most important are:

23 (Kaçani, Sevrani, & Leskaj, 2010, pp. 110, 115)

24 (Tarifa, 2014)

25 (Sandalow, 2011)

A. Intellectual property

Governments have to protect intellectual property with patents and other mechanisms. It is crucial for innovators to be ensured that their creativity and hard work will be safe and protected. The number of patents sometimes serves as a proxy for the rate of innovation in a specific country, and for such basic requirements the governments play a central role in innovation. Albania has to overcome this obstacle by fighting also the piracy in the software market.

B. Research and development

The investments on research are very low by the private sector because few companies are able to capture direct benefits without using vast resources which are available only to governments and large companies. New technology needs to be marketed faster and have instant support if we want to seed the future of generations. In a country without the right conditions for making research it is obvious that progress will be very latent and the society will always suffer from lack of possibilities as well as new horizons.

C. Education

Innovation is deeply dependent on educated workforce and talented entrepreneurs, and that is one of the most important issues for governments. Since elementary education, a vital precursor to innovation is made, and later the universities play a central role in training, but also by motivating students with promises that governments will fund their innovations. It's obvious that if we want to incorporate technology for improving our economy we need technicians and if we want new inventions or solutions expressed through computer science we need programmers.

Before jumping on the issues relating to programming in our education, for better emphasizing the role of government in innovation, it is important to mention also two of the most revolutionary examples in innovation which were initially supported or funded by the government²⁶. The first is unquestionably the advent of Internet, and the second which now has become a private giant company, is Google search engine²⁷. Walter Isaacson, the best-selling biographical author of two of the most notable innovators and geniuses of our times, Steve Jobs and Einstein, states in his new book²⁸ that "The computer

26 Supported or funded by the U.S. government - by the National Science Foundation, DARPA, and NASA.

27 (Sandalow, 2011, pp 1 - 2)

28 (Isaacson, *The Innovators: How a Group of Inventors, Hackers, Geniuses, and Geeks Created the Digital Revolution*, 2014)

and the internet are among the most important innovations of our era, but few people know who created them", and certainly not how.

IV. Programming, as a key ingredient for innovation, and its need for instant innovation in education

Programming, as a seed of technological solutions in every aspect of our daily life, is not just an important topic, not just a great subject for the career, and not only profitable, but is powerful. It empowers the individual simultaneously with knowledge and unique abilities to provide innovative solutions for present and future challenges. Programming furthermore develops the logic of thinking and galvanizes the right philosophy of solving certain problems, affecting also the improvement of many economic sectors in a country or region. Technology is moving rapidly revolutionizing our life. An exclusive role in this process has of course the Internet, which in some way is also an output of programming. The speed of these giant steps in technology can be visualized as railway patterns of trains in geometric progression. While we're waiting to embark as passengers on our classic old train, a supersonic one has just emerged as a new choice in our station. In this one-way ticket approach toward present and future accomplishments, computer programming plays an essential role. We are testimonials of how these new approaches, techniques, and philosophies have contributed to the current stadium of empowering even young people became billionaires, as happened with a college guy named Mark Zuckerberg, who launched Facebook from Harvard's dormitory rooms²⁹.

Programming, in its uniqueness, is not an approach to be handled in the context of being a user, but in that of a maker, a builder, or a creator, unrestricted in scope. The aim of programming as a discipline is that the student becomes more creative and able to offer innovative solutions which are not limited by defectiveness that predominate, or even imposed, from current vendors. Viewed from this perspective, the learner nurtures with a leadership mentality and further develops himself onto becoming an innovative entrepreneur. As computing evolves, adopting and progressing with this mentality, requires also continuance in the refreshments of Computer Science as a discipline. Change takes time, effort and commitment, but in an attempt to firstly address the problems by raising the right questions, as might be the three suggested below, it may help to bring in focus and puzzle-out the challenges and aspirations of computer programming likewise in Albania.

29 (BBC, 2013)

A. First Question: Do we teach programming in the right way?

As computing evolves, so does Computer Science as a discipline. Educators or professors in consequence must contribute to continual improvements by making reviews and rewriting the courses, as well as the curriculum. The challenge may include the creation of new courses, which bring up innovative ideas and practices into existing courses. One of the major issues regarding programming as a very dynamic topic is of course the trade-off between programming languages. This became even more complicated, since the day Steve Jobs revealed his new revolutionary product, a handheld computer within a phone, under the name iPhone, and a new form of programming began to emerge with its kickoff in mobile applications. Many other handheld devices are introduced today, giving also new possibilities to programmers to shift their attention toward the creation of mobile applications, and integrate or synchronize communication between personal computers, servers on the web, and mobile devices. Programming nowadays has lost the enthusiasm of newbies to print just the classic "Hello World" in the screen of a personal computer. Thus, programming languages are now closely dependent on contemporary applicability, the diversity of which enforces a new approach on how we teach programming. Traditionally programming has been taught with emphasis to syntax and by focusing on a single language. As a process separate from purpose, teaching programming is no longer an approach of getting the computer to do something, but as a transferable skill in its own right, and with such change of disciplinary construct, new conceptual models and methodologies for teaching programming have been explored and developed, involving methodologies like the "syntax-free" approach, the "Literacy" approach, and the "problem-solving" approach³⁰. The significance and impressiveness that distinguishes these approaches, is not on what is taught, but how and why, and as Fincher states, it is the how and why that creates the distinctive educational frameworks within which these educators teach.

First of all, an imperative immediate consideration must include a broad concentration on concepts, and not just focusing on one specific programming language, whatever its impact. Concepts and principles are of a more vital importance than merely language features or syntax. Advocated by the brand-new directions that programming languages followed in their historical roadmap, we must prioritize between concepts and paradigms, because they cannot be present in each and every language, and that's why languages differ from each other, and furthermore that's what makes more enjoyable the payoff which comes from learning to program without wearing blinders

30 (Fincher, 1999)

of individual programming languages. Programming develops the logic of thinking, and the way of thinking cannot be limited by the singularity of any language, which can only portray fractions of a comprehensive approach to problems, and may lack also the ability to give solutions in a contemporary context. Some languages belong to the past and the curriculum of any school or university in Albania must be very attentive to change accordingly with contemporary programming languages and methodologies. Change in technology happens really fast and that's why continual and instant improvements need to be actualized in our education. Although a general term, programming cannot constitute everything into one course, but it grants us access to many basic and fundamental topics that in fact cannot be attributed to only one language, because each and every new language originates from innovative ideas directed toward new technological derivations for which a new approach was vital. Programming languages therefore have evolved by means of contemporary factors, including changes in hardware, portability, execution type, property of source code, re-use of code, new platforms and frameworks, and so on.

However, in the heart of our first question underlies hidden, on top of all others, the core of all misconceptions about programming, that is, programming is hard. On the whole, that's because novice programmers are exposed too early to difficulties which in turn can incurably be converted into deficits that further become the primary source of influence to the highest drop-out rate among other courses. This is a reality also in many universities in Albania. Beginners may get shocked the first time they see big amounts of intimidating code, looking more like alien terminology than fairly simple syntax, and to their reasonable question of having to memorize everything, the answer without fear and with all the honesty might be definitely "No". How do we expect to have more practitioners in programming if we don't remove wrong perception barriers since the beginning and also facilitate the process of learning in such way that it becomes not only streamlined over time but also appealing? First of all programming is not a dominion appertaining only to math-experts or super-genius people. It doesn't require deep knowledge in mathematics and there are also subsidiaries - mostly in web programming - in which a programmer may never need to write a single math formula in his or her entire career. Another problem regards the pedagogical methodology, and this is not a problem to be neglected by professors which may know everything about the topic but lack the didactic manners which sometimes are reflected in a bad attitude or a non-student-friendly approach. The impact of teachers whom students share love, admiration, and respect, is evident in their dedication to the field and their development. Most of the students feel like 'going nowhere' when they have

teachers who lack such qualities³¹. Teaching is a process and not a product, and so it develops and changes over time³², and the quality of teaching includes the creation of a positive environment, motivation, responsiveness to students' needs, and correct evaluation of their abilities. Didactic deficits unfortunately are encountered in literature, where much known authors including creators of programming languages, recklessly or inadvertently suffer from inadequate didactic methodologies. In Albania the quality of textbooks in general is very poor and not only concerning grammatical aspects but also incompetent technicalities. It's hard to mention, but most books are written just for financial purposes³³. Computer science books are the most problematic, and beside the fact that there is a huge hole of deficiency, we may encounter also wrong translations for technical terms which don't even require translation. I consider it wrong to translate something that has its own name (not meaning) in programming, where its meaning is only for understanding purposes or historical background, and translations in Albanian may contribute only to confusion. Beside the fellow feelings regarding standardization of informatics terminology³⁴, it cannot interfere with the learning process, because Apple is not an apple. Programmers need to be accustomed to talk our universal language (no need to mention it) also because it's obvious that all references online are certainly not in Albanian. Anyways, belonging to the same kingdom, that of languages, learning a programming language is not much different from learning a non-native language, like English or German, and memorization is nothing else than the natural outcome of a persistent and perpetual process which involves the repetition of "foreign words", or being more specific, writing the same code again and again until the coding skill becomes second nature. Here, at this point, another problem takes place, which concerns time. Some argue that it takes 10 years to be a professional programmer³⁵, but such viewpoints are only responses to scrappy internet tutorials and short-route e-books which, good or bad, play a significant role in speeding up the learning curve. The problem with learning-time in this paper tries to see it as an anticipation-issue rather than as a dealing-issue, specifically pointed out by the second question that follows.

31 (Bloom, 1985, p. 499)

32 (Taska & Rama, 2012, p. 40)

33 (Naqellari, 2014)

34 (Caka, 2008)

35 (Norvig, 2001)

B. Second Question: Do we teach programming at the right time?

In Albania, for the first time computers were introduced in the early seventies³⁶ and after a decade the first chair of informatics was created at the University of Tirana. Since then, a diversity of ICT departments are established all over public or private universities, and while still facing a lot of difficulties coming from missing infrastructure, lack of funding, and a drastic increase in the number of students there are also many possibilities for continuous improvements in teaching and IT research, resulting also in technological innovation. Programming became popular also in high schools but for many reasons it was treated as a subject of secondary importance, like the hour of physical training and for many schoolboys it was just an hour for fun and playing solitaire game³⁷. Even excellent students were not much prepared in comparison with those studying in private schools where conditions and instructors were a priority. This situation can easily be denoted by the results of the National Olympiads of Informatics where private high schools, distinctively "Harry Fultz" Institute in Tirana, are among the winners every year. It's not much surprising if we have a look at their curriculum³⁸ and see how programming languages are thoroughly combined throughout academic years. But, as a former winner in a national competition I would like to recall the afterward experience, that of the International Olympiad in Informatics³⁹, where I soon realized the level of knowledge we had was the lowest among other countries. And of course one among many reasons was on top of all others: The starting-time. Students in other countries are exposed too early to programming, even at five or six years old, and are far more ahead in time with knowledge and experience. But let's not get out of scientific means and see one of the most emblematic case-studies in relation with computer programming integration in early education, coming from a small country that was among the pioneers inclined to capture the gigantic wave in all its seriousness.

Estonia - This country has become a symbol and sometime referred to as E-stonia, where unlike other countries that might see computer programming as the realm of the nerd, they see it as fun, simple and cool⁴⁰. They are one of the most internet-dependent countries in the world, and are among the pioneers of teaching children as young as seven how to program computers. The initiator and the one that takes most of the merits for re-shaping the Estonia economy is Toomas Hendrik Ilves, country's ambassador to the United States in 1990s

36 (Cico & Frasheri, 2004)

37 (Youtube, 2009)

38 (harryfultz.edu.al, 2015)

39 (IOI, 2001)

40 (BBC, 2013)

and president of Estonia in 2006, who foresaw technological revolution not as an alternate source of man-work producing unemployment like happened in many big countries, but saw the online economy as an opportunity for a small country, and as he stated: "We need to really computerize, in every possible way, to massively increase our functional size". The increase in size, as he envisioned, was an image of multiplication of about 1.4 million people living in Estonia with technology amplification, in pursuance of transforming all sectors of economy. By prioritizing technology and with unsparing government financial support all Estonian schools went online by the late nineties. They trained teachers and started programming at secondary level for some time, but soon began to introduce programming to children even earlier, at the age of seven. With programming as part of first-grade education, Estonia's small size allows it to act as an incubator of new ideas, making them proud of the end result, harvesting the fruits in the form of billionaire and world widely known companies like Skype, and also in other areas that reflect distinctively the impact of technology in democracy like online voting.

One of the biggest factors that not only increases the interest but carry out all the learning process is the availability of programming resources online. It's amazing how new programmers are now able to try and experiment programs directly in a web browser and see right away whether they work. This reflects also how interpreted programming languages must overlap in early education those languages that need compilers and other complicated tools to start with.

Two of the most successful examples worth mentioning are code.org and Scratch⁴¹. As stated in their website, "Scratch helps young people learn to think creatively, reason systematically, and work collaboratively – essential skills for life in the 21st century". Scratch is designed with learning and education in mind by offering both formal and informal learning environments that can serve also as a facility for educators and parents. It brings various resources suitable across ages, disciplines, and settings. Similarly, Code.org has developed an elementary school curriculum that allows even the youngest students to explore the limitless world of computing, at no cost for schools. The courses blend online, self-guided and self-paced tutorials with "unplugged" activities that require no computer at all. Each course consists of about 20 lessons that may be implemented as one unit or over the course of a semester and even kindergarten-aged pre-readers can participate.

Mitch Resnick of MIT Media Lab, in a fun and demo-filled talk outlines the benefits of teaching kids to code, so they can do more than just "read" new

41 (Scratch, 2015)

technologies but also create them. He says that “Coding isn’t just for computer whizzes, it’s for everyone”⁴².

Personally showing that anybody can start learning to code, the President of the United States, Mr. Barack Obama became the first US President to program a computer. He took part in the inauguration of the Hour of Code in 2014 by trying it himself, writing a simple program in JavaScript⁴³. His message for everyone was as historical as inspiring: “Don’t just play on your phone, program it!”

The emphasis on programming knowledge it’s also a sign of emergency in the newest war against cyber-crime and threatened security by extremists and terrorists. Who else will be able to face cyber terrorists other than a generation of skillful and trained people ahead of time?

Denoting the importance of learning to code since elementary school for the matter of becoming an expert before even jumping on higher phases of education, it’s also important to raise another question that regards the appropriateness or applicability of programming knowledge, bringing in surface a critical problem that the following question tries to uncover.

C. Third Question: Do we teach programming in the right context?

In early sixties a new reality began to emerge where programming languages like Logo and Basic were specifically introduced to play an integral role in all education. Some researchers began exploring about the ways and possibilities of integrating programming not only into courses like math, physics, engineering, or biology, which are classified as hard sciences, but also in the study of history, geography, foreign languages, music, and art⁴⁴. Indeed, implications of programming throughout disciplines can be found all over academic institutions. Instead, in Albania one of the most prominent issues concerning ICT departments, which usually are an exclusivity of natural science faculties, is that students after graduation are not prepared to fit immediately to the requirements needed by the industries or businesses in which they will operate. ICT education as a result is regarded more like a separate domain that doesn’t follow any methodology in which the formation of knowledge is plumped to be tailored or combined with other fields or sciences. The way in which these faculties are used to be following is that of teaching programming in an abstract fashion, without taking in consideration nuances of applicability or any bridges of integration, concluding therefore into nurturing knowledge in a vacuum. Learning to program without knowing where to apply it is like

42 (Resnick, 2015)

43 (Code.org, 2014)

44 (Kahn, 1999)

becoming a musician with no audience, or like composing notes in papers without knowing the sounds of instruments, and so on. We try to clean a discipline from any kind of noise and make it as distinctive as possible, but in fact its real strength resides in its richness, plurality, and extent of its borders. It is by means of such contemporary view that we need to shift our focus toward the institutionalization of “hybrid disciplines”, that eventually open the doors to new careers, by implicit and explicit efforts associated with the construction of new spaces of knowledge that reflect the needs of our global economy. In a mass university reality as of our days and in an interdependent world of possibilities, a multiverse vocabulary of knowledge is key, and a new standardized way of learning can be easily replicated. When dealing with projects that require collaboration between representatives of different disciplines it is crucial to have a common vocabulary or at least trying to simplify communication, if we don't want to rely and trust blindly the competence of other colleagues from other disciplines just pretending to understand it. So education nowadays must consider not only individual disciplines, but extending borders and combining territory with interdisciplinary expertise which trans-pass standard disciplinary paths and develops new trajectories in a complementary or combinatorial fashion⁴⁵. The way in which we were used to categorize and represent knowledge is that of a tree, where branches don't really connect or interact with each other but serve just for creating hierarchies in a diagram fashion. In comparison, we can see the charts of interconnections that exist by means of simple links in all the topics of Wikipedia, and see how everything regarding knowledge is highly interconnected⁴⁶, forming not just hierarkies but new dimensions of broadness and deepness like a multidimensional map of information.

The new challenges that transcend disciplines require a pluralism of knowledge and expertise which is unavoidable, especially in those areas where information technology is the new key to success. One of the most noticeable fields which have deeply integrated information technology is business management, where enterprise-wide information with extraordinary rich data needs to be analyzed in both accurate and timely manner for avoiding bad decision-making⁴⁷.

The easiest case that comes to my mind regarding interconnections among disciplines is that of a talented programmer whose enthusiasm of starting a software business was blurred as soon as he realized that clients doesn't fall from the sky and that no professor in his school ever mentioned words like

45 (Golding, 2009)

46 (Lima, 2011)

47 (Sora, 2008)

lead generation. He was desperately in need for other abilities regarding business management, marketing, finance, and other business related topics. Fortunately, also in Albania, we've seen and welcomed the field of business informatics as a separate department in the public university of economic sciences in Tirana, which has been also a success story for the employment of almost all the graduated students, and has also been replicated with courage in other public and private universities, especially in the Mediterranean University of Albania where programming has a distinctive emphasis, even after class by motivating students collaboration in small projects.

Business informatics furthermore is an emerging discipline that combines various aspects of business management, information technology, and informatics. Its goal is to fully integrate computer science with business administration into one field. It has its roots in Germany known with the term "Wirtschaftsinformatik", and saw a tremendous popularity throughout Europe mainly in institutions of higher learning that offer four-year degrees in the field.

Combinations of information technology with other sciences or disciplines can result in the formation of many other hybrid disciplines, where constructions of more complete pictures by the breadth of interdisciplinary synthesis are of more vital importance than only by relying to the depth of any disciplinary expertise, concluding to what Howard Gardner calls a "synthesizing mind" (2006, p.3), and as Lyon (1992) and Brew (2008) show firmly that this approach is not a model of deviant exceptions but the common path for the modern academic.

V. CONCLUSION

Combined together, these three main questions can formulate a present paradigm, where the actual answer to the first question in absence of an answer to the second, is that we struggle to teach programming analogous as if the learner would be able to eat five kilos of meat in a single meal, and the actual answer to the second question in absence of an answer for the third, is that we struggle to offer meat as a common meal to a vegetarian. In other words, programming needs to be introduced as early as possible in our education, because the amount of knowledge and skill expected from an expert in programming and other related practices will be incrementally dependent on the short time to be assimilated later. Furthermore, programming knowledge and skills cannot be taught in vacuum. As an interdisciplinary subject it must be seen like a polyvalent tool that can make possible the manifestation or creation of hybrid fields, which means, programming can be incorporated with almost all other disciplines, in one way or another.

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THE USE OF CLOUD COMPUTING IN E-LEARNING ENVIRONMENT

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ABSTRACT

The education system has always been considered one of the basic fields with decisive role in guaranteeing the system of values of a society. Nowadays, studying the technologies used in education system is a priority, in order to find methods for improving it. The use of e-learning and new technologies is one of the most effective instruments that has a great influence in the education system. This paper describes and identifies the advantages of using cloud computing models such as IaaS, PaaS, and SaaS in supporting e-Learning environment. The integration of this elements in education systems remains a challenge in increasing the effectiveness use of teachers and students.

Keywords: *e-learning, cloud computing, education systems.*

1. INTRODUCTION

The higher education (HE) landscape around the world is in a constant state of flux and evolution, mainly as a result of significant challenges arising from efforts in adopting emerging technologies and pedagogies in their teaching and learning environments. This is mainly because of a new genre of students with learning needs vastly different from their predecessors, and it is increasingly being recognized that using new technology effectively in higher

education is essential to providing high quality education and preparing students for the challenges of the twenty-first century. (Thomas, 2011)

The use of e-learning has been grown considerably which has driven to a great deal of interest in using technology in transforming and changing the nature of higher education. Using the e-learning platform has showed a great influence in education. E-learning is used in different levels of education from courses and trainings to universities.

Cloud computing is becoming an attractive technology due to its dynamic scalability and effective usage of the resources; it can be utilized under circumstances where the availability of resources is limited. As cloud computing has become a research hotspot among modern technologies, researchers pay more attentions to its applications. (Deshmukh, Kaushik, & Tayade, 2013). Integration of Cloud Computing in education can reduce cost and can create an efficient communication between teacher and students. Many vendors like Google, Amazon, Yahoo, Microsoft etc. support cloud computing in education systems.

The following sections focus on E-learning, the definitions of E-learning and the benefits of using E-learning in education systems. Also is described the cloud computing technology, its characteristics, the service models of Cloud Computing like Infrastructure as a Service (IaaS), Platform as a Service (PaaS) and Software as a Service (SaaS) and for each of them are described 3 top vendors, benefits of using cloud and models of cloud computing. Also this paper empathizes the benefits of using Cloud in E-learning, describes an E-learning architecture based on cloud, a model of integrating of e-learning services with cloud computing and mentions the main cloud computing service provider in education and their applications and their benefits in education system.

2. E-LEARNING

Blended, distance, online and e-learning are concepts that portray learning in different combination with technology. Blended learning, for example mixes e-learning with traditional teaching and learning practices. Typically, there is a combination of classroom teaching interaction with online learning. Distance learning gives the learners the opportunity to study at their own pace and place separating learning from the tutor. Therefore, there is no requirement for attendance at a campus-based organization. Online learning describes learning that takes place in a network environment and usually. E-learning relates to the appropriate use of Information and Communication Technologies (ICT) to enhance the learning in any of these contexts. Therefore, it can take place in a campus-based organization or any other context. ICT as a

particular mechanism for delivering educational resources has a huge potential for enhancing learning that has not been unveiled yet. (Palacios & Evans, 2013). Two parts of e-learning are the students and the teacher.

2.1 Definitions of E-Learning

In the commercial world, E-learning is often synonymous with computer-based training (CBT) and web-based training (WBT), that is, the delivery of training material and courses, whereas in university context the term tends to relate to a mode of study, which does not require physical presence on campus. Often, e-learning is used synonymously with the term “online learning”, that is the emphasis tends to be on learning that takes place at a distance from formal classrooms and is facilitated and supported by web-based technologies. (Nobert & Daly, 2011).

E-Learning is a term that encompasses all forms of TEL, but tends to focus on pedagogy (Watkins, 2010). Indeed, e-learning is predicted to be the mechanism by which future students and organisations can facilitate learning practices that are independent of time, place and pace (Palacios & Evans, 2010a; Zhang et al., 2004).

E-learning now refers to anything delivered, enabled, or mediated by electronic technology for the explicit purpose of learning. With the advent of smartphones and tablets, the term now includes:

- stand-alone computer-based training
- online or web-based learning
- mobile learning on phones and tablets.

E-learning also includes learner-to-learner interactions, such as those that might occur in an online learning community. The promise of e-learning was that it would provide that constant access and connectedness in the learning context, and now, with the advent of social networking, we can see that promise being fulfilled. However, e-learning excludes instruction that might fit under “distance learning,” but is not delivered in an electronic format, such as books or e-books. (Sekhon & Hartley, Basics of E-learning Revisited, 2014)

2.2 Benefits of E-learning

According to Sekhon and Hartley (Sekhon & Hartley, 2014) some of the benefits of e-learning include:

- It is usually faster and cheaper to cover more learners through e-learning than through ILT.
- E-learning is a better channel for rolling out a more consistent learning experience to a geographically dispersed workforce.
- It can be utilized to present content in chunks, rather than inundating

learners with information all at once.

- E-learning simulations are a great way to engage learners and provide application.

E-learning can be cost-effective for students as they do not need to travel, and efficient in terms of time. It can also be cost-effective for an institution reducing the need for physical classrooms and increasing the potential catchment area (Al-Musa & Al-Mobark, 2005).

E-learning can enhance the efficiency of access to knowledge and qualifications due to the availability of large amounts of information, and access to specific expertise from online instructors. This can be hard to offer in smaller institutions or where there is a low population density in a particular region or country (Marc, 2002).

3. CLOUD COMPUTING

Cloud Computing is a technology that uses the internet and central remote servers to maintain data and applications. Cloud computing allows consumers and businesses to use applications without installation and access their personal files at any computer with internet access. This technology allows for much more efficient computing by centralizing data storage, processing and bandwidth. Cloud computing is the use of computing resources (hardware and software) that are delivered as a service over a network (typically the Internet). The name comes from the use of a cloud-shaped symbol as an abstraction for the complex infrastructure it contains in system diagrams. Cloud computing entrusts remote services with a user's data, software and computation. (Poonam & Sarika, 2014)

Cloud Computing is a new paradigm that provides an appropriate pool of computing resources with its dynamic scalability and usage of virtualized resources as a service through the Internet. The resources can be network servers, applications, platforms, infrastructure segments and services. Cloud computing deliver services autonomously based on demand and provides sufficient network access, data resource environment and effectual flexibility. This technology is used for more efficient and cost effective computing by centralizing storage, memory, computing capacity of PC's and servers. (Utpal & Majidul, 2013)

The five essential characteristics are: on-demand service, where a consumer can unilaterally provision computing capabilities as needed automatically without requiring human interaction from each service's

provider; ubiquitous network access, where the capabilities are available over the network and accessed through standard mechanisms, promoting the use of heterogeneous thick or thin client platforms such as mobile phones, laptops, and PDAs; location independent resource pooling, where the provider's computing resources are pooled to serve multiple consumers using a multi-tenant model, with different physical and virtual resources dynamically assigned and reassigned according to consumers demands; rapid elasticity, where the capabilities can be rapidly and elastically provisioned, in some cases automatically, to quickly scale out, and rapidly released to quickly scale in; and measured service, where the cloud service providers automatically control and optimize resource use by leveraging a metering capability at some level of abstraction appropriate to the type of service. (Grance, 2011)

By its design, cloud computing is scalable, flexible and elastic - offering IT departments a way to easily increase capacity or add additional capabilities when necessary, without investing in new and expensive infrastructure, training new personnel, or licensing more software. Cloud users no longer have to worry about purchasing, configuring, administering, and maintaining their own computing infrastructure, which allows them to focus on their core competencies.

3.1 Service Models of Cloud Computing

Three service models of Cloud computing are Infrastructure as a Service (IaaS), Platform as a Service (PaaS) and Software as a Service (SaaS). According to the website clouds360 (www.clouds360.com) the top 3 Software as a service are:

The logo for Abiquo, featuring the word "abiquo" in a lowercase, sans-serif font. The letter "i" is orange, and the letter "o" is also orange, while the other letters are black.

Calling itself the «Enterprise Cloud Management software company,» Abiquo's software lets organizations use business policy to manage their entire computing infrastructure comprising unlimited physical and cloud resources through a single pane of glass, whether those clouds are private, public or hybrid.

The logo for AccelOps, featuring the word "accelops" in a lowercase, sans-serif font. The letters "a", "c", "e", and "l" are blue, and the letters "o", "p", "s" are black.

AccelOps forges into integrated data center and cloud services monitoring with software delivered as a virtual appliance or SaaS. It cross-correlates and manages diverse operational on-premise, off-premise and cloud environments for alerting, analysis and reporting.



Akamai has big plans in the cloud, whether they be security, storage or a host of other capabilities. Its cloud optimization offerings improve performance, increase availability, and boost security of applications and data delivered over the cloud.

Infrastructure as a Service sometimes called Hardware as a Service, offers storage, servers hardware and IT infrastructure. According to the website clouds360 (www.clouds360.com) the top 3 Infrastructure as a service are:



Amazon Web Services has become the one to beat in the cloud game, and Amazon EC2, its compute capacity play, set the standard for spinning up and taking down cloud capacity quickly and affordably with a pay-as-you-go model.



The communications giant's wireless network may get a lot of guff, but there are no flies on AT&T's cloud computing services. Its suite of Synaptic cloud offerings, which include Compute-as-a-Service and Storage-as-a-Service, comes with an SLA of 99.99 percent availability.



BlueLock comes at the cloud from a different way, offering cloud computing and managed services backed by VMware vCloud Datacenter Services. Its data centers are secure and SAS-70 Type II certified, so users know their cloud data is untouchable.

Using Platform as a Service offers a platform, environment and architecture to build applications and services over the internet. Their access is using a web browser with internet connection. Nowadays, benefits of using PaaS are going to be a great challenge. PaaS is very elastic, it means that the users have to rent only the resources that they need.

Even if someone is not a developer, can develop an application using functionalities that offers PaaS. Also the overall work of some developers can be interaged even they work at long distance from each other and can be safe in that environment. According to the website clouds360 (www.clouds360.com) the top 3 Platform as a service are:



Not a platform in the traditional sense, Amazon's AWS Elastic Beanstalk changes how developers push their apps into Amazon's cloud. Developers upload the app and Elastic Beanstalk handles the deployment details, capacity provisioning, load balancing, auto-scaling and app health monitoring.



Appistry's CloudIQ platform helps developers deliver scalable, reliable and easy-to-manage apps on private, public and hybrid clouds. Appistry hangs its hat on reducing app delivery time by 60 percent, increasing management efficiency by 20 times and cutting costs by 80 percent.



AppScale offers an open-source cloud computing platform for Google App Engine applications. The platform gives developers the power to deploy and monitor their App Engine apps in an open-source environment while providing mechanisms to debug and profile applications as needed.

One of the biggest promoters of the cloud computing is Google that already owns a massive computer infrastructure (the cloud) where millions of people are connecting to. Today, the Google cloud can be accessed by Google Apps intended to be software as a service suite dedicated to information sharing and security. Google Apps covers the following three main areas: messaging (Gmail, Calendar and Google Talk), collaboration (Google Docs, Video and Sites) and security (email security, encryption and archiving). (Pocatilu, Alecu, & Vetrici, 2009)

3.2 Models of Cloud computing

Models of cloud computing include Private Cloud, Public Cloud, Community Cloud and Hybrid Cloud

The Private Cloud: It is a model that offers high security of data for a specific client.

The Public Cloud: In this model the service and infrastructure are offered for several clients. It reduces the IT operational costs.

The Hybrid Cloud: This model is an integration private cloud and public cloud. In this way they are offering data security and cost reduced of IT expenses. Data and applications are secured on private cloud and the information for public access is stored in public cloud.

The Community Cloud: In this model the resources are shared between a group of clients. This group of clients communicate and trust to each other.

Benefits of using cloud according to Pocatilu, Alec, Vetrici are (Pocatilu, Alecu, & Vetrici, 2009):

- the cost is low or even free in some cases. Also, there are no costs (or very small ones) for hardware upgrades
- devices with minimal hardware requirements (mobile phones, for example) could be successfully used as cloud clients;
- in order to become part of the cloud, there is no need to download or install a specific software, only the Internet connection is required;
- the cost of licensing different software packages is moved to the data center level, so there is no need to upgrade the local system when new service packs or patches are released;
- crash recovery is nearly unneeded. If the client computer crashes, there are almost no data lost because everything is stored into the cloud

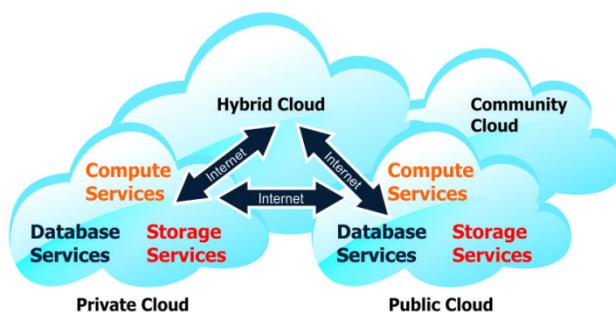


Fig. 1 Cloud Deployment Models(Malimi, 2014)

4. USING CLOUD IN E-LEARNING

4.1 Benefites of using Cloud in E-learning

The educational cloud computing can focus the power of thousands of computers on one problem, allowing researchers search and find models and make discoveries faster than ever. The universities can also open their technology infrastructures to private, public sectors for research advancements. The efficiencies of cloud computing can help universities keep pace with ever-growing resource requirements and energy costs. Students expect their personal

mobile devices to connect to campus services for education. Faculty members are asking for efficient access and flexibility when integrating technology into their classes. Researchers want instant access to high performance computing services, without them responsibility of managing a large server and storage farm. The role of cloud computing at university education should not be underestimated as it can provide important gains in offering direct access to a wide range of different academic resources, research applications and educational tools. (Utpal & Majidul, 2013)

There are various e-learning solutions from open source to commercial. There are at least two entities involved in an e-learning system: the students and the trainers. (Pocatilu, Alecu, & Vetrici, 2009) The cloud platform can support teachers to prepare teaching portfolio; presentation on teaching to a local audience; a conference presentation; a manuscript to be submitted for publication, etc. It may also include, for the purpose of critical review and evaluation, self-reported ePortfolios that summarise a teacher's major teaching accomplishments and strengths in the form of short descriptions of activities and achievements (e.g. what and how they teach – types of instructional methods, materials, and techniques, why they teach that way, and whether or not it works with evidences), feedback from peers based on teaching observation and peer review of related scholarly activities, feedback from students based on their views on instructional activities, and the end-of-course student evaluation instrument.

