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IN SOCIAL SCIENCES**

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Sovereign Between Homogeneity and the Social Diversity - Discourse on the Ideas of J. S. Mill

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Abstract

In the context of political philosophy, one main issue that needs to be discussed is the notion of "sovereign". The focus will be on the debate created following Rousseau's theory and the French Revolution. In this article, we pay attention to the philosophical controversial that the famous English philosopher J. S. Mill (1806 – 1873) displays as a well-known author of utilitarianism and as a precursor of liberalism. This discourse rises above the trend to deduce society and in this logic, it is justified the sovereign as an embodiment of unity on one hand, and on the other one, it is the action on the dynamic condition of society or the problem of individual freedom. The question that rises here is on how legitimate will be the political power in a comprehensive decision if it will violate the freedom of just one of the subjects of society. Thus, the efforts should be oriented to the way the political power is brought which will create a particular culture on doing politics. In this sense we should ask about the profile that a sovereign should have. Trying to understand this kind of profile, we should see the sovereign in a "triangle" of factors, such as: the community (custom or public opinion); the power (objective representative of society); and freedom of the individual (the moral subject).

Keywords: *sovereign, social objectification, public opinion, individual freedom*

Introduction

The political philosophy behind the theory of Rousseau, which inspired French Revolution (1789 - 1799), motivated a different kind of discourse in the meaning of "Sovereign". In this environment were positioned some optics, which will comprise all the political discussion until our days. Communitarianism theory, historical and cultural concept of sovereign highlighted a fundamental problem. Subjective freedom, unique of the members inside a society made a serious obstacle in the creation of social objectivity, the objectivity that justifies the political power. Difficulty to measure the society in its totality became issue for giving solutions. This subject is treated extensively and profoundly by John S. Mill (1806-1873). Therefore, in this paper, in the 210 anniversary of his birth we will discuss the ideas that came today as actual.

Different theories used certain logics, to bring the sense of the sovereign power in the way of formal logic (deduction). Worth mentioning is the analytical philosophy, which is own focus puts in achieving clarity, objectification and measurable validity in empiric aspect. In this line is also utilitarianism, which distanced itself from the historical or cultural factor. This philosophy connects closely political power and political organization of the society on the bases of measurable criteria, which are found outside subjective condition. So, on the basis of objective criteria, that justifies and determines the human behaviour. Natural, philosophical and psychological meaning of human being must be the only foundation, from where to take life the sovereign. In some way, this was a return to the laws of nature. Empiric viewpoint emphasised mostly from British philosophy or baconian model, approached in political theory of T. Hobs.

Starting from the criteria of usefulness, classical utilitarianism (or classical liberalization) reduces the human meaning as perceptive being and psychological. On this premise, society becomes one, and according to the calculative logic of Bentham, what it was the benefit of all members of society had the tagger of power.

Freedom and the value of individual

"The critic" and in the same time continuer of this philosophical stream, John Stuart Mill didn't think the man was an object. From this premise, through mathematical logic is objectivized the society. From here we can create a measurable power and concise in his acts. Psychological state recognition (sensorial) it doesn't provide enough understanding of human nature. The human is distinguished from the natural condition, not only from the reason, but because he is free to choose. Choose not the tools, but the goals. This should be clearly differentiated! He is potential being, dynamic, subjective authentic, vital with sublime goals, so, variable and distinctive from his own human kind. Therefore, the judgment only in the perceptive condition would be a naivety, because considers the human in his biological aspirations.

With this, Mill exceeded the hedonism of Bentham, referring to the most intellective character pleasures and existential. Thus, the Bentham's relativism became a strong argument for the opponents of utilitarianism, with the dimension of the Mill's philosophy differs character.

In the notion of Mill "freedom" is highly a treaty over "individualism". Individual freedom is understood like an independent entity, but not isolated. The human is a being that opens towards the world, by creating himself. The notion "Eccentric" (Mill, on freedom, 85), term borrowed from astrophysics illustrate the meaning of individuality. The subject is the center from where is created the world, displays it as reality and this reality influences on the whole human cosmos where he belongs. At this opening arises always something new, which sublimates the simple fact of being human. Consequence of this is that value that Mill glorifies; social diversity and the variety of life experiences. So, the society should not be understood as individual relativity (Bentham), but as a plural community (Mill).

However, for Mill, the society in general is composed of members in perceptive condition. They remain superficial in lifestyle, thus forming a naive opinion or that is noun like "public opinion". Inside the social contests, should be evaluated the individual, like the being that creates an authentic universe, that goes behind the usual situation, or the pressure of general opinion. For this reason, Mill had his remarks on the democratic Sovereign form that motivated Bentham.

The relationship public opinion - political power and the position of individual

Sovereign majority is measured or is equal with the public opinion. In this sense, it is objectivized to general opinion. Social average becomes the main reference to indicate incentives and trends. In this meaning, sovereign "is dressed" with the authority of public opinion and his action is materialized like juridical and political act. As a constant condition, social contests, so the sovereign isn't a created authority but is attributed as given. The sovereign's the reason is the reason of the majority of society, an authority that is explained with the terms of conservatoires.

However, the public opinion is an "abstract phantasm" impersonal power that becomes indifferent to the particular circumstances. So, is other thing from the concrete public? Inspired from this force, the sovereign is transformed into identic power with collective mediocrity. This is what Mill's call "*sovereign crowd*" (Mill, 2014, p. 84), the way how democracy degenerates into ochlocracy.

But, we don't have to forget that "*Over himself, over his body and mind, the individual is sovereign*" (Mill, 2014, 16). The power of naive majority has the right to rule and limit each individual, despite differences, that can have with the community conditions which is part. In this midst, the individual is not treated like value but as an object. He lost in crowd and with this he loses his self-identity. He identifies with the whole, by objectivizing his being. His own life is held by the others and is extinguished in him each original creation. He resigns himself to society, becoming like the others. Its internal value, subdues to the identification with the whole. In this sense, he becomes conformist, which imitates and passively accepts to subject to an abstract principle. So, "*the individual sovereign*" is pressed, because the majority objectivized the authentic subjects. This is an expression of human denaturation.

Thus, democracy as the domination of the people doesn't work, because those that have the power are not equivalent with those that pretend to self-directed. The individual necessarily obeys to one authority that does not come naturally, from his right over himself. Reasoned in this way, the sovereign becomes the opposite of what individual aspire. Social system cannot respond to diverse circumstances and situations. Social context can be precise in definitions, but it remains for ordinary people, therefore inadequate to unique characters. Therefore, the utilitarianism of Bentham, through categorical judgments justifies a generalizing power, which is essentially violent.

The sovereign as reference to the opinion or to the amount of interests with communitarian comprehensive it is unduly deferential. The whole individual potential is technic zed through mathematical logic. "*Theories of Social Selections*" in this point is raised the question; with what right a community (suppose the voters) realize the unification of the interest, goals, quite different judgments to each of its members? Meanwhile, that its decisions could unfairly oppress minority potentials or certain individualities, as the result of this homogenous unification and galvanic? In other words, the problem lays in the diverse nature of society and political power, on the other hand, political power acts by thinking as a standard body, objective.

Then we must accept that any restriction of freedom is harmful?! The authorities are not fair and so it is best to ignore political and social power, by pretending for an anarchic rapport to community life. But will we guarantee the freedom of everyone?

Minimalist state and the sovereign profile

From what we discussed, sovereign stands between social homogeneity (objectivity), from where the source of power and freedom (diversity) of individualities where he must act. The problem appearing is that political power is justified in principle; however, concrete environment in which it operates if will use the same logic, it would be contrary with the principle of sovereign. In this contradictory situation, the issue is, how should behave the political power? Under the conditions where a human is not a consistent and constant, where a member of majority who has decided in a certain moment, may change its position; Must the sovereign relies entirely on the reason of majority or should be adapted with the real conditions where it acts? So, how should we create a political system not only sustainable, but also right and functional?

Subjection to the public opinion is the easiest choice; generally, many of you think the individuality as a factor which complicates and greatly complicates the disintegration of social objectivity achievement. Thus, the uniqueness of the individual will always be in a confrontation with social sustainability. The challenge is to escape the hardness of the public in general. To these forces is manifested the personal progress, but also the originality of the human being. Therefore for Mill, we need to define a clear space that "... which is the limit of the right sovereignty of the individual over himself? Where begins the social power? In what extent life belongs to human individuality and in what to the society?" (Mill, 2014, p. 94)

At the beginning of humanity, the spontaneity and individuality was expressed intensively. The criterion reference or certain behaviours were missing, by creating a space action that remained to the coincidence. This was the moment of freedom that created confusion. Therefore, society as a whole, as unique and objective needed to fight this spontaneity. Precisely, to this purpose was born necessity of a power that organizes, directs and focuses the individuals in a particular behaviour. Under this reasoning, the law and rule is one that basically holds the power to structure human relationships. So, to make them more restrained, to cultivate the culture of the law and certain social norms. The society and the power that it creates, maintains the control of all individual impulses, obligates every person to create a similar and uniform attitude like everyone else. Until here, we haven't said anything more than, Hobbes' said, etc.

The criteria should be freedom of the individual. As we expressed above, it is not about the freedom of the will. Mill talks about the possibility of a qualitative freedom and space, where everyone can create his subjective reality. The boundary of this freedom is not impaired and the reciprocal obligation with others. Out of this contest "... his freedom is absolute right" (Mill, 2014, p. 16). Important to note is; referring the respect to the freedom and uniqueness of every individual to go towards unity and community life. In this relationship, eventually is distinguished where is the limit of the authority society, how far goes the action of "the sovereign individual" in relation to himself. Therefore, reciprocity is taking responsibility and appropriating some tasks in social behaviour. Regarding the private behavioural and completely unrelated to the interests of society, the individual is not responsible for others, but at the moment that harms another space, there he is responsible.

At this relationship takes life morality and law. There when is harmed the space of the individual or of the community, the sovereign becomes active.

Clearly are distinguished individualism and the obligations of social human. In this sense, the individualism doesn't mean egoism or indifferentism. So, his focus is in creating clear civil and social borders that should motivate the individuality. "...So, the nature and limits of the power that society may lawfully exercise over the individual" (Mill, 2014, p. 5). This power can restrict every aspect of life, except those that belong to him and only him, so, to the individual. On the basis of this criterion, the sovereign has the clear extent, duties and functions. In the opposite case, so, to the violation of the freedom, aiming to more power extension or inaction of power (not fulfilling the duty of the sovereign) it gives prerogative everyone for rebellion and rejection (resistance) over the power.

To protect the freedom of how individual realizes himself, the political power is reduced in his own defense, against violation of this space from the other or the community in general. So, political factor should be minimalist in his own subjects' life. If the sovereign intervenes, he must maintain control of the malicious nature that everyone has inside. So, to avoid his animal nature and his own selfish purposes, who does not care about the consequences of his action? Mostly, the sovereign has the primary obligation to guarantee the development of each show of individualism, which does not affect the coexistence with the other. Regarding the aspects that are not his prerogative, it would be excessive and unjust as power. So, the sovereign is not comprehensive and absolute against his own subjects. Referring to this postulate, should be guaranteed freedom of thought and expression, freedom to create individuality. Briefly, everyone to create his own world, so, to realize himself according to his abilities, character, passions, inclination or desire, of course up to the limits that has no damaging consequences for others. In the end political behavior or condition community should realize that "... It is essential that different people be allowed to live different lives" (Milli, 2014, p. 80).

Sovereign as an expression of statecraft

Despite from what we discussed, we cannot determine clearly the exact boundaries of political power. The human and his circumstances are so complex, that it is impossible to make an accurate distinction of the right of individual and the public law. The human will inevitably be in society and his individuality is associated with other individualities. Thus, in one way or another they will have to lose from their liberty. Then, the individual liberty is always in dangerous situations. But why is it so? What endanger to the extreme?

There are several reasons for this; first, the trend for more power to ourselves and that later to impose on others, second, the conformism due to social status (public opinion). The third reason which is related with the first two is the mentality that lifestyle issues must have one solution and only one. This is a moment where predominates a certain power, that as saying it owns the truth and out of this truth, you will be eliminated, abandoned, averted or otherwise "legitimize" enforcement masses. This is the road of tyranny, but also form of her expression. This would be a naive simplification, because life is irreducible, and the truth is complex. Two principles of Mill, which he never abandoned!

When political power is in synchrony with public opinion, it is more damaging. Opinion becomes overwhelming for any expression of individuality, hermetic and categorical in his domination. Collective mentality refuses to accept even the slightest error of it, even refusing to talk over. As well, not every individual has the prerogative of the truth. What should be done is to create a discussion environment – plural. "*People and governments must act on the basis of their best ability. Absolute security does not exist, but exists enough certainly for the purposes of human life*" (Milli, 2014, p. 26). Inter-subjective conduction synthesizes interests, experiences, goals. Where every party is corrected, reaching a harmony of antagonisms between individual, society and political behaviour. In this way the society makes progress. Its dogmas do not remain solid. The individual understands and experience new experiences. Political power does not stand as a constant power, but is adapted to the pace and dynamics of the subjects in which it operates. Therefore, the sovereign cannot be the master of the truth (like operates the public opinion). He may not be a competent in all matters, which means, he has to listen, discuss before take decisions. By fleeing from abstract generalisation, sovereign decides to take into account the special circumstances, every individuality, and specific situation. Occurred in this moment of discussion, the best question will be this of Schiler "How we can achieve harmony without creating uniformity?" (Moggach, 2007, p. 7) The key is found in the notion "Harmony" The challenge of the sovereign is to create equilibrium in a society characterized by diversity, change and dynamics. For this reason, Michael Joseph Oakeshott sees that the sovereign is not juridical issue, nor the

work of a concise logical, such as claims analytical philosophy, positivists, empiricism, realists. As well, is not a moral issue, custom or historical authority, how communitarian think, multiculturalists, conservationists, etc. ? Sovereign is the expression of the art of governance to ensure this harmony.

Conclusion

Holy for Mill is the freedom of individual. Therefore, he was against every kind of oppression starting from uniformity, tradition, public opinion, juridical systems or political power. More we add metaphysic, abstraction, rationality, institution, law, bureaucracy and many more political systems with ideal view to build, the more we will move away to the essence of life. The ideal of a political society would be less politics.

Conformism with naivety of public opinion will be the premise of a power that wills absolutes everything. This would be a perfect environment for the demagogues to take advantage, which satisfy the crowd, we manipulate that, by abusing in interest of personal egos. Tyranny of the majority fundamentally differs from a tyrant, the conversion of the power from public purpose to fulfil the personal whims. So, let's return to the tyrant sovereign that his freedom, his individuality makes guidance (compelling) for each other person. Social homogeneity, social objectivism it is indicative for a totalitarian (hermetic) mind. Where the sovereign has the power, but has not right. This is "the cult of the leader" that his point of view for the world, he wears to the all humankind.

The maxims of liberalism of Mill would become a warning for totalitarian systems in XX century. Even in the ideas, he is part of discourses of the political philosophy that characterised the time after him. In conclusion, we have to remember! The truth as well as the power are not owned, those are co-created. Naturally, their use requires the skills of art that melts in harmony all diversity parts of co-creators.

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Remarks on Immanuel Kant's Theory on European Project

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Abstract

Nowadays dynamic and dramatic development of the European Union Countries (refugee's crises), is bringing into focus the role of the Union as a peace project. Hence, this project is not only subject of history books, but it is important as an active neighborhood policy, and an effort for stability beyond its borders. The aim of this paper is to estimate the projection of Immanuel Kant "perpetual peace theory" in the functioning of the European Union, in the context of ongoing development and its expansion. Kant's peace treaty is not "entering" to the condition of perpetual peace, but it takes in consideration the necessary steps to reach this goal. This paper analyses this treaty as a political peace guide, oriented by the theory of liberal democracy, elaborated on the works of Michael Doyle: "Liberalism and world Politics" (1986), etc. The analyses focuses on three final articles of Kant, which are presented in his philosophical treaty and are projected to the philosophy of the creation and development of the European Union, as a union of peace. This projection is not only part of institutions and international constitution, but also of the will of citizens of these liberal democratic states which are vital conditions for a Europe of Peace.

Keywords: peace, perpetual peace, European Union, peace treaty, Kant's theory, etc.

Introduction

The concept of "perpetual peace" of Immanuel Kant, 1795

In his treaty "Perpetual Peace", Immanuel Kant defines peace as setting to a war in which you are armed to disarm the enemy, you prepare for the war in order to avoid it, considering peace as a protection force, and at the same time as a positive force of freedom. Political peace between nations or peace at gun point, according to philosophic reflection of Fransuaze Prust (2004), takes the form of an alliance for peace. The alliance for peace at the same time differs from the contract, treaty of peace or the world republic. Kant specifies that the first distinction between the treaty of peace, which "seeks to end a launched war" and the alliance for peace stands the fact that the latest "tries to put an end to all wars". While the contract engages powers, which may tend to withdraw and spoil this act or this contract, the alliance "Match the Freedoms", brings together the existence of a state with another entity (another state), in order that the independence of the first guarantees the independence of the other.

On the other hand in a State of People, above nations, even if his way of governing would be Republican (i. e. the state as a world republic), it contradicts with the essence of politics: which is Freedom. Many nations would not be able to form a single state that is due to the eligibility to enjoy the reciprocal right of different nations. They will choose to stay without being merged into a single state because a state of nations "will have contradictions, since each state contains the ratio of the superior (the one who makes the law) with the inferior (the one who obeys the law, that in such circumstances it is thought to be people.)

A peace alliance (federation) is intended to preserve and guarantee the independence of States and to respect their boundaries, having as the main objective the prevention of war.

In 1795 Kant emphasized in the Treaty which we are referring to " If it happens that a strong and highlighted nation, manages to be self-established in a republic (which, by its nature, must lead us toward perpetual peace), then this will serve as the centre of the confederation for other countries, which will be connected here; and it will provide, in accordance with the idea of the people's right, a state of freedom among nations and in an insensitive manner, thanks to many connections of this kind, it will be spread more and more. "

Pursuing this idea, according to Proust (2004) Peace Alliance is a jewellery of combined motives, a multiple connections unity and verses, which can be approachable only in a proper place at a given time. They are the chance to "grab" something good, a chance to attract others to create a network, to establish a relationship and to begin the process of socialization. They create opportunities, not mergers; they are able to disseminate gradually the drawing of an eruptive mosaic or nests of peace.