There are numerous advantages when the e-learning is implemented with the cloud computing technology, they are (Utpal & Majidul, 2013):

Low cost: E-Learning users need not have high end configured computers to run the e-learning applications. They can run the applications from cloud through their PC, mobile phones, tablet PC having minimum configuration with internet connectivity. Since the data is created and accessed in the cloud, the user need not spend more money for large memory for data storage in local machines. Organizations also need to pay per use, so it's cheaper and need to pay only for the space they need. (Utpal & Majidul, 2013) So, the major advantage of the E-learning based cloud computing is providing easy access to costly software running on high performance processors to rural students at institutions which lack of facilities. Considerable investment would be required to implement this architecture, but the benefits would easily justify the cost. (Wang, Liu, & Zhang, 2014)

Improved performance: Since the cloud based elearning applications have most of the applications and processes in cloud, client machines do not create problems on performance when they are working.

Instant software updates: Since the cloud based application for e-learning

runs with the cloud power, the software's are automatically updated in cloud source. So, always e-learners get updates instantly.

Improved document format compatibility: Since some file formats and fonts do not open properly in some PCs/mobile phones, the cloud powered e-learning applications do not have to worry about those kinds of problems. As the cloud based e-learning applications open the file from cloud.

Benefits for students: Students get more advantages through cloud based e-learning. They can take online courses, attend the online exams, get feedback about the courses from instructors, and send their projects and assignments through online to their teachers.

Benefits for teachers: Teachers also get numerous benefits over cloud based e-learning. Teachers are able to prepare online tests for students, deal and create better content resources for students through content management, assess the tests, homework, projects taken by students, send the feedback and communicate with students through online forums.

Data security: A very big concern is related to the data security because both the software and the data are located on remote servers that can crash or disappear without any additional warnings. Even if it seems not very reasonable, the cloud computing provides some major security benefits for individuals and companies that are using/developing e-learning solutions.

4.2 Cloud Computing Providers in Education

The main cloud computing service provider in education includes Microsoft, Google, Amazon, IBM, Salesforce and HP.

Microsoft Education Cloud

Microsoft cloud computing in education gives better choice and flexibility to education IT departments. The platform and applications you use can be on-premises, off-premises, or a combination of both, depending on your academic organization's needs.

The advantages that come with cloud computing can help resolve some of the common challenges you might have while supporting education institution.

- **Cost.** You choose a subscription or, in some cases, a pay-as-you-go plan – whichever works best with your organization's business model.
- **Flexibility.** Scale your infrastructure to maximize investments. Cloud computing allows you to dynamically scale as demands fluctuate.
- **Privacy.** Help make data and services publicly available without jeopardizing sensitive information.

Microsoft cloud services for education offers great programs such as Microsoft Live@edu at no cost to education accounts. (Microsoft)

Google Education Cloud

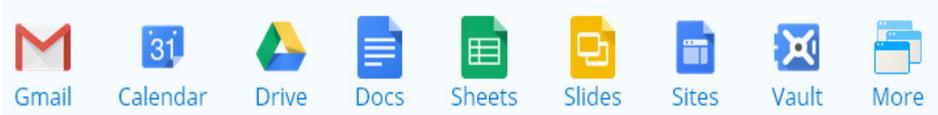


Fig.2 Google Education Cloud Applications

Google Apps Education (GAE) in cloud computing available with no cost to colleges, universities and educationally focused groups. Google Apps for Education includes dozens of critical security features specifically designed to keep the data safe, secure and in control. The Apps tools enables to control the data, including who you share it with and how you share it. everything is automatically saved in the cloud - 100% powered by the web. This means that emails, documents, calendar and sites can be accessed - and edited - on almost any mobile device or tablet. Anytime, anywhere. GAE includes the following applications: Google Mail, Google Sites, Google Video for education, Google Calendar, Google Talk and Google Docs Package. Google Apps for Education can help streamline academic tasks like essay writing and class scheduling. A group of students can work together on a piece of work in Google Docs, seeing changes in real time rather than waiting for versions to be sent via email. Students can see exactly when their professors are available and vice versa with Google Calendar. By removing these time-consuming bottlenecks, Apps frees you up to spend more time on learning and teaching. It Brings students, teachers and teams togetherwith tools offer real-time editing, powerful sharing controls, and seamless compatibility (Google Apps for Education).

Amazon Web Services (AWS)

Cloud AWS has provided the universities and institutions of all sizes with an infrastructure web services platform in the educational cloud. With AWS students, researchers and faculty can requisition compute power, storage, number of users and other services-obtaining access to a suite of elastic IT infrastructure services as an education demand. With AWS, they have the flexibility to select whichever development service or model of programming makes the most sense for finding the solutions for any problem. With AWS, they can take advantage of Amazon global computing infrastructure that is the backbone of Amazon multi-billion retail business and transactional enterprise that is scalable, flexible, reliable, and secure distributed computing

infrastructure has been ameliorated for over a decade . (Amazon Web Services (AWS))

IBM Cloud Academy

The benefit of IBM Cloud Academy form access to a broad portfolio of IBM cloud computing projects, offerings and services that are designed for education and learning. Their researchers can innovate on the next generation of cloud computing technologies. They can collaborate with peer member institutions, as well as with the IBM research and development community, to create new approaches and strategies to improve educational services through cloud computing. The higher educational institutions pursue cloud computing initiatives, develop skills and share best practices for reducing operating costs while improving quality and access to education. (CJB & Evans, 2010)

Salesforce.com Education Cloud Platform

The Salesforce.com platform provides all the tools needed for the educational institutions to instant scalability, ease of configuration and support for multiple functional roles. It enables comprehensive oversight of operations and applications allowing students, researchers and faculty to track, analyze and refine every aspect of their efforts. The Salesforce.com platform can also assists educators manage their services more efficiently from application to graduation while tracking individual details such as study abroad term, participation in campus organizations, study groups and other operations (Salesforce.com foundation, Higher Education).

HP Cloud Computing

HP Cloud System is the product of HP's experience in delivering industry and education-leading automation, application management, and converged infrastructure capabilities. It enables clients such as students, faculty and researchers to build, manage, and consume cloud services across private clouds, public clouds, and traditional IT environments-without having to know, or care, whether those services come from HP Cloud System's own "on premises" resources or from the public domain. (HP cloud system, 2011)

4.3. A model of integrating of e-learning services with cloud computing

A model of integration e-learning services with cloud computing is proposed by Despotović-Zrakić, Simić, Labus, Milić and Jovanić. Their model contains five phases. In the first phase, the user accounts are created. The user accounts are stored on LDAP server. The LDAP server is integrated with

the user directory of the educational institution where the student accounts are located. In the second phase, the courses are created in the Moodle LMS. Teaching materials are prepared, the activities and the assignments are defined. The necessary software tools for teaching process realization are chosen. The course adaptation process is performed. In the third phase, the VMs with necessary operating systems and software are prepared. Each VM is adapted to students' learning styles and needs at a specific course. Afterwards, the prepared VMs are stored into the CC infrastructure. In the fourth phase, students use the ELABCloud application for VM reservation and its deployment. The application allows students to reserve any of the provided VMs for the Moodle course to which they are enrolled. Students can perform the reservation using a web application. In the fifth and the final phase, teachers and administrators of the system can view and analyze students' results and the performance of the system. Their method of integration e-learning services with the cloud computing infrastructure is shown in Figure 2 (Despotović-Zrakić, Simić, Labus, Milić, & Jovanić, 2013)



Fig. 3 A method for integration of e-learning services with cloud computing

4.4. E-learning architecture based on cloud

The e-learning cannot completely replace teachers; it is only an updating for technology, concepts and tools, giving new content, concepts and methods for education, so the roles of teachers cannot be replaced. The teachers will still play leading roles and participate in developing and making use of e-learning

cloud. E-learning cloud is a migration of cloud computing technology in the field of e-learning, which is a future e-learning infrastructure, including all the necessary hardware and software computing resources engaging in e-learning. After these computing resources are virtualized, they can be afforded in the form of services for educational institutions, students and businesses to rent computing resources. (Deshmukh, Kaushik, & Tayade, 2013). Their proposed e-learning cloud architecture can be divided into the following layers:

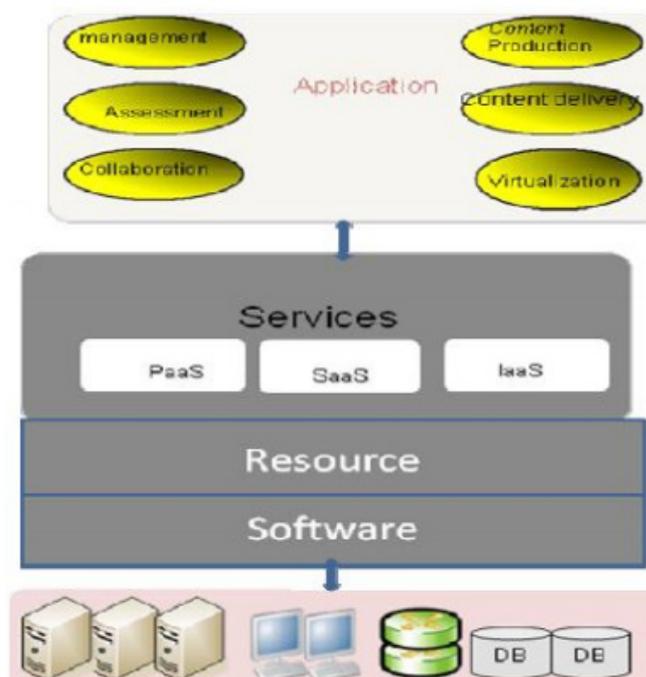


Fig.4 E-Learning Cloud Architecture

- 1) Infrastructure layer as a dynamic and scalable physical host pool
Infrastructure layer is composed of information infrastructure and teaching resources. Information infrastructure contains Internet/ Intranet, system software, information management system and some common software and hardware; teaching resources is accumulated mainly in traditional teaching model and distributed in different departments and domain.
- 2) Software resource layer that offers a unified interface for e-learning developers

Software resource layer mainly is composed by operating system and middleware. Through middleware technology, a variety of software resources are integrated to provide a unified interface for software developers, so they can easily develop a lot of applications based on software resources and embed them in the cloud, making them available for cloud computing users

- 3) Resource management layer that achieves loose coupling of software and hardware resources
Through integration of virtualization and cloud computing scheduling strategy, on-demand free flow and distribution of software over various hardware resources can be achieved
- 4) Service layer, containing three levels of services (software as a service, platform as a service and infrastructure as a service)
Service layer has three levels of services namely, SaaS (Software as a service), Paas (Platform as a service), IaaS (Infrastructure as a service). In SaaS, cloud computing service is provided to customers. As is different from traditional software, users use software via the Internet, not to need a one-time purchase for software and hardware, and not to need to maintain and upgrade, simply paying a monthly fee.
- 5) Application layer that provides with content production, content delivery, virtual laboratory, collaborative learning, assessment and management features.

Application layer is the specific applications of integration the teaching resources in the cloud computing model, including interactive courses and sharing the teaching resources. The interactive programs are mainly for the teachers, according to the learners and teaching needs, taken full advantage of the underlying information resources after finishing made, and the course content as well as the progress may at any time adjust according to the feedback, and can be more effectiveness than traditional teaching. Sharing of teaching resources include teaching material resources, teaching information resources (such as digital libraries, information centers), as well as the full sharing of human resources. This layer mainly consists of content production, educational objectives, content delivery technology, assessment and management component.

5. Conclusions

Taking in advantage of using cloud computing for e-learning system in education offers many benefits. Depending on the requirements in infrastructure, platform and services cloud computing offers many solutions to e-learning systems. It is argued that cloud computing has a significant place in the higher education landscape both as a ubiquitous computing tool and a powerful platform that can enhance engagement among educators and researchers to understand and improve practice. Thus there is the possibility of using cloud computing tools for a new instructional paradigm that makes a shift possible from the traditional practice of teaching as a private affair to a peer-reviewed transparent process, and makes it known how student learning can be improved generally, not only in one's own classroom but even beyond it.

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APPLICATIONS AND BENEFITS OF SIMULATION IN SME'S.

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ABSTRACT

Small and medium size process industry is often characterized by batch processes due to the better flexibility and smaller capacity. The importance of these types of processes has also increased because of the trend to more differentiated products, such as specialty and techno chemicals, which are more tailored to customer needs. This is as opposite to bulk products, which are manufactured in large quantities by major companies.

Methods available include: Production planning to make the production to correspond the demand. A shorter time production planning called scheduling. In scheduling equipment is allocated for different products and a detailed production time schedule is done. Receipts can be optimised to use less expensive raw materials or varying product sources and to produce more even quality. Process conditions can be optimised for better product yield and quality. Operating conditions for new raw materials and products can be found more easily. All this is aided by implementing process simulation and optimisation.

There is certainly a need in small and medium size enterprises (SMEs) to improve their production, products and processes. The methods and approaches are somewhat different to large scale process industry. A difference is the type of production as discussed. There are also differences in the way of managing the improvements. It is typical for SMEs to use more external consults to manage the improvements, because the own resources are smaller.

In this paper are shown the trends of applying simulation in small and medium size process enterprises for improving production, processes and products.

Keywords; *simulation, SME, scheduling, processes, production planning.*

Introduction

Many of the improvements in processes are available without changes in process equipment by using only improvements in the ways of process operation. Methods available include: Production planning to make the production to correspond the demand. A shorter time production planning called scheduling. In scheduling equipment is allocated for different products and a detailed production time schedule is done. Receipts can be optimised to use less expensive raw materials or varying product sources and to produce more even quality.

Process conditions can be optimised for better product yield and quality. Operating conditions for new raw materials and products can be found more easily. All this is aided by implementing process simulation and optimisation as discussed in this paper.

1.1 Production scheduling

Batch production plants often include a relatively large number of equipment and products manufactured. Short-term production planning (scheduling) is needed to arrange the production time schedules of products for different machines or operations for a short period such as a week or two.

In multipurpose batch plants it is typical that the utilization rate of equipment is quite low, as one piece of equipment is waiting for the next batch. Therefore a large potential of capacity increase exists without investment costs. Better scheduling can increase capacity usually with tens of percentages compared to manual scheduling. Operating costs are reduced and product yield is improved. Also the time to produce a product is reduced. The man hours needed for scheduling can be reduced up to 50 % [1].

In scheduling the problem is how to optimise the production operations in schedules. This involves discrete optimisation of a large number of variables. Methods available are based on mixed integer nonlinear programming (MINLP) or genetic algorithms.

Sometimes the problem in optimisation is that the equipment is not working in a constant way but may suffer e.g. fouling which reduces capacity during time. This is typical to filters, heat exchangers and membrane units. In some scheduling applications it is possible to plan the production in an adaptive way by considering the effect of the equipment capacity changes and to optimise the washing / purification times in relation to production schedules.

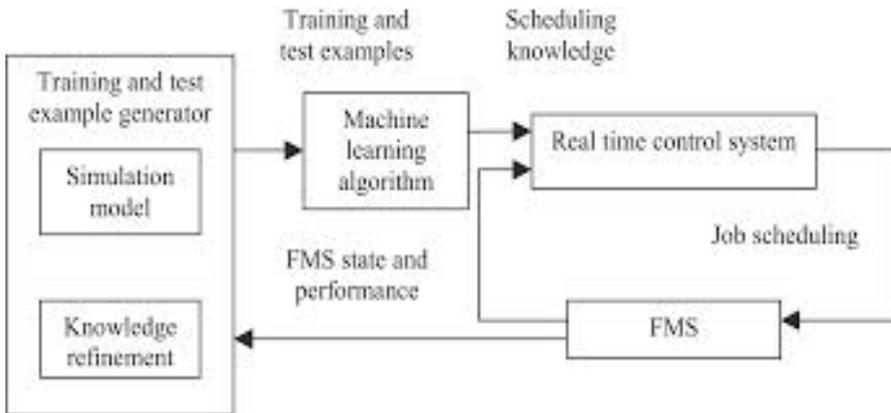


Figure.1 Production Scheduling

1.2 Production planning

In batch plants the products are often manufactured in campaigns, which are planned based on the orders received or expected. This is called production planning. In a campaign a product is manufactured for a time and then another campaign is started to produce another product. It may also be possible to manufacture several products at a time.

By using simulation on expected demands, available raw materials and other resources, production equipment, storage capacities and transport systems the production is planned for a longer period such as months. The aim is optimise the plant utilization and minimize costs. Often it is possible by planning to make longer campaigns and in this way to reduce the product changeover time. This results to an increased net production time in a year [2].

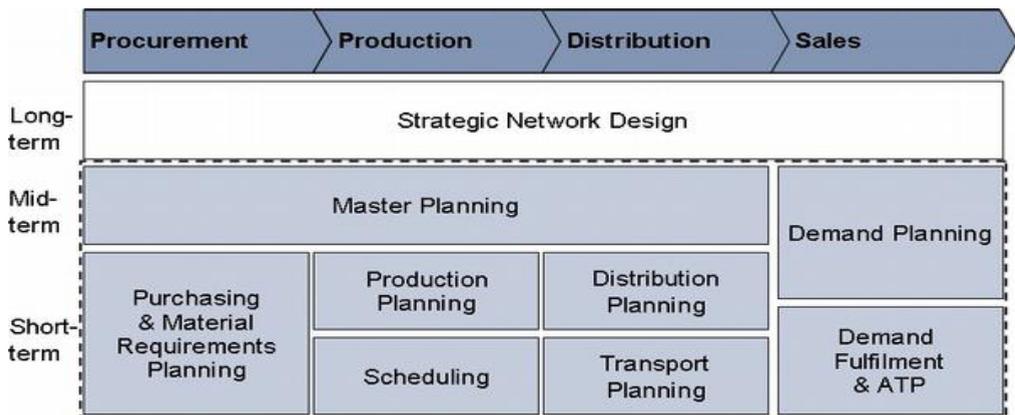


Figure.2. Production Planning

2.1 Receipt management

Receipt management can help operation by keeping track of the production sequences going on and on the other hand by scaling and modifying receipts for different production arrangements. This may be needed if production scheduling allocates for example different equipment for production or another product quality is needed. This can be done by receipt simulation models. Savings in labour costs and better product quality can be achieved. In a dye manufacturing company a day was needed to rewrite recipes to use different equipment. Now an operator can reassign the equipment in seconds by using recipe management software [3].

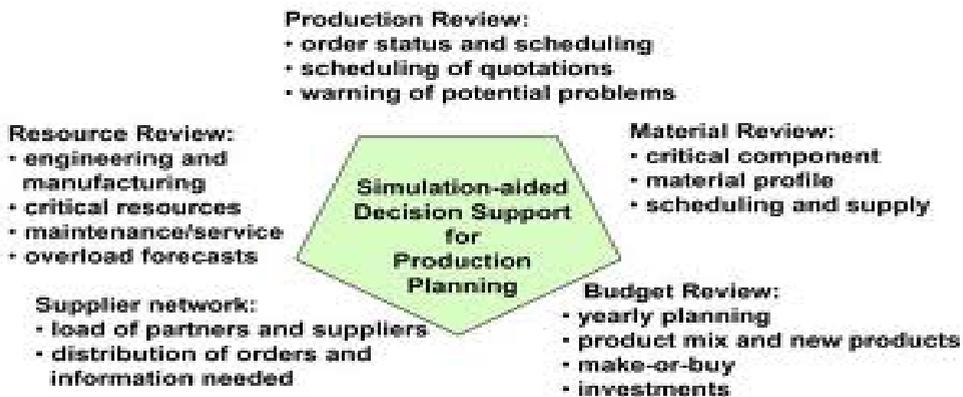


Figure.3. Receipt Management

2.2 Receipt optimization

In many processes the product design problem is to manufacture a product with specified properties from several available raw materials. The aim is to maximize the use of inexpensive and easily available raw materials and to use expensive ones only for trimming the final quality. It may be possible to use different qualities of raw materials to manufacture a specified product [4]. Usually the quality changes of product are unacceptable, so the main aim is to minimize the product quality changes even the raw material quality is varying by natural variation. An example of this is the manufacture of mixture type of products such as metals or oils. The usage of cheaper raw material components is maximized.

A company recycling scrap metal to metal products [5], [6], used stochastic simulation and optimisation to increase the utilization of recycled raw material usage. The problem was stochastic variation of scrap metal quality, which was used as a raw material for melting in the manufacture of products of specified

metal composition. For tuning the product composition expensive higher purity metal components we used

3.1 Optimisation of process conditions for better yield & product quality.

Process operations are often not run in optimal operating conditions (temperature, composition, residence time). Finding the optimum is time consuming and risky by using the existing process as a test bench. By simulation more exact conditions are found more easily for maximum product yield in reactors and maximum recovery in separation processes. Rhone-Poulenc was able to increase the production capacity of a batch plant by 8% without any capital investment by only identifying better operating parameters by simulation [7].

3.2 Optimising the process operation for new products, raw materials or ways of operation.

A common problem encountered in production is to estimate new production parameters or process changes needed for a new raw material or a new product. This can be done usually quite quickly by process or equipment simulation. If key reaction parameters are known from experience or experiments, the new optimal residence times in reactors can be simulated. The capacity of separation equipment can be checked as well as the other equipment involved such as the utility systems. In addition to simulation it is also useful to check, if there are changes in scheduling, which may lay constraints on production due to lack of common resources such as steam, labour etc. In this way the feasibility of changing e.g. to a less expensive raw material can be checked by simulation and the new operating parameters determined [8].

4. PROCESS EFFICIENCY IMPROVEMENT BY RIGOROUS SIMULATION OF EQUIPMENT

By using rigorous unit operation simulation a more exact prediction of operating values and equipment capacities can be calculated. Earlier much idealist assumptions were made in simulation, since models were not very rigorous. For instance separation units were assumed to work in equilibrium stages and reactors to exhibit either ideal mixing or plug flow patterns. Because of these assumptions empirical correction factors (efficiencies) introducing accuracies in design were employed. Since many new rigorous simulation methods such as rate-based models, new phase-equilibrium models and computational fluid dynamics are available for more reliable results. Therefore

possibilities to optimise have improved resulting to cost savings in design and operation.

Better models can also aid process development by reducing the number of experiments and test scales needed to develop and a new or improved process. Therefore by using simulation also SMEs can improve their processes and even develop a new process with a more reasonable cost, since the man hours and capital investment needed for experimentation are much less than by using the traditional approach, which included many experiments and test equipment building in various scales. [9].

5. SAFETY IMPROVEMENTS.

Also in SMEs many accidents have taken place due to runaways and explosions in reactors, batch columns etc. The safety checks can utilize simulation after the reaction chemistry has been checked experimentally in a reaction calorimeter. The capacity of the cooling system can be simulated either in steady state or more realistically in a dynamic way together with the relief and blow-down systems. In this way a realistic understanding of the capacity of the system is received. Rechecks can be done more easily by simulation when new products are being manufactured in future.

6. CONCLUSION

In the last years new methods has been introduced, which serve especially small and medium scale process enterprises. Process production planning and scheduling by simulation and optimisation based methods has lead to large capacity increases often without capital investments by increasing the equipment utilization and reducing product changeovers.

More rigorous process equipment simulation has lead to the possibility of optimise the production parameters in a reliable way for many operations such as reactors and separation equipment. This has lead to larger product yield, better productivity and less waste. Also process improvement and even new process development has become attractive to SMEs since previously the time consuming and expensive development projects can be fastened by simulation, since part of the experimentation and piloting can be substituted by simulation.

The reliability of process improvements and de-bottlenecking projects has been increased, when the total process systems can be simulated more easily. The capacity of the total process can now be checked in the new situation

even together with the utility systems. In this way fewer surprises arise as the capability of the total process has been checked in the new situation.

In future more realistic and rigorous simulation and optimisation methods are available: More complicated batch process scheduling and product trim problems (minimization of cutting waste) can be solved by optimisation, when the models even allow more variables.

Equipment calculation will in future include consideration of non-ideal fluid flow patterns as standard. For example reactors can be simulated with more realism, when the real concentrations fields in a vessel are known instead of ideal mixing assumption.

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CREDIT RISK MANAGEMENT

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ABSTRACT

Managing the credit risk is a priority issue to financial institutions for stability and continuous profitability in the future. Carefully, considering consequences of credit risk we could minimize risks while securing reasonable returns for the financial institutions be those private or governed by state. Recently Credit Risk Management has become harder to forecast the future due to financial crisis that the world, in particular EU zone is experiencing. For Banks, nowadays lending is becoming a hassle regardless of its purpose. The borrowers are overdue to their payments and that's not because they do not wish to pay but due to limited liquidity and their bad debts from their clients and customers. Though there is been studies on strategies to overcome these crisis and lower the credit risks using all the strategic tools, yet, this issue takes place almost all over the world. Very few nations are in control of credit risk management and that's due to government restrictions in centralized economy. The aim of credit risk management is to maximize bank's risk-adjusted rate of return by maintaining the exposure to credit risk within acceptable boundary. Banks should manage the credit risk basics in the entire loan portfolio as well as the risk in individual credit transaction. They should also take into consideration the relationships between credit, liquidity and interest rate risks. The efficient management of credit risk is the most important part of the overall risk management system and crucial to each bank's bottom line and from that the survival of all banking system establishments. The idea of profit has been misperceived from most institutions and its representatives and upper class of management. Ignoring small problems and when it comes to credit could be a great issue in the future, e.g in US cases, Spain, Greece, Italy etc.

Keywords: risk management, credit, Albania

1. THE DEVELOPMENT OF CREDIT RISK

The measurement of credit risk has changed dramatically in the past few years. Among those changes have been the development of early warning systems for default, the evolution of a portfolio approach to credit risk, the development of new models to price risk, and the development of better models to measure the risk of off-balance-sheet loans.

While financial institutions have faced difficulties over the years for a multitude of reasons, the major cause of serious banking problems continues to be directly related to lax credit standards for borrowers and counter-parties, poor portfolio risk management, or a lack of attention to changes in economic or other circumstances that can lead to a deterioration in the credit standing of a bank's counter-parties.

For most banks, loans are the largest and most obvious source of credit risk; however, other sources of credit risk exist throughout the activities of a bank, including in the banking book and in the trading book, and both on and off the balance sheet.

Since exposure to credit risk continues to be the leading source of problems in banks world-wide, banks and their supervisors should be able to draw useful lessons from past experiences. Competition has become eager recently and in term of stability of credit it's not welcomed. Most corporation and companies tend to diverse their investments quickly hoping their return will be greater and safe.

An example of current credit risk administration and credit risk management is the case of the Euro-zone crisis and the recent rises in the number of non-performing loans (NPLs). In particular, the BoA is at a critical moment for ensuring that it is effectively evaluating credit risks as lending has become the main component of the banking business in Albania.

2. CREDIT RISK ASSESSMENT

Banks in the process of financial intermediation are confronted with various kinds of financial and non-financial risks, credit, interest rate, foreign exchange rate, liquidity, equity price, commodity price, legal, regulatory, reputational, operational, etc. These risks are highly interdependent and events that affect one area of risk can have ramifications for a range of other risk categories. Thus, top management of banks should attach considerable importance to improve the ability to identify measure, monitor and control the overall level of risks undertaken.

Risk Management steps and tools:

Risk Identification - Identifying the risk is the primary step in

comprehensive and continuous risk management. Here banks should identify the risks that are likely to affect the achievement of the goals of the organization, activity or initiative.

Risk Analysis – The risk exposure is described as a technique for risk analysis and outlines some techniques for estimating the probability and the size of a loss.

Risk Assessment – Once the risks have been analysed they can be compared against the previously documented and approved tolerable risk criteria. When using risk matrices this tolerable risk is generally documented with the risk matrix. Should the protected risk be greater than the tolerable risk then the specific risk needs additional control measures or improvements in the effectiveness of the existing controls.

The decision of whether a risk is acceptable or not acceptable is taken by the relevant manager. If the manager determines the level of risk to be acceptable, the risk may be accepted with no further treatment beyond the current controls. Acceptable risks should be monitored and periodically reviewed to ensure they remain acceptable. The level of acceptability can be organizational criteria or safety goals set by the authorities.

Risk Prioritization – Dealing with the most important risk first. Often there is a good deal of uncertainty in estimating the probability or loss associated with a risk.

Risk Control – An unacceptable risk requires treatment. The objective of this stage of the risk assessment process is to develop cost effective options for treating the risks. Treatment options which are not necessarily mutually exclusive or appropriate in all circumstances are driven by outcomes that include:

- Avoiding the risk,
- Reducing (mitigating) the risk,
- Transferring (sharing) the risk, and
- Retaining (accepting) the risk.

Risk resolution and monitoring – The risk-resolution process consists of implementing the risk reduction techniques as identified in the plans. Risk monitoring ensures that this is a closed-loop process by monitoring risk reduction process and applying the necessary corrective actions. The risk resolution and monitoring is very much related with quality of risk management. It is very important for banks to have various monitoring procedures of the risk management process. To ensure the value and quality of assets, banks need to reappraise collateral and confirm a guarantor's intention to guarantee debt regularly.

1.1 Principles for the assessment of Credit Risk

I. The establishment of an appropriate credit risk environment.

- a. The bank's board of directors should take responsibility for approving and periodically, annually or semi-annually review the credit risk strategies and significant credit risk policies of the bank. The strategy should reflect the bank's tolerance for risk and the level of profitability the bank expects to achieve for incurring various credit risks.
- b. Senior management should have responsibility for implementing the credit risk strategy approved by the board of directors and for developing policies and procedures for identifying, measuring, monitoring and controlling credit risk. Such policies and procedures should address credit risk in all of the bank's activities and at both the individual credit and portfolio levels.
- c. Banks should identify and manage credit risk inherent in all products and activities. Banks should ensure that the risks of products and activities new to them are subject to adequate risk management procedures and controls before being introduced or undertaken, and approved in advance by the board of directors or its appropriate committee.

II. Operating under a sound credit granting process.

- a. Banks must operate within sound, well-defined credit-granting criteria. These criteria should include a clear indication of the bank's target market and a thorough understanding of the borrower or counterparty, as well as the purpose and structure of the credit, and its source of repayment.
- b. Banks should establish overall credit limits at the level of individual borrowers and counterparties, and groups of connected counterparties that aggregate in comparable and meaningful manner different types of exposures, both in the banking and trading book and on and off the balance sheet.
- c. Banks should have a clearly-established process in place for approving new credits as well as the amendment, renewal and re-financing of existing credits.

III. Credit administration, measurement and monitoring process.

- a. Banks should have in place a system for the ongoing administration of their various credit risk-bearing portfolios.
- b. Banks must have in place a system for monitoring the condition of

- individual credits, including determining the adequacy of provisions and reserves.
- c. Banks are encouraged to develop and utilize an internal risk rating system in managing credit risk. The rating system should be consistent with the nature, size and complexity of a bank's activities.
 - d. Banks must have information systems and analytical techniques that enable management to measure the credit risk inherent in all on- and off-balance sheet activities. The management information system should provide adequate information on the composition of the credit portfolio, including identification of any concentrations of risk.
 - e. Banks must have in place a system for monitoring the overall composition and quality of the credit portfolio.
 - f. Banks should take into consideration potential future changes in economic conditions when assessing individual credits and their credit portfolios, and should assess their credit risk exposures under stressful conditions.

IV. Keeping records of control over credit risk.

- a. Banks must establish a system of independent, ongoing assessment of the bank's credit risk management processes and the results of such reviews should be communicated directly to the board of directors and senior management.
- b. Banks must ensure that the credit-granting function is being properly managed and that credit exposures are within levels consistent with prudential standards and internal limits. Banks should establish and enforce internal controls and other practices to ensure that exceptions to policies, procedures and limits are reported in a timely manner to the appropriate level of management for action.
- c. Banks must have a system in place for early remedial action on deteriorating credits, managing problem credits and similar workout situations.

1.2 Risks management systems in Banks

Risk management is a broad and comprehensive concept and does not just entail measurement and mitigation of risks. Santomero (1997) identifies four components to the RM process. These are standards and reports, position limits and rules, investment guidelines or strategies, and incentive contracts and compensation. Similarly, Cumming and Hirtle (2001) refers RM to the overall process that a financial institution follows to define a business strategy

and identify, quantify, understand, and control the nature of risks it faces. While risk mitigation is defensive and used to protect firm system from risk by using instruments like hedging, insurance and derivatives, RM relates to using risk to the advantage of the firm by aggressively exploiting uncertainty and risks through various proactive policies that create value (Damodaran 2005). Once a financial institution decides that it has a comparative advantage in taking certain risks, it has to determine the role of risk management in exploiting this advantage (Stulz 1996). Note, however, that a firm's ability to undertake activities involving risk not only depends on risk management policy, but also on its capital structure and general financial health. Risk management and capital are in some ways substitutes in protection against risks in financial exposures. When firms lower their risks by efficient risk management procedures, the requirement for capital also decreases. Risk management should be an integral part of the corporate strategy involving everyone in an institution. Though elements of RM would include identifying, measuring, monitoring, and managing various risk exposures, these cannot be effectively implemented unless there is a broader process and system in place. The overall RM system should be comprehensive embodying all departments/sections of the institution so as to create a risk management culture. The roles of different stakeholders that would assist in creating an appropriate RM system in financial institutions are shown in Table 1.

Role of Different Stakeholders in the Risk Management System

Table 1

Body/Unit	Function	Duties and Role
Board	Setting overall strategy and policies	Define overall objectives and ensure its implementation by management.
Management	Set up an institution-wide risk management system.	Identify the risks and implement the objectives and policies of the board
Risk Management Dept./Unit	Identify and measure risks	Set up standards, limits, and rules, guidelines, and procedures related to risks. Publish various risk reports periodically (for both current situations and expected future scenarios).

All operational units/ employees	Identify and control the risks	Follow the standards, limits and rules, guidelines, and procedures related to risk.
Internal Audit	Monitor risk management process	Ensure that risk related guidelines and policies are followed and implemented at different levels of operations.