Peace cannot survive without a federation of nations, in which the weaker member may require his rights and safeties, not for his power or annex, but for this great confederation, for the joint power and the annex of collective desire. (Kant 1784).

Kant's theory of perpetual peace and Federalization (Zum ewigen Frieden) in such a surprising way presents what is today The European Union.

Michael Doyle (1986) developed the theory of Kant by naming it "liberal peace".

Both authors stick a common argument: Liberal democracies do not declare war to each other.

In this paper we will seek to maintain this idea, trying to respond the question: Can we say that Kant's perpetual peace is being projected on the performance of the European peace project?

Used Methodology

The main aim of this study is to observe the projection of three articles of Kant's Treaty Perpetual peace, in the establishment and functioning of the European Union as a union of peace.

This goal implies the use of a research method based on bibliographic research and comparative analysis, to bring a critical overview of the theory of perpetual peace in liberal democracies, unions or federations as political organizations.

Kant Treaty and the opinion of Michael Doyle will guide the analysis of this paper, to present some arguments that identify EU as a union of peace.

Michael Doyle is clearly positioned on his political opinion as a supporter of liberal democratic theories.

In the elaboration of his thesis he has also referred to Emmanuel Kant's "Perpetual Peace" Treaty and its Articles, taking in consideration some recommendations and justified conditions in achieving eternal peace.

This paper will focus on the articles of Kant's Treaty, in the analysis of Doyle on these articles and their projection on some aspects of the performance of the Union.

The paper is composed by some theoretical sections and subsections, their analyses which will tend to give an answer to the question: Is the EU a peace projection according to Kant?

Some words on the theory of liberal democracies elaborated by Michael Doyle

Liberal peace theory of Doyle described in his article "Liberalism and World Politics" (1986) will be the theory which will parallel Kant's Articles of perpetual peace. In this article, Doyle confirms that Kant's political views, as a liberal republican on the establishment of state and peace federation, are a mirror of what America is today. He emphasizes that the political theory of Kant's Perpetual Peace is a good model to follow by the liberal democracies. Doyle supports this thesis on the

evidence of liberal regimes that have existed from 1700-1982. After analyzing these evidences he highlights some conclusions that seal his opinion as liberal democrat. "Liberal democracies are peaceful. . . even if there can be found tendencies to fight. Liberal states have created a separate peace, and as Kant argues, it should be, but on the other hand, they express liberal causes for aggression and Kant fears that they could be identified.

Some Doyle's records show that even when the involvement in wars have started due to protection of the liberal democracy principles, the end often has not been pleasant, and this for Doyle is a deviation from the Kant's concept and theory.

Referring to John Baylis, Steve Smith, and Patricia Owens (2014), we can say that the theory of liberal democracies does not consider army or even the war as a natural tool for the solution of difficult situations in international relations, as in fact it is considered by realists.

Cooperation and consensus between governments on laws, principles, common norms and international rules are the foundations and the essence of the construction and function of internal and foreign policies of these entities.

Some history of the European Union from the point of view of his contributors

Herman Van Rompuy, the first President of the European Council, in his speech before the Nobel committee in Oslo on December 10th, 2012, said: "Of course, peace might have come to Europe without the Union. Maybe. We will never know. But it would never have been of the same quality. A lasting peace, not a frosty cease-fire... what it makes it so special, is reconciliation.... which goes beyond forgiving and forgetting, or simply turning the page".

In his message we can reveal the philosophy of establishment, functioning and a long and difficult road to fulfil the goal: a union, a core of peace.

Winston Churchill for a long time supported the idea of the European Union as a way to put an end to its collapse. He supports the plan for a "European Federal Union" in an article of Saturday Evening Post of February 15, 1930: "European nations, when united, when they would be federal or partly federal, when would be aware of their continent, will constitute an incomparable body. . . We see nothing except good and we hope to have a rich European Union".

In a series of speeches and articles between 1946 and 1948 he articulated in details his vision. The starting point was his speech in Zurich on September 19, 1946.

Churchill appealed for a Europe based on a partnership between France and Germany. His speech in Zurich had a great impact.

In 1984 Lipgens wrote, "Suddenly, in the last weeks of September, 1946, almost a year after the idea was nearly abandoned, United States of Europe came out in the headlines of newspapers again, thanks to the speech of a well-known man. Politicians found themselves in their offices forced or able to think twice that this demand for a European union was not "a lament" by any nostalgic member of the Resistance, but one of the three leaders of the winning alliances, which reinforced the movement for European Union. It led to the creation of the European Movement, as in a large cathedral, which gathers all its members, including here federalists, in support of European unity.

The first success was the call for the creation of the European Council. However, this was a disappointing experience for the federalists.

Jean Monnet and the First Supranational Community.

Jean Monnet had seen to the European Council the failure of federalists view. He believed that the right way to be followed should have a specific need and would find a solution within the power of institutions. In fact it meant the use of federalist principles to create a supranational body. This approach was rejected by federalists who wanted a full and immediate constitution. The main difference between him and federalists was the speed and methodology of this approach rather than its objectives.

Monnet persuaded Robert Schuman, the French Minister of Foreign Affairs, to undertake a new initiative and to create a supranational organization to deal with the problems of coal and steel industry, as well as, the necessary regeneration of German industrial power.

In his Declaration of May 9, 1950 Schuman proposed: "The coal and steel agreement should immediately provide a common foundation for economic development as a first step toward the federation of Europe, bringing together basic products and institutionalizing a High Authority, whose decisions will connect France, Germany and other member countries. This proposal will lead to the establishment of the first concrete European federation so important for the maintenance of peace."

To move forward with this idea, on June 20th, 1950 France organised an inter-governmental conference (ICC) conducted by Monnet. The main aim of this conference was not to charge the new organization with traditional visions of inter-governmental agencies, but to emphasize the unanimity, executive or national financial contributions of the representative states.

After the Coal and Steel Community was established, Monnet described it as follows:

"Today, six parliaments (France, Germany, Italy and the Benelux countries) have decided after a thoughtful discussion and by majority of votes to establish the First European Community which becomes part of their national independence and brings them together toward a common interest".

Spinelli supported Monnet in the preparation of his speech on August 10, 1952, that presented the creation of a new organization in which:

"The sovereign powers delegated to common institutions are implemented by a number of organisms which are the first structures of federal Europe, where can be found a control and balance system which ensures the democratic performance of all decisions".

However this first step toward integration was interrupted in 1954, when efforts to create a European Defence Community (EDC) failed. At this time it seemed that KEQCC will fail too.

The conference of Messina (Sicily) in June 1955 gave new hope for the creation of a European Union. As a result of this conference it was created a committee, with the purpose of elaborating a report on a European Common Market. It was conducted under the auspices of Mr. Spaak, the Belgian Minister of Foreign Affairs. The committee completed its work in April 1956, when he presented two draft projects: A project was to create a common market and the other project was to establish an atomic energy community.

This led to the signing of the two famous "Treaties of Rome", in March 1957. The first one established the European Economic Community (EEC) and the second treaty created the European Atomic Energy Community (Euratom). Treaties came into force by January 1, 1958.

In 1958, it was established the European Association of Free Trade (EFTA) after refusing the membership of: United Kingdom, Denmark, Austria, Norway, Portugal, Sweden and Iceland.

These countries became known as "the seven externals" as opposed to "six internals" of EEC. Great Britain and Denmark stayed in EFTA until 1973, the year in which they become part of EU (formerly EEC) and it was also planned the inclusion of the latest EFTA members in EU.

This process is known as the first expansion of the European project that increased the number of members from six to eight. It also marked a new era in European integration, the EU began to implement regional policies for the financial support of the Community's poorest countries and regions in order to ensure a sustainable infrastructure.

In 1981 Greece joined the EU, followed by Spain and Portugal in 1986. In 1995, Austria, Finland and Sweden joined the European Union, which was officially created in 1993, when the Maastricht Treaty was signed. In 1999 the Amsterdam Treaty was signed. These two treaties created the three pillars structure in which governments can cooperate and achieve goals: to ensure peace, prosperity and stability for their people.

In 2004 occurred the biggest round of enlargement when the European Union expanded in countries of the former Soviet Union, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia and the island states of Cyprus and Malta. In 2007 Romania and Bulgaria joined the European Union, to be followed by Croatia in 2013, and now the number of member states is 28.

Perpetual peace on the European project

Immanuel Kant's theses and Michael Doyle

The main theses of Kant's treaty is the "peaceful liberal union" which means that liberal states do not go to war with each other and that the union of liberal states will spread gradually to other states, making them liberal and eventually perpetual peace will be achieved because the liberal states do not go to war against another liberal state.

Kant believed that these three important (determinant) articles would ensure perpetual peace. These articles should be accepted by all nations, and when it happens perpetual peace will be achieved. Before defining these three articles Kant said that it was necessary that these countries should know six precursory articles (preconditions) that would provide confidence among states that are still in anarchy, i. e. in a state of war. These six preconditions are:

1. "No Treaty of Peace Shall Be Held Valid in Which There Is Tacitly Reserved Matter for a Future War"
2. "No Independent States, Large or Small, Shall Come under the Dominion of another State by Inheritance, Exchange, Purchase, or Donation" This provision is designed to determine the rate of "territorial integrity".
3. "Standing Armies shall in Time Be Totally Abolished"
4. "National Debts Shall Not Be Contracted with a View to the External Friction of States"
5. "No State Shall by Force Interfere with the Constitution or Government of Another State". In addition to and to support the second provision, this provision guarantees "political independence". Both principles highlight the modern equality of sovereignty.
6. "No State Shall, *during War*, Permit Such Acts of Hostility Which Would Make Mutual Confidence in the Subsequent Peace Impossible: Such Are the *Employment of Assassins* (precursors), *Prisoners (venefici)*, *Breach of Capitulation*, and *Incitement to Treason (perduellio)* in the Opposing State"

These provisions are intended to build trust and mutual respect, required for the establishment of a true peace. Doyle directs his analysis focusing on the above mentioned articles that define perpetual peace.

Doyle has based his theory of liberal peace on Kant's "Perpetual Peace". He agrees with the conclusions of Kant that the state of peace cannot be included in the state of nature (between people that stay close to each other and enemies who create a constant dangerous situation), so peace should be institutionalized, and have a legal framework.

Articles defining the perpetual peace

The first article of perpetual peace: The Civil Constitution of Every State Should Be Republican"

Three principles should apply for a republican constitution, (1) principles of the freedom of the members of a society, (2) principles of dependence of all upon a single common legislation, (3) by the law of their equality (as citizens).

According to Kant the republican constitution is therefore the only form of constitution which resembles to an original contract, that he admits is the original basis of every form of civil constitution.

Republican constitution is also clear as it is based on pure concept of law and moreover it has the possibility of achieving perpetual peace. This is because it is necessary that every citizen approves when the war should be declared. For every citizen it is natural to be doubtful on a declaration of war because war means that the citizen himself would be involved in war, would pay for it and even more would borrow money to pay the burden of a war that in fact does not have an end because the threat of war continues.

When constitution is not Republican is very easy for a country to go to war because the sovereign is not part of the state, but its owner, and the war did not cause him any burden (as it would do with its citizens).

Second article of perpetual peace - "The Law of Nations shall be *founded on a Federation of Free States*"

It is necessary for each country to have security and therefore they should enter into a federation of nations, which has a constitution similar to their own. This would be a league of nations, but it would not have to be a state consisting of nations as it would be contradictory, since a state implies the relation of a superior (legislating) to an inferior (obeying), i. e. , the people, and many nations in one state would then constitute only one nation.

The need for a comprehensive agreement will be necessary, otherwise achieving perpetual peace would be impossible. Kant pointed out that it would have been a federation of peace that would be distinguished from a treaty of peace (*pactum pacis*) by the fact that the latter terminates only one war, while the former seeks to make an end of all wars forever. Kant emphasized that this federation would not aim to resemble to a state in the meaning of take over and exercise power; instead it should seek to maintain and ensure the freedom of the states within the federation.

Kant stressed that: A league of peace (federation) is intended to preserve and guarantee the independence of States and respect their boundaries, having as its goal to prevent war.

"For if fortune directs that a powerful and enlightened people can make itself a republic, (which by its nature must be inclined to perpetual peace), this gives a fulcrum to the federation with other states so that they may adhere to it and thus secures freedom under the idea of the law of nations. By more and more such associations, the federation may be gradually extended."

It would be necessary for people to accept a legislative and executive supreme and a legal force to solve conflicts peacefully, not to have wars and therefore also stresses the idea that states should recognize these organizations in conflict resolution between them if they want to avoid war.

"But this power should not be an international state, because countries will have to give up their liberties but the best model would be a federation (social civic alliance) which will be gradually expanded and maybe one day includes the entire world.

According to Doyle, Kant does not develop an organizational system because he doesn't believe that institutionalization is necessary. Instead he finds it sufficient with a non-aggression pact, or perhaps a security agreement, elaborated based on the cosmopolitan law to be presented below.

Third definitive article for a perpetual peace - The Law of World Citizenship Shall Be Limited to Conditions of Universal Hospitality.

The third and final article describes a cosmopolitan law which would function in the framework of a union of peace. This does not mean philanthropy, but the right. Hospitality, in its most appropriate form, appears in the foreign rights for not being treated as an enemy as soon as he arrives in another territory. According to Doyle, foreigners have the right not to be treated with hostility when they visit a union of peace. A foreigner cannot pretend a permanent residence, but only permission as a visitor, which does not threaten in any way the people he is visiting. Kant also stresses that liberal states will create a union of peace between them, but they will not remain at war with the non-republics.

Three articles of perpetual peace in the European project.

The purpose of this paper is to justify and argue the liberal peace theory in the European Union.

Many long violent conflicts have ended when the two countries are converted to liberal democracy and liberal peace area has expanded, emphasizes Doyle, in "Liberalism and World Politics".

According to him something rare, as an empirical law is observed in international relations - or at least something similar to a law, that is the non-existence war between liberal democracies.

To justify the above mentioned idea it is necessary to apply and design this theoretical basis on the functioning of the European Union.

To achieve the perpetual peace, three provisions treated above should be applied in a state or in this case in the European Union.

The first article of the Civil Constitution, the second one that is Federation of Free States and the third one that of Universal Hospitality.

The first article defines that the constitution should be republican; this means that it will be designed on the principles of freedom, dependence and equality. If we project these principles in the European Union, we notice a number of cases in which the European Union uses these principles. In 1990 it was signed the "Charter of Fundamental Rights of the European Union". This document is based on liberal principles of freedom, dependence and equality. In its introduction it is stated that:

"Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice. "

This passage clearly indicates that the basic ideas of the European Union are similar to the first article of Kant. On December 2009 with the entry into force of the Treaty of Lisbon the Charter took legal status, which means that now it has a binding effect on treaties. Its aim was to make the fundamental citizens rights clear to everyone.

Another example of the commitment of the EU to the liberal principles is the Copenhagen criteria, which were negotiated at the Copenhagen Summit in 1993. Member states should adopt the criteria set out in this document. The criteria are as follows:

Political: stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities.

Economic: the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;

Acceptance of Community legislation: the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

The political criteria must be met by the applicant country before the beginning of negotiations.

One of the Copenhagen criteria which emphasises that countries which apply must have a functioning market economy, is also a criteria in the first article of Kant.

The second article states that it is necessary for a state to have security and Kant believes that the best way to achieve it is a Federation of Nations or a Union of Peace. The European Union is exactly a Union of Peace; in fact the union was created to provide peace in Europe. After the end of World War II, France was trying to keep Germany "under control" as the responsible country that caused the Second World War. However it was very difficult because British and Americans were looking for the revival of the German economy. The Frenchman Jean Monnet created what would be known as Schuman Plan, this led to the creation of the ECSC, which had as its main objective the creation of a High Authority that would control industries which had realised the arms race before and during the war. This High Authority would hamper an arm race, ensuring peace in Europe. In this case EU goes beyond Kant's idea of a union of peace, which main goal was to ensure peace and being a non-aggressor pact. The EU exceeds this idea; it has been developed into a political union and with a diversity of policies.

By quoting again Kant we can try to make another projection on the development and expansion of the EU.

"can be proved that this idea of federation, which should gradually spread to all states and thus lead to perpetual peace. For if fortune directs that a powerful and enlightened people can make itself a republic, which by its nature must be inclined to perpetual peace, this gives a fulcrum to the federation with other states so that they may adhere to it and thus secure freedom under the idea of the law of nations. By more and more such associations, the federation may be gradually extended."

The EU began ECSC with the participation of six countries and gradually expanded into a great union with 28 member countries and a population of about 500 million. While the EU is expanding it has become increasingly clear that further development requires diversification of policies in many other areas not only peace and security. Kant has declared that the Union of Peace (Federation of nations) should not resemble to a state and therefore it should only focus on safety issues.

But he also emphasizes, as mentioned before, that this federation or the union of peace must have a market economy, which in fact contradicts his statement limited to a union of peace that focuses only on security issues. In order to have a labour market it is necessary to have market regulatory bases such as to avoid trade barriers in the form of duty or technical trade barriers, different standards, etc. To achieve free trade, it is necessary to have extensive legislation and standardization otherwise the market will not function.

The EU has created the internal market in which "The aim is to guarantee the free movement of goods, capital, services and people between the EU Member States, creating an" internal market" in which does not exist traditional barriers of exchanges, services and persons.

The third and final article is that of Universal Hospitality. This article stipulates that a foreigner should find hospitality when visiting the Union of Peace. EU members can travel freely and work wherever they want within the Union Countries. But, people outside the EU wishing to visit it do not have the same rights. Kant notes that visitors should have the right to enable communication or trade agreements with the residents of Pacific Union. He does not make it clear what exactly is meant by this, but an interpretation could be that the foreigner should not be prevented in any way when he wants to do business in EU. This is what it happens, although there are obvious customs duties, when someone wants to bring goods into the EU.