As controls and monitoring are costly, the incentives given to different employees that reflect the fulfillment of the goals of the institutions will control risks efficiently. Thus, an important component of the RM system is to have an incentive scheme that leads to effective RM. An incentive and accountability structure that is compatible with reduced risk taking on part of the employees can reduce overall risk.

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SOUTH EAST EUROPE AS A COMMON MARKET AND SOCIAL SECURITY

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ABSTRACT

Taking into consideration the EU aspirations of the countries in the South East Europe and their efforts towards becoming members of the European Union, they need to work on internal social policy reforms, as well as on their own regional cooperation. The enhancing of the social cohesion in the south east european countries by promoting the coordination of the social security schemes in the west Balcan countries is part of the european integration. The clear legal and administrative quadre of the coordination of the social security systems in the region will be a preparation for the future integration in the European Union and for the facilitation of thecitizens of the region to the social protection rights. The different levels of the welfare state in an economic area might be incentive for the taxpayers and the social welfare beneficiaries to move toward the state generous jurisdictions. So far there is a corelation between the EU economic goals and the european social policies which requires coordination of the social policies at the european level. The acquis communitaire gives competences to EU institutions, but the unanimity and not the qualified majority for the social security decisions is one of the reasons of less acts in that directions.

Keywords: social security, social policy, Albania, South East Europe

INTRODUCTION

Social Security. The recognition of social security as a basic human right is enshrined in the Universal Declaration of Human Rights⁴⁸. The development of social security programmes is one of the most significant social achievements

48 The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at the Palais de Chaillot, Paris

of the international community, but its enhancement and extension remain one of the main challenges of the 21st century.

As per the ISSA⁴⁹ Constitution, the term “social security” means any scheme or programme established by legislation, or any other mandatory arrangement, which provides protection, whether in cash or in kind, in the event of employment accidents, occupational diseases, unemployment, maternity, sickness, invalidity, old age, retirement, survivorship, or death, and encompasses, among others, benefits for children and other family members, health care benefits, prevention, rehabilitation, and long-term care. It can include social insurance, social assistance, mutual benefit schemes, provident funds, and other arrangements which, in accordance with national law or practice, form part of a country’s social security system.

The constitutional mandate of the ISSA is “to co-operate, at the international level, in the promotion and development of social security throughout the world (...) in order to advance the social and economic conditions of the population on the basis of social justice.”

The ISSA’s aim is to promote dynamic social security as the social dimension in a globalizing world through supporting excellence in social security administration. To face the evolving needs of the world’s population, the ISSA advocates that social security must increasingly adapt and innovate to foster integrated, coherent, proactive, and forward-looking social security policies with the aim of better ensuring universal access to social security.

Entitlement to social security, already mentioned in the labour clauses of the Treaty of Versailles of 28 June 1919, including the Constitution of International Labour Organization and in the Declaration of Philadelphia of 10 May 1944, concerning the aims and objectives of the ILO, became a human right with the United Nations Universal Declaration of Human Rights of 10 December 1948 and the International Covenant on Economic, Social and Cultural Rights of 16 December 1966.⁵⁰

Social protection. Social protection encompasses all interventions from public or private bodies intended to relieve households and individuals of the burden of a defined set of risks or needs, provided that there is neither a simultaneous reciprocal nor an individual arrangement involved.

49 ISSA-International Social Security Association is the principal international institution bringing together social security agencies and organizations (see web site of ISSA: www.issa.int)

50 “Social Security as a human right. The protection afforded by the European Convention on Human Rights”, Council of Europe, 2007, ISBN 978-92-871-6261-8, printed at the Council of Europe, page 5

*The risks or needs that may give rise to social protection is fixed by convention as follows*⁵¹:

Sickness
Health care
Disability
Old age
Survivors
Family/Children
Unemployment
Housing

Benefits granted within the framework of social protection can take many forms, however, in the core system, they are limited to: cash payments to protected people, reimbursements of expenditure made by protected people, goods and services directly provided to protected people.

The risks or needs in the European context⁵² is a tool for producing comparable legislation, statistics where the institutions, regulations and social traditions of the European Countries diverge widely. The various risks and needs define the primary purposes for which resources and benefits are provided, irrespective of legislative or institutional structures behind them. Individual entitlement to benefits is often based on contributions paid. There are also schemes, particularly those providing social assistance, which do not require the payment of contributions.

Contributory schemes are social protection schemes that require the payment of contributions, by the protected persons or by other parties on their behalf, in order to secure individual entitlement to benefits. Contributory schemes are sometimes referred to as social insurance schemes.

Scope of the scheme. Social protection schemes may be directed at the whole population, at all or the majority of workers, or at particular smaller sections of the population. Universal schemes are schemes which apply to the whole population, implying that all residents or nationals, irrespective of their socio-professional status, are eligible to receive social benefits upon materialisation of specific risks or needs.

Level of protection. Several EU⁵³ Member States have a tradition of

51 ILO- International Labour Organization Convention 102 (see web site of ILO: www.ilo.org)

52 European Code of Social Security (see web site of CoE: www.coe.int)

53 EU - European Union

classifying their social protection schemes as basic or supplementary. Basic schemes are social protection schemes that guarantee a basic level of protection. A basic level of protection means the lower level of protection, without it being strictly understood as the level of resources allowing only the minimum socially acceptable standard of living. Basic old age schemes, for instance, typically guarantee either a flat-rate pension and/or a limited percentage of former earnings which may or may not be, supplemented by other provisions. In respect of medical care, basic schemes can either take charge of the lowest class of health care or compensate for only a specific fraction of its cost. Basic schemes are often those on which the greatest number of people rely on for protection. As a rule, universal schemes and schemes protecting all workers or employees are basic. In some cases, a person may be entitled to benefits from more than one single basic scheme. For instance, if an employee has worked in the private sector for a number of years before becoming a public servant, he or she may eventually be entitled to old age pensions from two different basic schemes. Many basic schemes are characterised by a high degree of social solidarity. Supplementary schemes are social protection schemes that top up cash benefits granted by the basic scheme, or extend the coverage of the basic scheme, or replace the basic scheme where conditions for entitlement to the basic scheme are not fulfilled. Examples are schemes that provide a percentage of former income on top of the basic pension and sickness insurance schemes that take charge of the cost of medical care not covered by the basic scheme. Schemes for specific groups of the working population, such as occupational or professional schemes, are normally supplementary.

Basic and supplementary schemes are sometimes referred to as first pillar and second pillar schemes, with a third pillar consisting of private arrangements that are not part of social protection in the EU context.⁵⁴

Article 2 of the EU Treaty⁵⁵ identifies the promotion of a high level of social protection and the development of the economic and social cohesion of the Member States as tasks of the Community. In order to monitor the progress of these tasks, the European Commission needs access to detailed and up-to-date information on the organisation, current standing and developments of social protection in the Member States and beyond⁵⁶. Indicators on the scope

54 See web site of EU: www.eu.int

55 EU Treaties, Official Journal of the European Communities, C 325

56 A useful source of qualitative information are the publications of MISSOC, the Community information system on social protection, that annually provide up-to-date and detailed information on the situation of social protection systems in the Member States of the EU MISSOC. Mutual Information System on Social Protection in the EU member States and the EEA. http://europa.eu.int/comm/employment_social/missoc/

of social protection; for instance, the number of protected people, beneficiaries⁵⁷ and benefits for selected types of social protection schemes, socio-demographic information.

Social insurance system in Albania

At the end of century XIX, when German Chancellor Bismarck set up the PAYG social insurance system in Germany, the governments of other European countries used this experience to establish such systems in their countries. Albania as well, under the monarchy of King Zog, followed the same direction, setting up the contributive state pension's schemes for civil servants and military forces⁵⁸. The oldest legal act on social insurance in Albania dated 15.02.1923, pensions for military forces, as well as the act "On Civil Pensions", no. 129, date 28.10.1927. But the establishment of the pure social insurance system dates back to August 1947, and comprised two schemes for employees of the state sector, act no. 4171, date 13.09.1966 and for agricultural cooperative members, act no. 4976, date 29.06.1972.

Changes that occurred in the national economic and politic system starting 1991, had an impact upon social insurance system. The reform of the social insurance as part of social protection⁵⁹, aimed to be in line with the requirements of a market economy. The reform started with the law no. 7703, date 11.05.1993 on social insurance, which entered in force on 1 October 1993.

Social insurance in Albania consist of the following schemes:

Compulsory social insurance scheme⁶⁰, PAYG type system. The system is founded on the principle of contribution, personal responsibility with respect

[missoc en.pdf](#)

- 57 Under «protected persons» are understood the persons who will receive social protection if a risk or need materialises. «Beneficiaries» are the persons who are currently receiving social protection benefits; they are a sub-group of the «protected persons»
- 58 Prof.Asoc.Dr.Merita (Vaso) Xhumari, "Pension Trajectories in Western Balkans, Three case studies: Albania, Macedonia and Kosovo 1990-2010", "Pegi" Printing- House, Tirana 2011, ISBN 978-9928-124-24-1, page 33
- 59 Prof.Ju.Dr.Igor Tomes, "The Social Insurance Law", Tirana 1998. Prof.Ju.Dr.Igor Tomes, was the Consular for the Albanian Government, from the World Bank Project "Development of social protection schemes", starting the year 1992
- 60 Law on Social Insurance in the Republic of Albania no.7703, date 11.3.1993, amended by law no.7932, date 17.5.1995; law no.8286, date 16.2.1998; law no.8392, date 2.9.1998, law no.8575, date 3.2.2000; law no.8776, date 26.4.2001; law no.8852, date 27.12.2001; law no.8889, date 25.4.2002; law no.9058, date 20.3.2003, law no.9114, date 24.7.2003, law no.9377, date 21.4.2005, law no.9498, date 3.4.2006; law no.9600, date 27.7.2006; law no.9708, date 5.4.2007, law no.9768, date 9.7.2007, law no.10070, date 5.2.2009, law no.10447, date 14.7.2011, law no.104/2014

to future risks in the social field and on inter-generations contract. It is a non-profit making scheme, protecting Employed persons in respect of: maternity, temporary incapacity due to sickness, occupational diseases & employment, accidents, old-age, disability, loss of breadwinner, and unemployment; Other economically active persons (employers and self-employed) in respect of: maternity, and old-age, disability, loss of breadwinner. This scheme is financed out of contributions from employers, employed persons, self-employed and state budget. Through these incomes (paid contributions) payment of benefits in cash is guaranteed at least for an amount that covers a minimum subsistence living standard, to be determined by Council of Ministers. Benefits are in any case guaranteed by the state budget.

Voluntary social insurance scheme covers persons that for a time and reasonable causes can no longer be covered by the compulsory scheme. Thus, they want to continue with voluntary insurance for very specified reasons. Voluntary social insurance is based on article 3 of the Law no. 7703 on Social Insurance in Albania Republic, date 11.05.1993 and stipulated under the SII⁶¹ Regulation.

Supplementary Social Insurance scheme provides supplementary benefits in addition to those provided by the compulsory social insurance or prior to that. The legal basis of supplementary social insurance schemes is article 4 of the Law no. 7703 on Social Insurance in Albania Republic, date 11.05.1993. The legislation covering supplementary insurance for certain categories of people, as for civil servants, persons carrying out constitutional functions and other categories of people.

Special State Pensions scheme are awarded to certain people or social categories under special conditions or due to particular reasons stipulated under Article 5 of Act no. 7703 on Social Insurance in Albania Republic, date 11.05.1993, for instance, to those who have participated in the National Renaissance Movement, popular movements, war against foreign occupation, democratic movement; have suffered from political persecution under the communist regime; have achieved remarkable results in the field of science, culture, arts, economy and politics and have special merits. Entitlement requirements, amount and practices are determined by the Council of Ministers and administered by Social Insurance Institute.

61 SII - Social Insurance Institute

In the social insurance system now are including⁶² as well as the *social pension* and the *professional funds and the voluntary pensions fund*⁶³.

Social insurance in Albania are closed linked with the labor relationships. The social insurance right is an important part of the rights in the work place. In the Labor Code⁶⁴ of the Republic of Albania there are lots of articles dealing with the social insurance rights arising from the labor relationship⁶⁵. Those rights relates to labor accidents & professional deseases, special protection rules for women during before and after the child birth⁶⁶, etc.

In the frame of the coordination rules of the social insurance schemes in the region, it is important for the foreigners to know the social security rights and obligations, as they attend to come and work in Albania. Which are their social insurance rights, as an employee, self-employed or employer in Albania, the documents and procedures where to apply for social security benefits in case of incapacity of work, old age, survivors, unemployment, health care etc.

Incapacity of work. Employer pays cash benefits in case of sickness and maternity of their employees. It is a procedure of reimbursement of employer's monthly expenses by the social insurance fund.

Sickness Cash sickness benefit for the employed person, will be provided if the following documents are presented by the employer to the regional social insurance office: an written request of interested person, filling in a form approved by SII; medical report of temporary incapacity; certificate of the assessment basis; certificate of insurance period.

Medical report on temporary incapacity on work is delivered by the doctors where the sick person is registered. Such a doctor has the right to award 1 to 14 days of leave. The specialist doctor or dentist has the right to

62 The new pension's reform in Albania and the law which is in force since 1 January 2015

63 Article 1, article 5/1, article 5/2 of the law no.104/2014 "On some amendaments on the Social Insurance Law no.7703, date 11.05.1993", Official Gazette no.137/2014

64 Labor Code of the Republic of Albania -Law nr.7961, date 12.07.1995 - Official Bulletin no.16/1995; amended by Law no.8085, date 13.03.1996 - Official Bulletin no.6/1996; Law no.9125, date 29.07.2003- Official Bulletin no.72/2003; Law no.10 053, date 29.12.2008 - Official Bulletin no.205/2008 - Centre for Official Publications of the Republic of Albania, web site www.qpz.gov.al

65 Labor Code of the Republic of Albania, articles 39, 101, 104, 105, 105/a, 106, 107, 117, 123/2, 130, 131, 147, 197/8

66 Prof. Kudret Çela "The labour law", Tirana, 2003, "Ilar" Printing- House, ISBN 99927-855-3-5, page 208

give incapacity medical reports in all cases when a sick person is incapable to work and recommended to him by his/her doctor. Medical Expert Committee based on the recommendation of the doctor who possesses the filling-card of the insured person, has the right to deliver a medical report on incapacity as well as when such a person has spent the 14 days of leave.

*Maternity*⁶⁷ Cash maternity benefits in case of self employed or employer women, will be provided if the following documents are presented by herself to the social insurance office: an written request of interested person, filling in a form approved by SII; medical report; certificate of insurance period; certificate of childbirth.

In case of an employed women the following documents, will be present by the employer to the social insurance office: an written request of interested person, medical report; certificate of the assessment basis of one year before; certificate of insurance period; certificate of childbirth.

A medical report⁶⁸ 35 days long in respect of pregnancy is given by the gynecologist doctor or the midwife when the former is absent. Women with more than one child in pregnancy benefit calendar days of medical report. Medical reports of 390 calendar days long concerning after-child birth leave starts on the day of the childbirth. Such a report for the first 60 days before and 63 days after childbirth is delivered by gynecologist doctor at once, with separate 15 days' reports, or midwife in case of his absence. After this term, the report is given by the doctor of the health institution where the personal filling-card is. In such a case the report is delivered monthly in separate 15 days' portions. After the confinement period or 63 days, women have the right to go on with the medical report regarding to the after-childbirth leave. Child consulting centers treat mothers with medical reports regarding to after- childbirth leave, irrespective of her home in another centre, provided she has consigned here the child's personal filling-card. Adoptive mother has the right to receive an after-childbirth leave starting on the day in which the adoption is done, excluding the first days that belongs to the real mother. If the adoption is done within the period of after-childbirth leave, the adoptive mother shall profit the rest of days up to the day of 330. If the delivery happens abroad or mother goes abroad after childbirth, Health Institution, that posse's mother and child's personal filling-card shall deliver a medical report basing on the respective medical document issued by the Health Institution that has

67 Article 13 of the law no.104/2014 "On some amendaments on the Social Insurance Law no.7703, date 11.05.1993", Official Gazette no.137/2014

68 Under the new law on social insurance the period after child birth is 63 days instead of 42 days which was in the past

meanwhile supervised mother and child. If the insured woman changes the employment after a MEC⁶⁹ decision, because of pregnancy, she shall have the right to benefit maternity allowance to reimburse the loss of incomes caused by such an exchange, after she has spent the 14 days awarded by the health institution that possesses her personal filling-card.

The new social insurance law foreseen the paternity leave, so far the child care is a benefit provided to mother or father of the child.

Invalidity Invalidity pension because of a general illness is delivered if the following documents are provided: an application form for the invalidity pension filling in a form approved by SII; family status certificate; certificate for insurance period; competent Medical Expert Committee decision that determines the ability to work as well as, for physical or mental disabled persons, the need for a permanent care of someone else; certificate of the assessment base. Person presents himself to the MEC solely on the check-up date to be determined by the social insurance general practitioner as well as on the re-examination date to be determined by the MEC. Rechecking up of the disabled by MEC for determining the ability to work shall depend on their health state and always occur two months before the deadline determined in the latest decision.

On reaching pension able age the disability pensioner shall have the right to opt for an old-age pension, if that shall be more favorable for him.

A disability pension shall be suspended for periods the pensioner refuses to visit the competent medical expert committee. It shall also be suspended when he refuses to participate in training/retraining courses or undergo medical rehabilitation or treatment against alcohol and drugs, which aim to retrieve his capacity for work.

Employment accident/occupational disease Long term benefit because of employment, accident and occupational, will deliver if the following documents are presented to the local social insurance office: family status certificate; certificate for insurance period (the same as for an old-age pension); competent Medical Expert Committee decision that determines the ability to work as well as, for physical or mental disabled persons, the need for a permanent care of someone else; certificate of the assessment base; employment accident report.

Old age The request for old age pension shall be done to the Local Social Insurance Agency. The documents to be present including the written request of interested person filling in a form approved by SII, are: family status certificate;

69 MEC - Medical Expert Committee

certificate of insurance period (work-book etc); certificate of the assessment base. The decision of old age pension is taken by the regional social insurance office within 30 days from the acceptance of documents. Pensioners with a right to more than one pension, may choose only one of them.

The right to a pension shall not be forfeitable. The right to an individual monthly installment of a pension shall be forfeited in a year from the date of the commencement of a right. In other cases, the right to a monthly pension instalment shall be forfeited from the date of claim submission. The acknowledged but not drawn pensions shall be paid any time, but only for three years. The rest of the pensions, which have been acknowledged, but less paid, shall be paid any time, but only for three years. The reimbursement of overpayments is requested to be done not later than three years from the execution, and not later than 6 months from the date those were verified. The persons benefiting through illegal means and manners, or having not informed on their change or abolition shall pay all sums back.

Survivors The request for survivor's pension shall be addressed to the Local Social Insurance Agency. The documents required are an written request of interested person, filling in a form approved by SII; family status certificate; death certificate of the insured person; documentation needed to prove the insurance period and length of service, which is the same as for the old-age pension; certificate of the wage/insurance period of the deceased when has or is eligible to profit an old-age pension; certificate on school attending, needed for the orphans of the employed or self-employed age proving that fact; Medical Expert Committee decision on work disability needed for the family members dependent on the deceased when they are at an employment age; certificate delivered by the Local Government needed to prove that the widow looks after a child up to 8 years old who used to be dependent upon the deceased; certificate delivered by the Local Authorities that proves grandparents have no obligations to look after them as well as that they used to share the same household with the deceased for more than a year before the death occurred. Interested person has to declare he is not an economically active person (employed or self-employed one). Orphan who has reached the employment legal age, but is yet under 18 years of age, as well as is not attending the school, must declare in his own pension's request the fact of not being employed or self-employed. Also a certificate from Employment Office proves he is not working or receiving an unemployment insurance benefit.

The right to appeal

The insured person has the right to complain the social insurance decision,

first at the Regional Appeal Commission in the Regional Social Insurance Office and after to the Central Appeal Commission at Social Insurance Institute.

The demand should be for the amount of benefit, the waiting period, the duration of payment of benefit etc. In case of foreigners the request, for instance might be for the qualifying conditions (years of insurance, etc.) how is taking into account the foreign insurance periods when a bilateral agreement is in force between Albania and a country of the region.

The person who does not comply with the decision of the regional MEC has the right to appeal and to send the case in front of the Specialized Supreme MEC.

Summary

*Economic objectives and the social objectives of the EU, co-ordination versus harmonization of social security laws*⁷⁰

The process of integration within the European Union is mainly aiming at economical objectives, nevertheless, there are number of objectives that can viewed as social objectives. The conclusion is that the ultimate goals of the European Integration lay beyond a pure economical perspective. It's in this sense that Robert Lecourt, formal president of the European Court of Justice, considered the social objectives as the most fundamental reason of existence of the Community.⁷¹

The EU Treaties go further than simply expressing social objectives, the European Union has also been endowed with a number of genuine competences in the field of social policy, including social security policy. Through the consequent amendements of the Treaties these became more explicit and less closely connected to the economic goals of the common market. It still appears to be evident from the wordings of the EU Treaties that the social policy is first and foremost a matter of the Member States. But on the other hand it was gradually acknowledged that the European union has a role to play too.

International as well as the European Social Security law has been

70 Prof. Berghman, Jos "The social security in European Perspective, present e future perspectives", "Social Protection and the European and Monetary Union", Aldershot, Avebury, 1996; Prof. Pieters Danny, "Recent Trends in Social Security in Europe, difficulties and answers, Instituut Sociaal Recht, Leuven, 2005; Prof. Schoukens Paul, "Introduction to social security co-ordination in the EU", Instituut Sociaal Recht, Leuven, 2004; Vansteenkiste S and Schoukens P, "European Community competences in the field of social security", Instituut Sociaal Recht, Leuven, 2003; Vansteenkiste Steven, Schoukens Paul "How the European Union keeps the social welfare debate on track", A layer's view of the EU instruments aimed at combating social exclusion", European Journal of Social Security, 2002, volumi 4/2

71 Jonczy and Seche, Traite de droit social Europeen, Paris, 1978

developed along the lines of two different techniques : coordination and harmonization. Coordination can be described as the technique which is used to do away with the elements of national law which in transnational cases cause imperfections or overlap for the beneficiaries or in a broader sense the techniques which are aimed at guaranteeing the social security entitlements of migrating persons and their dependants. The elements in national law which should be disposed of are mainly those who provoke positive or negative conflicts of law, nationality conditions, residence conditions and waiting periods. In other words, coordination only affects these elements of national law which are designed to delimit the applicability of national law from foreign law.

South East Europe as a common market and Social Security

The countries of the region aspire to EU membership and a prerequisite of accession to EU membership is adoption of the "Acquis Communautaire" in the national legislation and in national administrative practices. In matters of social security⁷² this means the relevant EU regulation 883/2004⁷³ and satisfying the requirements of these.

Agreements concluded between countries of the region, administrative agreement, the standardisation of information exchanges is a worthwhile pursuit in the frame of social institutions. In principle it is important to adopt a common technical framework for the exchange of social security information with other countries in the region. Standard forms, standard verification procedures etc, to facilitate and speed up the exchange of social security information between the countries of the region. Technical co-ordination framework, common technical co-ordination platform and its IT, legal, operational and other requirements.

Free movement of workers and co-ordination of national social security law

Now one of the essential features of the integrated market is without any doubt the free movement of workers. A genuine free movement could not be installed without a solution for the social security situation of migrant workers.

72 The legal instruments of Council of Europe

European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors, European Treaty Series/12

European Interim Agreement on Social Security Schemes other than Old Age, Invalidity and Survivors, European Treaty Series/13

European Convention on Social Security, European Treaty Series/78

European Convention on Social and Medical Assistance, European Treaty Series/79

European Social Charter, European Treaty Series, No. 163, 1998

European Code of Social Security, European Treaty Series/48

73 EUR - Lex – 31971R1408 –EN, Official Journal L 149, 5/7/1971 Regulation no. 883/2004

Social insurance for foreigners and Albanians living abroad

It is known that laws of a state are applicable within its territory. But this rule does not preclude the state from the obligation to see to its citizens even if they are living or residing abroad. According to the Constitution, the Republic of Albania applies the international law which is binding. The Republic of Albania protects the rights of Albanian citizens who are temporary or permanent residents of the other countries. Quite a clear expression of this constitutional obligation is the Law on Emigration, and following this idea the Social Insurance Legislation is in place. This legislation secures protection for the Albanian citizens who are working abroad as well as for the foreigners who are working in Albania. Whereas contributions paid by the Albanians in the hosting country where they are working will be considered valid for the purpose of benefits in that country or in Albania under bilateral agreements.

Albania has been a member of the ILO since 1921. In 1960, Albania moved out of the ILO, and returned in 1991. Albania joined the Council of Europe in 1995. Albania signed a Stabilization and Association Agreement with the EU in 2006. The Republic of Albania is an official candidate for accession to the European Union since June 2014. As regards European Union, the first union pillar, it is obvious that from the moment of accession to the EU, an obligation arises for the direct implementation of the EU legislation. Furthermore, this legislation is preeminent over the national one. This applies to the social insurance field as well.

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AND BANKRUPTCY OF BUSINESS ORGANIZATIONS AN IMPORTANT SEGMENT OF MODERN ECONOMIC DEVELOPMENT IN KOSOVA

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ABSTRACT

The paper aims to address, in the juridical plan, the legislation of Kosova that regulates the bankruptcy and reorganization issues of enterprises subject to this process. That's because this process is one of the most underdeveloped segments of legislation not only in our country but also in some Balkan countries. There is no dilemma that SEE countries have achieved impressive results in modernization of the legislation that normalize the business, business activities, registration and operation of business enterprises. However, is uncontested the fact that enterprises bankruptcy issue remains a segment that is regulated by each country according to their perceptions and concepts they have for their juridical system. Besides differences identified in concrete, procedural and substantive provisions the issue become complicated on how the judicial institutions deal with the bankruptcy process. So far there have been no initiatives to harmonize and standardize the process according to the model law as UNCITRAL. For countries that claim to be part of the European Union there isn't any recommendation or serious guidance to improve, harmonize and standardize the legislation by the relevant international institutions. Is essential that the countries of Eastern Europe, including Kosovo, to urgently review this segment of the legal system and through common actions, UNCITRAL support and by following the principles of the model law for bankruptcy harmonize and standardize the bankruptcy legislation.

Keywords: *bankruptcy, law, unification, standardisation, UNCITRAL*

1. INTRODUCTION

The inability of business associations to meet creditor's obligations is a phenomenon often encountered in commercial circulation today in Kosovo and the region. However, bankruptcy proceedings although in a certain extent are considered to be effective in our courts they are rarely implemented. Legislation that regulates the bankruptcy process of business entities is characterized by insolvency and represents one of the most fundamental parts of the modern market system. In transition countries to this issue has been given a considerable attention, mainly through the reform of the legislative system. It should be emphasized that even countries with a long tradition distinguished for their market economy, the bankruptcy issue of regulating the procedures effectively and efficiently is consider one of the most dynamic areas in order to provide new ways in order to successfully follow trend changes in the international economy.

In this field an important contribution is given by some multilateral and international institutions like: World Bank, International Monetary Fund, UNCITRAL, European Union and others.

The aim of modern bankruptcy legislation is to carefully and rationally handle the problem of those subjects who are financially overburdened debtors often cease to be productive respectively solvent, as any property they acquire, as a result of their profitable activity deals with enforcement proceedings to satisfy creditors' claims. This productivity loss not only harms the owner and his/her family, but also the society in which he/she lives.

Often, the debtor becomes a burden to society rather than a member of its contributors. One of the characteristics of modern legislation for bankruptcy is to give to the overburdened debtors a "fresh start" to exempt from most previous claims of creditors. The start of the new version does not apply only to legal persons but can be used by individual debtors only in very limited circumstances. It is not applicable to debtors who are not active or who have just as active as to pay the costs of the bankruptcy procedure.

2. DIFFERENCES BETWEEN LIQUIDATION AND BANKRUPTCY

As a rule a business corporation is likely to terminate its activity in two ways.

According to different perceptions that are a result of commenting on current legislation has been constituted the universal terminology. In the

literature we can find the use of terms bankruptcy, liquidation, judicial liquidation, voluntary liquidation, etc. Despite these terms really can conclude that there are only two ways to tame a business enterprise that according to the legislation is considered as liquidation or bankruptcy of the company. The liquidation represents the termination of a business enterprise when it has the necessary tools to fulfil its obligations to creditors⁷⁴. The bankruptcy is a process respectively a more complex choice in collective fulfilment of the obligations of the creditors of the debtor's property where the legal person ceases to exist⁷⁵. On the basis of these definitions we can conclude that, in the midst of liquidation and bankruptcy, there are differences both in the formal and substantive sense. Material differences between liquidation and bankruptcy are perceived by the fact if a corporation or business has the ability to meet its obligations to creditors or not. Liquidation is likely to be applied if there are certain circumstances which affect the extinction of the company. These can be: the passage of time for which the enterprise is established, achieving the goal of the business, lack of minimum based founders of the time, etc. Regardless of the liquidation causes each time the company is a solvent suppression as society which is able to fulfil its obligations to creditors. Bankruptcy is the suppression of the insolvent company which is unable to meet its obligations to creditors. Precisely because of this condition is considered necessary collective solution and that by selling the assets of the debtor under the bankruptcy respectively the legal person. The bankruptcy is likely to happen even during the liquidation process if is verified that the society is overloaded with debts and the assets at its disposal are not sufficient to fully meet the obligations of all creditors of the company.

The formal differences between liquidation and bankruptcy are considered through provisions for liquidation or bankruptcy. In cases where solvent enterprise liquidation terminates then the provisions for the implementation of this process usually are found in the laws that regulate the commercial companies. On the other hand the bankruptcy, as a rule, is regulated by a special law.

The change between these two institutions is considered also during the cessation process of a certain enterprise. The liquidations officer is nominated based to the decision for starting the liquidation process bought by the partners, complementary or assembly of founders depending on the business form. With the nomination of the liquidation officer all the other authorized representatives have not rights to represent the company. Even, the liquidation officer can be the owner of the company. In the bankruptcy procedure, the

74 Pravni Leksikon "Savremena Administracija" Beograd 1964 pg. 429

75 Ibid, pg. 887

liquidation officer is one of the procedural bodies and has the status of the official person in terms of legal provisions. The liquidation officer is nominated by the bankruptcy judge of the competent tribunal based to the procedure to initiate the bankruptcy procedure. Being a bankruptcy leader require a large volume of knowledge and special skills because this procedure is not only complicated but it also is a work with much greater responsibility than the liquidation officer. This is better argued by the fact that the liquidation process of a company it can be realized also by the owner of the company without involving the tribunal (the tribunal in this case has only the supervisor role and it controls the legality of the process and creditors treatment) while the bankruptcy process is realized by opening, direction and conclusion of the procedure by the competent tribunal. The initiation of the violent liquidation procedure by the tribunal has not to be confused with the bankruptcy. The bankruptcy of a business company is a much more complicated process then the liquidation. In the bankruptcy process is presented the bankruptcy body meanwhile the creditors establish assembly and the leading committee of creditors. The bankruptcy judge organizes the judicial review to determine the requirements. The opening of bankruptcy proceedings produces some procedural -legal consequences against the debtor in bankruptcy and his rights that had until that moment until the liquidation procedure are implemented with a smaller number of actions. Regarding the proprieties that remain after it distribution in the bankruptcy procedure the distribution rules will be applied (distribution rules of liquidation). In many ways the liquidations and bankruptcy institutions produce same results in juridical aspect of a certain business society. The business society will continue with the conclusion of the bankruptcy process and deletion from the register of business entities based on legal provisions for the registration of the enterprise.

3. LIQUIDATION AND BANKRUPTCY LEGISLATION IN KOSOVO

The country legislation for liquidation and bankruptcy is composed by the law on liquidation and reorganization of legal persons in bankruptcy⁷⁶ that in reality it represents an act of procedural character, law on banks, microfinance institutions and non-bank financial institutions⁷⁷ and the law on business organizations that regulates the liquidation and bankruptcy process

⁷⁶ Law on liquidation and reorganization of legal persons in bankruptcy Nr. 2003/4

⁷⁷ Law on banks, microfinance institutions, non-banking financial institutions Nr. 04/L - 093

of business organizations⁷⁸. However, to help the interpretation of situations where there is an overlap with other laws regarding the scope of liquidation and bankruptcy, the Law on liquidation and reorganization of legal persons in bankruptcy has the lead, which is explicitly, defined in Article 1 of this law⁷⁹.

The law on liquidation and reorganization of legal persons in bankruptcy is applied in harmony with the other laws that influence in this aspect, as Law on contested Procedure, law on obligational relationships, law on banks, microfinance institutions and non-bank financial institutions, law on Business Organizations, Law on Tax Procedure, Law on Payment System, Penal Code, etc.

It turns out that the Law on liquidation and reorganization of legal persons in bankruptcy, although supplemented by other laws, is not very rich in sufficient elements in terms of content and realization of its goal. Therefore, the structure of this act needs to be revised in many procedural dimensions and materials. Currently the rules of this matter create confusion in how this process is organized into chapters on certain laws. The available data regarding the Available Procedures indicate that the process of liquidation is more used in practice compared to the reorganization and bankruptcy. It is interesting that the institute of bankruptcy in Kosovo is generally viewed as a “legal death” and not as a “chance for a new beginning”. Based to this situation the liquidation process and the reorganization of legal person bankruptcy remains confused, no practical and no harmonized with Acqui Communautaire.