The interpretation of what Kant meant with the cosmopolitan right (according to Doyle) led to the conclusion that the third article about the free market is not met.

But, if Doyle and his followers are mistrustful in the fulfilment of the third article about free trade, I think that recent events such as the refugee crisis shed light on the projection that we are analyzing.

The fact is the hospitality and generosity of the governments and societies of the EU toward refugees, "foreigners" according to Kant. Even though, it is going through controversies and problems, again it is a clear projection of "hospitality" (a term defined in this article) on the activities of the Union in relation to the possibilities offered toward "foreigners" in their extreme need for security and accommodation.

The undertaken policies for permanent residence, are not expressing generosity and hospitality but beyond that, EU countries and people are donating and helping the families in need.

In the framework of these policies the Union shows that the right of freedom, peace and prosperity is a model that even individuals outside the union have the opportunity to experience.

So the third article of Kant goes beyond "universal hospitality, or the right for temporary residence", it creates opportunities for the "foreigners" by providing the right to permanent residence within the territory of states composing the "federation of peace".

The third article about the "cosmopolitan right and conditions of hospitality" towards "foreigners", especially refugees from unsafe countries are attempts that overcome and go further Kant's definitions.

Conclusions

In this paper we tried to bring attention on Kant's theory of perpetual peace, and its projection in the context of ongoing development and expansion of European Union.

To achieve this goal we used three final articles of Kant:

The Civil Constitution should be republican. In December 2009, the European Union gives legal status to the Charter of Fundamental Rights of the European Union in Lisbon Treaty. When Kant wrote that the constitution should be republican he was thinking of it as a state or federation. The European Union is functioning as a union of peace and its organizational form resembles to a state. The Charter is not a constitution of state, but gives certain rights to every Union citizen, regardless of which country they come from.

The second criterion that is the economic criteria (which means that the state must have a functional market economy) corresponds to the first article of Kant, which states that it is necessary a functional market economy. In this way we can say that the first article is completed.

The second article is about the union of peace that provides security to its members. The European Union was created as a union of security, but this is different from what Kant had imagined.

After the World War II, Europe was in chaos, and especially France who feared that Germany could be a threat not only for France but for the whole Europe. Jean Monnet presented Schuman Plan and the ECSC was established, with the main aim to control the arms industries that carried out a weapon race before and during the war. Kant stated in his philosophical treaties that a union or federation of peace would provide security against an external force, but in case of European Union the threat came from within the Union. But, however, the EU carried out the same purpose: to ensure peace. Today the European Union is still in the strong line of ensuring security and this can be noticed in the expansion of 2004. This expansion was realised not only with regard to political and economic goals, but also because the EU wanted to guarantee that the former Soviet Union countries did not constitute a threat if they, for example, would return to dictatorships. Copenhagen criteria assure democracy and this is used as a tool to reverse Eastern European countries in liberal democracy, a process that is still in progress in some countries.

The third article is the cosmopolitan right. This article is more fragile to compare with the European Union project; however, the free movement of people within the union is achieved. This can and should be considered as a major step when compared to the historical heritage of Europe.

During the Cold War, a wall was built to keep people divided between East and West Berlin. Changes are drastic and people of the European Union can now move freely between the 28 member states, there is also the abolition of visa restrictions for some EU candidate countries such as Albania, Macedonia, Serbia, etc. The problem occurs when people outside the EU or Europe want to move to Europe to sell goods and this may be a reason that the third article is not considered fulfilled. But the concern, and the solution of refugee crisis especially at the beginning of the civil war in Syria is

a fact that speaks not only for a projection of the third article, but it exceeds the conditions provided in it. The union attempts to transmit and donate values that derive from liberal democracies are very clear.

As a conclusion it should be noted that

The theory of perpetual peace is achieved in the case of EU, perhaps not exactly what Kant has written but certainly it is peace.

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Public Opinion on the Role of Committees in Environmental Impact Assessment Studies

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Abstract

The objectivity of expert committees working on environmental impact assessment studies is under intense public scrutiny. Citizens are often concerned about the potential impact of planned interventions on people's health and the environment, which is why constant and stable communication should be maintained between all interested parties. Expert committees are in charge of addressing concerns coming from the public, private, and civil sectors by keeping communication channels open, efficient, and accessible. The importance of public participation in the procedures of environmental impact assessment is constantly growing, and expert committees involved in decision-making processes related to the assessment of environmental impact studies are exposed to increasing pressure from the public, economic, and civil sectors. This paper presents the results of empirical research on the knowledge and opinions of the concerned public in the Republic of Croatia on the role of expert committees in environmental impact assessment studies. The qualitative study was carried out using a purposive sample and the methods of in-depth interview and participant observation. The grounded theory method was used in the analysis of the empirical material and the quantification of the qualitatively processed coded material was carried out with the Statistica software suite (ver 11.00). Participants were polarised in their opinions. Some of the participants believe that expert committees cannot be neutral as they are appointed by the Ministry. On the other hand, a number have stated that they believe the committees to be professional and neutral, that we should maintain trust in public institutions and that committee members should not be in any way associated with or related to the investors behind a particular project. The majority of participants from the *public sector* agrees with this positive opinion of the committees as neutral and professional, as does the majority of the *economic sector*. Participants from the civil sector, on the other hand, have mostly claimed that the committees are not neutral, but are either for or against a project, and that public interest has not been clearly defined in this context.

Keywords: local government, environmental impact assessment, public knowledge

Introduction

In the last few decades, environmental impact assessment has asserted itself as one of the central activities in licensing procedures for industrial, energy, agricultural, infrastructural, and all other larger projects. The main assessment document, the environmental impact study, has become the central element of project preparation as it is the only document that unites and coordinates the ideas, opinions, and interests of all concerned parties from the public, economic, and civil sector. Increased awareness of the need to involve the public in the decision-making process results in better legislation in this area. Each new regulation allows greater rights of the public to participate, thus causing the importance of public participation in the procedures of environmental impact assessment to constantly grow. With a growing awareness of their right to participate in decision-making, the public and its risk perception greatly affect environmental protection policy. Today, the public is concerned more than ever with the existence of problems associated with environmental protection, while the problem of public risk perception in issues related to environmental protection can only be solved through better communication between all of the stakeholders (Malbaša and Jelavić, 2013). By European standards, the interested public is consulted in the conceptual phase of the project, as well as continuously throughout the procedure. European rules

provide for early public participation in environmental impact assessment. The goal is early involvement, as well as continuous public participation in the process, creating the preconditions that allow the public to significantly affect the outcome of the environmental impact assessment (Cox, 2013). This is governed by various regulations, which have experienced several amendments from design to date. Following the adoption of the Aarhus Convention, in 2003 the EU adopted the Directive on Public Participation in the Process of Preparing Plans and Programmes Relating to the Environment and changes to the Directive on Environmental Impact Assessment in order to harmonise them with the principles of the Aarhus Convention. The Aarhus Convention is based on the concept of environmental democracy. Environmental democracy postulates that solving environmental issues should include all those affected by a certain decision, not just the relevant government bodies and economic sector (Ofak, 2009). In this process, all participants must be given equal status in order to prevent the decision-makers from taking only one side's arguments into account. Availability of information is therefore a central part of environmental democracy as it encourages concerned members of the public to become active participants in the decision-making processes related to environmental issues. The terms "public" and "concerned public" are defined by the Convention itself: The term "public" stands for one or more natural or legal persons and their associations, organisations, and groups as defined by local law. The public can be any person, regardless of their citizenship, residence, or headquarters (for legal persons). Discrimination on the basis of citizenship, nationality, residence, or location of headquarters (for legal persons) is forbidden. The term "concerned public" stands for segments of the public that are or could be affected by environmental decision-making, or that are interested in the issue; non-governmental organisations whose work is in the field of environmental protection and that meet all the criteria set by local law will be considered members of the concerned public. This is important for the realisation of the terms set out in the Convention and is related to public participation in the decision-making process. The exact details of how the public is to be informed and consulted, as well as its role in access to legal institutions, are defined individually by every state (Ofak, 2009). The aim of local government in procedures related to environmental impact assessment is to create and maintain awareness within the government itself of the need to communicate with different groups users and to demonstrate a constant concern for the needs and opinions of end-users, all based on the principles of sustainable development. In general, local government establishes an understanding of the policies, processes, and activities of government by informing users, replying, where appropriate, to the criticisms of the authorities, establishing and maintaining effective channels of communication with the public available to the authorities. The importance of public participation in the procedures of environmental impact assessment is constantly growing, and local government is increasingly under pressure from the public, economic, and civil sectors in decision-making processes on the assessment of environmental impact studies. Public participation is a mechanism established with the aim of involving the public in the decision-making process (a procedure governed by legislation), as well as a way of achieving broader social goals. Public administration is tasked with identifying and implementing public interest. In time, we have come to the conclusion that state administrative bodies are not the sources of objective identifying and decision making in the best interest of the public, but are rather arbitrators between the various interests that exist, and the practice has shown that economic and political interests are always stronger than the declarative and non-binding right to a healthy environment. That is why public participation is a challenge to the traditional management/decision-making model implemented by experts or public administration bodies. It serves not only as a means to control public administration, but as a way to, above all, determine what the public interest is in the first place (Ofak, 2009). The broader social significance of public participation consists of the following goals (Beierle & Cayford, 2002): including public values in the final decision, improving the quality of the final decision, solving conflicts between differing interests, building trust in institutions, educating and informing the public. The success of public participation is defined as the extent to which the five social goals have been realised, i. e. the success of achieving these social goals is proportional to the quality of public participation. The European community regulated this field even before the Aarhus Convention. Moreover, the so-called EIA Directive and the IPPC Directive of the European Community have served as the basis for Appendix I of the Convention (Ofak, 2009). When it comes to public participation, the solution is to be found in more modern legislation. For the past 30 years, the importance of public participation in the procedures of environmental impact assessment has constantly been growing. Little is going to change in practice with no procedural, administrative, and legal instruments for monitoring the processes of environmental impact assessment and decision making in the hands of citizens. *The main objectives of developing effective strategies for involving the public are better understanding, better communication, strengthening the ability/skills to apply the appropriate forms of participation/involvement with respect to the purpose of the process, and strengthening the relationship and cooperation between stakeholders, with the aim of better planning and realisation of (local) sustainable development.* Introducing new legal opportunities for public participation is not sufficient in itself - the public must first learn what it has available and how

to use that in order for the process of *social assessment* to be carried out within or prior to the process of environmental impact assessment (Čaldarović, 2006). Public participation is ensured while issuing the decision on integrated environmental protection conditions, which is a novelty in Croatian legislation related to the environment, and it results from further harmonisation with the IPPC Directive (Ofak, 2009). The model of public participation in the process of environmental impact assessment and strategic environmental assessment consists of four steps or ways to participate:

Informing – one-way flow of information from the developer/body responsible for the implementation of the procedure and decision making to the public.

Consulting – two-way flow of information between the public and the developer that allows the public to present their views on the proposed project.

Participating – interactive exchange between the public and the developer, which includes joint analysis and agreed conclusions on the proposed project and its impact.

Negotiating – between key stakeholders of the interested public and the developer in order to build a consensus through a mutually acceptable solution (Ofak, 2009).

The goal of this study was to determine the level of awareness and opinions among members of the general and concerned publics in Croatia on the role of expert committees in procedures related to assessing environmental impact studies.

Based on the defined goal, the following hypothesis was made:

(H) There are significant differences in the opinions of entities in target and sector groups when it comes to assessing the role of expert committees in procedures related to environmental impact assessment studies.

MATERIAL AND METHODS

The focus of qualitative research is multi-methodical and includes an interpretative, naturalist approach to the subject of the study. This means that researchers involved in qualitative studies approach the subject in its natural environment and try to understand or interpret phenomena in light of the meanings people associate with them. A qualitative approach implies the learned use and knowledge of a set of various empirical materials – case studies, personal experience, introspection, life stories, interviews, observational, historical, interactive, and visual texts – that describe the routine, problematic moments, and meanings in the lives of individuals. Researchers that employ a qualitative approach have accordingly introduced a wide range of unrelated methods, in the hope that every new method will help better understand the subject of the study (Denzin and Lincoln, 1994). Sequential approaches to the qualitative method imply detailed research in which the data collected from study participants is integrated with the observations and interpretations of the researcher. By integrating simultaneous information in the data collection process, so that the results of one method can be further processed and expanded with the results of another method, as well as the convergence of qualitative and quantitative data, an all-encompassing view of the study problem can be gained (Creswell, 2003). The inclusion of quantitative methods in a qualitative study has for its goal the integration of differing research methodologies within a single study plan, thus allowing for a more complete grasp in certain areas of the study and the binding of all study stages within a methodological triangulation. In a qualitative study, this triangulation would imply the use of several different methods at the same time in order to collect more accurate and complete information on the subject (Mejovšek, 2013). The qualitative study was carried out using a purposive sample and the methods of in-depth interview and participant observation. The method of grounded theory was used in the analysis of the empirical material. Three basic types of coding were applied: open or initial coding, axial coding, selective coding. The initial coding included the first rearranging and sorting of the data, noting similarities and forming response groups. Final analysis and categorisation of the key concepts created the conceptual matrix with the content of qualitative empirical material in the integrated theoretical framework (Holton, 2007; Charmaz, 1990). Inductive and deductive methods were used on the data, as well as the method of analysis and synthesis, comparison method, classification method, and the descriptive method (Silverman, 2006). The study was conducted in 2014. Respondent selection was done according to previously set criteria: a target sample of participants in the empirical study who are involved in the procedures relevant to the research either professionally or voluntarily (Pletikosić, 2012). The sample was

defined with 100 entities, 46 males and 54 females. The average respondent age was 52. 1 years. Respondents were divided into 10 sub-samples (target groups) which were qualitatively defined with 10 entities:

STUDY MAKERS – persons authorised by the Ministry of Environmental and Nature Protection;

DEVELOPERS – investors;

MINISTRY OF ENVIRONMENT/COMMITTEE – representatives of the governing body conducting the process, and members of committees for study evaluation;

CITIES – representatives of the employees of the city administration for environmental protection responsible for conducting public debates, and spatial planning representatives;

COUNTIES – representatives of the employees of the county administration for environmental protection responsible for conducting public debates, and spatial planning representatives;

ASSOCIATIONS – representatives of non-governmental environmental associations;

CIVIL INITIATIVES – representatives of NGOs and civil society who are involved in the process, but are not environmentally oriented;

ECONOMIC ASSOCIATIONS – representatives of the Croatian Employers' Association, Croatian Chamber of Commerce, and other economic interest associations;

POLITICAL PARTIES – representatives of political structures which are included in the process;

SCIENTISTS/JOURNALISTS – representatives of academic institutions and journalists who are involved in the process.

Three new qualitatively defined control groups (clusters) were classified based on the above sub-samples:

PUBLIC SECTOR – 40 respondents from target groups: MIN. OF ENVIRONMENT/COMMITTEE, CITY, COUNTY, SCIENTISTS/JOURNALISTS;

CIVIL SECTOR – 30 respondents from target groups: ASSOCIATIONS, CIVIC INITIATIVES, POLITICAL PARTIES;

ECONOMIC SECTOR – 30 respondents from target groups: *STUDY MAKERS*, *DEVELOPERS*, *ECONOMIC ASSOCIATIONS*.

Research material consisted of two dependent (grouping) variables according to the criteria of the target group, the criteria of the control group, and one independent variable. Participants were asked to give their opinion on whether local administration is sufficiently represented in the work of expert committees working on assessing environment impact studies and whether the local community should invest more effort in presenting their own development plans in order to avoid possible future public discontent. We calculated the following descriptive parameters: frequency and cumulative relative values of the responses in the whole sample, and in the predetermined focus and control groups. Processing was carried out using the Statistica Ver. 11. 00 software suite (Petz et al. , 2012).

RESULTS

Quantitative processing of the variable entity matrix was based on the given responses qualitatively defined by the question:

*Do you believe that **expert committees** appointed by the Ministry of Environment are professional and neutral in their work?*

The respondents stated their opinion on whether the committees appointed by the Ministry were neutral and professional in their work.

The answers were defined on three levels:

The first group was classified according to negative responses, and represents those entities who answered:

No, committees always believe themselves to be professional and neutral, but are not a clear representation of public interest; they are not transparent. Discrepancies in member opinions and inflated requests by some of them are always possible in committee work. The president of the committee should always alert other members of anomalies and final decisions should be made by majority vote. Representatives of the relevant institutions are not neutral because they advocate the views of the political forces running the institution.

Quantitatively, these negative responses were coded as zero (0), for the upcoming statistical data processing.

The second group claims that it does not have enough information, does not know or is not sure how to respond, is undecided, and stands by the following positions:

Sometimes, it depends on the political influence and media representation of a particular project. Those who vote "yes" are in favour of the project, while those who vote "no" are not - there are no neutral votes.

Quantitatively, these undecided responses were coded as one (1) for later statistical processing.

The third group of entities responded affirmatively, and argued its views as follows:

Yes, we must trust public institutions. Yes, but I believe that the broader public should be more interested in issues relevant to the community and its development. Yes, but the quality of a committee's work can vary depending on its membership, their knowledge and experience, as well as their ability to accurately represent expert opinion and public interest. There are good committees and there are bad committees. I believe that the committees are professional and neutral in most cases.

Quantitatively, these responses were coded as two (2) for later statistical processing.

Responses to the question were coded in the statistical process under the variable *expert committees_neutral and professional*.

Table 1 shows the frequency of all instances of the variable *expert committees_neutral and professional* in the study.

Participants were polarised in their opinions. 51% of the participants believe that expert committees cannot be neutral because they are appointed by the Ministry and discrepancies in member opinions and inflated requests by some of them are always possible in committee work. This is why the president of the committee should always alert other members of anomalies and final decisions should be made by majority vote. On the other hand, 48% have stated that they believe the committees to be professional and neutral, that we should maintain trust in public institutions and that committee members should not be in any way associated with or related to the investors behind a particular project. Table 2 shows the frequency of the variable *expert committees_neutral and professional* in the 10 predefined *target groups*.

An analysis of Table 2 clearly shows that respondents belonging to different *target groups* are polarised in their opinions when it comes to the variable *expert committees_neutral and professional*. Respondents from NGOs and the civil sector (CIVIL INITIATIVES and NGOs) are fully certain (100%) that expert committees cannot be neutral due to the fact that they are appointed by the Ministry. Most respondents from the target groups POLITICAL PARTIES and SCIENTIST/JOURNALISTS share this opinion, while respondents from the target groups CITIES and COUNTIES, groups that include individuals employed by the city or county administration and responsible for conducting public debates and spatial planning representative, as well as those from the DEVELOPERS and ECONOMIC ASSOCIATIONS target groups,

believe that expert committees are professional and neutral, that we should maintain our trust in institutions and that committee members should not be in any way associated with or related to the investors behind a particular project.

Quantitative analysis of the frequency of the variable *expert committees_neutral and professional* with respect to *sector group* is shown in Table 3.

60% of the respondents from the *public sector* (24 entities) believe that expert committees are professional and neutral, as does 74% (22 entities) of the *economic sector*. 94% (28 entities) of the *civil sector*, on the other hand, believe that there are no neutral committees, just members who are for or against a project, and that public interest has not been clearly defined.

The coefficient value of the F-test corresponds to 6.61, with a significance level of $p=0.000$, thus confirming that there is a statistically significant difference between the target groups. Table 4 shows the results of post-hoc analysis carried out between target groups for the variable *expert committees_neutral and professional*, $N=100$.

The results of the Tukey HSD test *post hoc* analysis for the variable *expert committees_professional and neutral* between target groups (as given in Table 4) clearly show that there is a statistically significant difference between all target groups, except scientists and journalists involved in the process (SCIENTISTS/JOURNALISTS target group).

The following hypothesis was made based on the results:

(H) There are significant differences in the opinions of entities in target and sector groups when it comes to assessing the role of expert committees in procedures related to environmental impact assessment studies.

The hypothesis is confirmed and accepted in its entirety.

CONCLUSION

The goal of this study was to determine the level of awareness and opinions among members of the general and concerned publics in Croatia on the role of expert committees in procedures related to assessing environmental impact studies. Respondent selection was done according to previously set criteria: a target sample of participants in the empirical study who are involved in the procedures relevant to the research either professionally or voluntarily. The sample was defined with 100 entities, 46 males and 54 females. The average respondent age was 52.1 years. Respondents were divided into 10 sub-samples (target groups) which were qualitatively defined with 10 entities and additionally classified into three new control sectors (clusters). Research material consisted of two dependent (grouping) variables according to the criteria of the target group, the criteria of the control group, and one independent variable.

51% of the participants believe that expert committees cannot be neutral because they are appointed by the Ministry and discrepancies in member opinions and inflated requests by some of them are always possible in committee work. This is why the president of the committee should always alert other members of anomalies and final decisions should be made by majority vote. On the other hand, 48% have stated that they believe the committees to be professional and neutral, that we should maintain trust in public institutions and that committee members should not be in any way associated with or related to the investors behind a particular project. Respondents were polarised in their opinions. Respondents from NGOs and the civil sector (CIVIL INITIATIVES and NGOs), for example, are fully certain (100%) that expert committees cannot be neutral due to the fact that they are appointed by the Ministry. Most respondents from the target groups POLITICAL PARTIES and SCIENTIST/JOURNALISTS share this opinion, while respondents from the target groups CITIES and COUNTIES, groups that include individuals employed by the city or county administration and responsible for conducting public debates and spatial planning representative, as well as those from the DEVELOPERS and ECONOMIC ASSOCIATIONS target groups, believe that expert committees are professional and neutral, that we should maintain our trust in institutions and that committee members should not be in any way associated with or related to the investors behind a particular project. 60% of the respondents from the *public sector* (24 entities) believe that expert committees are professional and neutral, as does 74% (22 entities) of the *economic sector*. 94% (28 entities) of the *civil sector*, on the other

hand, believe that there are no neutral committees, just members who are for or against a project, and that public interest has not been clearly defined.

Respondents from the public, economic and civil sectors are divided in their opinions and have a differing view of the role expert committees play in assessing environmental impact studies. The mutual mistrust between the three sectors can only be solved through better communication and improving the quality of public informing and involvement in physical planning procedures, as well as making the work of expert committees more transparent, thus contributing to the democratic aspect of the entire process.

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TABLES

Table 1. Absolute and cumulative relative frequencies of the variable *expert committees_neutral and professional*, N=100.

Responses	Frequency	Cumulative relative frequency
0	51	51, 00
1	1	52, 00
2	48	100, 00

Legend: 0 - no; 1 - I don't know, I'm not sure; 2 - yes.

Table 2. Frequency of the variable *expert committees_neutral and professional* within *target groups*, N=100

Responses	SM	DE	ME	CI	CO	AS	CI	EA	PP	S/J	Total
0	4	1	4	3	2	10	10	2	8	7	51
1	0	1	0	0	0	0	0	0	0	0	1
2	6	8	6	7	8	0	0	8	2	3	48

Legend: 0 - no; 1 - I don't know, I'm not sure; 2 - yes.

SM - STUDY MAKERS – persons authorised by the Ministry of Environmental and Nature Protection;

DE – DEVELOPERS – investors;

ME – MINISTRY OF ENVIRONMENT/COMMITTEE – representatives of the governing body conducting the process, and members of committees for study evaluation;

CI – CITIES – representatives of the employees of the city administration for environmental protection responsible for conducting public debates and spatial planning representatives;

CO – COUNTIES – representatives of the employees of the county administration for environmental protection responsible for conducting public debates and spatial planning representatives;

AS – ASSOCIATIONS – representatives of non-governmental environmental associations;

CI – CIVIL INITIATIVES – representatives of NGOs and civil society who are involved in the process, but are not environmentally oriented;

EA – ECONOMIC ASSOCIATIONS – representatives of the Croatian Employers' Association, Croatian Chamber of Commerce, and other economic interest associations;

PP – POLITICAL PARTIES – representatives of political structures which are included in the process;

S/J – SCIENTISTS/JOURNALISTS – representatives of academic institutions and journalists who are involved in the process.

Table 3. Frequency of the variable *expert committees_neutral and professional* within sector groups, N=100

Responses	PUBLIC SECTOR	CIVIL SECTOR	ECONOMIC SECTOR	Total
0	16	28	7	67
1	0	0	1	3
2	24	2	22	30
Total	40	30	30	100

Legend: 0 - no; 1 - I don't know, I'm not sure; 2 - yes.

Public sector - MIN. OF THE ENVIRONMENT/COMMITTEE, CITY, COUNTY, SCIENTISTS/JOURNALISTS;

Civil sector - ASSOCIATIONS, CIVIC INITIATIVES, POLITICAL PARTIES;

Economic sector - STUDY MAKERS, DEVELOPER S, ECONOMIC ASSOCIATIONS.

Table 4. Results of post-hoc analysis carried out between target groups for the variable *expert committees_neutral and professional*, N=100.

	SM	DE	ME	CI	CO	AS	CI	EA	PP	S/J
SM		0.93	1.00	1.00	0.98	0.04	0.04	0.98	0.46	0.82
DE	0.93		0.93	1.00	1.00	0.00	0.00	1.00	0.02	0.09
ME	1.00	0.93		1.00	0.98	0.04	0.04	0.98	0.46	0.82
CI	1.00	1.00	1.00		1.00	0.01	0.01	1.00	0.17	0.46
CO	0.98	1.00	0.98	1.00		0.00	0.00	1.00	0.04	0.17
AS	0.04	0.00	0.04	0.01	0.00		1.00	0.00	0.98	0.82
CI	0.04	0.00	0.04	0.01	0.00	1.00		0.00	0.98	0.82
EA	0.98	1.00	0.98	1.00	1.00	0.00	0.00		0.04	0.17
PP	0.46	0.02	0.46	0.17	0.04	0.98	0.98	0.04		1.00
S/J	0.82	0.09	0.82	0.46	0.17	0.82	0.82	0.17	1.00	

Legend:

SM - STUDY MAKERS – persons authorised by the Ministry of Environmental and Nature Protection;

DE – DEVELOPERS – investors;

ME – MINISTRY OF ENVIRONMENT/COMMITTEE – representatives of the governing body conducting the process, and members of committees for study evaluation;

CI – CITIES – representatives of the employees of the city administration for environmental protection responsible for conducting public debates and spatial planning representatives;

CO – COUNTIES – representatives of the employees of the county administration for environmental protection responsible for conducting public debates and spatial planning representatives;

AS – ASSOCIATIONS – representatives of non-governmental environmental associations;

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PP – POLITICAL PARTIES – representatives of political structures which are included in the process;

S/J – SCIENTISTS/JOURNALISTS – representatives of academic institutions and journalists who are involved in the process.

Resiliency, Professionalization and Identity. a Study in Relation to Achievement at University at the Light of a New Paradigm: the Spiral of Three Dimensional of Sens ¹

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Abstract

This study is part of the broad research program on University Quality Assessment. It falls into the Sub Program of Quality Education Optimization in relation to students' achievements, with a view to implementing teachers' support and professionalization mechanisms. The aim was to go deep into the causes for delay in finishing studies in our country, as well as to become aware of the strong "reasons" leading to a delay, globally, of over the half of the pre-established time assigned to different courses of studies. The country policies combine with institutional "decisions" and the situation of the primary actors, that is, delaying students. There are three levels: macro national, meso institutional and micro, or the one concerning the individuals who, within the still "disciplinary" programs, often disregard the formation and/or consolidation of social competences that make an impact on individuals' achievement and therefore, on the quality of the universities. Here we stop to analyze the results related to the Resiliency factor (quantitative level). It should be noticed that the model included factors of different types (basic, personal, occupational, structural, pedagogical, institutional and psychosocial ones), taking a long period (more than 20 years of the National University of Cuyo and 6 Faculties). The results show that Resiliency is one of the factors with higher impact on the university achievement (bivariate and multivariate level). We used the Henderson and Milstein's method, which shows degrees of resiliency at the personal, institutional and teachers' levels, evidencing where the strengths and weaknesses are located. There appear different identities related to different Faculties and Courses of Study; identities linked to the students' performance. The findings are relevant within the context of a high level of failure in our universities, which could decrease if we implemented programs aimed at strengthening those aspects that "develop" out of the *system* (we are not born with them) and helping Professionalization through the creation of different mechanisms. That would have an impact on personal achievement and it would ultimately improve the Quality of the Educational System in the country.

Keys words: University, Performance, Identities, Professionalization, Resiliency, New Approach

1. Introduction

This work deals with the general issue of Institutional Quality (in this case, University), and it participates in an institutional contest, with the view of continuous improvement (Aparicio 2006 a and b; 2008 a, 2009 a, c and f, 2012 b, 2014 a, b and c, 2015 b, c, d). It was carried out considering a population of individuals who prolong their studies. This represents a widespread problem evident by the lack of figures on delay in studies and dropout of university.

This work will contribute to thoroughly determine the reality at university and the sub-factors underlying the high levels of failure. Only 11% of the students globally obtain their degree; 60% drop out their studies, and the rest "will decide" to extend them. This problem represents a material and human cost in terms of frustration. Among the psychosocial answers there appeared anonymous answers, blanks, depression or activism, etc. The characteristics of university education, based especially on the disciplinary aspect, could be one of the factors present at the baseline of other competences (social and procedural, which concern to the "know-how and know how to be" level in a professional scenario) such as communicational

¹ **Topic:** Barriers to Learning (age, psychosocial factors, ethnicity. . .) - Researches on psychology of education, social, health, organizational studies – Others: A New Paradigm.

competences, coping strategies, resilience, etc. As regards resilience, core topic of this paper, it develops social bonds and relational competences which will be useful within the university, the labor world and life itself.

Resilience may be defined as the individual's capacity to react to and endure the adversities due to an adaptation process and in spite of the risks and such adversities themselves. As we see it, all these elements are essential as regards success and failure. We will not deal with the theory; on the contrary, we should clearly state that the capacity to resist pressure and lead a healthy life within an unhealthy environment implies social and intrapsychic processes in which institutions and primary socializing instances play a fundamental role (Hernández, 1998; Puerta de Klinkert, 2002). Resilience is, then, a personal and institutional construction; is not inborn: it is shaped within a context. That is why, it was included in our theoretical model and analyzed from our *sui generis* systemic approach: *Le Spiral Three Dimensional of Sens* (Aparicio, 2015 d). It is the context in which the individual is inserted the factors that enhances or disperses the chances to overcome obstacles. In view of the "relative" failure of students who are delayed in their studies, two questions arise: Does a weak level resilience influence? Does the university community with its dominant system of beliefs and values influence on the possibilities of being successful? Without knowing the situation based on empirical information, it should be quite difficult to cause changes at the level of intervention.

General Objective: Determining the factors (core, psychosocial, structural, pedagogical and institutional) associated to success at university.

Specific Objectives: a) Determining the sociocultural and psychosocial which significantly influence on delay in studies. b) Identifying the population at risk. c) Provide elements to the authorities of each Faculty in order to implement changes contributing to goal achievement (changes on syllabuses, curriculums which are more adapted to the demands of the labor market, revision of promotion and evaluation systems, etc.). d) Determining, at the qualitative level, the profound reasons underlying delay.

General Hypothesis: psychosocial factors – such as motivation, attributional style, coping, and resilience – favored by *socialization* (family, peers, school, etc.) and by the training stages (school, university) *internalized by the individuals*. Such factors could associate to profiles of higher university and professional achievement.

Specific Hypotheses: Higher degrees of resilience (RESIL) have a positive impact on University achievement (UP) and on the chances of labor insertion.

2. Methodology

We used the quantitative and qualitative methodology.

The sample consisted on 229 individuals at six Faculties: Philosophy and Literature (Educational Sciences), Economical Sciences (Accounting and Management), Political Sciences (Social Communication), Law, Medicine and Engineering (Civil, Industrial and Petroleum Engineering) at Cuyo National University (1985 – 2004), who were interviewed at home. These individuals have enrolled at university since 1985 and reenrolled in 2004 but they are not attending courses; they are ghost students. Out of 1880 identified individuals according to institutional listings, the actual number of interviewed students (which we were able to locate) was N=229.

As regards techniques, we have used a semi-structured interview and specific test to measure the different psychosocial variables related to achievement (UP): Strategies to "overcome" difficulties (Frydenberg & Lewis, 1996), attributional styles (Seligman, 1991), motivational factors (Montero & Alonso Tapia, 1992) and Resilience (Henderson & Milstein, 2003). In this work, we deal with the importance of Resilience in order to overcome difficulties within university institutions.

As regards Resilience, the Henderson and Milstein's questionnaire consists of 3 scales: Student (RESIALUM), Staff – administration and teachers (RESIPERS), and Institutional (RESIFACU); and its 6 sub-scales which can be regrouped in 2 sub-dimensions. The aspects to be evaluated are: 1. Reducing the risk: 1. Enhancing the pro-social bonds; 2. Defining clear and firm limits (Creating and implementing coherent school policies and procedures and explaining expectations in terms of behavior. Stating written rules and transmitting them clearly); 3. Teaching competences for life (cooperation,

conflict solving, communicational competences, problem solving skills, healthy stress management). II. Constructing Resilience: 1. Providing affection and support; 2. Defining and transmitting high and realistic expectations (avoiding the notion of development plafond); 3. Providing possibilities of significant participation (granting students and the institutional authorities the possibility of making decisions and, especially, of fixing goals with the help of others).

As regards University Achievement (UP), in a broad sense, it comprises the following categories: a) Achievement: finishing studies (obtaining the degree); b) Delay: finishing studies in a longer period of time than the officially pre-determined one; c) Failure: dropout.

Performance, strictly speaking, was understood considering the following indicators (UNCuyo Statistics Department):

- Number of years studying. (2005 – Cohort)
- Number of years for the course of studies (ANPLAN)
- Subjects failed (MATPLAN-REUSSI)
- Total number of subjects in the curriculum (MATPLAN)
- Number of failures (APLAZOS)
- Passed subjects (MATPLAN)

$$UP = \left\{ \frac{1}{\left[\frac{(2005 - COHORT)}{ANIPLAN} \right] + \left[\frac{MATNOAPR}{MATPLAN} \right] + \left[\frac{N^{\circ} Failures}{SubjectsFailed} \right]} \right\}$$

3. Results

They show the role of Resilience in the Extension of Studies (UP).

The Resilience factor, as already stated, has been measured at 3 Scales: Student (RESIALUM), Staff – administration and teacher – (RESIPERS) e Institutional (RESIFACU). At the 3 Scales, the average is focused on category 3, which indicates that Resilience training is at the “initial” stage. This means that, in general terms, in all Faculties, institutional evaluation, as a means of modeling Resilience in students, in the Staff and in the Institution as an organization, is quite low. On the other hand, each institution has its own profile, since some appear as Resilience breeders among students, staff and/or the institution itself (Aparicio, 2009^a, Vol. 1).

There should be resilience source areas (see Faculties/Courses of Study I our research) favoring it, that is, instances causing/favoring: a) the creation of supporting social networks; b) the consolidation of a transcendental meaning of life; c) the development of skills to build solid, respectful and rewarding relationships, in order to obey rules and accept limits in a conscientious manner; d) the ability to solve problems through analysis and reflection; e) the development of self-esteem based on a realistic viewpoint of one’s own potential and limitations.

Let us analyze the results showing the variables which have an influence on achievement.

Bivariate Analysis: regarding the factors for “obstacle overcoming” in our model – Resilience and Coping –, the results show that the most significant Resilience Scales are the Pro-social Bond (RESIVINC), clear limits (RESILI) and High Expectations (RESIEXPE). More precisely, when the Pro-social Bond increases, University Performance (UP) diminishes; on the contrary, when there are Clear Limits and High Expectations, the Ups increase.

We stress, then, the positive effect of expectations in relation to the learning of limits, something that we lack nowadays. On the opposite side lies the very high pro-social bond, which leads to studies dropout. At the level of demands, experience in different Faculties shows that as demands increase, so does performance (lower level of delay in studies).