4. CHANGES TO BE DONE IN THE LEGISLATION

Being convinced that the subject of liquidation and bankruptcy has significant deficiencies is considered that the process of completion and amendment of legislation is not only necessary action but even more pressing. The current law for liquidation and reorganization of legal person bankruptcy has been issued in 2003 in the time when Kosova has been under UNMIK administration⁸⁰ and from that time the conditions and the economic circumstances have been fundamentally changed. For this reason is necessary

78 Law on commercial companies Nr. 02/L-123

79 Law on liquidation and reorganization of legal persons in bankruptcy Nr. 2003/4 in art.1 consider «the general provisions regarding the acting area that this law has in implementing the bankruptcy procedures as far as they are not in contradiction with the provisions of the present law”

80 The mandate of UNMIK was established by the Security Council in its resolution 1244 (1999). The Mission is mandated to help the Security Council achieve an overall objective, namely, to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo and advance regional stability in the western Balkans.

to change and supplement the law for liquidation and bankruptcy. This act with legal power will accomplish the standards and the requirements of Acqui Communautaire. From this point of view we consider that the following issues must be regulated:

- a) The tribunal and the bankruptcy procedures must clearly specify the entities that have the right and obligation to initiate bankruptcy procedures.
- b) Modification of cessation procedure issues concerning the fate of applications to open the bankruptcy procedure, judicial incompetence or remand the matter to the completion of acts.
- c) Regulating the procedure for the return of the case when the Court decides to return the issue in order to meet the acts.
- d) Resolution of incompetence cases, in cases where the court decides the incompetence because applicant has filed a submission to the wrong court that is not legitimized to decide for beginning the bankruptcy procedures.
- e) Defining when a claim may be rejected in cases where the court decide on the refusal of the request for beginning the bankruptcy procedures because of: there is no reason of bankruptcy, when there are no conditions for a society start the bankruptcy procedures or the company has increased its equity and there appears to be no outstanding debt for the applicant.
- f) Defining the manner of receiving the request to start the bankruptcy procedure.
- g) Regulation of duration for the case, respectively the legal setting a legal deadline for bankruptcy procedure.
- h) Regulate and establish procedures that besides the requirements to start with a bankruptcy procedure to proceed with the demand to start with the liquidation procedure provided by law as well;
- i) Clarification of definitions concerning the terms "insolvency", "debtor" "measures of bankruptcy", "repayment", reorganization, violent liquidation, bankruptcy, etc .,
- j) Elimination of cases where there is unification of terms with other laws.
- k) Eliminate possible confusion that may be caused by the implementation of the Law on liquidation and reorganization of legal persons in bankruptcy in relation to the Civil Procedure Law. The liquidation and bankruptcy is a special procedure and should minimize references to the general procedure. The liquidation and bankruptcy provides the competent Court, but do not determine specific regulations on

which the Court may exercise the following powers and this it brings inadequate implementation of the Law of Civil Procedure in daily practice.

- l) Eliminate confusion between the Law on liquidation and reorganization of legal persons in bankruptcy and other laws mentioned above.
- m) Establishing the problematic relationship between the Law for liquidation and reorganization of legal persons in bankruptcy with the Law on tax procedure. There is a lack of consistent judicial logic: the law on bankruptcy associates the bankruptcy with the insolvency or with overloaded debts, meanwhile the law on taxes associates the bankruptcy with the financial position of commercial entity with 3 years of losses.
- n) Regarding the bankruptcy procedures must be clarified when there can be deposited the request to start with the bankruptcy procedures. When the creditor has the right to do such request and when the debtor has this right. When the procedure begins by the creditor it must be eliminated the problem of determining the bankruptcy administrator⁸¹.

4.1. The Court's role in bankruptcy procedures

The court in bankruptcy procedure has supervisory role⁸². The tribunal that has competences to develop the bankruptcy procedure must judge on acts and must do verification after hearing. This it should be stated explicitly in law. In amending the law is suggested to consider the possibility of judgment by auxiliary subjects, whose status is determined by law.

The decision of initiating the bankruptcy procedure, although it is detailed in law, needs further specification. In cases where the court initiates bankruptcy procedures to appoint a suitable term (90 to 120 days) to present the requirements of the bankruptcy administrator. Should be carefully review the verification phase of creditors' claims in the creditors meeting that this does not extend beyond the legal limits usually no more than 180 days for the preparation of the list of creditors.

The requests for suspension of the bankruptcy procedures when another case

81 For more see the administrative instruction on the program of the exam for bankruptcy administrator Nr. 01 / 2013, dated 16.04.2013 Ministry of Justice Republic of Kosova.

82 With the law on liquidation and reorganization of legal persons in bankruptcy Nr. 2003/4 in art.2 «Court» shall mean the District Economic court in Prishtina with jurisdiction over a bankruptcy in all the territory of Kosova. But the law on courts in the Republic of Kosova Nr. 03/L-199, concretely art. 11 point 3 the administrative and economic issues are an exclusively competence of the Basic Court of Prishtina.

is being judged must be clear for the judges and there is no unified practise. Therefore, regarding the claims that may be brought e.g. employees who have work conflict, the Law on liquidation and reorganization of legal persons in bankruptcy provides the suspension of the bankruptcy procedure.

Legal terms based on the work of judge's practice shows that the legal deadline of 30 days is too short. Even though the special sections are created to judge the issues of bankruptcy is still inadequate. Also, it takes time to provide an expert, which should provide adequate access to the necessary documentation to prepare his report.

There is no reorganization in the context of bankruptcy, but there are debts restructuration regarding the deadlines, instalments etc. There are 1/3 of successful agreements and debts restructuration is done through purchases with the support of banks. Defining and specifying the procedures at the stage where the judge should call creditors and debtors because the law does not specify a procedure for this, and it seems creates a defect in practice. Therefore the law does not answer the question whether to proceed with the hearing and sent summons to interested parties, according to the Law of Civil Procedure. After the first creditors meeting should be clarified if the court will proceed with the hearing procedure or not. Perhaps presentation must be a legal obligation to at least the first few sessions.

Administrators clear definition of the duties and responsibilities. It happens that they delay the report or resign after a long period of procedure. This creates difficulties for the court and delay the process, making it impossible to meet the legal deadline. Meanwhile the administrators require anything from the court regarding the rights given by law. The administrators have difficulties to obtain the necessary documentation from the parties and for this reason that apply to that court to have such documentation. Administrators must apply to receive the file after the first phase.

Publication and transparency. The law should clarify whether the court's decision will be public in whole or in part.

Regarding the costs of the bankruptcy procedure, there are problems with paying the costs of bankruptcy. There are not documents in tax offices for companies with temporary loss over 3 years to help in identifying the amount of assets of commercial entities. Normally the application must list all the assets, but taxes office does not have this documentation and for them these entities appear with losses.

Creating a register on obligations is a good idea that will facilitate the orientation of administrator in evaluating the assets. Creating the mechanisms for tracking and investigate the assets. In Kosovo is a lack of debts register, this will facilitate the identification of the list of creditors and their categorization.

Also the informality, the presence of two balances for a real internal use of commercial entities complicates the identification of debtor's assets and the liability or insolvency.

Regulating provisions for penalties, in case of legal violations relating to bankruptcy procedure, insolvency provoking, etc. There are no sanctions and penalties for the administrator, debtors and there are no predictions about the manner of reporting, related to these actions, etc.

4.2. Bankruptcy in the sphere of execution

The main factors affecting the doubts and hesitations of interested parties toward the bankruptcy procedure are considered to be a kosovar mentality and the process of bankruptcy must be considered violation of dignity while creditors as a fear this process. These two situations are present because the bankruptcy procedures are not clear. The lack of clear legal provisions turns out that there are a series of responsibilities of the governing bodies of the debtor in respect with the opening of bankruptcy proceedings. The debtors in this case have not a clear idea of the possible alternatives. For executors bankruptcy procedures are not familiar and bankruptcy administrator is seen as a subject that is not welcome. It is interesting that the Law on Execution Procedure⁸³ there is no legal provision which refers to the executing process of decisions of bankruptcy tribunal.

5. ESTABLISHMENT OF THE BANKRUPTCY SUPERVISION AGENCY

Considering the practices in many countries is evaluated that the creation by the law of an Agency for Bankruptcy supervision will be a functional solution for this process. The Agency will be a new institution that will function with the aim to influence in the regulation of all the legal aspects, rules and other issues that deal with bankruptcy process and with licensing of administrators. The agency should be established to supervise the bankruptcy process even this is depended by the administrators that are private individuals and these persons have the right to take cases and continue the process in two periods: the previous time, when the liquidation assets are evaluated and if this phase it results positive then continue the second phase after 30 days that is the final process for this administrator.

CONCLUSION

Corporations and companies, in particular during economic transition, often face certain financial difficulties. In some cases they are not able to meet their obligations and cannot pay their debts entirely and for this reason they have to present the request for bankruptcy. Bankruptcy is a legal procedure through which commercial companies, which lose their ability to pay their debts and fulfil their obligations, could have a new financial start and take protection from creditors. Some of the benefits of submission of application for bankruptcy are avoiding the legal obligation to pay most or all debts, at least for a while, prevention of regaining possession of assets, prohibition of actions of creditors for making money (e.g. debt collection harassment), giving the opportunity for debt negotiation, offering the opportunity to reorganize the company and bring in feet; etc.

However, bankruptcy cannot solve every financial problem. Moreover, it is not the best option for any commercial company that have financial difficulties. There are some problems that can not be resolved to the application for bankruptcy. For example, the bankruptcy cannot avoid the rights of some secured creditors, cannot protect the co-signatories or write off the debt done after the bankruptcy. In cases when the commercial entity which has financial difficulties can have a slow recovery, the commercial entity can organize its structure in order to avoid the weaknesses of its structures, which have brought the company to the situation.

The reorganization is also a specific process of restructuring the company in order to continue operating effectively changing the bylaws of the organization, ownership pattern, management structure etc. In this case the owner must reduce costs without sacrificing product quality or the integrity of the company. Even small commercial companies can use the methods of reorganization, but they often have more difficulties. In the worst cases, the companies are not able to come out of their difficulties and have financial problems. In those cases, reorganization can not help the company to survive and the company is forced to go into liquidation.

Regarding the law the liquidation is a process through which the company (or part of it) is closed, in which case its assets and property are redistributed. Liquidation can be understood as the outcome or resolution, although dissolution in technical terms means the last stage of liquidation. More precisely, liquidation is the process for the completion of the financial problems of the company, by elaborating problems of the company and performing certain research and fairly distribute the assets of the company to creditors. This it happens because the company can not pay all its debts (eg is insolvent),

or its members want to end its existence. Kosovo has no adequate legislation that accurately and efficiently treat commercial companies during bankruptcy or liquidation procedure. Changing the current legislation is important for a modern economy that claims to be soon part of the European Union. We consider that the above proposed changes strengthen the environment that enables business development. On the other hand, the lack of laws on bankruptcy or if they are not functional may damage the country's economy. There is a tendency in Kosovo, the companies hesitate to present a bankruptcy request but instead they close the doors of the commercial entity to open another with a new name and do not pay the debts to the creditors. In this way they create an unfavorable situation for foreign investors. Besides the law amendments and changes it must be issued bylaws in way the legislation to be more functional and efficient. In this way, it is in the interest of Kosovo to finish the legal framework that deals with bankruptcy and begin its implementation in the courts and other authorities involved in business activities.

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CHARACTERISTICS OF DOMESTIC VIOLENCE IN KOSOVO SOCIETY

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ABSTRACT

As a developing country, Kosovo experiences a twofold challenge when facing domestic violence. First challenge is related to the fact that the number of domestic violence cases that are reported officially does not represent the real situation. According to researches conducted in the field, many domestic violence victims, mainly women, hesitate to report the violence against them. The second challenge has to do with the relevant institutions that still do not provide the necessary support to the victims that report domestic violence. It has been noted that protection order requests were neglected, and unfortunately, this negligence in one of the cases resulted having the perpetrator kill the victim.

Keywords: *domestic violence, Kosovo, women*

INTRODUCTION

Family represents the basis of every society and it is a key feature of a democratic society.

The presence of a domestic violence in a society has a negative impact in a proper functioning of a family in particular and of a society in general. The domestic violence may also result in risking the life and health of the family members. Therefore the creation of a sound family is the aim of every society; it is the aim of Kosovo as well.

16 years after the war, Kosovo society continues to face the domestic violence which in particular cases have resulted in murder of the victim. The patriarchal families continue to represent the majority of families in Kosovo. The

poor economic situation of most of the families in Kosovo also contributes in retaining the patriarchal tradition and the reporting of the domestic violence is still a 'forbidden approach' for many women in Kosovo. These women consider that they will not benefit anything if they report the domestic violence because they will lose the support of both their families and the society. Therefore, the aim of this paper is to identify the best measures that should be applied to fight the domestic violence in Kosovo as well as raising the awareness in the society against these phenomena.

How is domestic violence treated according to the legislation in Kosovo? What is the number of domestic violence cases? In which way is domestic violence present in the Kosovo society? Who are the perpetrators? Which are the protection measures against the domestic violence? Which are the measures that the society itself is taking to fight these phenomena? These will be few of the questions that will be addressed in this paper which covers the period from 2005 -2014.

1. DEFINITION OF DOMESTIC VIOLENCE

1.1. A general overview on domestic violence

According to the Article 16 (3) of the Universal Declaration of Human Rights, the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.⁸⁴ According to this declaration, every country is obliged to offer protection to all members of the family, including the members that are subject of a domestic violence.

The European Convention on Human Rights (ECHR) requires from the countries to take the necessary measures against domestic violence. The article 3 which states that no one shall be subject to torture or to human or degrading treatment combined with Article 1 which defines that every country within its jurisdiction shall secure to everyone the rights and freedoms as foreseen by ECHR, obliges countries to prevent the torture and degrading treatment in the familiar context as well.⁸⁵ While, The Parliamentary Assembly of the Council of Europe, in its recommendation 1582 (2002), "calls on the member states to recognize that they have an obligation to prevent, investigate and punish all acts of domestic violence and to provide protection to its victims".⁸⁶

84 The Universal Declaration on Human Rights approved in the United Nations General Assembly on 10 December, 1948, Article 16(3).

85 Report on Domestic Violence in Kosovo, OSBE-UNMIK, July 2007, p.6.

86 Parliamentary Assembly of the Council of Europe, Recommendation no. 1582 (2002), paragraph 4.

Since the domestic violence involves mostly women, the General Assembly of the United Nations also approved Declaration on the elimination of violence against women in 1993. Through this Declaration, the United Nations affirmed that “violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women”.

In 2004, the United Nations General Assembly approved the Resolution entitled “Elimination of domestic violence against women”. Through this resolution, it “requires states to take serious action to protect victims and prevent domestic violence”,⁸⁷ as well as providing protection to women through protection orders that will prevent their husbands enter the victim’s house or communicating with the victim.⁸⁸

1.2. Domestic violence according to the legislation of the Republic of Kosovo

In the previous legislation of Kosovo, the domestic violence was not considered to be a criminal act but the Criminal Code of the Republic of Kosovo offers protection to the life of the individual and the family by defining as criminal acts all acts that risk the life of the individual or family. The criminal Code also foresees the execution of more years of imprisonment for those criminal acts that the perpetrator conducts against persons with which the perpetrator has family relations.

In addition to the Criminal Code, the domestic violence victims are supported through the provisions of the Code of the Criminal Procedure, Code of Justice for Minors, Law on Execution of the Criminal Sanctions and through the Law on Protection against domestic violence that will be subject of this paper.

According to the Law on Protection against domestic violence No. 03/L-182 dated 1 July 2010, domestic violence is considered to exist amongst the persons if they “are engaged or were engaged”⁸⁹, “are married or are married”⁹⁰; “are in extra marital union or were in extra marital union”⁹¹; “are cohabiting in a common household or were cohabiting in such a household”⁹²,

87 Ibid, Article 1 (d).

88 Ibid, Article 7 (e).

89 Ibid, Article 2 (1) (1.1)

90 Ibid, Article 2 (1) (1.2)

91 Ibid, Article 2 (1) (1.3)

92 Ibid, Article 2 (1) (1.4)

“use a common house or are in connection by blood, marriage, or adoption, in-law or are in a guardian relationship, including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles or cousins”⁹³, “are parents of a common child”⁹⁴, “are procedural parties in a dispute of a family relationship”⁹⁵;

While as domestic violence acts are considered one or more intentional acts or omissions when committed by a person against another person with whom he or she is or has been in a domestic relation but is not limited to “use of physical force or psychological pressure exercised towards another member of family”⁹⁶, “any other action of a family member, which may inflict or threaten it inflict physical pain or psychological suffering”⁹⁷; “causing the feeling of fear, personal dangerousness or threat of dignity”⁹⁸, “physical assault regardless of consequences”⁹⁹,

“insult, offence, calling by offensive names and other forms of violent intimidation”¹⁰⁰, “repetitive behavior with the aim of derogating the other person”¹⁰¹, “non-consensual sexual acts and sexual ill-treatment”¹⁰²; “unlawfully limiting the freedom of movement of the other person”¹⁰³; “property damage or destruction or threatening to do this”¹⁰⁴, “causing the other person to fear for his or her physical, emotional or economic wellbeing”¹⁰⁵, “forcibly entering or removing from a common residence or others person’s residence”¹⁰⁶ and “kidnapping”¹⁰⁷.

1.3. Types of domestic violence

In the criminal literature, the acts of domestic violence are considered to take place in different ways between the persons that have familiar relationships

93 Ibid, Article 2 (1) (1.5)

94 Ibid, Article 2 (1) (1.6)

95 Ibid, Article 2 (1) (1.7)

96 Ibid, Article 2 (1) (2.1)

97 Ibid, Article 2 (1) (2.2)

98 Ibid, Article 2 (1) (2.3)

99 Ibid, Article 2 (1) (2.4)

100 Ibid, Article 2 (1) (2.5)

101 Ibid, Article 2 (1) (2.6)

102 Ibid, Article 2 (1) (2.7)

103 Ibid, Article 2 (1) (2.8)

104 Ibid, Article 2 (1) (2.9)

105 Ibid, Article 2 (1) (2.10)

106 Ibid, Article 2 (1) (2.11)

107 Ibid, Article 2 (1) (2.12)

between themselves. The most common classification of the acts of domestic violence consists of physical assault and psychological violence

1.3.1. Physical assault

The physical assault is conducted when a perpetrator uses a physical force against a victim. As defined in the Law on Protection against Domestic Violence, the physical assault is qualified as such regardless the consequences. We have to note that physical assault can also result in the death of domestic violence. The perpetrator conducts the physical assault by using dangerous items which may damage the health of the victim. According to research on forms of the physical assault as a part of domestic violence in Kosovo, the perpetrators used various items against victims (most of the women) were different.¹⁰⁸ The usage of these tools to conduct a physical assault against the victims, in addition to the physical consequences, it will definitely have psychological consequences as well.

1.3.2. Psychological violence

Psychological violence consists mainly of pressure, psychological maltreatment, psychological suffering and causing feel of fear and uncertainty. According to a research conducted in Kosovo, the psychological violence takes place mainly in the relationship between a husband and a wife, where in most of the cases the wife is a victim. This psychological violence includes ignoring the feelings of the partner, continuous behavior in derogating the partner, continuous critics, the attempts to convince the partner that with the her behavior, she deserves the psychological violence that the perpetrators uses, continuous jealousy, threat to take away the children from the victim, calling by offensive names etc.¹⁰⁹

The cases of the psychological violence are reported more rarely because this type of violence is more hidden. The activists that deal with protection of the domestic violence victims that the number of people that know what is psychological violence is very limited and they do not even realize the consequences of this violence. When they were interviewed, it was found that about 90% of the domestic violence victims faced the psychological violence, but only few of them realized that they were also a subject to psychological violence.¹¹⁰

108 Interview with Tahire Haxholli, Head of the Unit against domestic violence in Kosovo Police, Prishtina, November 2013.

109 Domestic violence – The responsibility of state police to prevent it, Tirana, March 2008, p. 24.

110 Interview with Naime Sherifin, Director of Social Welfare Centre of Women and

2. DOMESTIC VIOLENCE CASES IN KOSOVO DURING THE PERIOD 2005 TO 2012

2.1. The number of domestic violence cases

According to the statistics of the Kosovo Police, in the territory of Kosovo during the period 2005-2014, there have been recorded 11,209 of the domestic violence cases. In the table below, these cases will be presented according to the main regions in Kosovo:

Table No .1: *Number of domestic violent cases recorded in the regions in the period 2005-2012*

Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Prishtina Region	428	392	344	295	297	231	268	301	251	268
Prizreni Region	241	251	197	212	206	194	172	139	194	210
Peja Region	218	234	160	221	217	204	207	190	211	232
Mitrovica Region	210	178	143	106	142	124	182	180	170	129
Gjilani Region	156	184	134	101	91	99	109	91	122	166
Ferizaj Region	117	132	99	99	127	92	108	120	139	128
Total	1370	1371	1077	1034	1080	944	1046	1021	1087	1179

According to the above data, the largest number of domestic violence cases is recorded in Prishtina followed by other main cities in Kosovo: Peja, Mitrovica, Gjilani and Ferizaj. Against the perpetrators, the criminal accusations have been initiated and preceded in the courts of the relevant municipalities. It is also noticed that the number of the reported cases from year to year did not change significantly in most of the municipalities.

2.2. Domestic violence according to the gender

In the majority of reported domestic violence cases, the women are the

Children in Prishtina, November 2013, and Tahire Haxholli, Head of the Unit against domestic violence in the Kosovo Police, November 2013

victims. Wife is a subject to the physical assault, psychological violence and sexual maltreatment by her husband. Although husbands may be the victim of domestic violence, in Kosovo women (wife) remain the victims almost in every reported domestic violence case. The phenomena of domestic violence affect women because: “historically unequal power relations between women and men, who have led to domination over, and discrimination against women by men and to the prevention of the full advancement women”¹¹¹.

In the table below, there is the number of the domestic violence women victims compared to men victims that was drafted by the Department of criminal acts in the Policy of the Republic of Kosovo for the period 2005-2012.

Table No. 2: *The number of domestic violence cases according to the gender*

Year	Female	Male	Total no.
2005	1107	265	1372
2006	1104	338	1442
2007	874	231	1105
2008	836	220	1056
2009	915	215	1130
2010	764	190	954
2011	804	242	1046
2012	826	220	1046
2013	869	220	1089
2014	980	281	1211
Total no.	9079	2422	11451

For the period 2005-2014, out of 11,451 domestic violence reported cases, 9079 are women while men are 2422. We should note that even in the case when men were reported as domestic violence victim, men were not victims of their spouses but of their other family members or cousins.¹¹² Therefore, the number of women who are subject of domestic violence is very concerning.

¹¹¹ Preamble, CoE Convention on preventing and combating violence against women and domestic violence (CoE Domestic violence Convention), CM (2011) 49 final, 7 April 2011.

¹¹² Data according to the Department of Criminal Acts in the Kosovo Police for the period 2005-2014.

This is because it does not constitute only a domestic violence crime but a form of gender-based discrimination and violation of human rights.¹¹³

2.3. Family relationship between the domestic violence perpetrators and the victims

As the most common forms of domestic violence is the violence between spouses, violence against children and violence against parents.¹¹⁴ While, in bigger families, the domestic violence takes place between mother in law – daughter in law, brother – brother, nephews, aunt – nephew etc.¹¹⁵ According to the Kosovo police data, the majority of domestic violence takes place between the husband and wife followed the domestic violence cases between son and father but in general, the reported domestic violence cases includes domestic violence between brothers, nephews, aunts, uncles or cousins.

3. PROTECTION OF THE DOMESTIC VIOLENCE VICTIMS

3.1 Provisions on protection of the domestic violence victims

According to the Law on Protection against domestic violence, there are the following protection measures that can be applied to protect the domestic violence victims: “protection measures of psycho-social treatment”¹¹⁶; “prohibition of approaching the domestic violence victim”¹¹⁷, “prohibition of harassment to persons exposed to violence”¹¹⁸; “removal from apartment, house or other living premises”¹¹⁹, “accompanying victim of violence to take personal things”¹²⁰, “medical treatment from alcohol dependency and dependency from psychotropic substances”¹²¹, “confiscation of the item by means of which the act of violence was committed”¹²² and “property protection measures.”¹²³

113 Adjudication of petitions for protection orders in domestic violence cases in Kosovo, OSCE, Prishtina 2012

114 Halili Ragip, *Criminology*, Prishtina, 2008, p.280.

115 Data according to the Department of Criminal Acts in the Policy of the Republic of Kosovo.

116 The Law on Protection against domestic violence, Prishtina, 2010.

117 Ibid, Article 5.

118 Ibid, Article 6.

119 Ibid, Article 7.

120 Ibid, Article 8 (1)

121 Ibid, Article 9.

122 Ibid, Article 10 (1)

123 Ibid, Article 11.

It is also defined that regardless of any other order issued by the court or any competent body, the protection order, emergency protection order or temporary emergency protection order may be issued in compliance with the present law.¹²⁴ A petition for protection order may be submitted by the protected party, an authorized representative of the protected party, a victim advocate upon consent of the protected party representative, social welfare centre in the municipality where the protected party permanently or temporarily resides in cases where the victim is minor.¹²⁵

The legal framework deadlines within which the court is obliged to precede with the petition is defined. "The competent court shall decide on a petition for a protection order within fifteen (15) days of the receipt of the petition¹²⁶, while for a petition on emergency protection order, the court shall decide within twenty four (24) hours after the petition is submitted.¹²⁷ It should be noted that the emergency protection order is executed immediately while the duration of the protection order shall not exceed twelve (12) months, but with possibility of extension of not more than twenty four (24) months.¹²⁸

The law also specifies that whoever violates protection order, emergency protection order or an interim emergency protection order, in whole or in part commits a criminal offence and shall be sentenced to a fine of two hundred (200) euro to two thousand (2,000) euro or imprisonment up to six months.¹²⁹ If a violation takes place, it shall be immediately prosecuted *ex officio*.

3.2. The implementation of legal framework deadlines of protection order petitions

One of the most important elements of a fair justice system is the existence of an effective procedure for the execution of final judgments.¹³⁰ The right to file a petition in the court in order to protect human rights would be illusory if the court decision is not fully executed.

Although the law has foreseen the legal framework deadlines on treatment of protection orders, the courts in Kosovo not always managed to respect these deadlines. Shortcomings in the implementation of the law on protection against domestic violence were noted in the international reports as well. The shortcomings mainly consist of failure to adjudicate petitions

124 Ibid, Article 12, (1)

125 Ibid, Article 13

126 Ibid, Article 15 (1)

127 Ibid, Article 16 (1)

128 Ibid, Article 18 (2)

129 Ibid, Article 25 (1).

130 Report on domestic violence cases in Kosovo, OSCE, Prishtina, 2006, p 17.

within the legally-mandated timeframes, failure to distinguish between types of protection orders, deficiencies in the form and consent of orders issued pursuant to the law on Protection against the domestic violence and the role of the courts vis-à-vis reconciliation between parties¹³¹

Below there are two cases that show the failure of the courts to offer the protection to the domestic violence victims according the legal framework deadlines of the applicable law.

“On 11 January 2011, the victim filed a petition seeking an emergency protection order against the perpetrator, her husband. The petition detailed episodes of physical and psychological violence perpetrated on the victim over the course of the couple’s 22 years of marriage, culminating in an assault the previous month which has left the victim unable to get out of the bad fro two days. Following this assault, which the victim has reported to the police, she left the perpetrator, taking three of their minor children with her. The first hearing session was convened on 29 march 2011; this session, however was immediately adjourned when it became apparent that neither the victim nor the perpetrator had been duly summoned to appear, and neither the Victims’ Advocate nor the CSW representative, although both duly summoned, were present. Subsequent hearing session were convened on 8 April, 27 April, 13 May and 31 May 2011; however, on each of these dates the session was immediately adjourned due to the failures of the parties and the ancillary officials to appear. At each of these hearing sessions, the same fact scenario was repeated: there was lack of evidence in the court file that either the victim or the perpetrator had been duly summoned, and both the Victims’ Advocate and the CSW representative failed to appear at hearing after hearing, despite having been duly summoned. On 1 June 2011, the victim appeared before the court – without having received due summons – to request that her petition be withdrawn because she had, since filing it, reconciled with the perpetrator. The court then ruled that the petition was to be “considered withdrawn”¹³².

131 Adjudication of petitions for protection orders in domestic violence cases in Kosovo, OSCE, Prishtina 2012, p. 14

132 Adjudication of petitions for protection orders in domestic violence cases in Kosovo, OSCE, Prishtina 2012, p. 16.

This example not only shows that the court failed to respect the legal framework deadlines, but also shows a negligence of the relevant institution to offer protection to domestic violence victims that in this case are women. Although, according to the applicable law on protection against domestic violence, the court shall execute the emergency protection order within 24 hours, it took 77 days to this court to convene the first hearing session.

Another similar failure to execute properly an emergency protection order and apply the relevant protection measures took place in the Municipal Court in Prishtina. The petition was filed by the victim on 22 April 2011, only two days after the victim reported the case to the police. After submission of the petition, the court should have convened a hearing session within 48 hours in order to define the protection measures that should have been applied against the perpetrator, such as prohibition of approaching and communicating with the domestic violence victim etc. But although a protection order petition was filed in the court on 22 April, a court did not convene a hearing session. While, on 18 May, the perpetrator, her husband killed the victim.¹³³

Frustrated by the negligence of the Municipal Court of Prishtina, the parents of the victim, through their legal representative filed a request to the Constitutional Court on 17 April 2012 to declare if the failure of the Municipal Court in Prishtina to answer their daughter's petition for protection order represents a violation of human rights.

In its judgment published on 26 February 2013, the Constitutional Court of Kosovo declared the referral made by the parents of the victim (their deceased daughter) as admissible. The Constitutional Court held that "there has been violation of the right to life, as provided by the Article 25 of the Constitution and Article 2 of the ECHR". The Constitutional Court also held that "there have been violations of the right to legal remedies as provided by Articles 32 and 54 of the Constitution and Article 13 of ECHR".¹³⁴

3.3. The protection of victims by non-governmental organizations

A great support in protection of domestic violence victims is granted by the non-governmental organizations. These organizations draft special programs to support and protect the domestic violence victims, create relevant conditions for further education and ensure financial support for these victims.¹³⁵

In order to protect the domestic violence victims, which in most of the cases are married women, there have been established several social welfare

133 Article published in daily newspaper "Kosova Sot", Prishtina, 28 May 2011.

134 Judgment of the Constitutional Court in Kosovo, Prishtina, 26 February 2013

135 Halili Ragip, *Viktimologji*, Prishtina, 2007, p.152.

centers in Kosovo. The social welfare centre for provisional residence is located in Prishtina while the social welfare for permanent residence is located in Gjakova. Both these centers are using all their resources to provide the domestic violence victims the shelter and protection.

The Director of the Social Welfare Centre in Prishtina presented the programs of this centre which in addition to the provisional residence offer them the educational opportunities. This centre arranges various courses for the domestic violence victims such as computer courses as well as other activities that keep them engaged. This centre has enough space to offer shelter not only to the victims of the domestic violence but also their children.¹³⁶

CONCLUSION

We can conclude that the number of the reported domestic violence cases in Kosovo had more or less the same trend during the period of 2005-2014. The declaration of Kosovo Independence in 2008 was followed by approving the Law on Protection against domestic violence in 2010. The domestic violence was reported even before the independence, mainly by the international organizations and the enactment of this law in 2010 was expected to contribute in providing significant legal support for the domestic violence victims. However, few of the basic provisions of the law, the provisions that set legal framework deadlines for protection order petitions are not respected by the Kosovo courts. The failure to respect these provisions ended with a death of a domestic violence victim.

According to relevant institutions, for these reported cases that failed to respect legal framework deadlines, the necessary measures have been taken against the responsible persons in the courts. However, if we refer to their cases that were reported, the judges in Kosovo still continue to encourage a victim who has been subject of a physical violence to find a way and reconcile with its husband. The media also reported cases when the police insulted women that reported the domestic violence. Unfortunately, it shows that patriarchal culture, not in all cases can be kept away of the Kosovo institutions. Therefore, there is a need to increase the awareness of both judges and other officials that they are there to apply the Law on Protection against domestic violence as other applicable laws, without involving their personal judgment that results in neglecting or discouraging the persons who want report the domestic violence.

¹³⁶ Interview with Naime Sherifin, Director of Social Welfare Centre of Women and Children in Prishtina, November 2013.

The large number of women as domestic violence victims is another issue that we have to address seriously. With all the work of the non-governmental organizations in offering protection to these women, there is a need for coordinated program by the government that would also serve as a prevention of the domestic violence against women. This should include more emphasis on the gender balance topics on the primary and secondary school programs. The media shall be more active in this regard as well and not only report the cases when the domestic violence takes place. The media could address and explain the provisions of the Law on Protection of the domestic violence in order to inform the public how is domestic violence defined and how can everyone contribute to prevent it in their families.

This public awareness will also contribute to encourage the domestic violence victims report their cases. According to the non-governmental associations, there is a large number of persons, mostly women who hesitate to report the domestic violence against them or there are many women who also are not able to recognize that they have been subject of physiological violence. Having the realistic number of domestic violence cases and the reasons why it takes place, the relevant institutions will have the possibility to take the relevant measures to manage these cases and hopefully prevent them to happen in the future.

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CHILD LABOUR MONITORING SYSTEM. A POWERFUL TOOL FOR PREVENTION AND ELIMINATION OF CHILD LABOUR IN ALBANIA

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ABSTRACT

This paper presentshow the concept of CLMS¹³⁷ piloted by MOLSAEO¹³⁸ in cooperation with NGOs and SP¹³⁹ technically supported by ILO-IPEC¹⁴⁰, impacted the dynamics of policies, institutional structures and empowered community for better response to prevent and eliminate child labour in Albania.

The CLMS is a response to Convention 182, where “members after consultations with employers’ and workers’ organizations establish mechanisms to monitor implementation of the Convention”. The governments’ challenge is to consolidate progress, facilitate community empowerment and leadcountry to meet international commitments. After election, is it possible that new ministry advances progress achieved referring to CLMS approach?

Keywords:

1. INTRODUCTION

Child Labour (CL) and Worst Forms of Child Labour (WFCL) have been recognized and gained attention by the Albanian government in year 2000 with the ratification of by the Albanian parliament of **ILO Convention No.138** on the Minimum Age for Admission to Employment, January 1998, and **ILO Convention No.182** on the Worst Forms of Child Labour, August 2001.

137 CLMS - Child Labour Monitoring System, developed by ILO-IPEC and implemented in Albanian context in 2007

138 MOLSAEO- Ministry of Labour Social Affairs and Equal Opportunities, now named Ministry of Social Welfare and Youth

139 SP - Social Partners, Trade Union Federation of Education and Science of Albania (TUFESA)

140 ILO/IPEC - International Labour Organization/International Programme for Elimination of Child Labour

The transformation to a market economy beginning of 1993, generated a large shadow economy and this was associated with new phenomena of child labour that was and still is widely used. A whole series of socio-economic factors exist to explain this situation: economic decline, lack of schools and teachers in certain regions, family breakdown, lack of awareness of the importance of schooling, discrimination against ethnic minorities. The facts that: a/ child labour is perceived as good for the character-building and skill development of the children, irrespective of the physical or moral hazards they may be exposed to and b/ community identity, especially for ethnic minorities is also linked to inter-generational on the job training also contributed to the increase of child labour.

1.1. Latest information on CL and WFCL in Albania

The nature of child labour makes difficult to obtain reliable and accurate data. During 2002-2003, two surveys, **Rapid Assessment Survey (RAS) in Albania, 2002** and **Rapid Assessment Survey on Trafficking in Children for Labour and Sexual Exploitation in Albania-2003**, were conducted in selected regions (Tirana, Shkodra and Vlora), with the Support of ILO/IPEC. These surveys were widely used to plan the interventions in the years to come.

Between 2010 and 2014 two important surveys on CL and WFCL at national level conducted were released. The **First National Child Labor Survey (CLS)** survey conducted in 2010 by the Albanian Institute of Statistics in collaboration with ILO/IPEC. The CLS provide indicators on three main aspects of children's lives: employment, schooling, and unpaid household services. The survey covered 7,319 households containing 27,865 individuals, 6,003 of whom were children between the ages of 5-17 years.

Key results indicate that 57,000 children 5-17 years-old, are economically active out of which 35,500 children- 5.1% of all children aged 5-17 are considered child laborers¹⁴¹. Overall, 80 percent of working children are engaged in agricultural activities. Employment Rate in Children increases with age: 2.4% of 5-11-year-olds, 9.4% of 12-14-year-olds and 16.8% of 15-17-year-olds. While 28.5% of child labourers were 5-13 year-olds. Children work very

¹⁴¹ **Children in employment (working children):** Children (aged 5-17) are defined as working (or employed) if they worked for at least one hour during the reference period or if they had a job or business from which they were temporarily absent. The UN System of National Accounts (SNA) delineates what is and what is not an economic activity. Broadly speaking, all market-oriented activities, production for own-consumption and certain services rendered for and by household members (such as major household repairs, fetching water or carrying firewood for household use) are considered to be economic activities, and those engaged in them are considered to be employed.

long, about 18.7 hours/week. Child employment often takes the form of unpaid family¹⁴² work because over 93% of working girls and 87% of working boys are employed alongside the family members. Beyond 15 years of age, school attendance rates drop substantially: 81.1 percent for 16-year-olds, and 75.2% for 17-year-olds.

The second survey, **National Study on children in street situation in Albania**, commissioned by UNICEF and Save the Children, conducted between May 2012 February 2014 by ARSIS and GKF Albania. Direct interviews were conducted with about 782 children in the whole territory of Albania; consultations with 111 children through focus groups on both a local and a national level; and in-depth interviews of 30 children as key informants; as well as the consultation of 40 community members and 60 key informants. The main purpose of the survey was to provide a thorough and extensive understanding of all issues and numbers surrounding this target group, for the definition and review of the policy agenda and to plan current and future interventions.

The key findings indicate that 70.1% of children in street situation are boys aged 10-17 years old. However, a more even distribution between the genders is seen amongst younger children. 66.5% are 4-14 years of age. About 4% infant children, from 0-3 years old work together with parents or family members. A quarter of the children identified belonging to the Albanian majority while 74.3% belong to roma and egyptian minorities. 84% of Albanian children in street situation have both parents alive and living with them

1.2. Why Child Labour Monitoring System (CLMS)?

Albanian government has ratified ILO Convention 138 on Minimum Age and Convention 182 on the Worst Forms of Child Labour in 1999. By ratifying Conventions 182, the country committed to eliminate hazardous as well as other worst forms of child labour (such as child trafficking, the use of children in commercial sexual exploitation, or illicit activities etc.). Under Article 5 of Convention 182, the members states based on the consultations with employers' and workers' organizations are required to establish appropriate mechanisms

142 Unpaid Household Services (UHS): Any activity that falls within the general production boundary but outside of the production boundary of the UN System of National Accounts (SNA) is considered to be unpaid household services. These are services rendered by and for household members without pay. They include such activities as cooking, ironing, housecleaning, shopping, looking after children, making small repairs, etc. A few unpaid household services - carrying water and fetching firewood for household use and major household repairs - are treated within the SNA production boundary and are thus considered to be work

in order to monitor the implementation of the provisions which consist on the following:

- Take immediate and effective measures to Prohibit and Eliminate the WFCL(Art. 1)
- Determine and Map Hazardous Work (Art. 4, Para 2)
- Establish Monitoring Mechanisms (Art. 5)
- Design/implement programmes of action (Art. 6, Para 2)
- Ensure the Effective Implementation and Enforcement of the provisions of this Convention. Art. 7, Para 1)
- Develop Time Bound Measures Art. 7, Para 2)
- Enhance International Assistance / Cooperation (Art. 8)

The concept of CLMS was initially introduced in the convention and further elaborated by ILO/IPEC through guidelines in order to ensure coordinated, systematic and coherent intervention at all countries signatory of the conventions.

What is the concept of CLMS? "Child labour monitoring (CLM) is an active intervention strategy against child labour that operates at both upstream and downstream policy and programme levels. The basic function of CLM is surveillance, identification and referral of child labourer to appropriate services. At the local level this involves monitoring workplaces to identify children at work, the hazards they are exposed to, and to find meaningful alternatives such as school, non-formal education or skills development programmes that they can be referred to."¹⁴³

CLMS is a system to find and help children in dangerous work. It is a national/local framework within which a variety of partners can work together efficiently to transformed policy, institutions and direct action at community level for prevention and elimination of child labour. Also, it is a mean of gathering and sharing information on child workers and ensuring that it is used for action. CLMS is an adjunct to the formal inspection services of the government, which are ultimately the ones to ensure there are no children in hazardous work. It is society's best mean of preventing child labour and rehabilitating child workers.

CLMS takes different formats as per country context. It can be:

School basedutilizing the school teachers to conduct identification and monitoring of working children. The systems ensures each child identified at risk or involved in CL or WFCL is provided with support and services such as schooling and vocational training. This model has two comparative advantages, first utilization of the nation-wide human infrastructure and

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second identification of children at an early stage, because most of them are school drop outs or have poor results. The disadvantage is extra burden placed on teachers who are involved in child labour identification and follow-up, in addition to the overwhelmed teaching process

Industrial/sectoris based on the concept that independent monitoring of the industry will be undertaken by Independent Monitoring Associations. Such model assumes that it is in the interest of the industries like construction, mining etc., to show that the industry is free of child labour. The model has also its own disadvantages, first the monitoring system can't go beyond the targeted industry, so it fails to counter child labour mobility and displacement. Second, such systems do not address all Fundamental Principles and Rights at Work (forced labour, discrimination, Freedom of Association and Collective Bargaining, as well as child labour).

The workplace based model is institutional or organizational based such as automobile repair centres, car wash etc. Policies are put in place within an institution to eliminate child labour in a bid to improve and maintain customer attraction and reputation. The model is simple to implement; it ascertains visible outcomes where a fairly limited number of workplaces & child labourers are involved; active involvement & easier accountability of key stakeholders in particular employers & workers' organizations of concerned sectors). Its main disadvantages include failure to control child labour mobility and job displacement effect from a monitored industry to another and from a geographical workplace to another.

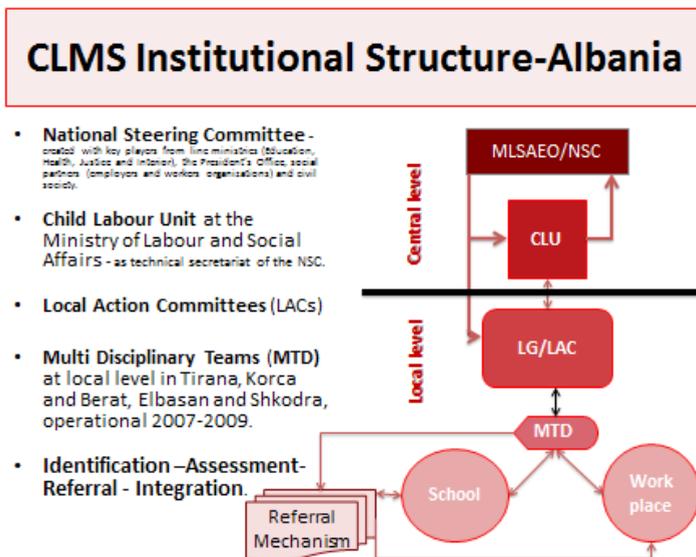
Community based. The model is based on the use of community based structures to conduct monitoring and identification of working children in the communities and pass the collected data to Regional Labour Inspection Office, Regional Directorate of Police, Regional Education Directorate, Municipality/commune etc., for analysis and referral to competent services. Community level structures such as Multidisciplinary teams, Local Action Committees and community child labour committees, parents-teacher associations, chiefs, law enforcement officers, employers and workers organizations extension workers (industry, health, education, welfare), once trained, they provide fundamental institutions for child labour monitoring and elimination. Each model has its own pros and cons and they can be either applied in isolation or as a hybrid but there is no one-size-fits-all solution. Despite the model there are three stages or 8 steps to be followed in order to set up and put in efficiency the CLMS.

Figure 1¹⁴⁴

Pre monitoring	Step 1	Defining The Problem
	Step 2	Preparing the Ground and Building the Monitoring Strategy
	Step 3	Building Partnership and the Structure of the Monitoring System
	Step 4	Creating an information base
Monitoring	Step 5	Planning the Monitoring Operation
	Step 6	Training and Technical Assistance
	Step 7	Conduct Inspection & verification of target areas (workplaces and schools)
Follow-up	Step 8	Ensure Appropriate Action and Reporting

Guided by these principles in Albania a combined Industry/Sector & School Based model is applied in five selected regions: Tirana, Korca and Berat, Elbasan and Shkodra, The CLMS and institutional setup is provided graphically in the Figure 2. below:

Figure 2



CLMS operated at both central/national level and local/community level. The system was made of the following bodies:

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National Steering Committee –a leading structure, created with key players from line ministries (Education, Health, Justice and Interior), the President’s Office, social partners (employers and workers organizations) and civil society, overall responsible to guide and oversee the activities for prevention and elimination of child labour in Albania,

Child Labour Unit established at the MLSAEO, served as the secretariat of the NCLSC and ensured the regular feedback and information exchange between both setups. CLU assisted/facilitated in drafting laws, regulations and guidelines ensuring a smooth running monitoring and referral process. Also, it coordinated joined efforts of the various government agencies and civil society for effective combating child labour, and implement related activities sharing and exchanging the available information and experiences.

Local Action Committees (LACs) operate at local/community level to guide and serve the monitoring function at the district level. They were composed of: Head of Municipalities, labour inspectors, social welfare officers, education officers, trade unions, parents’ association, employment office officers, community police to serve as the technical arm of the system at the district level and supervisors of monitors; The LACs assessed each individual case and based on the information and recommendations provided by the MDT took decisions referral to relevant services including the allocation of funds to ensuring definitive removal of the child from the risk and labour.

Multi- disciplinary teams (MDT) were composed of monitors mainly teachers, labour inspectors and school psychologist, and were responsible for identification of children at risk or children involved at child labour or WFCL. The MDT members collected and documented information/data and carried out preliminary/basic analysis, were all decisions of LACs were based. MDTs in addition to identification of new cases were responsible for regular monitoring and reporting on children who were under the support scheme/referral mechanism.

In October 2003, a **Sub-Group on Trafficking in Children**, was established by representatives of the Ministry of Labour; Ministry of Education; Ministry of Interior; Prosecutor’s, local NGOs and International / Bilateral Organizations (IPEC, UNICEF, IOM, USAID). The Sub-Group was headed by the Minister of State.

2. METHODOLOGY

The main purpose of this document is to identify how CLMS impacted policy, institutions and direct action at community level for prevention and elimination of CL and WFCL, therefore the methodology employed is a combination of meta-analytical and participatory approach that allowed the analysis and synthesis of the results of the former studies, progress reports on implemented direct action in community as well as the existing information on child labour in Albania

Specifically, the preparation of the paper followed these steps; (i) a comprehensive desk review of policy documents, legislations and institutional setup at national and local level of governance; (ii) A considerable number of individual meetings were held with members of the National Committee, the staff of the Child Labour Unit, representatives of the responsible ministries (Ministry of Labour, Social Affairs and Equal Opportunities, Ministry of Education, Ministry of Interior, Ministry of Justice), Labour Inspectorate, the State Social Service, National Employment Service, non-governmental organizations working in the field of child labor, unions, academic institutions, departments of education etc.

The report was prepared based on information received from the primary sources as MoLSAEO and other central institutions under this Ministry, the Ministry of Education and Science, Ministry of Justice, Ministry of Interior, etc.. Studies, surveys or annual reports were used as a secondary source of information. Consideration was given to monitoring reports of different strategies dealing with the issue of child labor and WFCL. Also, this paper takes into account documents of international organizations. The paper bases its suggestions and recommendations on the opinions of direct beneficiaries, children withdrawn or prevented or their siblings and family members, identified mainly in implementation reports prepared by NGOs and Trade Unions.

In order to judge on the impact all results and changes identified, were evaluated based on the criteria of sustainability, compliance with the provisions established by both conventions (listed earlier in part 3.2.), as well as the models and steps highlighted in the guidelines for establishing the CLMS. The period taken under review is between 2001 and 2013.

3. RESULTS

Based on the above mentioned evaluation criteria's the development happened during 2001-2013 are clustered in three main categories: (i) Impacts

of CLMS at policy level; (ii) Impacts of CLMS at Institutional Level; and (iii) Impacts of CLMS at Community level.

The Government is committed to combating the phenomenon of child labor and to create appropriate conditions for the promotion of youth employment in the country. In particular, it is committed to work for adjusting policies and legal framework in line with international conventions and the ILO, 136, and 182

3.1. Impacts of CLMS-CLU Policy (2003-2013)

The Government in years has increased the recognition and committed to fight the CL and WFCL in the country. In particular, it is committed to work for adjusting policies and legal framework in line with ILO conventions no 136, and 182. During all this period the Albanian both policy and legislation has been amended and improved continuously.

There are a number of country and sectorial strategies where CL and WFCL are integrated such as: National Strategy for Development and Integration 2007-2013; National Strategy for Children 2005-2010, The National Strategy for Development of Social Services 2005-2010; The National Strategy for Employment 2007-2013; National Strategy for Social Inclusion 2007-2013; National Strategy on Trafficking in Children 2008-2012; National Strategy on Youth 2006 and National Action Plan 2007-2013;

The national legal framework has been revised to address gaps existing between the **Albanian Constitution**¹⁴⁵ (1998), **Labour Code**¹⁴⁶ (1996), **Penal Code**¹⁴⁷ (1995). Both Codes have been amended respectively LC in 2005 and PC in 2001 and 2008. There are a number of Decisions of Councils of Ministers (DCM) and Laws approved during this period such as : Decision of the Council of Ministers No. 207 on the "Definition of hazardous work and work in difficult conditions", 2002 (amended in 2009); Law No. 9634 on Labour Inspection and State Labour Inspectorate, 2006; Decision of the Council of Ministers no. 384 on Occupational safety of minors, 1996 (amended in 2009); Nr.10237 on Safety and Health at Work, Law no. 10347, On protection of child rights 2010.

145 **Albanian Constitution** contains provisions related to child protection against violence, maltreatment and labour exploitation. Education is compulsory up to the age of 16, which is also the minimum age for admission to employment

146 **Labour Code** prohibits employment of children less than 16 years of age and provides that young persons under 18 cannot be employed in activities or work likely to jeopardise their health, safety or morals

147 **Penal Code** establishing clear sanctions to the persons who abuse with children in different forms including trafficking, child labour, pornography, maltreatment

It is observed that regular feedback to CLU from the direct interventions implemented in the local/community level has resulted in new policy development, revision of existing legal framework or initiation of new laws such as the case of Law on the Protection of Child Rights. The adoption of this law marks an important milestone in the protection of children's rights through a comprehensive legal framework and institutional compliance with the Albanian Constitution and the Convention on the Rights of the Child and ILO conventions 136 and 182. The law establishes the foundation for the establishment of appropriate institutional mechanisms that will guarantee and ensure respect for the rights of children by individuals, family, and country. The law provides all necessary measures to guarantee the life, child care and child development through a coordinate approach between different actors working in the field of human rights and child protection. This law aims to significantly improve the child protection system in Albania by institutionalizing the Child Protection Units as local-level structures which are responsible for the coordination and implementation of child protection services and case management, in conjunction with a number of actors in various fields.

Despite the good advancement in the area of policy and legal framework, the Albanian legislation still lacks:

- specific definitions for the worst forms of child labor as defined by the ILO convention 182, lack of legal adjustments on the work at home and self-employment, and could not give an appropriate response to cases where children engage in forced labour. Specific sanctions should be taken against employers and individuals who hire children to work in hard or dangerous. There is a law on the classification of difficult and dangerous works, as well as special measures for those who commit these, but these measures do not refer to cases where children are employed in these jobs.
- Violation of the law is one of the problems that usually happen in Albania. Analysis has shown that the law is violated even in the case of the identification and punishment of child labor. In this sense, the modernization of Albanian legislation to prevent child labor must be accompanied by effective action to create an enabling environment and capacity building necessary for the correct application of legislation by executive institutions. In addition, regulations have to be in place to ensure coordination of work on strengthening the rule of law, among the institutions involved in the elimination of child labor as the labor inspectorate, police, courts, educational institutions, etc.

There are two main criteria used to evaluate the effectiveness and efficiency of the policy/strategy: relevance and budget allocation for strategy implementation. As specified above there are number of sectorial strategies, developed policies and programs addressing CL and WFCL, but often they seem more hypothetical than feasible. The budgets associated with them are very scarce and most of the interventions are supported by international organizations present in Albania. Precisely this is why the impact that they have on the prevention and elimination of CL and WFCL is sufficient but not at the desired level. Both National Child Labor Survey (CLS) and National Study on children in street situation in Albania, provide a new profile for CL and WFCL. Child employment often takes the form of unpaid family work, 80 percent of working children are engaged in agricultural and 84% of Albanian children in street situation have both parents alive and living with them. Beyond 15 years of age, school attendance rates drop substantially to 81.1 percent for 16-year-olds, and 75.2% for 17-year-olds. Findings above demonstrate a mismatch between the depicted reality and policy goals that aimed to address CL mainly at formal economy by strengthening the monitoring of workplaces, decrease school dropout rate and controlling illegal cross border trafficking of human beings.

In this respect there are two challenges to be addressed:

- Developing evidence based, realistic and appropriate to local conditions policies. Harmonize inter-sectorial policies/ (strategies) in this case with Sectorial Strategy on Agriculture Development and Food Processing. The child protection system should focus on prevention, consequently the fight against CL should focus the causes that generate the phenomenon as: (i) early intervention and support; (ii) poverty reduction and families; (iii) reduction of child abuse and neglect; (iv) reduction in the number of children with social needs; (v) development of preventive social services
- Increase budget allocation and better utilization of government resources such as: (i) reforming and adapting social protection scheme (economic aid) to ensure a better targeting of poor families and their children. (ii) The use of employment promotion scheme in favor of families with children and parents. (iii) Encouraging employment programs for employment creation schemes for young people who have not gained employment or vocational skills; (iii) Establishment of vocational schools to respond to market needs but also those of Albanian youth job skills and professional.

On the other side there is a positive change; creation of the Information Base embedded in the government Structures, as established Step 4- of CLMS. INSTAT is the main authority in the country to produce and provide data, conducted for the first time the National Child Labor Survey, in close partnership and with the initiative of MLSAEO. The results will serve as the baseline for developing indicators in the forthcoming strategies to address CL and WFCL. For this reason further improvement of information on a national level, led by INSTAT should continue by introducing to LFS¹⁴⁸ and LSMS¹⁴⁹ indicators related to the new depicted profile of CL.

3.2 Impacts of CLMS Institutions (2007-2013)

As a response to the ILO conventions No. 136 and 182, the Government of Albania with the technical support of IPEC/Albania during the period 2001-2009 established and put in function of the CLMS made of the following bodies: National Steering Committee (NSC), Child Labour Unit (CLU), Local Action Committees (LACs) and Multi-disciplinary teams (MDT) in five main regions of Albania: Tirana, Shkodra, Berat, Elbasan and Korca. As described earlier CLMS operated at both central/national level and local/community level, while the ILO/IPEC covered the financial cost for capacity building and operation at all levels including direct support to working children and their families. Despite the regional differences and difficulties the CLMS approach proved to be a successful tool to prevent and eliminate CL and WFCL. The NSC decided to upscale the system at national level, covering the 12 regions of Albania. With ILO/IPEC support phasing out the challenge was twofold, first the institutionalization of the CLMS and second covering the financial cost.

The MLSAEO took the first step towards the institutionalization starting with the CLU. The CLU passed three stages: first stage, for two years, the Unit was funded by the ILO-IPEC 2003-2005, second stage, from 2005-2008, it was covered by the state extra budgetary resources, and the third stage, from 2009 onwards, a Child Labour Specialist was assigned within the newly established Secretariat for Child Rights and Child Labour Unit, paid by state core budget. As of 2010 CL specialist is a permanent position (civil servant). The CL specialist and the Secretariat are responsible for provision of advice, drafting policy, strategies, legislation in the field of child protection and child rights issues. In addition, in 2011 the Agency for Child Protection was established as the executive body of the MLSAEO to implement the National Strategies, monitor and ensure law enforcement and coordinate donor support in the

148 LFS -Labour Force Survey

149 LSMS-Leaving Standard Measurement Survey

field of child rights. After the In 2010, with the approval of the new Law on the Protection of Child Rights functions of LAC and MDT are transferred to the Municipalities and Communes that have the responsibility to set-up Child Protection Units mandated for identification and referral of children at work in relevant services. In this way the structures are formalized by law, DCM and other administrative acts, and functions are funded by government resources.

Social Partners represented by Trade Union Federation of Education and Science of Albania (TUFESA) has been from the beginning part of the process for establishing CLMS. TUFESA, is the largest and the most important trade union organization in the education sector. It is affiliated to the Confederation of the Trade Unions of Albania (KSSH) and it includes over than 22,000 members, teachers and other employees in the education and sciences sectors in Albania. It is a member of Education International (EI) and of the Pan European Structure on Education. As of March 2010, TUFESA has become a member of the Albanian National Labour Council (ANLC), representing the education trade unions.

Teachers' Trade Unions in Albania approved a special Resolution to combat child labour in Albania in their third Congress held on 4-5th November 2004 in Tirana. A Collective Agreement between the Education Trade Unions and the Albanian Ministry of Education and Science was signed on July 4, 2006. Two articles of this agreement stipulate the trade unions (TU) commitment to eliminate child labour and the decrease of school drop-out. This is the first time that TUs in Albania include explicitly the issue of child labour in their Collective Agreement. A Joint Agreement on prevention and elimination of child labour among trade unions, employers' organizations, Ministry of Education, Ministry of Labour Social Affairs and Equal Opportunities and Labour Inspection was officially signed and launched 12 June 2008. This agreement aims to engage the trade unions, employers' organizations and other key stakeholders in prevention and elimination of child labour in Albania and defines the roles and responsibilities of each signatory in identification of children involved/at risk of entering WFCL, integration in the education system, cooperation, capacity building, mainstreaming child labour into collective agreements, support in job placement, inspections at the workplace, introduce children to the world of work, provision of career guidance, awareness raising, etc.

TUFESA has already trained over 250 central and local trained trainers (trade union leaders) on the child labour issue in Tirana, Vlora, Pogradec, Korca, Elbasan and Berat in the framework of previous ILO-IPEC programs implemented during the period 2002-2009. They are child labour focal points and supported through mainstreaming children (referral) into Formal Education, introducing children to the world of work, Family counselling and organization

of Extra-curricular to decrease school drop out rate. After ILO/IPEC phase out, TUFESA continues to play a crucial role at both policy and community level for keeping the CL issues high in the agenda of the government.

3.2. Impacts of CLMS Community (2007-2010)

Sustaining government and community commitment at all levels has been of primary concern for all along the establishment of CLMS. A major strength of this approach is that it builds upon the existing institutions and promotes at every step participation and involvement of the community. Most of the activities on prevention and reintegration were carried out with the community and parents' involvement and this plays an important role in reinforcing the ownership by the community increasing knowledge and changing of serotypes related CL. In this respect with high involvement of the community several Awareness Raising campaigns on Child Labour Issues were organized jointly with MOLSA and Social Partners, paving the way for implementing a number of pilot interventions to target child labour issues at different levels. Sensitized citizens, families, business, teachers, community leaders, media etc., on route causes and effects WFL have on children, made possible that 3,810 children (897 children withdrawn from WFCL and 2,913 children prevented to enter WFCL in regions of Tirana, Elbasan, Korca, Berat, Shkodra.

The referral mechanism operating at community level is in place since 2005, and further expanded in 2012. Other donors have embraced and applied this approach. By law the financial sustainability of the referral mechanism has to be ensured by the local government (municipality or commune. Even though this is clearly stated in the law, LG allocate limited resources for social services, so the direct support for the RM is mainly ensured by donors.

4. DISCUSSION

In the period of 13 years, progress has been made to establish a policy, legal & institutional framework in compliance with ratified instruments and customized as per local context. As Prescribed earlier, CLMS (all elements) are mainstreamed vertically and horizontally at all government institutions at central and local level. Responsibilities entailed in CLMS, are formalized and institutionalized by law(s). At all levels there are available capacities to advocate and address the CL issues. INSTAT has already embarked on the process for establishing database on CL (baseline & evidence based policies). Other assessments and analyses are possible using household base surveys such as Labour Force Survey and Leaving Standard Measurement Survey.

But there is still work to be done. With parliamentary elections held in June 2013, a new government is in place as of September 2013. It is quite important to keep the momentum and advance further these achievements in following directions:

Legislation

- Law enforcement: Violation of the law is one of the problems that usually happens in Albania. Analysis has shown that the law is violated even in the case of the identification and punishment of child labor. In this sense, Modernization of Albanian legislation to prevent child labor must be accompanied by effective action to create an enabling environment and capacity building necessary for the correct application of legislation by executive institutions. Cross-institutional regulations should be developed in order to ensure coordination of work on strengthening the rule of law, among the institutions involved in the elimination of child labor as the labor inspectorate, police, courts, educational institutions, etc
- Labor Code which was amended in 2009, should determine the criteria for the definition of the light work. The list of hazardous work has to be updated. Law no. 7995, dated 20.09.1995, "On employment promotion" provides state policies to promote employment but does not specify policies for child labour. Pre-University Education Act "should be completed with incentives to encourage the pursuit of compulsory education from the students. Albanian legislation does not cover all issues related to child labor and youth. Specific sanctions should be taken against employers and individuals who hire children and young people to work hard or dangerous...

Government policies and programs:

- Address the gaps between Central and Local Level institutions. Both parties should work to harmonize Local Regional Development Strategies with national sectorial policy relevant to CL issues. Developing evidence based, realistic and appropriate to local conditions policies.
- Strengthen the institutional coordination at local level (Regional Education Directorates, Regional Labour Offices, Regional State Social Services, Regional Labour Inspectorates, NGOs , TU etc. Ensure

adequate funding recourses for direct support to children and families. (Central Government, Local G and Donors).

- Increase budget allocation and better utilization of government resources such as reforming and adapting social protection scheme (economic aid) to ensure a better targeting of poor families and their children. Use employment promotion scheme in favor of families with children and parents. Encourage employment programs for employment creation schemes for young people who have not gained employment or vocational skills. Establish vocational schools to respond to market needs.
- Improve the collection of information on a national level, led by INSTAT, through the introduction of indicators related to child labor, integrating simple and short questionnaire on CL within the questionnaires of Labour Force Survey and Leaving Standards Measurement Survey. Generation of quantitative data and promoting their use for developing policies appropriate to local conditions. Unification and harmonization of the methodology of data collection between INSTAT and line ministries. Reforming and adapting social protection scheme (economic aid) to ensure a better targeting of poor families and their children.

Reorganization of the referral System

- So far the emphases of the CLMS have been on legal and institutional setup. Now the focus should shift at local level where problems are.
- The child protection system should focus on prevention, consequently the fight against CL should focus the causes that generate the phenomenon as: (i) early intervention and support; (ii) poverty reduction and families; (iii) reduction of child abuse and neglect; (iv) reduction in the number of children with social needs; (v) development of preventive social services
- Government institutions should provide technical and logistical assistance to local institutions engaged in identifying and preventing child labor. Based on the laws adopted LG should build mechanisms common to all institutions (schools, local government, labor inspectorate, social services, etc..) to identify, capture and referral.
- Specifying the social administrator mandated in municipalities for identifying, reporting and referral. Increase awareness of professionals, especially social administrators for the role and responsibility that they have in the issue of child labor
- Segregation of duties between the local, regional and central government to address the issue of CL. Continuous training of staff

the identification, referral and reporting of CL and definition of clear procedures and protocols and specific work to facilitate staff interaction with children and their families.

Sensitization and awareness rising

- Sensitization of society through awareness campaigns and propaganda to prevent child labor and WFCL. For this detailed awareness campaigns should be under taken by all government and non-governmental actors.
- Increase awareness of not only the actors but the whole society on consequences that brings the phenomenon of child labor
- Parental awareness of the issue of child labor and the mechanisms that exist to facilitate their social problems.

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THE EFFECT OF MACROECONOMIC FACTORS ON CREDIT RISK IN THE BANKING SYSTEM OF ALBANIA

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ABSTRACT

Credit risk is one of the most important areas of risk management. It plays an important role mainly for banking institutions, which try to develop their own credit risk models in order to increase bank portfolio quality. The quality of loans can be one of the factors that limit the banks' loan supply and affect on investment spending. Although banks have a significant role in transmission of monetary policy; in the meantime their performance is strongly influenced by monetary and fiscal policies that are effective in recession and prosperity and thereby affect bank performance; in other words, macroeconomic variables can effect in/directly on banks loans quality and their transitional role. Our country is characterized by an environment not very conducive economic might increase the risk of default on the loan currently. Therefore, it becomes necessary to study how macroeconomic variables affect the quality of lending. This study aims to explore the relations between bank credit risks and macroeconomic factors. We employ a set of variables including the inflation rate, foreign exchange rate, growth rate, unemployment rate, and the credit risk represented by the ratio of non-performing loans to total loans (NPL) for Albania during the period 2001-2013. In the present study, by assuming that improved macroeconomic conditions will reduce credit risks, the macroeconomic variables with possible impact on credit risks were identified and an econometric model was established. From this analysis it appears that the effect of macroeconomic situation plays an important role in Albania for the level of non – performing level. The result of this study can be helpful to bank supervisory and economists to adjust banking system stability and economic policies.

Keywords: *Credit risk, monetary and fiscal policies, macroeconomic factors, banking system stability.*

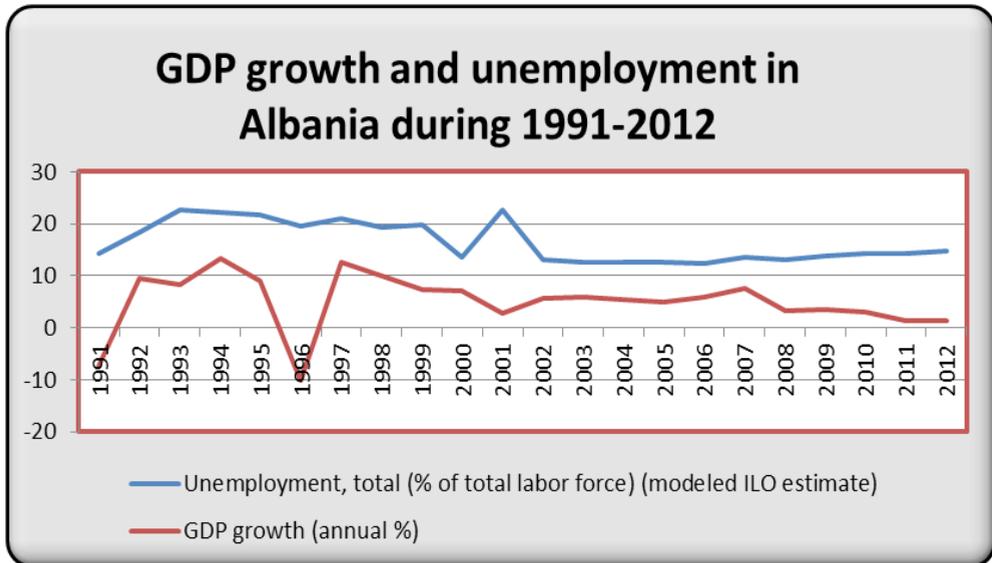
1. INTRODUCTION

The subject of unemployment is a pervading challenge in developing economies. Unemployment is a negative phenomenon in any human society as it adversely affects in different directions and dimensions. The economic and social dimension of unemployment increase complexity, consequently leading us to adopt several analyses to understand its nature and impact on growth. The greater the unemployment rate, the less opportunities to achieve high economic growth as well as the emergence of the negative social aspect.