Multivariate Analysis: Let us focus for a moment on the University Achievement (UP) model and analyze which are the variables that can predict achievement. Among the Psychosocial Variables, Resilience is precisely the most influential. Two sub-scales are associates to UP: bonds and opportunities offered to the individuals. (RESIVINC and RESIOPOR). The former contributes negatively; that is, as the students are more devoted to social life, their achievement levels drop. The latter contributes positively. In other words, the more the possibilities for progress, the higher the UP.

RESIVINC: probability is lower than 5% (0.0328). Coefficient is -0.003520, which reveals a negative relationship with UP. In other words, when these bonds are exaggerated and sociability is quite considerable, studying becomes less important and time extends.

RESIOPOR: probability is lower than 5% (0.00057), which indicates a higher association in the multivariate model than RESIVINC. Coefficient is 0.004104; that is, there exists a positive relationship with UP: when there are opportunities for development, academic performance improves and extension in studies decreases.

4. Discussion

These results show the need for developing resilience means and sources within the organizations. Resilience always leads to success for the individuals as well as for the organization they belong to (Aparicio, 2005, 2007a, 2007b).

On the other hand, the global findings show the significance of other core variables of achievement micro-theories (clear goals, realistic expectations, effort, coping, etc.). Finally, there appears the influence of context: some Faculties generate and consolidate Resilience where there are others in which this "social competences" is weak.

Disciplinary and Institutional Identity/Identities. This situation reveals that the University is in need of teachers' professionalization in order to favor competences development beyond the disciplinary area; on the part of the students, it demands the consolidation of goals, limits, stamina to overcome obstacles, expectations, which are presently quite diluted due to degree devaluation.

5. Conclusion

Understanding the influence of certain factors in the light of achievement explanatory theories could favor the development of individuals and institutions as well as the transformation of continuing education practices and mechanisms.

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Understanding, Definition and Sanctioning of Organized Crime Under the Law of Republic of Kosovo

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Abstract

The presence and development of criminality in society dates back from the old ages to the present time, by transforming itself in various types of emergence, depending on the degree of social emancipation. In addition to social development processes, there are also changes from the viewpoint of ideas relating to the etymology of crime in society. In the beginning of XX century, the society dealt with drastic and dramatic changes in the whole domains of life, accompanied with changes in the form of occurrence of criminality in society. The term "organized crime" was originally used in 1896 in the annual report of Society for the Crime Prevention in New York. In this report, the term was employed to define the acts of prostitution and gambling, protected by the public officers. Whereas, as far as Kosovo is concerned, the International Administration – UNMIK – promulgated the Regulation No. 2001/22 "On Measures against Organized Crime". The Regulation No. 2001/22 provides the definition of the term organized crime where it sets forth the measures and penalties that may be imposed to participants of an organized crime, the basic and qualified forms. With the purpose of supplementing the legal grounds to combat and prevent the criminality in the country, the Kosovo Assembly promulgated on 6th July 2003 the "Provisional Criminal Code of Kosovo"¹ (PCCK) which entered into force on 6th April 2004, which as per the EU's recommendations, was supplemented and amended time after time until the Kosovo Criminal Code was adopted on 20th April 2012. The key terms to be elaborated in this paper are as follows: Understanding and definition of the organized crime, sanctioning of the organized crime, Kosovo Criminal Code and Combating and Prevention of the Organized Crime.

Keywords: Understanding, Definition, Sanctioning, Organized Crime, Law, Republic of Kosovo

Introduction

The presence and development of criminality in society dates back from the old ages to the present time, by transforming itself in various types of emergence, depending on the degree of social emancipation. During the history, the preoccupation, interest and reaction of society to the criminal acts has been different. Depending on the social conditions, there were introduced the means and measures to fight harmful and threatening acts to the society. The society's reaction was accompanied through providing various opinions and findings relating to etiology and phenomenology of criminality.

In addition to social development processes, there are also changes from the viewpoint of ideas relating to the etymology of crime in society. The "notion of criminality means the wholeness of all crimes that were committed at a certain time, space and period. The Criminality is a massive phenomenon that encompasses in itself all types of crimes committed in one place"². Whereas the term "crime means an individual act of human behaviour by means of which the criminal code is violated or breached and such breach usually faces penalty – punishment"³. The use of the term criminality or crime by the authorities of judiciary corresponds with the term criminal act. It was similarly applied in the literature of the national criminal

¹ Provisional Criminal Code of Kosovo, Kosovo Assembly, Prishtina, 2003, which entered into force on 20th April 2004

² R. Halili, *Kriminologjia (Criminology)*, Prishtinë, 2002, p. 20

³ R. Halili, *Kriminologjia (Criminology)*, Prishtinë, 2002, p. 21

law which sets forth that "the act which enfringes, harms or eliminates the legal value of a human and certain community, it is called a criminal act or a criminality according to a more general term under the criminal law.¹ Whereas, under the international criminal law, the notion of international criminal act or the international crime has not received yet a complete and precise definition, but it has rather adopted a definition of more sociological and criminological character in which it sets forth that "the international criminal acts represent violation of important international values. At the epicenter of these international values which are violated by means of these criminal acts, is found the corpus of universal human rights"².

The criminological literature sets forth that "the volume, type of crimes and criminal behaviour have been closely linked with the development and transformation of certain societies and social – economic systems"³. By rights, it can be concluded that the causes of types of criminality are miscellaneous, they tend to change, advance and do not bear the same importance in various political – economic development related processes. There are no doubts that in today's circumstances of the modern society, "the criminality attempts, above all, to penetrate into the territories of countries with new democracy, but also in economically undeveloped countries, because in these countries, there is certainly a convenient space to develop and spread many criminal acts"⁴. Political and system related changes to certain countries with influence in trends and extent of occurrence of organized crime, including difficulties and inabilities to prevent and combat such phenomenon, particularly in the transitional countries, should be added to these circumstances"⁵.

The term "organized crime" was originally employed in 1896 in the annual report of the Society for the Crime Prevention in New York. In this report, the term was employed to define the acts of prostitution and gambling, protected by the public officers. Thus, initially, as "organized crime was considered illegal business involving politicians, police officers, legal officers and professional thieves, where their crime was organized"⁶. On the other hand, in Europe, for the first time "the notion of organized crime was employed in Italy (the notion of criminal organization of mafia type, 1982). The Ministers' World Conference "on organized transnational crime" (Naples 1994) adopted the UN's political statement and Global Action Plan against Organized Transnational Crime"⁷. For a long period of time, the organized crime continued to be identified with mafia, mainly the Italian one. "The organized crime encompassed the illegal activities of the well-organized members, a disciplined and engaged union in support of illegal services and trade, including: gambling, narcotics, threats at work and other criminal activities of the members of these groups"⁸.

In general, the organized crime has received treatment by researches as a complex, professional and worrying phenomenon for the whole globe, where the distinctions regarding its concept and definition prevailed for a long time: "It is called an organized crime because the professional criminals, on the occasion of committing a criminal act, they make plans and coordination specifically and due discipline"⁹.

Other authors provide that "Although there is no uniform definition of the organized crime, the criminal groups in Europe and beyond, make efforts to coordinate their activities and divide their areas of operation among themselves. The organized crime has recognized new developments in the types of criminal activities and the modes of their execution, by distinguishing the crime in Europe according to its international element"¹⁰.

¹ I. Salihi, E Drejta Penale Pjesa e Përgjithshme (Criminal Law General part), Prishtinë, 2003, p. 25

² I. Salihi, Drejta Penale Ndërkombëtare (International Criminal Law), Prishtinë, 2005, p. 306

³ R. Halili, Kriminologjia; citation p. 123

⁴ B. Pavicic, Savremeni Medjunarodni Kriminalitet, Pirucnik, nr. 3/91, Zagreb, cit. according to V. Vula, 2013 p. 22

⁵ V. Latifi & I. Elezi & V. Hysi, Politika e Luftimit të Kriminalitetit (Policy of Fighting Criminality), Juridika, Prishtinë, 2012, p. 194

⁶ V. Latifi, Kriminalistika (Criminalistics), Prishtinë, 2011, p. 259

⁷ V. Latifi, Politika Kriminale (Criminal Policy), Prishtinë, 2011, p. 239

⁸ V. Latifi, (Criminalistics), Prishtinë, 2011, p. 259

⁹ R. Halili, "Disa vepra të kriminalitetit të organizuar në Kosovë", E Drejta, nr.4, ("Certain offences of organized crime in Kosovo", Law, No. 4) Prishtinë, 2002 & R. Halili, Kriminologjia (Criminology), Prishtinë, 2002, vep, cit p. 137

¹⁰ V. Hysi, Kriminologjia (Criminology), Tiranë, 2005, p. 178

According to the DEA's specialists (*Drug Enforcement Agency*), "the organized criminality is defined as an illegal activity which is committed by criminal groups, whose primary activity is to violate the criminal laws during a certain period for profit purposes"¹.

Furthermore, other authors' opinions and findings have made special contribution in determination of the concept and definition of criminal organization. According to author Howard Abadinsky "the organized crime is a non-ideological enterprise involving a number of persons in close social interaction who are organized on hierarchical basis consisting of at least three levels, for the purpose of making profit and power, owing to participation in illegal and legal activities"².

At regional scope (for the members states of the European Union), a contribution regarding the definition of the organized crime has also been given by the European Union through the issuance of the Joint Plan dated 21st Dec 1992 "a criminal organization is called an organization which has a structure consisting of two or more persons, established to operate during a certain time and which commits crimes which are punishable under the law up to four (4) years of imprisonment or serious sentence"³.

With the purpose of broader scope, following ratification by the countries, a contribution to the definition of the organized crime was made by the United Nations in 2000 in Palermo where it adopted the UN Convention against Transnational Organized Crime⁴ which entered into force in September 2003. The article 2 of the said Convention sets forth as follows:

"Organized criminal group" shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

"Serious crime" shall mean conduct constituting a criminal offence punishable by a maximum deprivation of liberty of at least 4 (four) years or a more serious penalty;

"Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

By conducting a review of the findings made by various authors, including the review of legal acts adopted by international organizations, it can be concluded that the organized crime is the most threatening form of criminality which is present in specific forms all over societies, organized by three or more persons under the hierarchy of a leader, group order, loyalty, responsibility and solidarity among such members, with the will and purpose of making material profit, planning to commit illegal activities according to assigned roles for a long period of time.

With the fast development of technology and the global economy, there were also developed the methods and tools for combating and preventing criminal behavior which are manifested in the form of organized crime, as one of the most dangerous forms of crime in the modern world. Possession of certain characteristics, in deed, makes the organized crime the most dangerous form in comparison with all other criminal behaviours in society. The organized crime shows fast adaptation skills in new conditions and circumstances, by finding ways of making huge profits. ⁵ The development of technology, communication, larger options to move goods and services, have provided larger opportunities to transfer criminal activities⁶. The criminal behaviours have recognized new developments by evolving from the oldest forms of criminality to the latest ones according to the conditions and circumstances of social development.

¹ M.D. Moriarty, Organizirani kriminalitet, gradivo DEA seminar për kriminalistë Pulë, 1996, cit. sipas V.G.Vula fq. 27

² H. Abadinsky, "Organized Crime" Ninth Edition wadsworth – Belmont , USA, 2009, fq.5

³ V. Hysi hyrje në Kriminologji dhe Penologji (Introduction to Criminology and Penology), Tiranë, 2000, p. 52 cit. according to V.Latifi, Kriminalistika (Criminalistics) p.180

⁴ UN Convention "against Organized Transnational Crime", Palermo / Italy, 2000

⁵ Ibid

⁶ V. Latifi & I. Elezi & V. Hysi, Politika vep e cit..., p.148

With reference to the interpretation of the notion on organized crime provided by the United Nations Convention "against Organized Transnational Crime", the author Skënder Begeja, in his book "Kriminalistika" (Criminalistics), presents the following criminalistical characteristics of the organized crime:

1. The purpose to have everything by committing as many types of crime as possible.
2. The members of a criminal organization are required to fulfill their obligation from being loyal to giving their life.
3. A special characteristic is the hierarchical structure consisting of the head and his subordinates. Any deviation from this purpose leads to eliminatin of the criminal organization's member. This discipline lead to fulfillment of certain objectives.
4. Its main objective is the corrupted of goverment officials, officers in charge of tracking, investigation, adjudication and prevention of crime.
5. The selection of members of a criminal organization has been lately made by the persons who have good knowledge and can use modern information system, telecommunications, electronic mail, pyramidal schemes of money¹.

Legal treatment of organized crime under the Law of Republic of Kosovo

The dissolution of Socialist Federal Republic of Yugoslavia (SFRY) was accompanied with war between its constituent units and after the international military intervention, peace was restored in the region. The UN Security Council adopted the Resolution 1244 at its 4001th meeting in June 1999. Kosovo was placed under international civil administration which was accompanied with deployment of KFOR protection military structures and UNMIK civil structure. The establishment of this new reality was followed with creation of institutional and legal vacuum which was filed on 25th Jul 1999 through issuance of the Regulation No. 1999/1 by the United Nations international administration mission which determined the Authority of the Interim Administration Mission in Kosovo. This filing of legal vacuum continued through issuance of UNMIK Regulation 1999/24 on 12th Dec 1999 relating to definition of the law applicable in². Yet, there were still several legal

¹ S. Begeja, *Kriminalistika (Criminalistics)*, Tiranë, 2007, p. 640

² UNMIK/REG No. 1999/24, 12 Dec 1999

Article 1 APPLICABLE LAW

- 1.1 The law applicable in Kosovo shall be:
- (a) The regulations promulgated by the Special Representative of the Secretary-General and subsidiary instruments issued thereunder; and
 - (b) The law in force in Kosovo on 22 March 1989.

In case of a conflict, the regulations and subsidiary instruments issued thereunder shall take precedence.

- 1.2. If a court of competent jurisdiction or a body or person required to implement a provision of the law determines that a subject matter or situation is not covered by the laws set out in section 1.1 of the present regulation but is covered by another law in force in Kosovo after 22 March 1989 which is not discriminatory and which complies with section 1.3 of the present regulation, the court, body or person shall, as an exception, apply that law.

- 1.3. In exercising their functions, all persons undertaking public duties or holding public office in Kosovo shall observe internationally recognized human rights standards, as reflected in particular in:

- (a) The Universal Declaration on Human Rights of 10 December 1948;
- (b) The European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Protocols thereto;
- (c) The International Covenant on Civil and Political Rights of 16 December 1966 and the Protocols thereto;
- (d) The International Covenant on Economic, Social and Cultural Rights of 16 December 1966;
- (e) The Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965;
- (f) The Convention on Elimination of All Forms of Discrimination Against Women of 17 December 1979;
- (g) The Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment of 17 December 1984; and;
- (h) The International Convention on the Rights of the Child of 20 December 1989.

- 1.4 No person undertaking public duties or holding public office in Kosovo shall discriminate against any person on any ground such as sex, race, colour, language, religion, political or other opinion, natural, ethnic or social origin, association with a national community,

vacuums to combat certain forms of criminality which had not been of concern to the country before. For the purpose of establishing legal infrastructure to combat, prevent and punish all criminal behaviours which emerge as special forms of criminality, UNMIK issued its Regulation No. 2001/22 "On Measures against Organized Crime". The UNMIK Regulation No. 2001/22 provides the definition to the notion of organized crime; it further sets forth the measures and penalties which may be imposed upon the participants of organized crime, as well as the basic and qualified forms.

Article 1 of the said regulation defines the organized crime as follows:

- (a) "Organized crime" shall mean the commission of a "serious crime" by a "structured group" in order to obtain, directly or indirectly, a financial or other material benefit;
- (b) "Serious crime" shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years; and
- (c) "Structured group" shall mean a group of three or more persons that:
 - (i) exists for a period of time and acts in concert with the aim of committing one or more serious crimes;
 - (ii) is not randomly formed for the immediate commission of an offence; and
 - (iii) does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

According to UN Resolution 1244, the Security Council of United Nations vested with powers UNMIK to organize first parliamentary elections in 2001 which were characterized with a fair electoral process in accordance with electoral standards which process was followed with the establishment of provisional institutions of self-government – Kosovo Assembly¹.

With the purpose of completing the legal grounds to combat and prevent criminality, the Kosovo Assembly adopted on 6th July 2003 "the Provisional Criminal Code of Kosovo"² (PCCK) that entered into force on 06th April 2004. According to specific etiological and phenomenological characteristics of organized crime, including its vast social dangerousness, the Provisional Criminal Code of Kosovo provides treatment to this type of criminality under chapter XXIII which sets forth the criminal offenses against property.

Article 274, paragraph 7 of the Provisional Criminal Code of Kosovo provides the definition of the organized crime:

- 1) The term "organized crime" means a serious crime committed by a structured group in order to obtain, directly or indirectly, a financial or other material benefit;
- 2) The term "organized criminal group" means a structured group existing for a period of time and acting in concert with the aim of committing one or more serious crimes in order to obtain, directly or indirectly, a financial or other material benefit;
- 3) The term "serious crime" means an offence punishable by imprisonment of at least four years.
- 4) The term "structured group" means a group of three or more persons that is not randomly formed for the immediate commission of an offence and does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

property, birth or other status. In criminal proceedings, the defendant shall have the benefit of the most favourable provision in the criminal laws which were in force in Kosovo between 22 March 1989 and the date of the present regulation.

1.5 Capital punishment is abolished.

¹ A. Bajrami, *Sistemi Kushtetues i Republikës së Kosovës* (Constitutional System of Republic of Kosovo), Prishtinë, 2011, p. 244

² Provisional Criminal Code of Kosovo, Kosovo Assembly, Prishtinë, 2003, which entered into force on 20th April 2004.