Economic growth and unemployment are related because the two concepts are intertwined. The level of unemployment in an economy may affect the rate of economic growth, while the level of unemployment is also an indicator of the state's economic growth of an economy. It is simply very interesting to know the growth rate necessary to reduce unemployment. The relationship between economic growth and unemployment can also be seen in the manner in which unemployment deprives the government of necessary resources needed to develop the economy.

Typically, growth slowdowns coincide with rising unemployment. This negative correlation between GDP growth and unemployment has been named "Okun's law," after the economist Arthur Okun who first documented it in the early 1960s. This study defines the relationship between unemployment and economic growth for Albania and it highlights the relationship in between. It is important to highlight the relationship between unemployment and economic growth, which reveals the available opportunities for developing the economy. It also reveals the social development and who to deal with efficiently and effectively to contribute to increasing economic growth rates. Life almost nonexistent of syndicates in Albania is evidence of labor market situation, which is characterized by a very high level of unemployment, a degree of informality even in those businesses that are formal. Economic growth was not accompanied by the same level of employment. As appears from the following presentation graphics, real economic growth-unemployment relationship appears quite messy and without any apparent regularity. At this point can not judge for a strong relationship.

Graph 1: GDP Growth and unemployment in Albania during 1991-2012



Source: Authors own presentation using country World Bank's data

Despite the economic difficulties and political changes that our country is facing an important issue remains unemployment. Despite the simplicity in use that has Okun's Law, the most difficult part remains finding reliable data on the rate of unemployment really. Thus, the question: is the Okun's law a mere statistical relationship in the structure of the Albanian economy? This study aims to test Okun's law for Albania's economy during the period 1991-2012, in order to verify its validity or not by making analysis for possible reasons and giving the respective recommendations. We use the first-difference model of Okun's law. This paper asks how well Okun's Law explains short-run unemployment movements. By calculating the Okun's coefficient we will measure the impact of economic growth in unemployment rate in Albania. Although it can be expressed mathematically, and holds up under real-world scrutiny, it is an imperfect theory. This is not as a result of any error on the part of Okun the economist, but rather because of unpredictability. Okun's law is more accurately called "Okun's rule of thumb" because it is primarily an empirical observation rather than a result derived from theory.

This paper is organized as follows: in the second section we present a brief discussion of previous empirical studies. Section 3 provides the estimation of the Okun's law parameters for Albania, while section 4 offers the conclusions.

2. THEORETICAL FRAMEWORK AND BACKGROUND - LITERATURE REVIEW

Attention to economic growth was apparent through consecutive economic schools, focusing on development. The prominent concerns are presented by those of Adam Smith who claim that the increase in economic growth is done by following the principle of labor division and specialization. Karl Marx considered in his theory of Surplus value that capitalists have means of production in a cumulative process. On the other hand, the vision of Arthur Lewis is regards to shifting the workers from the traditional agricultural sector to the industrial sector in modern societies to achieve economic development (Mahmoud A. Al-Habees and Mohammed Abu Rumman,2012). From an old fashioned Keynesian perspective the explanation of Okun's law is very simple. Due to changes in aggregate demands firms alter their output plans. This leads to changes in labor demand and therefore affects the unemployment rate.

Additionally, the relationship appears to enjoy empirical support. The sign of the relationship between unemployment and long-run growth is unclear. In reality, though, Okun's law is a statistical relationship rather than a structural feature of the economy. Many economists have observed that Okun's law is really not a law at all, but more of a tendency that can vary based on a number of factors. Yet many economists question Okun's Law. A number of recent papers have titles like "The Demise of Okun's Law" (Gordon, 2011) and "An Unstable Okun's Law, Not the Best Rule of Thumb" (Meyer and Tasci, 2012). In the last two decades, a large number of empirical studies have tested the validity of the Okun's law in different countries. The exact numerical value of the coefficient of correlation seems to be varying over time and from country to country. If the Okun relationship has changed over time and does differ over the course of the business cycle and across countries, it is important for policymakers to understand the magnitude and direction of these changes and differences. Moreover, if there are asymmetries in Okun's law, as Harris and Silverstone (2001) point out, these asymmetries would strengthen the case for an asymmetrical version of the output gap-based Phillips curve, which could affect the policy decisions taken by central bankers in their attempts to control inflation. Moreover, ignoring asymmetries in the relationship could lead to forecasting errors. Finally, Okun's law provides policymakers with a benchmark to measure the cost associated with a given loss of output in terms of higher unemployment.

According to the above paragraph, this section present the both cases: the studies that support the Okun's Law, and the others that do not.

Brent Meyer and Murat Tasci (2012) have shown that the simple rule of

thumb dubbed Okun's law is not stable over time. There are many reasons why one should expect to see a dynamically changing relationship between output growth and changes in labor market slack. For instance, if one agrees with the idea that unemployment even in good times cannot go down to zero because of normal labor market churn, then there is no reason to expect a significant decline from this level in the unemployment rate as the economy experiences a long stretch of expansion. It would be folly to argue that there is no relationship between output growth and the unemployment rate. Unfortunately, fluctuations in the macroeconomy are more complicated than the simple linear relationship implied by most forms of Okun's law.

Michael T. Owyang and Tatevik Sekhposyan (2012) using the dynamic version of Okun's Law find a great degree of instability in the historical performance of Okun's law. Analyzing small samples of data on the unemployment rate and output growth often calls unwarranted attention to apparent statistical anomalies. The most robust finding of this study is that recessions contribute to the increase in the unemployment rate on average. An important aspect of this analysis is the nature of the data used. Some studies such as Knotek's (2007) use real-time data, whereas Daly and Hobijn (2010) consider the revised data available at the time of the analysis. Depending on the data used, the conclusions might differ.

Leopold Sögner and Alfred Stiassny (2000) have made a cross-country study on Okun's law. The cross-country differences and the development of the Okun coefficients over time are quite considerable. These differences could be due to differences in employment or the labor force reaction on GDP variations. Furthermore, by considering labor demand and labor supply as functions of GDP growth they are able to assign changes in Okun's law to demand and supply side changes. For most countries the changes in the Okun coefficients are mainly due to an increased reaction of employment (labor demand) on GDP variations.

Kimberly Beaton (2010) finds evidence of asymmetric behavior in Okun's law over the business cycle, for both Canada and the United States. In particular, the results suggest that the unemployment rate tends to respond by more to changes in output in recessions than in expansions.

Sikiru Jimoh Babalola, Jimoh Olakunle Saka, Idris Abiodun Adenuga (2013) test the validity of Okun's law in respect to Nigeria using the difference model approach. They found that the coefficient of unemployment rate as an independent variable was positive and also positive for real GDP growth as an independent variable. These findings are in fact contrary to Okun's law of unemployment-output relationship. If positive growth could lead to unemployment rate, then it follows that resources are substantially being

chanelled towards unproductive activities and to a large extent is an apparent mismatch in the system.

Other analyses (Mayes and Viren 2002) find that one of the main reasons for such asymmetry has to be sought in the way the labor market operates. Rapid downward trends in the economy can have an incremental rather than proportional effect on the unemployment rate, and this is also due to the fact that demand and supply do not necessarily meet in every sector of economic activity and in every local labor market.

In his original work of 1962, Okun highlighted the capability of the labor market's structural changes to invalidate the estimated relation. In particular, according to the author, there are three variables which can affect the above relation: the level of participation in the labor market, working hours per worker and the labor productivity.

The general conclusion reached by all studies is that the Okun coefficient in all cases is highest in the countries that have a high level of industrialisation, this is to say that unemployment is more reactive to changes in real GDP the more industrialised that country is. Also, Okun coefficients can change over time because the relationship of unemployment to output growth depends on laws, technology, preferences, social customs, and demographics. It must be said, however, that the relationship may not exist due to demographic factors and institutional conditions in the labour market.

Oliver Hutengsand and Georg Stadtmann (2012) estimate Okun coefficients for five different age cohorts for several Eurozone countries. They find a stable pattern for all countries: The relationship between business-cycle fluctuations and the unemployment rate is the strongest for the youngest cohort and gets smaller for the elderly cohorts.

Thomas Boulton tests the Okun's Law for the OECD countries. The relationship between unemployment and real GDP for those countries with significant result of the coefficient is generally higher for the countries that have been tested in this study compared to the results of the coefficient found in Okun's original study, and other studies that test the relationship for developed countries by one percentage point of GDP. This is because the countries in this study are experiencing greater growth rates than countries that are already industrialised. Most importantly they conclude that despite slight departures from the expected results, Okun's law continues to keep its aura of enduring permanence in the world of macroeconomics.

Mehdi Haririan, Mehmet Huseyin Bilgin, Gokhan Karabulut predict that high rates of GDP growth will lead to a reduction in unemployment. The results of their cross-country comparison model support a negative relationship between these variables. In addition, thier empirical results for Turkey, Israel,

Jordan and Egypt support a negative relationship argument for GDP growth and unemployment. However, according to their results, the impact of GDP growth on unemployment is not strong. Cross-country analyses indicate that there are also factors other than GDP growth that affect unemployment.

3. METHODOLOGY OF THE STUDY

The study used the application of the law of Arthur Okun, which indicates the negative relationship between economic growth and rate of unemployment change. This is expected because economic theory suggests that at higher levels of output growth, due to an increase in the level of aggregate demand for example, firms will be required to hire more workers to meet that demand and hence unemployment falls. Part of the enduring appeal of Okun's law is its simplicity, since it involves two important macroeconomic variables.

The growth rate is linked with unemployment according to analysis of Okun as shown in following equation (1):

$$U = a + b (Y - Y^*)$$

As Okun suggested (1970), there are a lternative versions of Okun's law of Okun's law, as specified below:

1. *The difference version* - It captures the contemporaneous correlation between output growth and movements in unemployment—that is, how output growth varies simultaneously with changes in the unemployment rate. It took the form:

$$\text{Change in the unemployment rate} = a + b^*(\text{Real output growth})$$

2. *The gap version* - While Okun's first relationship relied on readily accessible macroeconomic statistics, his second relationship connected the level of unemployment to the gap between potential output and actual output. Thus Okun's second relationship, or the gap version of Okun's law, took the form:

$$\text{Unemployment rate} = c + d \square (\text{Gap between potential output and actual output}).$$

The variable c can be interpreted as the unemployment rate associated with full employment. The coefficient d would be positive to conform to the intuition above.

3. *The dynamic version* - One of Okun's observations suggested that both past and current output can impact the current level of unemployment. A common form for the dynamic version of Okun's law would have current real output growth, past real output growth, and past changes in the unemployment rate as variables on the right side of the

equation. These variables would then explain the current change in the unemployment rate on the left side.

4. *Production-function versions*- combine a theoretical production function, or a particular way in which labor, capital, and technology combine to produce output—with the gap-based version of Okun's law.

Thus, this article focuses on the difference version of Okun's law described above. This version of Okun's law avoid requiring strong—and sometimes controversial—assumptions regarding the definition and computation of potential output and full employment. The difference version of Okun's law highlights that the change in unemployment rates is driven by the growth rate in real GDP. This is based on the assumption that an increase in output will need more factor input leading to a lower unemployment rate. The difference version, written as a linear regression model, is given by:

$$u_t - u_{t-1} = \alpha + \beta \frac{GDP_t - GDP_{t-1}}{GDP_{t-1}} + \varepsilon_t$$

where u_t represents the unemployment rate in t , GDP_t symbolizes the level of real GDP, a denotes the average growth rate of full-employment output (potential output) and ε_t is the error term which satisfies the usual properties. The parameter β is called the *Okun's coefficient* and is expected to have a negative sign.

In this section we test the first-difference model of Okun's law and construct the 95% confidence interval for Okun's coefficient over the period 1991-2012 in Albania. The random variable U denotes the changes in annual unemployment rates (in percents) from one year to the next one, and the random variable GDP denotes the changes in annual real GDP (measured in percents). We use the formula:

$$GDP = \alpha + \beta * U + \varepsilon$$

where ε represents the stochastic error term (disturbance term).

U is the explanatory variable, and GDP is the variable to explain. The first differences in annual unemployment rates are regressed on annual real GDP growth rates. Now, we are ready to calculate:

The sample covariance

$$cov_{U,GDP} = \frac{1}{21} \sum_{t=1}^{22} (U_t - 0.16)(GDP_t - 0.05) = 0.000605$$

the coefficient of correlation between U and GDP :

$$r = \frac{COV_{U,GDP}}{dev_U^2 * dev_{GDP}^2} = -0.007$$

$$\beta = r \frac{var_{GDP}}{var_U} = -0.014$$

and the parameter

$$\alpha = \overline{GDP} - \beta * \bar{U} = 0.048$$

The linear regression equation is:

$$GDP = 0.048 - 0.014 * U$$

Based on these regression result, the following interpretation is valid for Albania:

- i. One percent point reduction in the annual unemployment rate would produce approximately 0.014% growth in the annual real GDP.
- ii. If the unemployment rate remains constant, then the annual real GDP grows approximately by 0.048%.

4. CONCLUSIONS AND RECOMONDATION

The relationship between GDP growth and unemployment is very complex, and the results of the studies on this interaction are not clear. Although, on the empirical side, there is no consensus regarding the inverse relationship between GDP growth and unemployment rate, the literature has traditionally shown a negative relationship between these variables.

The regression technique applied in this study demonstrate soundly that there is a negative association between the Real GDP and the unemployment rate. This conclusion is supported by the first differences model known of Okun's law. The absolute value of Okun's coefficient for Albania is lower to those estimated by some authors for other countries. The question rises here; why the growth rate does not affect largely on unemployment? Perhaps the reason behind this is the nature of the growth achieved in our country. One other explanation for this small coefficient may be due to the short run of the calculations. Higher coefficients can be normally obtained in long runs because as more years are included, business cycles' features are present in the calculation, especially during economic crisis and expansions, where the unemployment rate changes abruptly due to shocks in the market.

In addition, the unemployment rate is at best “a proxy variable for all the ways in which output is affected by idle resources”. Idle resources can come from a number of sources. Economic theory suggests that a country’s production of goods and services requires a combination of labor, capital, and technology. The unemployment rate is but one factor in determining the total amount of labor used as an input; other factors include the population, the fraction of the population that is in the labor force, and the number of hours that employed workers are used. By accounting for all of these components along with the components of capital and technology, economists have a more complete picture of what affects output.

Based on the previously stated facts, we conclude that the economical policies supporting growth rates are not the same policies to eliminate unemployment. It is recommended to separate policies of support growth and policies of reduction unemployment rates. That is because the first policies are dependent on government spending, while the second ones on encouraging investment to create job opportunities.

These findings have some serious policy implications regarding the strategy against unemployment the policy makers should follow. More specifically, policy makers must place more emphasis on deregulating certain sectors in the economy, particularly, the labour market. This will lead to higher labour productivity and competition, which in turn, will increase the productivity of the overall economy and decrease unemployment in all regions. As this study has revealed that the Okun’s law exists in the Albanian situation, Albania can therefore be on the right road to development by investing in activities that reduce the level of unemployment. These activities include job creation and entrepreneurial development efforts that are aimed towards employment generation. These are the activities we recommend that policy makers focus on. Nevertheless, it must be said that GDP growth is needed to create new jobs; however, such growth may not be sufficient in itself for a decrease in unemployment. Within this context, active labour market policies can be proposed. A large empirical literature shows that active labour market policies rise employment, and decrease unemployment. Additionally, structural reforms in labour markets are necessary but not sufficient, and these reforms are politically difficult to implement.

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THE OFFSHORING IMPACT ON CONSUMER CHOICE

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ABSTRACT

The reasons for the proposed research is inspired by the constant growth in the number of new foreign companies in the Balkan area, especially in Albania. The process of relocation of many Italian and European companies in Albania appears to be not a new phenomenon anymore. The purpose of this research is providing an interesting overview about the creation and investment of important Italian companies, which recently have transferred their activities in Albania. Also this research involves the study of the impact of offshoring on the judgment of consumers. In particular, we want to investigate what factors contribute to the formation of the attitude of consumers towards the phenomenon of offshoring. We must therefore understand if the attitude of consumers is influenced by the socio-economic characteristics about the phenomenon object of this study, distinguishing which of them have a higher impact. Also in this research will compare statistical data between Italy and Albania to understand better the choices of these companies. To evaluate this impact within the research presented we will select a sample of companies that are currently operating in Albania to conduct a survey in order to assess the impact of offshoring on decisions making.

Keywords: *Offshoring, investment, consumers, socio-economic characteristics.*

INTRODUCTION

The reason for the proposed research is inspired by the constant birth of new foreign companies in the Balkans and especially in Albania. The process of relocation of many Italian and European companies in Albania appears to be a phenomenon is not new. However in recent years this process has increased a lot especially by Italian companies who travel to Albania, my country, to have saving in terms of labor, taxation and bureaucracy. The productions high level of specialization often manufactured with poorly trained manpower and especially not in a position to guarantee the quality in the production of certain manufacturers traditionally marketed as branded products of high the result traditions of production centuries old.

BACKGROUND

Offshoring is the process of transferring intangible assets to another country for seeking the advantage in terms of new skills, generally, at a reasonable cost. The logical consequence sees how favorite is this process in the developing countries or with low labor costs. It is very hard to find within an enterprise all the skills and knowledge necessary to perform its tasks properly, so you need to contact the outside, or by identifying the partners, local or foreign, the better with which to establish a profitable collaboration, or creating an internal structure, local or foreign, which has the tools to carry out these activities. Investigating and understanding how consumers react to the choice of using the offshoring production could help the company in choosing whether or not to undertake a strategy outsourcing abroad and evaluate whether the savings in the production is then eliminated by from the decline in sales due to the reaction of consumers who do not buy a product made with cheap labor. Clearly this type of reasoning is very important for high-value products and valuable manufactures. Is attenuated and decrease totally for little specialized production.

Offshoring represents a development opportunity for the company that should manifest itself in the form of an improved competitive advantage against competitors. However, the choice of resorting to foreign markets for the procurement of production, or the relocation of production, brings with it problems of domestic unemployment; Furthermore, the quality of the product, the actual and/or perceived by buyers, may be affected by the consequences of the company income.

The purpose of this research involves the study of the impact of offshoring on the judgment of consumers. In particular, we want to investigate what factors contribute to the formation of the attitude of consumers towards

the phenomenon of offshoring. So if you want to understand the attitude of consumers about the phenomenon under study of the socio-economic characteristics, distinguishing which of these have a bigger impact. While identified these aspects, the company, which already knows the expected effects of offshoring on the production, could become aware of the judgment of consumers on the subject, as fundamental to the final choice between practicing offshoring or address the markets for domestic research of certain inputs.

THEORIES AND CONCEPTS

Several studies¹⁵⁰ show that there is a general theory that can lead to a diagram of the strategies of offshoring. Different dynamics, especially in the modern competitive environment, appear to be the cause of the choice of reaching a strategy of offshoring. Wanting to get to draw a sort of theoretical reconstruction of the reasons and justifications than the offshoring strategy should be emphasized that the basis of everything we find the theory of comparative advantage. In the case of Italian companies, especially, the drive to put in place a strategy of offshoring is certainly found in the difference in factor endowments. This example has been the case in traditional sectors such as apparel and manufacturing low-intensity technological¹⁵¹ that relocate in Eastern Europe and the countries of the Mediterranean, or segments of the production of electrical machines in which the production makes intensive use of unskilled labor. The basis of any discussion of a theoretical nature therefore lies in the differences in factor prices, especially in labor cost¹⁵². This theory allows interpreting the processes of international fragmentation of production. Further reflection should be conducted with respect to research, through the processes of offshoring of exploitation of technological differences between countries can generate substantial economies of scale that can not be realized within the borders of the country in which it traditionally operates. Technological differences do lead to a differentiation in terms of product. The reference literature identifies several reasons for offshoring. In particular there are positive definite reasons, when you are faced with a proactive behavior, for example, when the search

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for new markets is motivated by the sale of products that have real competitive advantages¹⁵³. Such situations show that the company is undertaking a process of growth starting from a situation of force¹⁵⁴; in this situation the real problem is the development of an effective strategy to exploit the strengths that the company already possesses. Even the will to control competition and hinder market entry passes often the choice of internationalization. In this situation, you try to control competition with the threat of possible political retaliation, creating a game tactics among the various companies operating in the same countries with different competitive positions. In this regard we talk about market seeking investments are motivated by the conquest of markets. Such motivation pushes toward the settlement direct on markets linked to the need to adapt the product/service to the specific needs of the market and customer premises and then recurs to off-shoring. Similarly, a further configuration of the strategic choice of internationalize through the off shoring may occur when you want to enrich the production of adequate after-sales services, from high level to its customers. In conclusion it can be said as the strategic rationale c h and require recourse to off shoring are different and not categorized categorically, it can be said¹⁵⁵that very often the production facility is the only possibility of entry in certain markets, for example, when there are high barriers to such tariff and/or non-tariff¹⁵⁶. Internationalization can be extremely advantageous also to cultivate and acquire knowledge, especially in areas where the technology and know-how are critical success factors for the growth and competitiveness of the enterprise.

APPLICATION RESEARCH

The research will be to investigate the impact of offshoring on the purchasing decisions of consumers. In general, several studies have pointed out that both the offshoring of services offshoring of materials is able to bring countless benefits to businesses.

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The off shoring, at least in theory, allows to realize economies of scale growing¹⁵⁷ if thought of in terms of their economic activity and therefore capable of generating competitiveness especially in terms of reduction of fixed costs and hence stiffness of the company. Relocate production abroad, even if the term does not adhere so total an eventual translation of the off shoring¹⁵⁸, allow you to gain competitiveness by breaking down internally, in most cases, labor costs and thus procuring benefits in both the short and long term. This strategy appears to be required in the modern competitive environment, especially if competitors exploit the lever of internationalization to reduce selling prices. The large companies, international groups apply, of course, this strategy by now long period or at least the more advanced globalizing phenomenon. At the empirical level is interesting to note that, although the perceived advantages of offshoring does not exist, at least from a theoretical point of view, relations can formalize a relationship between offshoring and homogeneous labor productivity. The results of numerous studies show that the offshoring of professional services, and communication, insurance and finance is positively related to labor productivity, while the off shoring of IT services is negatively correlated; royalties and licenses, finally, are also negatively related to labor productivity¹⁵⁹. As for buying decisions and thus the image of the company within the market's reputational aspect is analyzed in this paper, or rather the impact that offshoring has on the image of 'company and products that it sells. Move production abroad appears to be a drastic decision for enterprises especially strongly rooted in the territory as well as are the small and medium enterprises or large enterprises. The relocation is perceived as a kind of betrayal of the traditional prerogatives of the companies and may also adversely affect the success of the perceived lower quality products because the products abroad. The variables to consider are to be so different to the assessment of the strategy of offshoring and the feedback does not always lead to perceptions clear that support decisions unique. To evaluate this impact within the research presented will select a representative sample of people and carried out a survey in order to assess the impact of offshoring purchasing decisions.

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159 MANNING S., PEDERSEN T., The hidden costs of offshoring: the impact of complexity, design orientation and experience, International Management, 2012, III, 789 e ss.

CONCLUSION AND RECOMANDATIONS

Despite a sharp slowdown compared to the years before the crisis, when GDP grew by an average of 6% per year, Albania continues to record positive growth rates, although slowing down notably (1.6% in 2012 and +0, 48% in 2013). Currently, the country has a stable macroeconomic situation, supported by banking and financial market that has shown strength and ability to resist international crisis, however conditioned by excessive incidence of public debt (amounted to 61.1% of GDP at the end of 2013). In this framework, the data interchange bilateral trade stands out: despite the economic downturn, to trade with Italy have also recorded an increase in 2013 (+ 2.06%), past the wall of the 2 billion euro (2039, 7 mil. euros), representing 37.47% of the total interchange of this country abroad.

- Strategic location at the center of the Mediterranean and proximity to the markets of the countries of the Balkans
- Spreading of workforce low cost
- Good performance of the Albanian economy and compatibility with the Italian production system - Albania's economy has been affected by the global economic crisis but has managed to maintain positive growth rates also in the last two years (+ 1.4% in 2012 and + 0.48% in 2013). In addition, Albania has a production system similar to the Italian one, based mainly on small and medium enterprises. The compatibility of the two systems is therefore an element of attraction of investment flows from Italy in a context of positive growth and rising.
- Promoting the Italian language among the local population
- General taxation in favor - Until 2013 there was a flat tax of 10% on all income. From 01.01.2014 the Government has re-introduced progressive taxation, with 3 bands for individual incomes: no tax area for incomes up to 30,000 ALL monthly; from 30,001 to 130,000 ALL, the rate is 13% for the portion exceeding the 30,000 ALL; from 130 001 in on the tax rate is 23% for the portion exceeding 130,000 ALL. On business activities, from 01.01.2014 the tax rate is 15% for large enterprises and 7.5% for the small business.

WHERE TO INVEST

- Electricity, gas, steam and air conditioning (including renewables)
- Textile products
- Tourism flows
- Products of agriculture, fisheries and forestry
- Construction

**Chart 1: FOREIGN DIRECT INVESTMENT IN LEAVING THE COUNTRY:
ALBANIA (OUTWARD)**

Flows FDI out of the country: ALBANIA (Outward)	2011	2012	2013	Previsioni 2014	Previsioni 2015
Total (% GDP)	0,21 %	0,18 %	0,31 %	nd %	nd %
Total (mln € e var. %)	21,5 mln. €	17,9 mln. €	30,1 mln. €	nd %	nd %

Source: International Trade Center

**Chart 2: STOCK OF FOREIGN DIRECT INVESTMENT IN THE COUNTRY:
ALBANIA (Inward) INGRESSO NEL PAESE: ALBANIA**

Flows FDI entering the country: ALBANIA (Inward)	2011	2012	2013	Previsioni 2014	Previsioni 2015
Total (% GDP)	6,23 %	6,69 %	9,69 %	nd %	nd %
Total (mln € e var. %)	629,3 mln. €	665,5 mln. €	922,5 mln. €	nd %	nd %

Source: International Trade Center

Chart 3: MACROECONOMIC INDICATORS (ALBANIA)

	2011	2012	2013
Nominal GDP (millions of €)	10.100,4	9.945	9.520,2
Change in real GDP (%)	3	1,6	0,48
Population (millions)	3,2	3,2	3,2
GDP per capita in purchasing power parity (\$)	7.780	8.020	9.580
Unemployment (%)	13,3	13,3	13
Government debt (% GDP)	58,2	59,3	63,2
Inflation (%)	3,5	2	1,9
Change in the volume of imports of goods and services (%)	5,05	-5,45	15,4

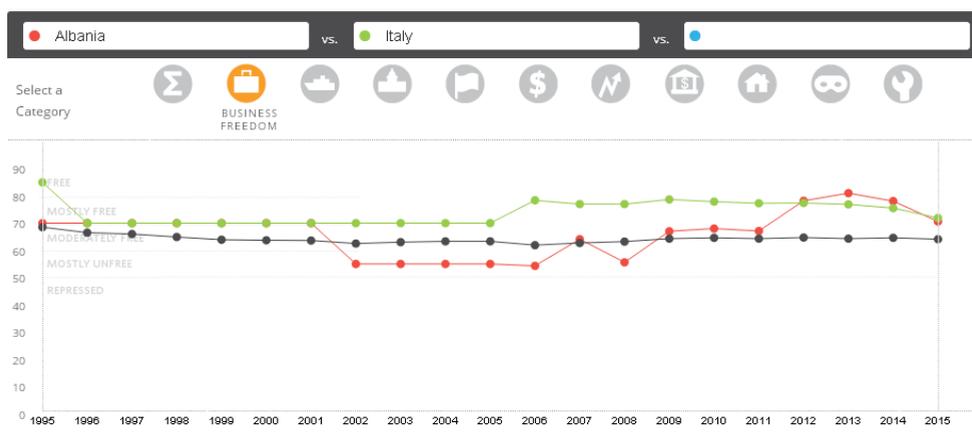
Source: Elaboration Embassy of Italy on data EIU and IMF. Data included refer to inflation annual average.

Today the Albanian economy offers significant prospects for foreign companies especially in the energy sector, where potential Italian investments amounted to about 3 billion euro¹⁶⁰. Albania is endowed with a huge hydropower potential, estimated at 2000-2500 MW in Europe and second only to Norway and Switzerland. However, there are elements of uncertainty in the energy sector, mainly driven by the extreme volatility of energy prices and the serious financial situation of the electricity production OSHE (*The Electricity Distribution Operator*), who has recently built up large debts to local producers (including Italian companies). Crucial in this regard must therefore be the commitment of the Albanian government to ensure the sector under certainty and stability, essential elements for the development of the same and the presence of foreign investors.

Further opportunities for our companies could derive from the implementation of the Albanian section of the Trans Adriatic Pipeline (TAP), which provides for the construction of a pipeline used to transport the Azerbaijani gas field of the Shaz Deniz to the Italian coast through Greece and, precisely, Albania.

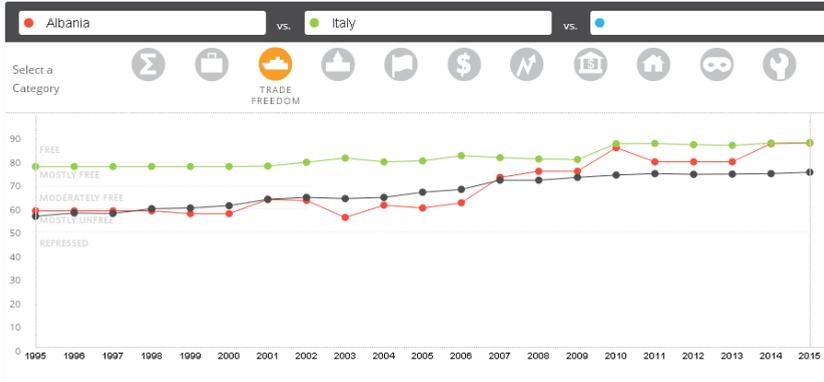
Other areas of interest in the medium term are agriculture, still very relevant in terms of employment and that Albania seeks to revive, and tourism, which has great potential if they are well-exploited areas not yet affected by the rampant property development in recent years, part of the coast.

Chart 4: Index of Economic Freedom – Business Freedom



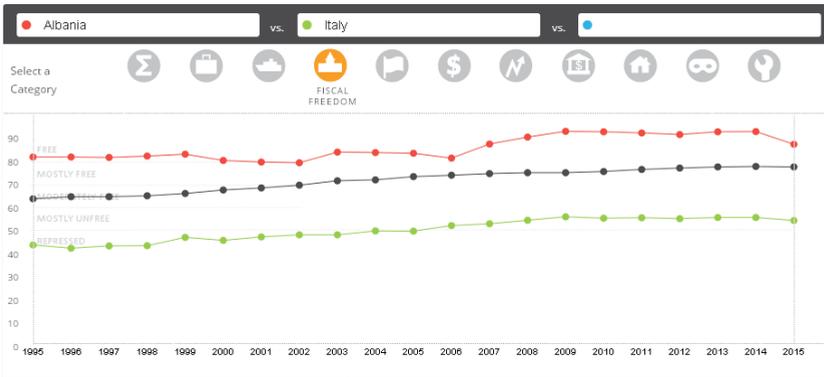
Source: <http://www.heritage.org>

Chart 5: Index of Economic Freedom – Trade Freedom



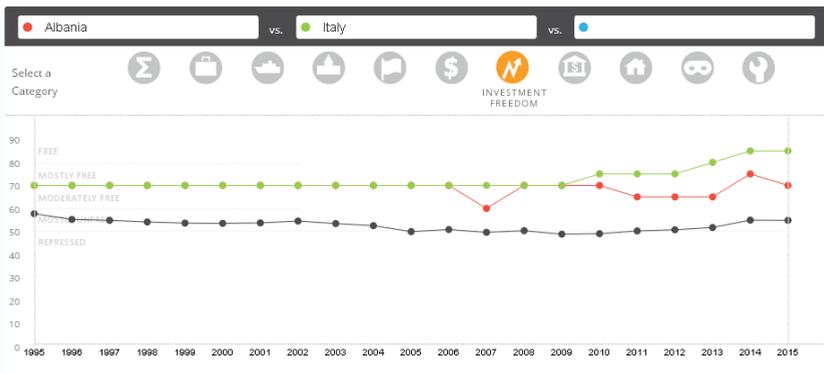
Source: <http://www.heritage.org>

Chart 6: Index of Economic Freedom – Fiscal Freedom



Source: <http://www.heritage.org>

Chart 7: Index of Economic Freedom – Investment Freedom



Source: <http://www.heritage.org>

Country Name	Region	World Rank	Region Rank	2015 Score	Freedom from Corruption	Fiscal Freedom	Gov't Spending	Business Freedom	Labor Freedom	Monetary Freedom
Albania	Europe	63	29	65.7	31.0	87.2	76.1	70.6	52.9	80.8
Italy	Europe	80	34	61.7	43.0	54.2	23.2	71.9	55.4	81.2

Trade Freedom	Investment Freedom	Financial Freedom	Tariff Rate (%)	Income Tax Rate (%)	Corporate Tax Rate (%)	Tax Burden % of GDP
87.8	70.0	70.0	1.1	23.0	15.0	22.9
88.0	85.0	60.0	1.0	43.0	27.5	44.4

Gov't Expenditure % of GDP	Population (Millions)	GDP (Billions, PPP)	GDP Growth Rate (%)	5 Year GDP Growth Rate (%)	GDP per Capita (PPP)	Unemployment (%)	Inflation (%)	FDI Inflow (Millions)	Public Debt (% of GDP)
28.2	2.8	\$26.5	0.7	2.4	\$9,506	16.1	1.9	1,225.5	70.5
50.6	59.7	\$1,807.8	-1.9	-1.5	\$30,289	12.2	1.3	16,507.8	132.5

Just as all the charts shown above indicates interesting a comparison of economic and financial data between Albania and Italy. These comparisons clearly show the improved economic climate in Albania, as well as increased fiscal incentives and doing business by allowing the absorption of foreign investment in some important areas. Finally, Albania is a country with strong growth potential and stable under the institutional aspect. In recent years, the

country has made significant progress towards a modern market economy with growth rates of around 6% since 2009 establishing potential growth and recent years.

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HISTORICAL CONTEXT OF THE ALBANIAN CONSTITUTIONAL COURT

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ABSTRACT

The Albanian legal tradition is based mostly on the traditional and customary laws. The Ottoman Empire ruled Albania for nearly five centuries and applied some of its translation of Sharia law together with its own rules and procedures. However, the Albanian population, especially in the north was governed by its own customary laws that were included in the Kanun of Lek Dukagjini. For a long period of time, these customary laws were unwritten and were learned by heart generation after generation. The Kanun of Lek Dukagjini had very few rules and procedures regarding the penal law. They were not arranged properly and there were some repetition for different cases. The National Court it was implemented by a popular gathering of the oldest man of the village called Pleqnia. Pleqnia used to decide on issues immediately, and there was no review of their issues. The rules were very clear, simple and very strict. There are some ideas from different Albanian researchers that the communist system, although exported as an idea from abroad, based its laws and rules very much on the Albanian tradition as for example the creation also People's Court. There was no institution of judicial review. These researchers point out that it was for this reason that the communist system in Albania lasted for nearly fifty years.

Keywords: Albania, constitutional court, history

1. INTRODUCTION

The Albanian legal tradition is based mostly on the traditional and customary laws. The Ottoman Empire ruled Albania for nearly five centuries and applied some of its translation of Sharia law together with its own rules and procedures. However, the Albanian population, especially in the north

was governed by its own customary laws that were included in the Kanun of Lek Dukagjini. For a long period of time, these customary laws were unwritten and were learned by heart generation after generation. The Kanun of Lek Dukagjini had very few rules and procedures regarding the penal law. They were not arranged properly and there were some repetition for different cases. The National Court it was implemented by a popular gathering of the oldest man of the village called Pleqnia. Pleqnia used to decide on issues immediately, and there was no review of their issues. The rules were very clear, simple and very strict. There are some ideas from different Albanian researchers that the communist system, although exported as an idea from abroad, based its laws and rules very much on the Albanian tradition as for example the creation also People's Court. There was no institution of judicial review. These researchers point out that it was for this reason that the communist system in Albania lasted for nearly fifty years.

The democratic system brought new laws and new constitutional disposition. According to Alec Stone Sweet 'new constitutional forms emerge only under extraordinary historical conditions, moments when pre-existing political, economic, and social structures have been weakened, delegitimized, or swept away by deep crisis or war. Such was the case in Germany and Italy after World War II, in France at the height of the Algerian crisis in 1958, in Greece, Portugal, and Spain with the erosion of fascist-military rule in the 1970s, and in Central and Eastern Europe with the demise of communism after 1989. A new constitution promises a new beginning, the birth of a new polity'¹. This was the case also for Albania, when the new Constitution was seen as an important instrument of transition from the communist system to the democratic one. The old constitutional system was so harsh and undemocratic that nobody thought to preserve something from it. 'History shows that while laws change, written constitutions containing fundamental values must remain, contravening the notion that "Higher Law" is not law at all'². The 1976 Constitution was conceived for a totalitarian society with no private property, no liberal freedoms or rights and which was missing also many other fundamental principles of a modern state.

The first changes started in December 1990, when the communist 'authorities proclaimed that the elections to the People's Assembly would

1 Stone Sweet, Alec. (2000). *Governing with judges*. Oxford: Oxford University Press p.38

2 Halmai, Gabor. (2015). *The role of Constitutionalism in Transitional Justice processes in Central Europe*. European University Institute. Retrieved from: <http://www.eui.eu/Documents/DepartmentsCentres/Law/Professors/Halmai/Constitutions-and-TJ.pdf>

be held on 10 February 1991, and that independent political parties would be allowed to compete in the elections. [...] In the meantime, parliamentary elections were postponed until March 1991 thanks to the pressure of newly established opposition parties³. However, the former communist forces won the elections by taking 169 seats out of 250. The second party was the Albanian Democratic Party with 75 seats⁴. But even the communists were deeply convinced to change the system into a market economy, because the old system it was not advantageous any more. Thus, it was the new parliament that in April 1991 invalidated the 1976 Constitution and approved the "Major Constitutional Provisions". By means of this law the proletariat dictatorship was juridically abolished and the parliamentary democracy installed. [...] Albania was proclaimed a parliamentary republic, a democratic state governed by the rule of law. Human rights, constitutional order, being equal before the law and political pluralism were the fundamentals of the state. The law sanctioned the division and balancing of powers, free elections, the accountability of the executive power to the Parliament, the independence of the judicial system, control of civilian authorities over the armed forces and police, clear separation of power from political parties⁵ etc. The adoption of this document was, in fact, the outcome of a compromise between the two political forces. The deputies of the new emerged opposition argued that the country was too unstable to adopt a permanent constitution, thus they proposed to enact a fundamental law which would provide the legal and institutional framework for economic and political reforms. Communist deputies, on the other hand, argued that it was necessary to adopt a new constitution to solve certain problems concerning the working of the political system such as the election of the President and the formation of the new government. Finally, the parties compromised on a middle way formula⁶. But before examining the new major constitutional provisions of the democratic transition it is important to make an overview of the communist law and its constitutions.

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- 3 Gonenc, Levent. (2002). *Prospects for constitutionalism in post-communist countries*. London: Martinus Nijhoff Publishers. p. 151.
 - 4 Gonenc, Levent. (2002). *Prospects for constitutionalism in post-communist countries*. London: Martinus Nijhoff Publishers. p. 151.
 - 5 Luarasi, Aleks. (1997). *Legal and institutional reform in Albania after the democratic revolution (1991- 1997)*. Tirana: University of Tirana p.17.
 - 6 Gonenc, Levent. (2002). *Prospects for constitutionalism in post-communist countries*. London: Martinus Nijhoff Publishers. p. 151.

2. THE 1976 CONSTITUTION OF THE PEOPLE'S SOCIALIST REPUBLIC OF ALBANIA

Albania was coming out from a system based on a totalitarian constitution and which was grounded on the dictatorship of proletariat and the principle of democratic centralization. During the communist period were approved two constitutions (1946, 1976) and both of them proclaimed that all three powers: executive, legislative and judiciary were part of a united system of government and that there was no checks and balances mechanism. It is important to mention some facts from the communist constitution in order to understand all difficulties of the political transition and the creation of a new democratic and civic law culture. The 1976 Constitution it was approved when the communist ideology in Albania had reached its peak. Thus in the preamble of the constitution it was written that 'Albania has entered the stage of the complete construction of socialist society. The great historic changes had created new conditions for the continuous development of the revolution and socialist construction [...] The Albanian people had found constant inspiration in the great doctrine of Marxism-Leninism, under the banner of which, united round the Party of Labour and under its leadership, they were carrying forward the construction of socialist society to pass over, later, gradually to communist society'⁷. Article 1 proclaimed that Albania was a People's Socialist Republic. The People's Socialist Republic of Albania was a state of the dictatorship of the proletariat, which expresses and defends the interests of all the working people. The People's Socialist Republic of Albania was based on the unity of the people round the Party of Labour of Albania and it had as its foundation the alliance of the working class with the cooperativist peasantry under the leadership of the working class (Article 2). Article 11 stated that 'the organization of the state and state activity, all the political and economic life in the- People's Socialist Republic of Albania were based on the principle of democratic centralism and develop according to it, combining the centralized direction with the creative initiative of local organs and the masses of the working people, in struggle against bureaucracy and liberalism'⁸.

Chapter V described the regulation of the People's Courts in the Socialist Republic of Albania. (It is important to mention that ten years earlier before the approval of 1976 Constitution, in 1966, the communist regime in Albania had abolished the Ministry of Justice with a special law). Article 101 stated that 'the people's courts were the organs which administer justice. The people's

7 The constitution of the People's Socialist Republic of Albania - Approved by the People's Assembly on December 28, 1976.

8 The constitution of the People's Socialist Republic of Albania - Approved by the People's Assembly on December 28, 1976.

courts protected the socialist juridical order, fought for prevention of crimes, educated the masses of working people to respect and implement the socialist law, relying on their active participation. At the head of the organs of justice is the Supreme Court which directs and controls the activity of the courts. The Supreme Court is elected at the first session of the People's Assembly. The other people's courts were elected by the people, according to the method defined by law. Court organization and trial procedure were defined by law. In this chapter of the 1976 Constitution, there were two other articles regarding courts. According to Article 102 'the courts judge penal and civil cases and other cases which are within their competence according to the law. Judgment was done with the participation of assistant judges and in public sittings, with the exception of cases when it has been decided otherwise by law. During the trial the Albanian language is used. Persons who did not know Albanian could use their own language and speak through an interpreter. The accused enjoyed the right of defence'⁹. However, as the researchers Austin & Ellison comment in their article regarding the communist period in Albania, this period from 1944 to 1990 'offered an extreme form of Stalinism. In fact, there was no legacy whatsoever of participation in political life. As to dissidents, elsewhere, especially in Poland or Czechoslovakia, dissidents were able to draw on support networks not just within the communist bloc but from the West as well. As a closed society, there were few avenues to influence Albanian society. Finally, the middle and wealthier class along with the Roman Catholic Church leadership in northern Albania was completely decimated after the Second World War. In power since 1944, the communist government had been extremely successful in thwarting opposition both from within its own ranks and outside. Albanian communism was extremely centralized and the communists dominated all aspects of life. Albania went further than any other communist state in the collectivization of farms. Moreover, in an effort to destroy competing centers of loyalty, in the 1960s Albania embarked on its own version of the Chinese Cultural Revolution. The Albanian variant witnessed the complete abolition of Albania's three religions (Roman Catholicism, Eastern Orthodoxy and Islam) and the subsequent declaration that Albania was the world's first atheist state'¹⁰. Some of these rights were denied even in the constitution with the article 55 Article 55 that proclaimed that 'the creation of any type of organization of a fascist, anti-democratic, religious, and anti-socialist character is prohibited. Fascist, anti-democratic, religious, war-mongering, and anti-socialist activities

9 The constitution of the People's Socialist Republic of Albania - Approved by the People's Assembly on December 28, 1976.

10 Austin, Robert. & Ellison, Jonathan. in Stan, Lavinia. (2009). *Transitional Justice in Eastern Europe and the former Soviet Union*. London: Routledge p.177

and propaganda, as well as the incitement of national and racial hatred are prohibited'¹¹. Many people that wanted to create democratic unions were jailed based on this article of the 1976 Constitution.

Regarding the role and functions of the court system, article 103 states that 'the court was independent in its judgment of a case, it takes its decision on the basis of the law alone, and it pronounces its verdict in the name of the people. The verdict may be annulled or amended only by the competent higher court'¹². By reading these acts of 1976 Constitution it is important always to remember their implementation in a dictatorship and how the political decision affected mostly of the decisions taken by the people's courts in their every level.

However, in theory Marxism proclaimed more materialism than idealism, more economy than politics. This because as Hans Kelsen explains in his book about 'The communist theory of law' there is a 'primacy of economics over politics in the Marxian theory of the bourgeois (capitalist) state' and that 'the Marxian theory of law is inseparably connected with the theory of State. It is based on the assumption that the economic production and the social relationship constituted by it determine the coming into existence as well as the disappearance of state and law'¹³. As Austin & Ellison point out regarding the Albanian experience during communism 'the state was not just perceived to be strong - it was strong, and it took very little for someone to end up in jail. That said, the prisons were not filled with potential opposition, but people who had merely complained about the quality of bread. Moreover, Human Rights Watch noted that one in four Albanians collaborated with the communist secret police. Figures on jailed or internally exiled individuals range from lows of 12-15 thousand to highs of 50-60 thousand. Party membership reached a peak of 122,000, or roughly between 3 and 4 per cent of the total population. Of that membership, only some 1,200 people really mattered'¹⁴.

Thus, law according to Marx was seen as an 'expression' of the relations of production as the ideology. This way of thinking was somehow similar to that of Carl Schmitt when he was declaring that 'the constitution is the state, because the state is treated as something genuinely imperative that corresponds to norms, and one sees in the state only a system of norms, a "legal" order, which does not actually exist, though it is valid in normative

11 The constitution of the People's Socialist Republic of Albania - Approved by the People's Assembly on December 28, 1976.

12 The constitution of the People's Socialist Republic of Albania - Approved by the People's Assembly on December 28, 1976.

13 Kelsen, Hans. (1955). *The communist theory of law*. New York: Frederick A. Proager p. 1

14 Austin, Robert. & Ellison, Jonathan. *Albania*. in Stan, Lavinia. (2009). *Transitional Justice in Eastern Europe and the former Soviet Union*. London: Routledge p.178.

terms. The legal order, nonetheless, establishes an absolute concept of the constitution because a closed, systematic unity of norms is implemented and rendered equivalent to the state. Therefore, it is also possible to designate the constitution as “sovereign” in this sense, although that is in itself an unclear form of expression. For only something existing in concrete terms can properly be sovereign. A merely valid norm cannot be sovereign¹⁵. During communism in Albania there was really the feeling that the law was the state. Thus, the communist regime, as a totalitarian regime, needed no Constitutional Court or judicial review. The progress was presented in a linear manner, where the law could not be reviewed, but only substituted by a later advanced stage of communist revolution.

According to Kelsen, Marx and Engels made very few statements regarding the future of the law in the ideal advanced communist society. ‘They were probably of the opinion that what they said about the state applied also to the law, which they considered to be a coercive order issued by the state¹⁶. However, the relationship between the state and the law it was not clearly described. As Kelsen points out ‘it may be assumed that according to the Marx-Engels doctrine of the state, the law as a coercive order and specific instrument of the state exists only in a society divided into two classes, a dominant exploiting and a dominated exploited class. In one of his most frequently quoted statements, Marx says according to Kelsen that in the phase of transition from the proletarian revolution to the establishment of perfect communism, that is to say, during the period of the dictatorship of the proletariat, there will be still a law, but that this law, in spite of its progress as compared with the bourgeois law, will still be ‘infected with a bourgeois barrier’¹⁷.

In the last years of communism in Albania, as expressed in the 1976 Constitution, the law was used to govern a society divided into two classes, a dominant exploiting and a dominated exploited class. This was a real violation of the human rights and other civil and economic freedoms related with it. As Wojciech Sadurski points out ‘the post communist countries of Central and Eastern Europe (CEE), at the outset of the transition to democracy, had to face not only the difficult problems posed by the present and the future, but also those stemming from the past: how to handle the widespread violations of human rights, the travesty of legality, the pervasiveness of collaboration with the secret police, and the often blatant crimes conducted for political reasons

15 Schmitt, Carl. (2008). Constitutional theory. London: Duke University Press. p.60.

16 Kelsen, Hans. (1955). The communist theory of law. New York: Frederick A. Proager p.33

17 Kelsen, Hans. (1955). The communist theory of law. New York: Frederick A. Proager p.33

that characterised the immediate past¹⁸. In the mid 1980s the former communist leadership in Albania had two paths or models to follow regarding internal law reformation: that of Soviet Union or of China. The researcher Ioannis Glinavos gives two arguments regarding the models of reformation followed by these two countries. 'Firstly, Law reform in Russia anticipated market outcomes and, sought to cater for market needs before they were expressed. Law reform in China does not anticipate but responds to market needs and social pressures. This is why Chinese law reform proceeds in an uncoordinated/incremental way and also why the creation of a stable framework of clearly defined property rights did not take place, and still is far from complete, despite the advanced pace of economic transformation. Second, Russia has continued the tradition of the communist regime in using law to lend legitimacy to reforms, to encourage the acceptance of reforms and promote their internalisation by the population. On the contrary, in China, after the destruction of legal institutions and the denigration of law that followed Mao's 'cultural revolution', law did not serve such a legitimating role and the legitimization of state institutions remained solely political rather than legal¹⁹. Albania followed the former Soviet Union model of transformation, which was followed also by other former Eastern Communist countries. Although in the 1960s Albania also had followed some practices of Mao's 'cultural revolution' but which later were suspended.

'Given the extent to which both the Communist Party and its secret police controlled the lives of citizens in Eastern Europe and the former Soviet Union, it is not surprising that the collapse of these regimes in 1989 and 1991, respectively, prompted heated public debate over what should happen to secret police officers, informers, and communist officials, as well as their files. Some demanded that officials and secret informers be banned from politics and prosecuted for human rights trespasses, and that the secret police archives should be opened to the public. They argued that communist decision-makers should not be allowed access to state positions they could use to destroy the archives, and with them the proof of their past injustices. Many warned that democratization itself required not only accountable and representative political institutions, but also an honest attempt to deal with the undemocratic past that would bring some justice to its victims and lay the groundwork for greater respect for the rule of law. Others, including not only former communists but also some former dissidents, argued that the files were not only full of lies and false accusations, but also that their integrity was in doubt, as interested parties

18 Sadurski, Wojciech. (2014). Rights before courts. A study of Constitutional Courts in Postcommunist States of Central and Eastern Europe. New York: Springer p.329.

19 Glinavos, Ioannis. (2010). Neoliberalism and the law in post communist transition. London: Routledge. p. 65.

removed, altered, and destroyed portions of them during the upheavals of the 1989 revolution'²⁰. This and other topics will be discussed below by making also a discussion of Albanian first lustration laws and their interpretation by the Constitutional Court.

3. DEMOCRATIC TRANSITION AND MAJOR CONSTITUTIONAL PROVISIONS OF 1991

Generally speaking researchers list three types of democratic transitions in the Eastern and Central European countries relating to the concept of transitional justice, as it was explained in the first part of this thesis, as the processes of trials, purges, and reparations that take place after the transition from one political regime to another. Wojciech Sadurski categorizes the 1) Radical Model, represented by the Czech Republic, 2) the Intermediate Model: Albania and the Baltic States, 3) the Lenient Model: Poland, Hungary, Bulgaria and Macedonia. In the radical model represented by the Czech Republic example 'the strongest position on decommunisation and lustration has been adopted. Not only do the laws, but they also ban such persons from a fairly wide range of posts. Therefore, in terms of all three criteria suggested above, the Czech approach to lustration can be seen as the harshest²¹. The Intermediate Model of Albania and the Baltic States started as the Czech model at the beginning of 1990s but after some time the lustration laws were not approved in Parliament or even in the case that they were approved they were reviewed by the Albanian Constitutional Court. It is important to mention that 'there has been no serious or sustained attempt by Albania's leaders to deal effectively with the communist past. Having experienced possibly the harshest forms of communism in Europe, one would think that Albania had the most compelling reasons to undergo sustained transitional justice'²². According to Austin & Ellison 'what Albania offered was simply political vengeance that is in keeping with its traditions. Albania's post-communist justice was about the selective destruction of the past not an attempt to deal with it. In fact, like much of Albania's attempts at serious transition, whether economic or political, the process of transitional justice was fraught with mistakes and was largely botched. From 1991 to 1997, when a few attempts were made, the process was

20 Stan, Lavinia. (2009). *Transitional Justice in Eastern Europe and the former Soviet Union*. London: Routledge p.7.

21 Sadurski, Wojciech. (2014). *Rights before courts. A study of Constitutional Courts in Postcommunist States of Central and Eastern Europe*. New York: Springer p.344

22 Austin, Robert. & Ellison, Jonathan. Albania. in Stan, Lavinia. (2009). *Transitional Justice in Eastern Europe and the former Soviet Union*. London: Routledge p.176.

disorganized, politicized and unsuccessful. More importantly, the process also failed to become relevant to the wider population who largely saw the whole business for what it was'²³.

Although parliamentary democracy was established in Albania following the March 1991 elections and the Law on Major Constitutional Provisions was perceived as an interim constitution and laid the foundation for the modern democratic state²⁴. However, there were some reports produced from the parliament of the time. The most important one was the report produced by the deputy of the Democratic Party Genc Ruli. He was also the Minister of Finance in the coalition government, in July 1991. According to Austin & Ellison 'this document became the principal piece of evidence in the first trials against the former ruling families. [...] It subsequently became the basis of the charges against members of the old regime. The report was essentially an audit of the often luxurious spending of the communist elite. It made clear that the communists were to be held to account not for their political actions but instead for economic crimes²⁵. Ruli's report led to the arrests of all members of the former Politburo. Hoxha's widow, Nexhmije, was arrested in December 1991 and was one of the first to face charges in January 1993. She received special attention in the report. She was ultimately jailed for minor offences related to her family's consumption. [...] The decision to make economic crimes the center piece of postcommunist justice was based on the simple fact that it was easy and was more or less all the new leaders had on them. With the benefit of hindsight, one can say with certainty that the decision to move against the old elite based on economic crimes was a catastrophic blunder for two reasons: first, it alienated ordinary people who expected that communists would face justice and second it became nearly impossible after that to engage people when serious political charges were finally laid later²⁶. Four years later were approved the first lustration laws which putted also many constitutional dilemmas that were addressed at the Constitutional Court. This will be described and analyzed in more details below.

23 Austin, Robert. & Ellison, Jonathan. *Albania in Stan, Lavinia. (2009). Transitional Justice in Eastern Europe and the former Soviet Union. London: Routledge p.176.*

24 European Commission. *Albania Analytical Report. Brussels, 09 November 2010 SEC(2010) 1335 p.9*

25 Austin, Robert. & Ellison, Jonathan. *Albania in Stan, Lavinia. (2009). Transitional Justice in Eastern Europe and the former Soviet Union. London: Routledge p.180.*

26 Austin, Robert. & Ellison, Jonathan. *Albania in Stan, Lavinia. (2009). Transitional Justice in Eastern Europe and the former Soviet Union. London: Routledge p.182.*

4. EVOLUTION OF ALBANIAN CONSTITUTIONAL COURT

Regarding the position of the Constitutional Court it is important to mention that its role it was conceived from the beginning as 'centralised' constitutional review institution, based on Hans Kelsen model and which was difused also in other Eastern European countries, although with certain local variations. According to Sadurski 'centralised and concentrated review is understood here as an arrangement according to which only one institution in a given country has the right to authoritatively examine laws in terms of their constitutionality. The task of constitutional review is conferred upon a special body established outside of the regular judicial system. The only, and minor, exception is Estonia, where the constitutional court is known as the "Constitutional Review Chamber" and is structurally a part of the National Court (the equivalent of the Supreme Court). This Chamber is elevated above the other chambers of the National Court (criminal, administrative and civil) in that its chairman must always be the chief justice of the entire Court. This special design, however, does not importantly affect the position of the Constitutional Review Chamber in the overall constitutional system and, for all practical purposes, the Estonian Chamber can be viewed as a separate constitutional court, like any other in the region²⁷.

But in the Albanian court system (between the years 1991 - 1998) appeared also another institution, the Court of Cassation. Its role and competences produced heated discussions between different political forces. Its functions were similar to that of the American Supreme Court: it dealt mostly with the interpretation of the law and it was not possible to apply for every kind or issue. The ordinary issues were scrutinized by the other levels of the judiciary. The law on the Major Constitutional Provisions the People's Assembly of the Republic of Albania as approved in 21st May 1991 provided in Chapter IIIA the organization of justice and the Constitutional Court. According to the Article 5 'the judicial system consists of the Court of Cassation, the appellate court, the courts of the first level and the military courts. The creation of extraordinary courts is forbidden. The organization and competencies of the courts are regulated by law'. Article 6 stated that 'the court of Cassation is the highest judicial authority. Only Albanian citizens with a degree in law, distinguished for their professional ability and who have at least seven years experience in the organs of justice or as pedagogues in the Faculty of Law may be members of it. The chairman and the vice chairmen of the Court of Cassation are elected

27 Sadurski, Wojciech. (2014). *Rights before courts. A study of Constitutional Courts in Postcommunist States of Central and Eastern Europe*. New York: Springer p.13.

by the People's Assembly on the proposal of the President of the Republic. Its judges are elected by the People's Assembly. The chairman and the members of the Court of Cassation are elected to office one time for seven years, with the right of reelection. They may not be impeded, arrested or punished for acts connected with the fulfillment of their duties. A judge of the Court of Cassation may be removed from office only on the basis of a reasoned decision of the People's Assembly when it is verified that he has committed one of the serious criminal acts specifically provided by law or when he is mentally incompetent.

It was not possible for the Court of Cassation during the years (1991-1998) to investigate any question at the first level, while at the second level it judged only questions contemplated by law. It investigated only the legal basis of judicial decisions that were presented by way of objection or to which it, itself, drew attention (Article 7). Article 8, second paragraph proclaimed that 'when during their investigation of a question, the court reaches the conclusion that the normative act does not comply with the law "On the Principal Constitutional Provisions" and with the laws, it suspends the judging and sends the materials on the question to the Constitutional Court'²⁸. The Constitutional Court it was conceived as 'the highest authority, that protects and guarantees respect for the Constitution and the legislation, as well as making definitive interpretation of the Constitution. In the carrying out of its functions, it is independent and subject only to the Constitution (Article 17). It consisted of nine members, five of which were elected by the People's Assembly and four by the President of the Republic (during that time by Berisha). It was stated that the members of the Constitutional Court shall be elected, by secret vote. The head of the Constitutional Court serves in this office for three years with the right to be re-elected (Article 18). Also it was foreseen an official oath of the selected members before the President of the Republic (Article 19) with a prescribed formula: 'I solemnly swear that during the performance of my duties I shall at all times be faithful to the constitution of the Republic of Albania'. It was prohibited for a constitutional judge to be a deputy, a member of the Council of Ministers, a judge, an investigator or a prosecutor, a member of a party or other political organization or a union, nor may he conduct other public and private activity that may compromise his independence or impartiality (Article 21). At the same time, a constitutional judge was not responsible for decisions and for opinions given in the conduct of his functions. He may not be proceeded against, impeded, arrested or punished without the authorization of the Constitutional Court (Article 22). The functions of the constitutional judge ended when: a) he did not perform his functions for more than six months without justifiable

28 Law on the Major Constitutional Provisions the People's Assembly of the Republic of Albania. Tirana, 21st May 1991.

cause; b) he hands in his resignation; c) when he is designated for a position that is incompatible with his function; d) [c in Albanian] the term for which he was elected ends (Article 23).

Article 24 stated the main competencies of the Constitutional Court such as the interpretation of the Constitution and constitutional laws; judgements whether laws and acts that have the force of law are compatible with the Constitution; judgements whether acts and regulatory provisions were compatible with the Constitution and with the law; judgements on the compatibility with the Constitution of international agreements that are concluded in the name of the Republic of Albania before their ratification, as well as on the compliance of the laws with generally accepted norms of international law and with agreements to which the Republic of Albania is a party; resolutions of the disagreements of competency between the [executive, legislative and judicial] powers as well as those between local authorities and the central power; decisions on issues connected with the constitutionality of parties and other political and social organizations and can prohibit their activity; resolutions of issues regarding the legality of the election of the President of the Republic, the deputies and also popular referenda, promulgating the conclusive results; investigation of penal accusations raised against the President of the Republic; resolution of complaints of persons presented by way of constitutional control for violation of their basic rights by illegal acts; decisions on the suspension of the implementation of a law when it observes that it is not compatible with the law "On the Principal Constitutional Provisions" and on the suspension or repeal of acts and other provisions, when it observes that they are not compatible with the law "On the Principal Constitutional Provisions" or with law, as well as taking measures that it deems appropriate for the question that it is adjudicating. When the court observes that one of the rights protected by the constitutional law has been violated, it declares its recognition and guarantee and, when it is the case, the repairing of the consequences and due compensation for the damage incurred. The Constitutional Court, also, may decide that every state organ, every social organization or juridical person shall annul, repeal or amend an individual decision by which the constitutional rights of a person have been infringed²⁹. The law on the Major Constitutional Provisions had foreseen that the Constitutional Court could start action on a complaint or on its own initiative. For the initiation of the procedure, the President of the Republic, a parliamentary group, one-fifth of the deputies, the Council of Ministers, the judges, local organs of power, as well as every person whose freedoms and rights provided in the Constitution have been violated,

²⁹ Law on the Major Constitutional Provisions the People's Assembly of the Republic of Albania. Tirana, 21st May 1991.

had the right to bring a complaint (Article 25). The Constitutional Court took its decisions by majority vote. A judge in the minority had the right to join to the decision his own written opinion. Decisions of the court were conclusive and final. They must be reasoned. In case of doubt or disagreement as to the meaning of a decision, the court had the right to interpret it, on its own initiative or on the request of interested parties within 30 days from the date of notification of the request. In other cases the decisions of the constitutional Court were effective at the time specified by it (Article 26). Article 27 stated that the 'acts of the Constitutional Court expressed the constitutionality and legality of the questions that it resolves'³⁰.

According to the former head of the Albanian Constitutional Court Bedri Dedja at its beginning the 'constitutional law and the Constitutional Court were built based on European model (mainly Italian and less German), under which constitutional control is confined to a single body, the Constitutional Court'³¹. It is important also to mention that in the Major Constitutional Provisions of 1991 the Constitutional Court was thought as part of the ordinary justice system and belonged to the Chapter IIIA 'The organization of justice and the constitutional court'. As I will show in other parts of this thesis with the adoption of the 1998 Constitution, the Constitutional Court occupies a separate chapter, outside the chapter that discusses the ordinary justice system (courts). It has an exclusive jurisdiction to interpret the Constitution, the constitutionality of control laws and other normative acts as well as their declaration of incompatibility with Constitution and international agreements³².

The configuration of other powers was different from what it was conceived in the 1998 constitution. The Major Constitutional Provisions of 1991 empowered the president with 'special instances' to call, attend and chair meetings of the Council of Ministers and to set the agenda. The president also might propose to the legislature the holding of the referendums; with the proposal of the prime ministers, might appoint or discharge by decree ministers and 'other individual members of government'³³. According to Elez Biberaj 'the delineation of presidential and legislative powers was accompanied

30 Law on the Major Constitutional Provisions the People's Assembly of the Republic of Albania. Tirana, 21st May 1991.

31 Dedja, Bedri. (2011). Gjykata Kushtetuese sipas sistemit juridik shqiptar. Speech held on Karakas, Venezuela as Head of the Albanian Constitutional Court. Retrieved from: http://www.gjk.gov.al/web/1_fjalim_gjykata_kushtetuese_sipas_sistemit_juridik_shqiptar_1188.pdf

32 Dedja, Bedri. (2011). Gjykata Kushtetuese sipas sistemit juridik shqiptar. Speech held on Karakas, Venezuela as Head of the Albanian Constitutional Court.

33 Biberaj, Elez. (1998). Albania in Transition – The rocky road to democracy. Boulder: Westview Press. p. 164

by checks and balances to prevent the president from taking actions that infringe on citizens civil and political rights. Presidential decrees required the countersignature of the prime minister or of a cabinet member and must be approved by the legislature. Parliament can override a presidential veto with a simple majority [...] Also the 1991 Law on the Main Constitutional Provisions vested substantial powers in the parliament. The document provides that parliament elect the president for a five - year term by secret ballot and by a two - third majority of votes. If no candidate obtains a two - thirds majority in the first ballot, then in the second, final round, an absolute majority is sufficient for the president's election³⁴.

Regarding to the judiciary the 1991 provisional constitution did not regulate in details the role of the judiciary, nor did it contain provisions for judicial review or for judicial invalidation of legislative enactments. According to Elez Biberaj 'despite the proclaimed principle of full separation of powers and judicial independence, the regular court system was organizationally and logistically dependent on the Ministry of Justice. The judiciary also was denied the power and mechanism of self-governance. The Law on the Organization of the Judiciary and the Constitutional Court empowered the legislature to remove members of the Court of Cassation from the bench. Such control over the court by the parliament, whose laws could be at issue before the Court of Cassation, seem to violate the principle of the separation of powers. Equally troubling was the provision granting the High Council of Justice, headed by the president and consisting of the chairman of the Court of Cassation, the minister of justice, the general prosecutor, and nine lawyers, an administrative role. The council enjoyed the sole authority to appoint, transfer, and take disciplinary action against judges and prosecutors³⁵. Biberaj as a representative and supporter of the American justice system analyzed that the 1991 constitutional law did 'not grant the Court of Cassation the right to review the constitutionality of executive actions and statutes. Although recognized as 'the highest judicial authority' of the land, the Court of Cassation nevertheless was required to refer all cases involving constitutional matters to the Constitutional Court. Thus, the regular system is in fact deprived of the power to apply the constitution in the administration of justice, the most important function of the judiciary³⁶. As another Albanian researcher Aleks Luarasi mentions 'during its first five years

34 Biberaj, Elez. (1998). *Albania in Transition – The rocky road to democracy*. Boulder: Westview Press. p. 165

35 Biberaj, Elez. (1998). *Albania in Transition – The rocky road to democracy*. Boulder: Westview Press. p. 165

36 Biberaj, Elez. (1998). *Albania in Transition – The rocky road to democracy*. Boulder: Westview Press. p. 166

of life (1992 - 1997) the Constitutional Court has been criticized several times by the opposition political parties for not being impartial³⁷.