With the adoption of the Criminal Code of Kosovo on 20th April 2012¹, it was foreseen the sanctioning of criminal offences. In harmony with the recommendations provided by the European Union, the said code was subject to important amendments relating to punishment of criminal offenders, introducing higher penalties in the form of fine and imprisonment, including the policy of combating criminality that was raised in the highest degree against organized crime through definition and sanctioning of the types of its emergence. The chapter XIII of the said Criminal Code provides definitions to the terms used where article 120, paragraph 13 provides definition to the term **Organized criminal group** – which means a structured group existing for a period of time and acting in concert with the aim of committing one or more serious crimes in order to obtain, directly or indirectly, a financial or other material benefit. On the other hand, the term **Structured union** - means a group of three or more persons that is not randomly formed for the immediate commission of an offence and does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

The Criminal Code of Kosovo of 2012, under chapter XXIV, sanctions the organized crime, respectively article 283 sets forth the criminal offence **“Participation in or organization of an organized criminal group”** in which it provides as follows:

1. Whoever, with the intent and with knowledge of either the aim and general activity of the organized criminal group or its intention to commit one or more criminal offenses which are punishable by imprisonment of at least four (4) years, actively takes part in the group's criminal activities knowing that such participation will contribute to the achievement of the group's criminal activities, shall be punished by a fine of up to two hundred fifty thousand (250, 000) EUR and imprisonment of at least seven (7) years.
2. Whoever organizes, establishes, supervises, manages or directs the activities of an organized criminal group shall be punished by a fine of up to five hundred thousand (500, 000) EUR and by imprisonment of at least ten (10) years.
3. When the activities of the organized criminal group provided for in paragraph 1 or 2 of this Article result in death, the perpetrator shall be punished by a fine of up to five hundred thousand (500, 000) EUR and by imprisonment of at least ten (10) years or lifelong imprisonment.
4. The court may reduce the punishment of a member of an organized criminal group who, before the organized criminal group has committed a criminal offense reports to the police or prosecutor the existence, formation and information of the organized criminal group in sufficient detail to allow the arrest or the prosecution of such group.
5. For the purposes of Article, “actively takes part” includes, but is not limited to, the provision of information or material means, the recruitment of new members and all forms of financing of the group's activities.

With the purpose of prevention and combating the forms of emergence of organized criminality, the institutions of Republic of Kosovo have also issued other legal acts which contain provisions that directly or indirectly treat various forms of organized criminality such as: the law on amendment and supplementation of the Law no. 04/I-05 on declaration, origin and control of property of senior public officials and declaration, origin and control of gifts of all public officials dated 7th April 2014; law on supplementation and amendment of the Law no. 03/I-174 on financing of political parties, as amended and supplemented with the law no. 04/I-058 dated 19th August 2013; the criminal procedure code dated 21st Dec 2012; law on amendment and supplementation of the law no. 04/I-072 on control and supervision of state border dated 19th Aug 2013; law against corruption dated 12th May 2005; law on amending and supplementing the laws related to the mandate of European Union Rule of Law Mission in the Republic of Kosovo dated 7th may 2014; law on protection of witnesses dated 12th Aug 2011; law on liability on legal persons for criminal offences dated 31st Aug 2011; law on prevention and fight of the cyber crime dated 2nd July 2010; law on preventing and combating trafficking in human beings and protecting victims of trafficking dated 19th Aug 2013; law on amendment and supplementation of the law no. 03/I-196 on prevention of money laundering and prevention of terrorist financing dated 26th Feb 2013; law on implementation of international sanctions dated 4th May 2010; other, which are considered as important local instruments in respect of prevention and combating of organized crime.

¹ Criminal Code of Kosovo, Kosovo Assembly, Prishtinë, 2012, which entered into force on 01 January 2013

Conclusion

Taking into account the findings provided by various authors in connection with the criminal characteristics of the organized crime, it can be concluded that the exercise of criminal activities by members of a criminal organization on continuous basis over a long period of time, under the planning and supervision of a leader, creates a professional criminal. The commission of criminal offences by these organizations, respectively by their professional members, is conducted as per the plan and distribution of duties, who are highly skilled and capable of, who use various advanced methods and techniques, who eliminate crime traces, who do not stay for a long time in one habitual residence, who know the techniques and tactics of police and other intelligence services, and whose activity expands at a global level by making professional use of their communications and transport income, including the general socio-economic condition.

In general, the organized crime is a complex phenomenon and highly heterogenic by adapting to the changing needs of economy and social and political institutions where it emerges and operates. Depending on the criteria taken for the basis of classification, the criminal phenomena emerge and operate in various forms of organized crime. Whereas, depending on the organization of a criminal group, they emerge and operate in various forms of criminal organizations.

Taking into account the treatment of respective provisions of aforementioned legal acts, it can be concluded that in terms of defining the notion of organized crime under the Criminal Law of Republic of Kosovo, such notion has been influenced by the international definition of the organized crime provided by the United Nations in 2000, in Palermo, on occasion of adoption of the Convention against Organized Transnational Crime which entered into force in September 2003. Additionally, it can be noted that the Republic of Kosovo has created a legal infrastructure, close to the European standards, which directly or indirectly, sanctions various forms of organized criminality in order to achieve to prevent and fight various forms of organized criminality which emerge in the Kosovo society.

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From Culturazing Nature to Naturalizing Culture: The Differing Function of Animal Imagery in Defining Bodies from Homer's *Odysseus* to Margaret Atwood's *The Penelopiad*

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Abstract

Feminist authors have long been trying to alter the patriarchal structure of the Western society through different aspects. One of these aspects, if not the strongest, is the struggle to overcome centuries long dominance of male authors who have created a masculine history, culture and literature. As recent works of women authors reveal, the strongest possibility of actually achieving an equalitarian society lies beneath the chance of rewriting the history of Western literature. Since the history of Western literature relies on dichotomies that are reminiscences of modernity, the solution to overcome the inequality between the two sexes seems to be to rewrite the primary sources that have influenced the cultural heritage of literature itself. The most dominant dichotomies that shape this literary heritage are represented through the bonds between the concepts of women/man and nature/culture. As one of the most influential epics that depict these dichotomies, Homer's *Odysseus* reveals how poetry strengthens the authority of the male voice. In order to define the ideal "man", Homer uses a wide scope of animal imagery while forming the identities of male characters. Margaret Atwood, on the other hand, is not contended with Homer's poem in that it never narrates the story from the side of women. As a revisionist mythmaker, Atwood takes the famous story of Odysseus, yet this time presents it from the perspective of Penelope, simultaneously playing on the animal imagery. Within this frame, I intend to explore in this paper how the animal imagery in Homer's most renowned *Odysseus* functions as a reinforcing tool in the creation of masculine identities and how Margaret Atwood's *The Penelopiad* defies this formation of identities with the aim of narrating the story from the unheard side, that of the women who are eminently present yet never heard.

Keywords: Body Politics, Feminism, Culture, Nature, Animal Imagery

"In the beginning there was nature"

Camille Paglia

Women's facts today are bound to the fiction of the past. Since the beginning of the twentieth century, women authors have been trying to change fiction in the very ancient times in order to free women from their handcuffs and give them back their voices, which were silenced for so long. In their celebrated work *No Man's Land* Sandra M. Gilbert and Susan Gubar trace the place of women authors in the twentieth century and from the very beginning they detect that women, even though implicitly or explicitly oppressed, have the power to fight back this "destiny" that has been set upon them. "The plot of sexual battle is of course as old as literature itself" (Gilbert and Gubar, 1988, p. 55) they write to reveal their perspective of the long-accepted version of human history. Their history, unlike the Christian Western Patriarchal ideology, begins with "legendary Lilith, who resists Adam's (and God's wish) to control both her body and her language" (Gilbert and Gubar, 1988, p. 5); giving the high role to Lilith as the first woman ever to resist the oppression against the male authority over her. In a quite interesting article entitled "Feminist Ecocriticism: A Posthumanist Direction in Ecocritical Trajectory", Serpil Opperman (2013) further explains the illusionary binary oppositions of body and mind, matter and discourse, anthropocentric-phallogocentric and gynocentric world views created by the patriarchy of the Western world and further discusses how feminist struggles could be linked to ecological struggles since both counter all social systems of domination (p. 32-3). Nevertheless, the image of women never really changed since Lilith, with all the wide variation of examples from myths, fairy tales to epics which have inspired a male dominated world to carry on with the similar points used in poems,

plays and novels which aided the forces who needed the women to be kept under control, without the ability to talk back, resist or runaway to their own quests in their lives. Literature is the perfect device for women to find the power they need, by using "narrative as a discourse of authority and legitimation" (Brewer, 1984, p. 1145) women may establish their own place in the society, finally being able to have "a room of one's own" as Woolf had so insisted upon.

As one of the prime epics of the Western culture, Homer's *Odysseus* not only represents the defining myths of the Western patriarchy, but also reinforces the social order that attains the story-teller as the main male author(ity) who holds the power to construct the reality surrounding him. Providing solely the voice of Odysseus, a manner not surprising considering the patriarchal Greek society who only cherishes the male nobility, Odysseus leaves the story of a major character, Penelope, untold. As Robinson Crusoe, another Western "Cultural Hero" who also mentions the existence of a wife but never tells her story, Odysseus, too, only refers to Penelope when it suits his patriarchal desire of establishing an image that portrays a faithful wife, strictly respecting his authority and protecting his household even during his absence. As Toril Moi (1985) suggests with her underlying argument based upon Helene Cixous, "patriarchal binary thought" that creates a polar opposition between such concepts as "activity/passivity", "culture/nature", "father/mother" and "logos/pathos", "each opposition can be analyzed as a hierarchy where the feminine side is always seen as the negative, powerless instance" (p. 104). Within this frame, fused by the enlightening perspective provided by a postmodernist outlook, Margaret Atwood's *The Penelopiad* narrates the story of Penelope from her side, deconstructing the male authority over language and storytelling while giving insight to Odysseus' story from the female perspective. What is further interesting in both tales is the use of animal imagery while defining female and male bodies. The continuous matching of the male body with metaphors and images as connotations of nature –specifically predators– in both works suggest an interesting fact that reveals Atwood's revisionist narrative technique not only reconstructs the epic of Odysseus but also leads readers to become aware on the issue of how the perception of the female and male bodies have changed by shifting these definitions from *Odysseus* to *The Penelopiad*. Notwithstanding, "[t]he identification of woman with nature is the most troubled and troubling term in this historical argument" writes Paglia (1991) and asks, "[w]as it ever true?" (p. 9). The changing outlook on nature, once upon a time demonized for the sake of humanism as it was cherished during the age of enlightenment that led to the "modernity project" in the west, yet purified through ecocritical approaches to culture and literature also has an effect on the perception of the female bodies which can be seen within *The Penelopiad*. Therefore, I intend to explore in this paper how this perception of the female and male bodies change from the narrative echos in *Odysseus* to Atwood's *The Penelopiad* by analyzing the animal imagery used in order to define male and female bodies within both works.

The ideology of the modernity project, accelerated by the thoughts that were revived with renaissance and later on had gained extreme importance with the age of enlightenment, took humanism at its core and argued that the humans were the centre of the universe. Susan Bassnett (1993), in her *Comparative Literature: A Critical Introduction* writes "[t]he notion of cultural history as the story of progress towards modernity derives in part from a belief in superiority of the present. From that position, critics have looked back and constructed a canon of great works what stand like beacons along the road to enlightenment" (p. 137). Even though it was labelled "humanism" the term itself merely suggested white western males, never giving place to any other group at the centre. This marginalization of the others was not only reserved for class or race, but more interestingly gender. Any member of the society outside the core remained underneath the social hierarchical level. Holding this patriarchal gaze at the centre, this anthropocentric ideology was bound to push binary oppositions to its extreme. Not only did it deepen the gap between the female and male bodies but also reinforced gender roles between women and men. Assigning the role of perfecting human nature to men, this perspective held culture, the road to perfect civilization above nature, the wilderness that had to be controlled and dominated. Forgetting the mother Gaia, the myths were reinterpreted to give power to the "father" Zeus. As Paglia states (1991), "[t]he evolution from earth-cult to sky-cult shifts woman into the nether realm. Her mysterious procreative powers and the resemblance of her rounded breasts, belly and hips to earth's contours put her at the centre of early symbolism. She was the model for the Great Mother figures" (p. 8). Nevertheless, since Greek culture was held as the core of civilization, the myths and epics that influenced the society to such advanced philosophy were inescapably effective upon the founding of the anthropocentric view of humanism. Within this frame, *Odysseus* is remarkably significant in explaining and reflecting the Greek culture that was thought as the model for cultural development for the Western civilization. Since it reinforces the cultural myths of a culture that led to present western civilization and state of mind, one can assert in a much structuralist manner that *Odysseus* captures the spirit of a society which holds male as the authority that can construct reality through his own language. While using images such as "stallion", and "lion" to define "heroic" Odysseus, one finds that Penelope is rather described through words that have submissive connotations such as "chaste" and "discrete" which cuts a role for her nothing but the "wife" in a hero's story. In

his definition translated by William Cowper (1791), one reads only the definition and matching of Odysseus with nature, never giving place or importance towards Penelope herself. Indeed, Odysseus is defined as;

[. . .] divine Ulysses from beneath
 His thicket crept, and from the leafy wood
 A spreading branch pluck'd forcibly, design'd
 A decent skreen effectual, held before.
 So forth he went, as goes the lion forth,
 The mountain-lion, conscious of his strength,
 Whom winds have vex'd and rains; fire fills his eyes,
 He find, he rends them, and, adust for blood,
 Abstains not even from the guarded fold [. . .] (VI. 154-162)

As can be seen, Odysseus is described as the "king" of predators and nature itself which only suits a male hero. He has the power to control and "devour" any other living creature since he stands as the centre of power while other female characters in the epic are left undescribed in terms of imagery, usually depicted with abstract words that signal their chastity, purity, seductive or cunning qualities with an exception of certain female characters defined with plants that also reveals how the male perception of the female body expresses the need to "cultivate" women.

Indeed, when scrutinized Homer's narrative reveals how he uses nature's hunters such as the "lion" to depict the male hero while attaining plant names such as "Sage Euryclea" to give insight to the female "nurse". This depiction, however, drastically changes from Homer's narrative to Atwood's. The more the gap between humans and nature deepened, the more the definitions of the bodies changed. Defining female bodies with animal imagery may once be considered as inferiorating since the male body was the core of everything beautiful and noble; Nevertheless, in the present century as some ecocritical feminists as Serpil Opperman argue, nature itself should not be underestimated, yet be respected. What Margaret Atwood does in *The Penelopiad* is again using animalistic adjectives to shift the power of the hero to the heroine. Penelope and other women are now at the core of the story, therefore their story is to be told through the close relationship with nature. Interestingly, while the male bodies in *Odysseus* are defined by the hunters and wild animals that try to control others to be the "king" of nature, female bodies in *The Penelopiad* seem to be in perfect harmony with nature.

This hunter/prey dichotomy is also reflected in Atwood's narrative with the lines that depict a nightmare of Penelope's which "concerned [her] flock of lovely white geese, geese of which [she] was very fond [. . .] pecking around the yard when a huge eagle with a crooked beak swooped down and killed them all, whereupon [she] wept and wept" (Atwood, 2006, p. 139). Furthermore, Atwood mocks the patriarchal power of the father by revealing the strength of the patriarchy by stating how politically and economically Penelope is the source of power. "[I]f I stayed in Ithaca" utters Penelope, "and married one of the noble puppies, that puppy would become the king, and his stepfather, and would have authority over him" (Atwood, 2006, p. 110), underlying her own power while taking away the "natural" power given to men to rule. Notwithstanding, Atwood cherishes this bond with nature changing the connotations of these metaphors and, further, deconstructs the hierarchies and illusionary detachments that declare humans and nature as two distinct beings. One reads in Atwood at the very beginning of the story how Penelope "know[s] everything" once she is "dead" (p. 1) and when she screams she "sound[s] like an owl" (p. 2) and at the very end how "[t]he maids sprout feathers, and fly away as owls" (p. 196). The maids are at this point crucial in understanding Atwood's perspective of the story: "Though the comic (and satiric) chorus immediately recalls those in Aristophanes, through their debunking, light-hearted burlesque Atwood makes a more serious point; the maids function as a tragic chorus, commenting on the actions of the hero, Odysseus (and in a later chorus, Penelope)" (Suzuki, 2007, p. 272). Thus, the "owl" as an animal with connotations of wisdom, and mourning, suggests that

usually too much wisdom brings suffering, as Cassandra who can foresee the future but neither can alter nor persuade anyone to believe herself. "[t]oo wit too woo" cry the maidens in *The Penelopiad*, who have "no voice", "no name", "no choice" but "one face" (Atwood, 2006, p. 195), offering a pun that "too" much "wit", or in other words awareness and wisdom, is only to "woe". They see and perceive everything around them while serving the noble men, yet no one actually pays attention to their knowledge. As the owls of the society, they stand aloof, symbolizing wisdom and sadness simultaneously. It can be inferred in parallel with Hilda Staels' (2009) argument that by placing the maids as the chorus, "[t]he threshold with the real, contemporary world of the biographical author is even transgressed, when Atwood makes explicit in the paratextual 'Introduction' that she has 'always been haunted by the hanged maids' (XV) like Odysseus and Penelope in the main text" (p. 106).

In *Writing Beyond the Ending*, Rachel Blau Duplessis (1985) writes that "[w]hen a women writer chooses myth as her subject she is faced with material that is indifferent or, more often actively hostile to historical considerations of gender, claiming as it does universal, humanistic, natural or even archetypal status" (p. 106). Therefore, one can claim that Atwood's attempt to give Penelope's perspective of the story aims to demolish the fixed archetypes in the Western patriarchal society that cannot be shaken unless canonical works, such as *Odysseus*, are rewritten, as she does in *The Penelopiad*. In "Is Female to Male as Nature Is to Culture?" Sherry B. Ortner (1982) suggests that "universality of female subordination, the fact that it exists within every type of social and economic arrangement" is "something very profound, very stubborn" (p. 67). This profound, "stubborn" subordination of women has been established since the very ancient times ever since culture was held above nature. Since the female body was regarded as being closer to nature, it was also regarded as being more vulnerable to oppression and needed to be controlled and manipulated. According to Camille Paglia (1991) feminism "has exceeded its proper mission of seeking political equality for women and has ended by rejecting contingency, that is, human limitation by nature or fate" and we are but "hierarchical animals" at core (p. 3). In *Odysseus*, one indeed has very little information towards female bodies, yet there are many references that empower the male body as the more "beautiful" and "strong" one when compared to the female body. The case of Calypso is here of importance since even though she is defined as a "divine nymph", she seems like a *femme fatale* with her mesmerizing effect upon Odysseus. Furthermore, "The awful Circe, Goddess amber-hair'd" whom Odysseus depicts as a bewitching character that forces him to stay on the island is also defined through a plant which can be raised and controlled (X, p. 166). In *The Penelopiad*, however, the relationship between Odysseus and Circe is juxtaposed by revealing the female side of the story in which Odysseus and his men forcefully disturb the peaceful island of Circe and use both her and her maids for the service of his crew. Atwood (2006) illustrates this scene by writing "[o]n the island of Circe we were turned into swine, /The he ate up her cakes and he drank up her wine, /For a year he became her blithe lodger!" (p. 95).