The political crises and adversities between political parties were frequent at the beginning of 1990s, although the government showed stability of numbers in the first democratic parliament. There was an official attempt from the Albanian government of the time represented by the prime minister Aleksander Meksi to formulate and approve a real Constitution different from the Major Constitutional Provisions. According to Elez Biberaj 'the draft Constitution, was in the mainstream of postcommunist constitutions that had appeared in other Eastern European countries and generally adhered to international norms and standards, provided for the separation of powers and broad protection of human rights. The draft represented a hybrid of a presidential and a parliamentary system. There was nothing glaring about the allocation of powers to the president and the legislature that suggested that one side would dictate too the other. However, the draft contained weaker provisions for the judiciary, and gave the president more power in selecting judges for the Constitutional Court than did existing constitutional laws. In addition, the draft contained two articles that were widely interpreted as limitations on democracy and not in conformity with international norms and standards. Article 6(3) prohibited the creation of political parties based on religion or ethnicity. Article 7(4) stipulated that heads of the large religious communities 'must be Albanian citizens born in Albania and permanently resident there for the past 20 years. Had the draft constitution been approved, Archbishop Anastasios Yannoulatos, a citizen of Greece who was named temporary head of the Albanian Orthodox Church in 1992, would have been forced to step down³⁸. The referendum, held on 6 November 1994, failed to break the constitutional deadlock: Albanian voters rejected Berisha's draft. With a turnout of 84.43 percent, 53.9 percent voted against and 41.7 percent in favor³⁹.

As Renata Uitz writes in her book about 'Constitutions, Courts and History' '[...] the relationship between the constitutional text and historical narratives is symbiotic: historical reasoning supplements the constitutional text. Between these two poles constitutional review fora rely on historical narratives as a supplement to the text of the constitution: historical analysis is applied

37 Luarasi, Aleks. (1997). *Legal and institutional reform in Albania after the democratic revolution (1991- 1997)*. Tirana: University of Tirana p.41.

38 Biberaj, Elez. (1998). *Albania in Transition – The rocky road to democracy*. Boulder: Westview Press. p. 174.

39 Biberaj, Elez. (1998). *Albania in Transition – The rocky road to democracy*. Boulder: Westview Press. p. 174.

as an interpretive aid in a contextual analysis when it is called for in a test established by the court, or when references to the past give rise to deviations from an otherwise applicable rule (exception)⁴⁰. Confronting the past responds to genuine needs for justice, truth, and atonement, but it can also easily lend itself to political manipulation, and it can lead to new injustices if the rule of law is disregarded in favor of political expediency⁴¹. This was the general panorama in the Albanian politics turmoils of 1997. Without entering in the details of the economic crisis, the constitutional debate between the political forces in power represented by Berisha and the opposition represented by Nano was based mostly on political, economic and social freedoms. These freedoms were missing in the Albanian society of that time, some of them were mentioned in the Major Constitutional Provision and once again were violated. Some other rights, according to the opposition were prohibited. According to Lavinia Stan 'the list of cases that could serve as models for post-communist Eastern Europe is impressive, testifying to the wealth of innovative solutions different countries have employed in order to conduct the politics of memory, prevent future abuse, and establish state-society relationships based on functioning and fair institutions'⁴². She was referring mostly to the cases of transitional justice but in the Albanian case, transitional justice was applied but without success. Many high top politicians were part of the former communist system, and some of them had served even in the justice system. As Renata Uitz explains 'in certain cases courts do resort to explaining the history behind a constitutional provision with the aim of situating the claim within the context of the constitution, where layers of prior practices, fears, and understandings are considered to amount to context'⁴³. Rather, accounts of the past (historical narratives) are the outcome of processes of interpretation⁴⁴. Similar to historical narratives, accounts of continuity are themselves constructions by the narrator--in our case the court or justices in constitutional cases⁴⁵. According to Carl Schmitt 'a consequence of the manner of speaking typical of political conflict is that every struggling party recognizes as a true constitution only the constitution corresponding to their political demands. If the principle political and social oppositions are very strong, it follows closely that a party denies the name of constitution in

40 Uitz, R. (2005). *Constitutions, Courts and History*. Budapest: CEU Press. p. 110.

41 Stan, Lavinia. (2009). *Transitional Justice in Eastern Europe and the former Soviet Union*. London: Routledge p.4.

42 Stan, Lavinia. (2009). *Transitional Justice in Eastern Europe and the former Soviet Union*. London: Routledge p.6.

43 Uitz, R. (2005). *Constitutions, Courts and History*. Budapest: CEU Press. p. 115.

44 Uitz, R. (2005). *Constitutions, Courts and History*. Budapest: CEU Press. p. 171.

45 Uitz, R. (2005). *Constitutions, Courts and History*. Budapest: CEU Press. p. 172.

general to any constitution that does not satisfy its demands'⁴⁶. This is what happened in Albania and the way the 1998 Constitution was perceived by different political parties and the fragmentarized society.

In my understanding it is impossible for a constitution to be accepted and welcomed by every citizen, especially in the new democracies. As Cass Sunstein writes in his book about the role of constitution in the new democracies 'democracy's constitution is not tradition's constitution. A central purpose of a constitution, and of a deliberative democracy, is to subject long-standing practices to critical scrutiny. Good constitutions have a mixture of preservative and transformative elements. They seek to entrench long-standing practices that seem, on reflection, to deserve special status. At the same time, they set out ideals and aspirations that are understood to eliminate long-standing practices and to point the way toward changes, both small and large. The constitutional commitment to reason-giving is inconsistent with respect for tradition as such. In the end traditionalism is much too timorous, and self-defeating to boot, because the traditions of constitutional democracies include criticism of traditions, not blind deference to them'⁴⁷. On the other hand Ginsburg argues that 'the establishment of constitutional review in new democracies is largely a function of politics and interests, not a reflection of macro-cultural or societal factors. Specifically, judicial review provides "insurance" for self-interested, risk-averse politicians, who are negotiating the terms of new constitutional arrangements under conditions of political deadlock or systemic uncertainty. At times of political transition, greater degrees of political deadlock and/or more diffused or decentralized political power increase the probability that uncertainty will be embedded in a polity's constitution-making process and subsequent electoral market. This in turn leads to a greater likelihood that a relatively powerful and independent constitutional court will be adopted by risk-averse participants as insurance in the constitutional negotiation game'.⁴⁸

'Albania was an exceptional case in Eastern Europe. Transition to democracy has been very painful, uncertain and lengthy. Naturally, the constitution-making process was affected negatively by unfavorable conditions created by such a painful transition. More importantly, although a great deal of time and resources had been spent in adopting a new constitution, successive attempts dramatically failed. The adopted document, on the other hand, was

46 Schmitt, Carl. (2008). *Constitutional theory*. London: Duke University Press. p.89

47 Sunstein, Cass. R. (2001). *Designing democracy: what constitution do*. Oxford: Oxford University Press. p.240.

48 Hirschl, Ran. (2014). *Comparative matters (The Renaissance of Comparative Constitutional Law)*. Oxford: Oxford University Press. p.248.

far from being satisfactory for the major political forces in the country.⁴⁹ The new constitution was adopted after a period of chaos and anarchy. 'After a period of chaos and anarchy owing to the collapse of pyramid investment schemes, the process of constitution-making resumed in Albania with the formation of the new government in Summer 1997. It is important to note that international actors played a positive role in the progress of the working on the new constitution. The Constitutional Commission, set up by a parliamentary decision on 3 September 1997, began immediately to work on a draft constitution. However, the Union for Democracy, a coalition led by the former President Sali Berisha's Democratic Party, not only refused to participate in the drafting process, but also repeatedly called on Albanians to boycott the referendum on the adoption of the Constitution. Berisha's efforts bore no fruit, as 50.57% of the electorate participated in the voting and 93.5% of them voted in favor of the Constitution. The Constitution went into effect on 28 November 1998, on the 86th anniversary of the declaration of independence of Albania from the Ottoman Empire. Berisha and the Democratic Party claimed that the turnout was only 39.6% and the results were falsified. They even went further by declaring that they would not recognize the Constitution. Consequently, one may argue that the long constitutionmaking process in Albania failed to produce a document satisfying all major political groups in the country'⁵⁰.

No matter what this document has survived in time and has been amended several times. It has produced some equality between Albanian citizens and has helped the prosperation of individual rights. Now, 18 years after its approval, it is possible to state that this document has been accepted by all major political forces and can be considered as unifying document. However, still there are voices and criticism towards it and especially against the new amendments.

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GENERAL OVERVIEW OF APPLICATIONS MADE TO ECHR AGAINST ALBANIA

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ABSTRACT

Albania has ratified the European Convention of Human Rights (ECHR) on October 2, 1996 and since that time 495 applications against Albania were sent to the European Court of Human Rights. According to the ECHR statistics for Albania, although the number of applications has increased in a progressive way, very few applications were considered admissible for judgments. For example for the year 2015 the ECHR dealt with 101 applications concerning Albania, of which 79 were declared inadmissible or struck out. It delivered 7 judgments (concerning 22 applications), which found at least one violation of the European Convention on Human Rights. Generally, the subject – matter of violation judgments has been mainly about right to a fair trial (40%), length of proceedings (10%), right to an effective remedy (20%), protection of property (20%) and others (10%). Seen through these statistics, Albanian main judicial problems are 'the right of a fair trial' and 'length of proceedings'.

Keywords: Albania, ECHR, overview

1. INTRODUCTION

Albania has ratified the European Convention of Human Rights (ECHR) on October 2, 1996 and since that time 495 applications against Albania were sent to the European Court of Human Rights¹. According to the ECHR statistics for Albania, although the number of applications has increased in a progressive way, very few applications were considered admissible for judgments. For example for the year 2015 the ECHR dealt with 10¹ applications concerning Albania, of which 79 were declared inadmissible or struck out. It delivered 7

1 European Court of Human Rights. (2016). Albania. Retrieved from the official website: http://www.echr.coe.int/Documents/CP_Albania_ENG.pdf

judgments (concerning 2² applications), which found at least one violation of the European Convention on Human Rights². Generally, the subject – matter of violation judgments has been mainly about right to a fair trial (40%), length of proceedings (10%), right to an effective remedy (20%), protection of property (20%) and others (10%)³. Seen through these statistics, Albanian main judicial problems are ‘the right of a fair trial’ and ‘length of proceedings’.

The issue of fair trial and length of proceedings constitutes about 50% of ECHR violations against Albania and almost always is a conjunction with other issues such as length of proceedings, non-enforcement of final court decision etc. The length of the proceeding seems to be a recent phenomenon in the applications against Albania; however, it is always accompanied by the issue of a fair trial. As Malcom Shaw points out individuals who complain at ECHR cannot raise abstract issues, but must be able to claim to be the victim of violations of one or more of the convention rights⁴. In most of the cases brought to the Court against Albania the applicants claim to be victim of violations of many rights when the main emphasizing is especially on issues of fair trial. Nevertheless, ‘length of proceedings’ as a violation is not so much dispersed in cases against Albania as it is in the violations against other states such as Italy or Greece⁵.

2. ADJUDICATION CASES BROUGHT TO ECHR

The most famous adjudication cases brought to ECHR from the Albanian perspective have been those complaints dealing with the principle of the ‘protection of property’, especially after two decisions taken by the ECHR which decided that the Albanian state was obliged to pay for the reparation of the damages. This was especially visible in the cases of ‘Driza v. Albania’ and ‘Vrioni and others v. Albania’ in 2009. Although both applications were in general for ‘property issues’, they complained particularly for ‘a violation of the fairness aspect of Article 6 and a failure to enforce a final judgment’⁶. In ‘Case of Driza v. Albania’ dated on 15.03.2011 for example, the Court found that ‘the applicant’s right to a fair hearing by an impartial tribunal within the meaning

2 Ibid.

3 Ibid.

4 Shaw, Malcom. (2003). *International Law*. Cambridge: Cambridge University Press. p.329.

5 European Court of Human Rights. (2011). Statistical information. Official website: <http://www.echr.coe.int/ECHR/EN/Header/Reports+and+Statistics/Statistics/Statistical+information+by+year/>

6 European Court of Human Rights. Application no. 33771/02. Case of Driza v. Albania. 02/06/2008.

of Article 6 of the Convention has been infringed⁷. The case concerned, *inter alia*, the lack of an effective domestic remedy in relation to the applicant's right to in-kind compensation in lieu of the physical restoration of property. Thus the main violations were on the Article 13 (right to an effective remedy) and violation of Article 1 of Protocol No. 1 (protection of property).

In regard to a different decision, taken for the same violation, the Court held that 'it is the State's responsibility to organize the legal system in such a way as to identify related proceedings and where necessary to join them'⁸ thus it was in the State competencies to pay the compensations. As Blackwell and Ong point out the 'question of State responsibility arise whenever the State is alleged to be in breach of an international legal obligation that applies to that State'⁹, and Albania has ratified the European Convention on Human Rights. Also where 'the Court has found a violation, the matter is placed on the agenda of the Committee of Ministers and will stay there until the respondents government has confirmed that any sum awarded in just satisfaction under article 41 has been paid and / or any required individual measure has been taken and/ or any general measures have been adopted preventing new similar violations or putting an end to continuing violation'¹⁰. These cases brought to the Court influenced the initiative of the Albanian government later on to issue a law on former owners' compensation. Although the state compensation for the former owners was minimal, the existence of this law diminished the flux of complaints in ECHR and many applications were rejected by the Court. Also ECHR 'since 2004 and in response to the large number of cases deriving from systemic or structural problems in certain countries has developed a pilot-judgment procedure.

This consists in identifying in a single judgment systemic problems underlying a violation of the European Convention on Human Rights and indicating in that judgment the remedial measures required to resolve such situations.

The pilot-judgment procedure is not only intended to facilitate effective implementation by respondent states of individual and general measures necessary to comply with the Court's judgments, but also induces the respondent State to resolve large numbers of individual cases arising from the same structural problem at domestic level, thus reinforcing the principle of

7 Ibid.

8 Ibid.

9 Blackwell, Ovain. & Ong, David. (1998). *Public International Law*. London: Cavendish Publishing. p.205.

10 Shaw, Malcom. (2010). *International Public Law*. New York: Cambridge University Press. p.359.

subsidiarity which underpins the Convention system'¹¹. These pilot judgements were given also in other cases related to 'property compensation of former owners'. As such was the case of 'Manushaqe Puto and others v. Albania' on 31.07.2012. This case concerned the complaints by 20 Albanians that, despite their inherited title to plots of land having been recognised by the authorities, final administrative decisions awarding them compensation in one of the ways provided for by law in lieu of restitution had never been enforced¹². ECHR found violations of Article 13 (right to an effective remedy), Article 1 (protection of property). Also the Court noted that these kinds of complaints 'reflected a widespread problem in Albania affecting a large number of people, the Court decided to apply the pilot-judgment procedure in this case. It held that Albania had to take general measures in order to effectively secure the right to compensation within 18 months from the date on which the judgment became final'¹³.

In contrary of cases for ownership problems, very few criminal proceedings cases can get material compensation where found violation of Article 6. Hence in the 'Case of Berhani v. Albania' the applicant complained about the unfairness of the criminal proceedings against him but the Court found that is 'inappropriate to award the applicant compensation for the alleged pecuniary damage' but just 'the most appropriate form of redress would, in principle, be trial de novo or the reopening of the proceedings, in due course and in accordance with the requirements of Article 6 of the Convention'¹⁴.

In the case of 'Mishgjoni v. Albania' the applicant complaint about the excessive length of proceedings, in regard to her dismissal in 2002 from her post as a district court judge and about the related proceedings concerning payment of salary¹⁵, the Court considers that 'the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute'¹⁶. However in this case 'the Court has found a

11 Official Website of ECHR. Retrieved from: http://www.echr.coe.int/Documents/CP_Albania_ENG.pdf

12 Official Website of ECHR. Retrieved from: http://www.echr.coe.int/Documents/CP_Albania_ENG.pdf

13 Official Website of ECHR. Retrieved from: http://www.echr.coe.int/Documents/CP_Albania_ENG.pdf

14 European Court of Human Rights. Application no. 847/05. Case of Berhani v. Albania. 04/10/2010.

15 European Court of Human Rights. Application no. 18381. Case of Mishgjoni v. Albania. 07/03/2011.

16 Ibid.

violation of Article 6 of the Convention as regards the length of the dismissal proceedings and of Article 13 in conjunction with Article 6 as regards the lack of an effective remedy in respect of the length of those proceedings¹⁷.

Thus the Court has given different interpretations for different cases who claimed violations of time proceedings within the Albanian justice system. Also the length of proceedings is caused by different factors and in the cases presented to Strasbourg these factors can range from transmission of files between courts, delays in the circulation of documents, postponements of hearing because failure of parties to appear. As we saw in the cases presented above, when dealing with civil proceedings the delays are much more between courts and when dealing with criminal proceedings there are more delays because witnesses, attorneys or defendants does not appear.

Regarding the lustration cases brought to ECHR it is important to assess that perhaps the most frequent debates on lustration legislation have taken place within the Council of Europe. According to Vladimir Balas 'lustrations are quite well covered by the case-law of the European Court of Human Rights in Strasbourg (ECHR), and receive some attention within the European Union'¹⁸. As it was explored in details in previous chapters one of the fundamental political documents adopted by the Council of Europe is Resolution 1096 (1996) on measures to dismantle the heritage of former communist totalitarian systems. However the Resolution does not constitute a formal legally binding act and is considered a political document, since it does not constitute a formal legally binding act. By its nature, it is a soft-law instrument intended simply as a recommendation. However, it is certain that in case a complaint concerning lustration comes up before the ECHR, this resolution would not escape the attention of the Court. In this particular respect, the Albanian lustration legislation, though far from perfect, does not conflict with the Council of Europe resolution; quite on the contrary, it seeks to fully meet its requirements¹⁹. Lustration cases brought before the ECHR concern mostly violations of the rights enshrined in the European Convention on Human Rights 9 (mainly Articles²⁰ 6,10 8 11 and 14 12) and its Protocol No. I, mainly Article 313. The reasons given and the rights invoked by applicants differ widely, reflecting the diversity of lustration laws in post-totalitarian

17 Ibid.

18 Balas, Vladimir. (2010). Albanian lustration act, its constitutional and international law pros and cons. *Czech Yearbook of International Law* (Vol.1) p.172.

19 Balas, Vladimir. (2010). Albanian lustration act, its constitutional and international law pros and cons. *Czech Yearbook of International Law* (Vol.1) p.174.

20 Balas, Vladimir. (2010). Albanian lustration act, its constitutional and international law pros and cons. *Czech Yearbook of International Law* (Vol.1) p.175.

countries²¹. It is almost impossible to find any judgment of the Constitutional Court where the case law of the European Court of Human Rights (ECtHR) has not been cited at least once. Indeed, all Albanian courts, and the Constitutional Court in particular, have in the past decade given considerable attention to the ECtHR's case law. An attentive observer would note that even the structure of some of the Constitutional Court's judgments follows that of the ECtHR, with long citations of applicable law first, followed by the parties' submissions, and finally with the Court's assessment. Most of the time, the proceedings before the Constitutional Court have served as an effective filter before lodging an application with the ECtHR.²²

3. EU LAW AND FUTURE PROSPECT FOR ALBANIA

'Europeanization' here is important to be studied in all its complexities because it explains the impact of the EU upon the individual states, on domestic institutions, structures, policies and practices. It refers to the extent to which EU requirements have affected the states' policy agendas and to what degree the EU practices, procedures and values have been embedded in administrative practices of member states. It is a process leading towards closer integration, policy convergence and homogenization. The impact of 'Europeanization' has been most notable through three aspects: the Single European Market (SEM), EU legislation, and EU policies. The SEM has been a source of great pressure towards deregulation and liberalization in domestic markets, privatization of national monopolies, and restrictions on public ownership and state aid. Market liberalization, in promoting productivity and competitiveness, requires a limited intervention of the state in the economy, primacy of market principles and forces, and limited national policy autonomy. A whole range of policy areas and competences has shifted to the EU. The policy areas which have become most Europeanized are those related to the operation of the single market, such as competition policy, trade, the common agriculture policy (CAP), and monetary policy. EU legislation and its conversion into domestic law include transposition, implementation and reinforcement of EU regulations, directives and recommendations²³.

In June 2014, the European Council granted Albania the candidate

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- 21 Balas, Vladimir. (2010). Albanian lustration act, its constitutional and international law pros and cons. *Czech Yearbook of International Law* (Vol.1) p.175.
 - 22 Zyberi, Gentian. & Sali, Semir. (2015). The place of application of international law in the Albanian legal system. In Rodin, Sinisa & Perisin, Tamara. (2015). *Judicial application of international law in Southeast Europe*. Berlin: Springer p.88.
 - 23 Loughlin, John. & Bogdani, Mirela. (2007). *Albania and the European Union*. London: I.B Taurus. p.221.

status²⁴, but the opening of accession negotiations have not yet started. They are expected to start on November 2016²⁵. Every year the European Commission has published its progress report for Albania which makes a summary of the main reforms in the country and how they are approaching it to the EU legislation. The accession of Albania into EU is seen as part of a larger Enlargement Strategy and is related also to the progress made in five key priorities areas identified by EU. These five priorities areas, that are important not only for the internal reformation of Albania but are a condition for EU accession are: 'public administration reform; strengthening of independence, efficiency, and accountability of judicial system; fight against corruption; protection of human rights, including Roma and anti-discrimination policies, as well as the implementation of property rights'²⁶. All these areas are connected more or less with the role of the legal system, and will have an effect also in the work of the Albanian Constitutional Court. In the last progress report published by the European Commission Albania's judicial system is described as slow and with problems regarding the independence and accountability of judges and prosecutors, enforcement of decisions, inter-institutional cooperation²⁷. The main recommendation was the adoption of the judicial reform strategy which was described in details in the previous chapters. Other problems described in the last report of European Commission are the fight against organized crime. Also, it is stated as positive that the legal framework for the protection of human rights is broadly in line with European standards. But that however, effective implementation of relevant legislation and strategies is limited and the enforcement of human rights protection mechanisms remains insufficient²⁸. It is important to mention that Albania for several years has continued to align its legislation to the requirements of the EU in a number of areas, enhancing its ability to take on the obligations of membership.

Usually in the reports of EU the judicial criterias are included in the political criterias and particularly to the rule of law analyzes. For many years the rule of

24 European Commission. ALBANIA 2015 REPORT. p.4. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

25 Blushi, Tedi. (2016). Historike, Shqiperia merr me 9 nentor rekomandimin pozitiv per hapjen e negociatave me Bashkimin Evropian. Gazeta Shqiptare. October 17, 2016. Retrieved from: <http://www.balkanweb.com/site/ekskluzive-historike-shqiperia-merr-me-9-nentor-rekomandimin-pozitiv-per-hapjen-e-negotiatave-me-bashkimin-evropian/>

26 Ministry of Foreign Affairs of Albania. Official website: <http://www.punetjashtme.gov.al/en/mission/eu-integration/relations-between-albania-and-the-eu>

27 European Commission. ALBANIA 2015 REPORT. p.4. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

28 European Commission. ALBANIA 2015 REPORT. p.4. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

law has been considered a problem due to the political and economic transition process. The main idea of EU regarding the functioning of the judiciary system of Albania is that its judicial system is at an early stage of preparation. Some progress has been made in the past year, notably through the establishment, in November, of an ad hoc Parliamentary Committee on Justice Reform to carry out a comprehensive and inclusive reform process. Administration of justice is slow and judicial decisions are not always enforced. The professional training of judges is inadequate and their independence is not fully ensured. There is insufficient accountability of judges and prosecutors and corruption within the justice system is widespread. Inter-institutional cooperation is poor and resources are insufficient. In order to fulfil the key priority on the reform of the judicial system, the main recommendation of EU were to: a) adopt a new judicial reform strategy and accompanying action plan, and proceed, through an inclusive consultation process, with drafting and adopting the institutional, legislative and procedural measures necessary, taking into account European standards and best practices; b) fill the vacancies at the High Court and the administrative courts; c) extend the courts' unified electronic case management system and ensure it is effective, including an appropriate maintenance budget; d) publish all court decisions with their respective reasoning within a reasonable deadline.²⁹

In the report it is stated that the main management bodies of the judicial system in Albania was the High Council of Justice (HCJ). Although legally its role is limited to the appeal and first-instance courts, for EU it was urgent its reformation in many aspects. As a legal management body composed by the President of the Republic (chair), the Minister of Justice, the President of the High Court, nine judges of all levels elected by the National Judicial Conference and three jurists elected by parliament by a simple majority, this institution has no ensuring mechanisms for the opposition party. The HCJ is in charge of the evaluation, appointment, promotion, and transfer of judges and handles disciplinary proceedings initiated by the Minister of Justice. In 2014, new rules on suspension from office and dismissal of HCJ members, and on issues relating to conflicts of interest, were introduced. According to EU Progress Report for 2015 the HCJ has big problems with the ethics which remain incomplete.

Also, in the report the judicial system of Albania is analyzed by the European Commission based on five main aspects that have to do with the 1) Independence and impartiality; 2) Accountability; 3) Professionalism and competence; 4) Quality of justice; 5) Efficiency. Regarding the first aspect in the report it is stated that 'the independence of the judiciary is enshrined in the

29 European Commission. ALBANIA 2015 REPORT. p.12. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

Constitution [...]. However, in practice it is jeopardised by the highly politicised way in which High Court and Constitutional Court judges are appointed, and the wide margin of discretion enjoyed by the HCJ in appointing, promoting and transferring judges. In principle, judges and prosecutors decide independently on individual cases. In practice, their independence is limited and there are regular reports of selective justice and political interference in court cases.

Not all courts use the unified case management system to allocate cases. Non-transparent practices such as assigning cases by drawing lots – occasionally even in the office of the head of court – have not been phased out in some courts. Rules on the exclusion of judges from cases are set out in the Civil, Criminal and Administrative Procedure Codes. Courts do not keep a register of cases from which judges have been excluded or have asked to be excluded. Individual requests to exclude judges from cases are addressed directly to the courts. The prosecution service's recently established case-handling system is not yet fully operational throughout the country, except for case registration purposes³⁰. As Vladimir Balas analyzes 'the Albanian Constitution of 21 October 1998 is a modern document obviously inspired by modern European democratic constitutional tradition' but he notes that some provisions are at first sight purely declaratory that may be interpreted in accordance to an instruction to all state authorities, legislative, executive as well as judicial, and to local government bodies, to respect international legal commitments and take them into account in the exercise of power'³¹.

Regarding the accountability of judges in the European Commission report it is stated that although judges have a Code of Ethics since 2000 it had no real impact on their accountability. At the same time 'there is not enough monitoring of compliance with ethical standards and integrity when appointing judges and prosecutors. There is no counselling or mandatory in-service training on ethics. Lawyers have their own code of ethics and professional ethics is one of the subjects covered by the initial training programme of the School of Magistrates. Judges are held accountable through inspection by both the Ministry of Justice and the HCJ. Although there is a memorandum of understanding between these two bodies, there is a risk of overlapping inspections. The legal framework for disciplinary proceedings lacks clarity and such proceedings can be used to improperly influence judges. The Minister of Justice has sole power – and discretion – to bring disciplinary proceedings against judges, which is contrary to EU standards. The Minister submits

30 European Commission. ALBANIA 2015 REPORT. p.12. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

31 Balas, Vladimir. (2010). Albanian lustration act, its constitutional and international law pros and cons. Czech Yearbook of International Law (Vol.1) p.179.

disciplinary cases to the HCJ for review and a decision on sanctions. Judges and prosecutors are obliged to declare their assets on an annual basis. However, despite numerous reported cases of failure to comply with this requirement, no final decisions on sanctions have been issued to date. The judiciary is generally perceived as being highly corrupt³².

Concerning judges professionalism and competence in its progress report for 2015 the European Commission states that 'the requirement of professionalism and integrity is not sufficiently reflected in the existing criteria for judges. Criteria for evaluating prosecutors are in place but clear and transparent criteria for evaluating and promoting judges have yet to³³ be adopted. Decisions related to judges' careers are not fully transparent and are not always based on merits and other objective criteria. An appeal against appointments, evaluations, transfers, promotion decisions and disciplinary measures is possible. High Court and Constitutional Court judges are appointed by the President of the Republic, with the backing of a simple majority of parliament. In recent years, the process of appointing Constitutional and High Court judges has been marred by controversial hearings in parliament's Legal Affairs Committee and frequent rejection by parliament of presidential nominees. In an attempt to remedy this situation, the Law on the High Court was amended in 2013 and again in 2015, when more specific criteria and procedures for the selection of judges were introduced. Prosecutors are appointed, promoted, transferred and dismissed by the President of the Republic upon a proposal from the General Prosecutor. The independence and accountability of the prosecutorial system is further weakened by the fact that the General Prosecutor is appointed with the consent of a simple majority of parliament. Procedures for the appointment, promotion and dismissal of key staff in the General Prosecutor's Office lack transparency.³⁴

Thus, in its final analyzes regarding the overall quality of justice in Albania, the progress report of European Commission is noting that investments in trainings and in courts infrastructure have done lately. But however 'the budget for the overall justice sector in 2015 is 3 % lower than in 2014 at EUR 80.1 million, which represents 0.8 % of GDP and 2.4 % of the state budget. It covers the Ministry of Justice, the prosecution, the courts, the School of Magistrates,

32 European Commission. ALBANIA 2015 REPORT. p.13. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

33 European Commission. ALBANIA 2015 REPORT. p.13. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

34 European Commission. ALBANIA 2015 REPORT. p.14. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

the High Council of Justice and the Constitutional Court³⁵. It also notes that the 'overall length of proceedings from initiation to final judgment remains a major concern. There is no effective monitoring mechanism and there is an overall lack of capacity to produce reliable statistical data. Compared with selected European states and the 'reasonable time' standard under Article 6 of the European Convention on Human Rights (ECHR), Albania has some of the lengthiest civil and criminal procedures in Europe. The excessive length of proceedings is due to long delays before appeal courts. Unclear provisions in the Codes of Civil and Criminal Procedure also reduce the efficiency of the courts³⁶.

The European Court of Justice (ECJ) has a very important role inside EU and is going to have its impact also in the future decisions of the Albanian Constitutional Court. As Alec Stone Sweet points out 'its unique achievement is to have fashioned a judicially enforceable constitution out of international treaty law, transforming the European polity in the process. In a series of innovative decisions initiated in the 1960s, the ECJ effectively 'constitutionalized' the European treaty system, thereby constructing the conditions that enable and sustain judicialization. As judicialization has proceeded in the EC, a quasi-federal, rule-of-law polity has emerged in Europe³⁷. The Albanian experience with the EU institutions has been mostly with the European Commission and with the European Parliament and less with the other two institutions: the Council of Ministers and the European Court of Justice. This because the role of the ECJ is like a constitutional court roughly based on the European model and that resolves legal disputes that arise between the various EC organs, between EC institutions and the member states, and between the member states themselves. It also provides authoritative interpretations of European law to national judges, by way of a preliminary reference procedure that closely resembles German, Italian, and Spanish concrete review³⁸.

The application of international law in the Albanian legal system has been complex and has not given a precedent to be applied in every situation. Both courts, the Albanian Constitutional Court and the High Court, the highest courts in Albania, have dealt with cases involving the application of international law in Albanian domestic law. Although the Albanian Constitutional Court

35 European Commission. ALBANIA 2015 REPORT. p.14. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

36 European Commission. ALBANIA 2015 REPORT. p.15. Retrieved from: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

37 Stone Sweet, Alec. (2000). *Governing with judges*. Oxford: Oxford University Press p.153.

38 Stone Sweet, Alec. (2000). *Governing with judges*. Oxford: Oxford University Press p.156.

is not formally part of the Albanian judiciary, under the Constitution it has been invested with a leading role in determining the compatibility of Albanian laws with international legal agreements to which Albania is a party³⁹. Thus, according to Article 131, the Constitutional Court has jurisdiction to decide, among other matters, on questions relating to: (1) the compatibility of laws with the Constitution or with ratified international agreements; (2) the compatibility of international agreements with the Constitution, prior to their ratification; and (3) complaints from individuals regarding the violation of their constitutional rights to due process of law, after all legal means for the protection of those rights have been exhausted.⁴⁰ However, no cases have been filed thus far seizing the Constitutional Court with questions relating to (potential) conflicts between national laws and ratified international agreements⁴¹.

With the upcoming accession to EU Albania needs to make further reforms and constitutional amendments. For example, the accession of the Republic of Croatia to the European Union brought changes throughout the Croatian legal system. The 2010 Constitutional changes introduced a separate chapter on the EU into the Constitution, which formed the legal basis for Croatia's membership in the Union⁴². These kind of changes can include different aspects of the constitution and are a necessity especially to apply the *acquis communautaire* and the incorporation of the EU institutions inside the local ones. It is expected that the competences of the Court of Justice of the EU are comparable to the competences of the Albanian Constitutional Court and thus it is impact to have an impact also there. The last reforms in the legal system which included also changes in the selection of judges of the Constitutional Court undertaken from the Albanian Parliament can be imagined as the first steps towards EU membership.

39 Zyberi, Gentian. & Sali, Semir. (2015). The place of application of international law in the Albanian legal system. In Rodin, Sinisa & Perisin, Tamara. (2015). *Judicial application of international law in Southeast Europe*. Berlin: Springer p.85.

40 Zyberi, Gentian. & Sali, Semir. (2015). The place of application of international law in the Albanian legal system. In Rodin, Sinisa & Perisin, Tamara. (2015). *Judicial application of international law in Southeast Europe*. Berlin: Springer p.85.

41 Zyberi, Gentian. & Sali, Semir. (2015). The place of application of international law in the Albanian legal system. In Rodin, Sinisa & Perisin, Tamara. (2015). *Judicial application of international law in Southeast Europe*. Berlin: Springer p.85.

42 Bozac, Ivana. & Carevic, Melita. *Judicial application of international and EU Law in Croatia*. In Rodin, Sinisa & Perisin, Tamara. (2015). *Judicial application of international law in Southeast Europe*. Berlin: Springer p.148.

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