Even though Atwood does not give detailed reference to Circe in *The Penelopiad*, she creates a mud woman in her *Circe/Mud Poems*. It can be stated that "Bakhtin's formulation of the dialogic quest does not see: how to liberate oneself from the dominant languages that have silenced the female" (Larson, 1989, p. 30-31); Nevertheless, Atwood seems to find a way to break through the formulations. By rewriting the story of Circe in the *Circe/ Mud Poems*, only this time from the notorious goddess Circe's perspective, Atwood gives the misunderstood, or rather the misjudged goddess her long silenced voice back; she gives her the chance to address Odysseus directly as "you". Circe's tongue may not have been cut out in a brutal manner, but her voice was taken away by other means, by cutting her side of the story off the pages of the history of literature. There are twenty-four poems in *Circe/Mud Poems* with occasional paragraphs written in prose as if defying the twenty-four chapters of Homer's *Odysseus*. With Circe's resisting, even mocking language of Odysseus, Atwood sets her stance against the traditional male dominated perspective in literature. Furthermore, the mud woman becomes a symbol for women, gathering all the features of subjugation carried out by men in just one body. Atwood (1976) writes:

When he was young he and another boy constructed a woman out of mud. She began at the neck and ended at the knees and elbows: they stuck to the essentials. Every sunny day they would row across the island where she lived, in the afternoon when the sun had warmed her, and make love to her, sinking with ecstasy into her soft moist belly, her brown wormy flesh where small weeds had already rooted. They would take turns, they were not jealous, she preferred them both. Afterwards they would repair her, making her hips more spacious, enlarging her breasts with their shining stone nipples. (p. 214)

The boys prefer to "stick to the essentials" for the woman does not need a head, hands or legs, for the head would mean her own thoughts, and a tongue to express them, hands would mean resistance to push back and the legs would allow her to run away to whenever she wanted. If she was complete, she would be free in her own decisions, not paralyzed and

confined to the earth. The society has been tying the women to the nature since the ancient times as Sherry B. Ortner (1982) argues in her essay *"Is Female to Male as Nature is to Culture?"*. Therefore, according to the ones who "shape" her, the only function of the mud woman is to lie there on the ground, vulnerable to any kind of abuse by men, and without any breath to inhale freedom. Similarly, in *The Penelopiad*, one reads that Penelope is only free when she is set free from her physical body: "Since being dead – since achieving this state of bonelessness, liplessness, breastlessness – I've learned some things I would rather not know, as one does when listening at windows or opening other people's letters" (Atwood, 2006, p. 1).

When one searches the roots to the differing representations of female and male bodies while analyzing two works that have been written in a length of time that widens through ages, one finds that the reason to this state could be found within the phallogocentric state of mind of the West that protects the patriarchal society through binary oppositions that cherishes the male mind and body. What is further worth mentioning is that this protection is not only provided by the males but also by the females, too, who find the only option of escape in trusting the masculine state of power. Euryclaea, for instance, is the invisible matriarchal force behind Odysseus, ever hiding her importance yet always fierce in revealing her support and "fandom" of Odysseus himself. In *The Penelopiad*, this shift of Euryclaea's character is quite interesting with her positioning as the "mother-in-law" against Penelope herself which suggests the modern day stereotype of the mother embracing her son against the daughter-in-law trying to control her husband. What Atwood tries to deconstruct in *The Penelopiad* is these stereotypical relationships and representations of women while offering a gynocentric perception towards art and literature, as Elaine Showalter would also argue in terms of gynocriticism. "The program of gynocritics" states Showalter (1986), "is to construct a female framework for the analysis of women's literature, to develop new models based on the study of female experience, rather than to adapt male models and theories" (p. 131). She further explains the importance of such a deconstructive approach to a phallogocentric world view by stating that "Gynocritics begins at the point when we free ourselves from the linear absolutes of male literary history, stop trying to fit women between the lines of male tradition, and focus instead on the new visible world of female culture" (p. 131).

In alliance with Showalter, in order to deconstruct and reinvent the cultural myths, Atwood initially changes the linear epic form into that of a circular form of a novella with its many chapters, assigning a procreant function to the genre of novel itself. According to Hilde Staels (2009),

The Penelopiad both spatially and temporally sets contemporary against ancient times, which is a common feature of the menippea. The idealization of the distant past is destroyed when the contemporary female narrators discursively cross the threshold between the present 'here' in the Greek Underworld and 'there,' the readers' contemporary world, [. . .] The boundary between the time of the ancient epic and that of the contemporary novel is also crossed when the maids summon twelve angry Furies to take revenge on Odysseus during the twenty-first-century trial. (p. 106)

Moreover, while Homer's *Odyssey* is quite linear, one finds that *The Penelopiad* is quite cyclical, a perspective quite close to what Paglia (1991) states in her *Sexual Personae* by writing that "[n]ature's cycles are woman's cycles" (p. 9). The novel indeed starts with the "death" of Penelope with a time perception that transgresses all borders that provides the reader with multiple aspects, even that of the maids' who play an important yet usually overlooked role in the story of Odysseus. While Euryclaea describes these maids as "[t]he impertinent ones. The ones who'd been rude. [. . .] They were notorious whores" (Atwood, 2006, p. 159-60), Penelope redefines this sentences by saying "[t]he ones who'd been raped", "[t]he youngest. The most beautiful. [. . .] My helpers during the long nights of the shroud. My snow white geese. My thrushes, my doves" (p. 160). The interpretation of Penelope's dream by Odysseus in disguise suggest that the maids have been slain as a sacrifice to Odysseus and Penelope. In Homer's version, it is written that, "[t]he slaughter'd geese/Denote thy suitors. / I who have appear'd/An eagle in thy sight, am yet indeed/Thy husband, who have now, at last, return'd, /Death, horrid death designing for them all" (XIX. p. 161-6). Hence, it can be concluded that,

Atwood thereby revises the *Odyssey* where Odysseus's men constituted 'the many' in contrast to Odysseus as 'the one' so that in *The Penelopiad* it is the maids who constitute 'the many' of Greek epic and tragedy. But Atwood endows the maids, though outsiders, with a privileged perspective and voice as satirists who eloquently critique the ideology of the dominant order that normalized their slaughter by condemning them as unchaste and disloyal. They debunk the gender privilege that Odysseus holds over them, complaining about the sexual double standard that condones his adultery while finding their liaisons deserving of deadly punishment, and his possession of 'the spear' (Suzuki, 2007, p. 272)

Atwood uses such a technique to further display the fragmented representations of the female body. Dragged between either being a virgin, a mother or an evil seductress, the female body depicted in *Odysseus* reveals the perception of patriarchal societies of the West that try to subordinate women, whereas in the female bodies in *The Penelopiad*, brings together all distinct representations as a patchwork, attempting to reunite all fragments of the female body and its connotations together to form a depiction that strengthens the hand of women trying to gain equality in the present century.

Having considered the change between the two works, it can be inferred that the Western civilization formed upon epics such as *Odysseus* reveals the major premises upon which female bodies have been subordinated and silenced. With *The Penelopiad*, on the other hand, Margaret Atwood, as a successful revisionist mythmaker, shakes these "stable" grounds that patriarchy relies on by deconstructing a whole tale narrated by the "father tongue" and instead constructs "mother tongue(s)" to provide a more objective and equal picture of women and their role in the society which can never be limited to being a daughter, a wife and a mother but in every case a maid.

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Civil-Legal Protection of Copyright and Related Rights in Kosovo

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Abstract

Copyright is a subjective right of absolute character that has a special importance for dignity. Bearing in mind the fact this right and other related rights are being violated constantly in different ways, there have been attempts in establishing a regulatory framework which guarantees the protection of this right. It is worth emphasizing that protection of this right and other related rights can be done in various ways such as: civil-legal protection, criminal-legal, administrative-legal, international legal and protection through arbitration. Active legitimacy to initiate procedure for civil-legal protection of copyright and related rights has the author or the winner of exclusive authorizations. The initiation of this procedure is done through a lawsuit under civil procedure rules and the Law on Copyright and Related Rights. However to get to this first it has to come to violation of copyright or related rights. It must be emphasized that legal framework in Kosovo determined cases which constitute the violation of copyright and related rights. Concerning this, under the Law on Copyright and Related Rights it has been specified that as violation shall be considered the use of any copyright without permission of the author. Thus, for instance in Kosovo and in many other countries piracy is a social phenomenon that violation reaches that degree sometimes is created the impression that user does these actions on a regular basis. In Kosovo is not in favor of these trends the lack of legal framework providing protection of copyright and related rights, but inaction of particular state segments in order to exercise proper supervision for implementation of legal framework in protection of those rights. By having this in mind, is noticed clearly the importance of protection copyright and related rights. Consequently it should come to the fulfillment regarding terms protection in order to ensure civil legal protection of copyright and related rights. Concerning this it could be said that initially must be ascertained the violation of copyright. In the following in order to be established the liability of offender it is necessary to prove the culpability or culpable action of user of copyright. Also is very essential the causal link between undertaken action and caused consequence respectively infliction of damage to author or holder of that right. Therefore, in order to be established the liability of particular subject for violation of copyright and related rights is necessary to be fulfilled the abovementioned conditions in a cumulative manner, which shall be handled separately in the following of this scientific paper.

Keywords: Law, Author, Protection, Civil-Legal, Damage.

Introduction

Copyright as subjective right of special importance for dignity is important to be protected due to the fact from usage of this right to benefit the author or the holder of this right. It is evident that in current economic developments occur violations of copyright and related rights and especially due to this reason the relevance of handling this scientific paper shall never pass. In order for the protection of this right to be more efficient and comprehensive it has been classified the protection of copyright in civil-legal, administrative-legal and criminal-legal context. There may also be international protection and protection through arbitration.

We shall focus on civil-legal protection of copyright and related rights. It shall be handled in detail the meaning of this protection. Also, very carefully shall be handled the conditions of protecting this right in order to identify the elements within

these conditions. In other words, shall be handled separately all the characteristic elements of this protection concerning protection of copyright and related rights.

Methodology

The realization of this scientific paper shall be done by using contemporary research methods. We shall be focused in civil-legal protection of copyright and related rights. In order to better identification of elements characterizing this type of protection shall be analyzed carefully all the elements in a separate manner being present at civil-legal protection. It is true there are difficulties when is known that economic developments can lead to various violations of rights by including also copyright and related rights which are closely linked to economic developments, however through analytical method shall be analyzed theoretical treatments and legal definitions and shall be reached in particular conclusions that shall clarify the importance of this protection and the characteristics of its composition.

Civil-Legal Protection of Copyright and Related Rights

Civil-legal protection is one of the protection manners in this field that can be conducted only in the case of violation of any of Copyright and Related Rights (Marković, 2002, pg. 365). Holder of copyright or the winner of exclusive authorizations in this matter have active legitimacy in initiating procedure for civil-legal protection of copyright and related rights in case of their violation. (LCRR, article 2, 6, 19, 177 and 181, LCP, article 152). This procedure shall be initiated by lawsuit in accordance with rules of civil procedure and the Law on Copyright and Related Rights (LCRR, article 5, 6, 177, 181), due to the fact the author has exclusive personal and property authorizations for protection of inviolability of author's work and its personality (non-property rights of the author), (Hennenberg, 2001, 199-299). In other words the author when exercising the right which belongs to as a subject of intellectual property for its work protects moral and material rights guaranteed by domestic unified legal framework (LCRR, article 5, 6, 17-21). The moment of filing a lawsuit in court is very important because from this moment commences civil judicial process for civil-legal protection of copyright and related rights (LCP, article 152). The holder of copyright and related rights or the winner of exclusive authorizations, by filing a lawsuit may require from the court to prove the violation of rights determined by law (LCRR, article 6, 7, 8). The plaintiff is obliged to present facts on which bases its claims (LCP, article 319) so in this way court after completion of procedure of evidence to decide justly the legal issue (Alishani, 2003, pg. 991), according to lawsuit because proving facts it has a crucial importance in issuing the decision on merits, by means of which shall be concluded that actions of the defendant by which has been violated copyright or related rights represent the guilt of the defendant which at the same time is a condition for establishing liability for violation of that right (Zivkovic, , 1972, pg. 19). However, it is worth emphasizing in the process of proving facts, sometimes is sufficient only the fact of violation of copyright and related rights. But in this process, for ascertainment of liability towards subjects (natural and legal persons) which undertake unlawful actions by means of which shall be violated copyright and related rights, is required a careful action because unlawful actions of particular subjects can be undertaken by intent or negligence (Vuković, 2005, pg. 11). Those elements, are present in contemporary law, as in legal framework, in doctrine and case law as well, (Hennenberg, 2001, pg. 200). Legal framework in Kosovo has specified clearly which actions violate copyright and related rights. The Law on Copyright and Related Rights has counted cases which constitute violation in this field. So, according to this law is considered a violation of copyright when user without permission of the author uses any of his right. If without the permission of producer records interpretation and uses for benefit material. Afterwards, if without the permission of producer of phonograms, videograms, program, database, the user uses to achieve certain benefits. Violations of copyright regarding this field are common occurrence so there is an impression that it cannot be obstructed the violation of copyright and related rights. Thus for instance, in Kosovo as well as in many other countries piracy is a social phenomenon violation reaches that degree sometimes is created the impression that user does these actions on regular basis. In Kosovo is not in favor of these trends the lack of legal framework providing protection of copyright and related rights, but inaction of particular state segments in order to exercise proper supervision for implementation of legal framework in protection of those rights. However, it is worth emphasizing in favor of these negative trends goes also weak economic regulation, market disorder, incomplete application of that regulatory and judicial instability. From abovementioned factors holders of copyright and exclusive authorizations suffer damage continuously, so from these things several countries, among others Kosovo as well losses every year. Due to this reason the most developed west countries insist rigorously to enforce rules for civil-legal protection of copyright and related rights. In Kosovo, in order to realize this protection is necessary to be fulfilled particular conditions in order the offender of these rights to be liable for

the inflicted damage. However, it must be emphasized these conditions are not specified by legal doctrine, case law nor from regulatory but derive from the case itself.

Terms of Protection

Judicial protection of holder of copyright and related rights or the winner of exclusive authorizations it may be realized, if in the judicial process initiated by lawsuit for protection of these rights is concluded that have been fulfilled the necessary conditions in providing the required protection. Initially is concluded that there is a violation of copyright and related rights because the violation of these rights is essential and sanctioned (LCRR, article 177-179). In order to be established the liability of offender of copyright and related rights it is necessary to be proven in judicial process the culpable action of user of the right. The illegality of his action and casual link between undertaking the action of user of the right and caused consequence and the violation of copyright to have inflicted a considerable damage (Dauti, 2013, pg. 168). Thus, in order to be established the liability of particular subject for violation of copyright and related rights is necessary to be fulfilled abovementioned conditions cumulatively (Zivkovic 1972, 8).

Violation of Copyright and Related Rights

Violation of copyright and related rights is a condition of essential importance in order to be ascertained that has been violated copyright, holder of exclusive authorizations and related rights. The Law on Copyright and Related Rights has specified clearly that subjects may require the protection of rights and respective indemnification if there has been a violation of rights protected by law (LCRR, article 177-188). Therefore it can be said that violation of these rights is a sufficient base for initiation of procedure in protection of property and moral rights of author by presenting evidences in order to prove that has been a violation of his right. So, for instance, the performer of work has an exclusive right for protection of its property and moral rights (LCRR, article 17-21, and 130-137), due to the fact interpretation is a spiritual creativity of performer which shall be manifested by its engagement for visual and technical issues, as well as for audiovisual presentation of the work in public (Hennenberg, 2001, pg. 200). Similar violation exists also in cases when the user without the permission of phonograms's producer violates the sound recorded on the soundtrack, because the producer of phonograms has the exclusive right to allow or stop processing of its phonograms. (LCRR, article 138). There is a violation of copyright and related rights also in cases when without the permission of videograms's producer are used pictures of videogram or in any other manner there is a use of pictures and recorded tone in videogram (Alishani, 2003, pg. 993).

Guilt

Guilt or culpable action of user of the right is another condition for realization of civil-legal protection of copyright. There is a culpable action of copyright user when the usage of any right is done without permission of the author or the user acts like he has the permission, or does this with false permission. When it comes to this condition it must be emphasized this is a principled determination. It is worth to emphasize the fact there are different points of views concerning this condition. One has to deal with the fact of existence of violation, by whose confirmation emanates the liability for a particular violation, which means the violation of copyright and related rights is a sufficient fact for initiation of protection of these rights. Therefore, guilt or culpable actions are not important facts in establishing liability but they can be influential in realization of compensation.

The other point of view has to deal with the fact the violation is committed with guilt or culpable behavior of the user of law. In other words, culpable behavior or user's guilt of law, whether by intent or negligence of the user of law is a necessary condition in order to be established the liability in this field, because from those actions the holder of copyright and related rights suffer damage, which in the process of protection these rights shall provide sufficient evidences in order to prove culpability or culpable action of user of these rights, because without this there is no liability (Dauti, 2004, pg. 165, Radišić, 1979, pg. 169).

Illegality in Action of User of Copyright

To create conditions for initiation of procedure for judicial protection and liability for inflicted damage due to the violation of copyright and related rights, it is necessary the existence of unlawful action of user of copyright and related rights. So, the

user must have acted contrary to the rules of objective law (Zivkovic, 1972, pg. 13), therefore, when the user of copyright and related rights has unfairly used them (Tutulani-Semini, 2006, pg. 109). So, it is worth to be emphasized that illegality exists when the action of copyright and related rights user is not in accordance with legal norms, and consequently also the infringement of subjective copyright or the violation of legal interest for protection of which were created these legal norms. It must be stated the illegal action of user of abovementioned rights can exist as in infringement of property rights as well as in infringement of non-property rights of the author and related rights. Due to this reason, the illegal action inflicts the violation of law provisions regarding copyright and related rights as well as provisions of other laws related to copyright. It must be emphasized that legal doctrine of this field nor judicial practice concerning these conditions are not transparent in appropriate degrees, therefore it has to be discussed, because this is a present objective condition also in this field, because every unlawful usage of these rights and or in any prohibited manner it has an illegal influence. The existence of this condition does not exclude general rules of illegality (Hennenberg, 2001, pg. 200 dhe 205, Milloshević, 1975, pg. 151, Alishani, 2003, pg. 994).

Casual Link

A condition for realization of civil-legal protection of copyright and related rights is also the casual link between the undertaken action and caused consequence. Therefore, the inflicted damage due to the unlawful use of any of copyright and related rights must be in a casual link cause-consequence. However, the consequences in this case carries the holder of right or the user of authorizations, but undertaken actions by the user of right by means of which is violated copyright or related rights shall be adequate with inflicted damage from these actions (Alishani, 2002, pg. 466, Dauti, 2013, pg. 162). Therefore, action and consequence must be a direct result (Tutulani-Semini, 2006, pg. 254). Usually by those actions shall be violated any form of copyright or any other form of related rights. So, this specifically means the violation of any copyright, the right of performer of work, the right of producer of phonograms, videograms, producer of emissions and the right of producer of database. Infliction of damage from violation of any of abovementioned rights proves the existence of casual link between the undertaken action and caused consequence. Court in determining the liability of subject for inflicted damage and the determination of its height must bear in mind influential facts and circumstances. So, it is known that court in this process must take into account the rules of condition regarding casual link. Therefore it must be noted always in the process of determining liability for violations in the field of copyright, by bearing in mind the nature and specifications of this branch of the law, shall be leaned toward affirmation of casual link as a condition in establishing the liability for inflicted damage in this matter (Dauti, 2004, pg. 160, Milloshević, 1975, pg. 156, Milič, 2000, pg. 219, Alishani, 2002, pg. 466).

Infliction of Damage from Violation of Copyright and Related Rights

Infliction of damage is an essential condition for realization of civil-legal protection of copyright and related rights. The damage could be caused to the holder of copyright and related rights when the user of these rights uses without permission any of these rights. The damage has to be inflicted by unlawful action of user of these rights (Tutulani-Semini, 2006, pg. 254), which can be of property and non-property nature. These forms of damage are evident and have its importance, therefore shall be analyzed separately all forms of the damage (Alishani, 2002, pg. 458, 460, 465, Dauti, 2013, pg. 158, Tutulani-Semini, 2006, pg. 251).

Non-Property Damage (Moral)

Violation of copyright which contains personal exclusive authorizations in order to protect the integrity of work and personality of the author inflicts non-property damage (LCRR, article 6, 17, 18, 19). The holder of exclusive authorizations has the active legitimacy to require compensation of damage due to the violation of copyright or performer of author's work, by taking the obligation to present evidences that it has caused the damage of this nature and it is presented to the court lawsuit for compensation (LCRR, article, 181). The violation of moral copyright and performer is evident also in judicial practice, therefore for illustration of this conclusion shall be presented several facts from judicial practice. So in this case is emphasized: To the author is known the right to non-property damage compensation inflicted as a result of violation of moral rights, which means regarding this in judicial practice is taken a principled attitude in order to be recognized to the damaged party the right in compensation of damage caused from violation of these rights. Indemnification of non-property damage in this field is specified by the law (LCRR, article, 181). This law except proper compensation due to the violation of these rights foresees also other measures providing the possibility of compensation (LCRR, article, 184-186). However,

when it comes to non-property damage and its compensation it is important to specify the height of this compensation, because the rules of LCRR, as special rules do not specify the height of compensation of this damage, but in this case this issue is regulated by general rules of civil liability for inflicted damage. So, for this form of damage as basis for determining the height of compensation serve law provisions (Law on Obligations, articles, 182-183) as general provisions (Tutulani-Semini, 2006, pg. 277, Alishani, 2002, pg. 465, Dauti, 2013, pg. 158, Aliu, 2005, pg. 58, Radišić, 1979, pg. 166).

Property Damage (Material)

Material damage is caused by violation of economic copyright deriving from the creation of a work in a form determined by law (LCRR, 5, 6, 8, 21). The holder of copyright in the case of infringement of exclusive rights may require the compensation of material damage according to the law (LCRR, article, 181. 1 and 181. 4). Therefore, it is worth emphasizing that for indemnification of material damage, except rules of LCRR as special provisions (*lex specialis*) shall be applicable also provisions of the Law on Obligations (169), for indemnification of material damage as general provisions (*Lex generalis*). It should be noted that many cases of material damage are evident also in judicial practice, as well as its compensation due to the violation of property rights of the author according to LCRR derive from the creation of work (Tutulani-Semini, 2006, pg. 251, Dauti, 2013, pg. 159, Alishani, 2003, pg. 995).

Lawsuit Due to the Violation of Copyright and Related Rights

Procedure for protection of copyright and related rights shall be initiated by lawsuit. Lawsuit is a main remedy by means of which shall be required civil-legal protection of these rights, (Alishani, 2003, pg. 997, Tutulani-Semini, 2006, 208, LCT, article 252). In civil proceedings lawsuit shall be filed by the author or holder of exclusive authorizations, (LCRR, article 177). Besides these subjects the lawsuit for protection of these rights shall be filed also by their heirs or authorized representative (LCP, Article 85). By having in mind the fact lawsuit is filed in cases of violation of copyright and related rights, particular subjects which have the legitimacy in filing a lawsuit by means of which commences civil proceeding, by lawsuit they may require cessation of violation of any copyright and related rights, as well as compensation for property and non-property damage inflicted by that behavior, (LCRR, article 181). However, it is important to note that is necessary for the lawsuit to contain facts upon which the plaintiff bases the request and evidences by means of which shall be proven the facts that has been violated any of copyrights and related rights (LCP, article, 252, 253, Morina&Nikçi, 2012, pg. 454-455, Brestovci, 2004, pg. 106, 147, Alishani, 2003, pg. 997, Tutulani-Semini, 2006, pg. 209). After filing a lawsuit the court conducts evidence proceedings in order to ascertain the veracity of facts dealing with allegations of the plaintiff that his right has been violated (Morina&Nikçi, 2012, pg. 579). And then is approved the lawsuit by concretely emphasizing which is the action that violated any right from the field of copyright. However, in all this process shall be respected the speed trial because the competent court is obliged to respect deadlines set by law (LCRR, article 187). So, it could be said that the competent court, based on provision of the article (LCRR 181. 1(4, 5)) and by provision of article of the law (Law on Obligations, article, 169), to the holders of copyright or the winner of exclusive authorizations to recognize the right to compensation for inflicted damage from illegal action by means of which has been violated any of rights of copyright field (Alishani, 2003, pg. 996). Therefore, as it may be seen, in this case, the compensation for inflicted damage can be realized with the application of special and general provisions. In judicial practice there are many evident cases which confirm the ascertainment for indemnification of property and non-property damage. The Law on Copyright and Related Rights clearly determines that in cases of violation of rights known by this law to require from the court to declare the decision in public media (LCRR, 181. 1(6)). This shall be realized when the court approves a lawsuit, issues a judgment for violation of copyright and related rights, and then to act according to lawsuit of damaged party publish this judgment in public media. This publication has its importance for the damaged party because by this publication shall be realized full satisfaction for the author or another holder of law.

Judicial Protection and Several Actions Concerning the Security of Lawsuit Due to the Violation of Copyright and Related Rights

In order to ensure the most appropriate protection of copyright and related rights Kosovo legislator when it comes to organizing more effective protection by the Law on Copyright and Related Rights (LCRR, article 184-186) and the Law on Contested Procedure (LCP, article 296) has been determined that in trial, court acting according to lawsuit upon proposal of copyright or related rights holder due to the violation of rights, can impose security measure regarding lawsuit. Actions

for providing the lawsuit shall be undertaken from court by ordering precautions or interim measures (LCRR, article, 184-186). It must be emphasized that by undertaking any of mentioned measures by the court, upon proposal of interested subject, is a guarantee that judicial protection in this field shall be realized adequately. When there is such a process the court has broader possibilities to provide judicial protection in cases when it comes to violation of the rights from the field of copyright.

Mentioned measures in providing the lawsuit are actions undertaken by the court upon request of the holder of law in the field of copyright, based on law, (LCRR, article 184 and 185) and (LCP, article 296). These measures are in the interest of civil-legal protection of copyright and related rights. However, in undertaking actions to impose these measures shall be fulfilled several conditions, without them court has no legal basis in issuing the decision to impose them. Conditions in which court is based in issuing the decision for these measures are: to be violated copyright and related rights, to be filed the request in court for imposition of these measures, the claimant to provide credible evidences that has been violated copyright and related rights, to be risked the possibility of compensation for inflicted damage, or the existence of real danger for violation of these rights. So, without fulfillment of these conditions court has no basis in deciding to impose these measures for providing the lawsuit in this field but nevertheless for this process is necessary these conditions to be fulfilled cumulatively. During this procedure the court is obliged to prove all the relevant facts in order to decide on merit (LCP, article 319. 2, Morina & Nikçi, 2012, 579). If the lawsuit is approved there are more favorable conditions concerning civil-legal protection of copyright and related rights, because court is legally obliged to decide in imposition of security measures (LCP, article 296, Morina & Nikçi 2012, pg. 542), by which orders confiscation or seizure of disputed object, and if necessary also blocking bank account (LCRR, article 184).

Providing Evidence by Court Decision

Legislator in order to provide adequate protection of copyright holder or exclusive authorizations holder in the field of copyright and related rights has determined that competent court, upon request of authorized subject, can decide in providing and preserving evidence. This action shall be undertaken by court in cases when there are based evidences that there is a violation to the holder of right in this field, and there is a potential risk that evidences can be destroyed or later precluded (LCRR, article 186). So, obtaining the evidence by a court decision is made during procedure and mostly during procedure in the main session. However, in practice often appear situations requiring evidences to be obtained as soon as possible, because getting them later shall be difficult or completely impossible. Due to this reason, the legislator has foreseen if the circumstances indicate that evidence cannot not be obtained in the main session or its obtaining shall be difficult, upon request of party the court may order the obtaining of evidence even before commencing the court procedure, (LCP, article 379, Alishani 2003, 1001, Morina & Nikçi 2012, pg. 657).

In order to realize this is necessary to be fulfilled several conditions: 1. Holder of the right to make it credible that has been violated copyright or related rights and there is a reasonable doubt that evidences regarding this violation can be disappeared, or their obtaining to be impossible. 2. Court in particular cases to act in order to provide evidences without prior notice of subject from which the evidence is obtained. 3. Request of copyright and related rights holder which incorporates facts that his right has been violated (LCRR, article, 186). Therefore, in order to be established conditions in making the decision to provide evidence is necessary these conditions to be fulfilled cumulatively (Morina & Nikçi, 2012, pg. 658). So, it can be concluded in civil-legal protection of copyright and related rights except LCRR is applicable also LCP, LEP and LOR, meaning the combined application of special and general regulatory can contribute to the successful realization of copyright and related rights protection.

Conclusion

In conclusion of this scientific paper, in which were handled aspects of civil-legal protection of copyright and related rights, in the context of applicable law in Kosovo I came to these conclusions. From analysis conducted in this paper it can be freely said that copyright is considered the most important right of dignitaries according to national and unified law. However, this importance is not expressed only to holders of copyright, but also to holders of legal system in this field. By bearing in mind this fact, it is worth emphasizing that legal regulatory of this field has constantly made attempts in order to organize in the best possible way the protection of copyright and related rights. Civil-legal protection of copyright in the context of applicable laws in Kosovo and the manner how is realized that protection are things that preoccupy our society. It is worth

noting this protection is evident in legal regulatory of this field of law, however it remains a concern only its functional application. It should be emphasized for this field of law there is a special regulatory, but this does not exclude the application of general rules. These rights enjoy judicial protection and the manner how that protection should be conducted by holders of these rights and winners of exclusive rights. This protection according to applicable regulatory can be realized by a particular individual or can be organized a collective protection that currently in our country's practice is not in satisfactory levels.

Researches in the field of copyright concerning civil-legal protection lead us to conclude that copyright and the manner of their protection are not in enviable degree. This is proven by the fact in this field there are numerous violations, there is legal uncertainty due to numerous violations which present infringement of regulatory of copyright and related rights. On the other hand, there is a need for functional application of this regulatory, of course is understandable there are many difficulties concerning this matter, but by having proper regulatory and prominent professionals the goals of protection shall be brought within normal boundaries that would be appropriate for significantly flows of social life reality in country. Another obstacle of applying protection of copyright and related rights presents also the lack of relevant functioning institutions, from decision-making to those implementing that would make more effective the system of legal protection in this field of law. In the absence of these institutions there are constant obstacles in order to undertake necessary measures to achieve contemporary trends, so in this way to avoid presented obstacles in the field of copyright and related rights protection.

Abbreviations

LCRR Law on Copyright and Related Rights

LPC Law on Contested Procedure

LOR Law on Obligational Relationship

LEP Law on Enforcement Procedure

Literature

Markovic, S, 2002, *Autorsko Pravo, Isrodna Prava*, (The Author's right), Beograd, Serbia,

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- Law on Obligational Relationships in Kosovo, No. 04/L-077

Cluster Mapping of Medical Tourism in Turkey and Regional Clustering for Health Tourism

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Abstract

As the world population is aging, Health tourism has become vitally important and will be increased day by day. Because of the availability of quality health services and more favorable prices as well as to shorten the waiting list for medical services regionally and internationally. There are some aspects of managing and doing marketing activities in order for medical tourism to be feasible, in a region called as clustering in a region with main stakeholders groups includes Health providers, Tourism cluster, etc. There are some related and affecting factors to be considered for the feasibility of medical tourism within this study such as competitiveness, clustering, Entrepreneurship, SMEs. One of the growth phenomenon is Health tourism in the city of Izmir and Turkey. The model of five competitive forces of Porter and The Diamond model that is an economical model that shows the four main factors that affect the competitiveness of a nation and its industries in this study. The short literature of medical tourism and regional clustering have been mentioned.

Keywords: Medical tourism, healthcare tourism, regional clustering for health tourism, competitiveness, business clusters, industry clusters, Small and Medium size Enterprises (SMEs), entrepreneurship.

1. Introduction & Literature Review

1. 1 General Description about Health Tourism

In today's world, people travel to many geographic regions for many reasons, such as vacation, holidays or adventure, work, pilgrimage, entertainment, sports, relaxation and culture. In recent years, health care has been added to this list. Thus, this recently emerging international trend is for health and medical reasons called "Medical Tourism". One of the foremost reasons for health tourism is the formidable cost of health care in the person's native countries. According to Lordache, Ciocina, and Roxana (2013), medical tourism has become vitally important and has increased rapidly.

The medical tourism has become important for many reasons: (i) disappointments with medical treatments at home; (ii) lack of access to health care at reasonable cost, in reasonable time or in a sympathetic context; (iii) inadequate insurance and income to pay for local health care; (iv) the rise of high quality medical care in 'developing' countries; (v) uneven legal and ethical responses to complex health issues; (vi) greater mobility; and (vii) perhaps, above all, a growing demand for cosmetic surgery (Connell, 2011).

Other authors state that medical tourism is a new niche in the health tourism industry (Connell, 2006). Indeed, according to Connell, historically health tourism is the oldest kind of health related tourism since "tourism has always been associated with seeking improvement in health and well-being" wherever it can be found (Connell, 2006).

According to Iordache, Ciochina, and Roxana (2013), there are primarily three sub-branches of health tourism referred to as "General Medical Tourism". These are "Wellness Tourism", "Healthcare Tourism" and "Medical Tourism" henceforth referred to as health tourism in this document. As a result of rising healthcare costs in developed countries and availability of high quality medical services at lower prices in developing countries a rapid growth and expansion of health tourism has occurred globally.

1. 2 Global Trends in Health Tourism

In the beginning of 19th century, other than commercial and industrial developments in the world, the major developments in the health care industry have also occurred. However, health travels in those times were considered a concept to be benefited by wealthy people only (Cukurova Development Agency, 2012).

The American Board of Medical Specialties was established in 1933 and led for the certification of medical specialties as well as world health standards in the USA. And these standards have been adopted globally. Furthermore, the European Union of Medical Specialists was founded in 1958. This council consists of different medical specialists. Thus quality of health care was assured internationally.

In 1994, The Joint Commission International (JCI) was established to set international standards and established mechanisms to measure these standards and provide accreditation to health care institutions that complied with the standards. As there have been many health care centers operating around the world, JCI was founded to follow up if health care facilities adhered to the standards set forth by JCI. Therefore, JCI was a leader organization to close the gap quality care set by the health industry in terms of the compatibility of health services and research of it internationally. There are 59 countries listed with "Joint Commission International Accreditation". United Arab Emirates is ranked 1st country in this list has 86 JCI Accredited and certified organization; Saudi Arabia is ranked as 2nd in the list with number of 64 JCI organization and Turkey is ranked as 3rd in the world with the 50 numbered JCI accredited hospitals as of May, 2014 (JCI, 2014).

In the 1960's, as the New Age movement started, India has played an important part in health tourism. Wealthy people in USA and England headed to India to have yoga and ayurvedic medicine, thus this movement started a health tourism industry (Cukurova Development Agency, 2012). As a result of increasing cost for health services in 1980 and 1990, Americans also started to go to nearby Central American countries in order to obtain low priced dental treatments, as well as other services that were found to be attractive such as operations for eyes, heart and cosmetic surgery that were available for an affordable price.

As the Asian financial crisis started in 1997 and affected the whole world including USA and Europe; the governments of those countries placed an importance role on the tourism industry. The legal authorities started advertisement campaigns especially to develop health care tourism in the region. These efforts were profitable for countries like: Thailand, India were models for much lower priced services when compared to western countries; especially for plastics surgery.

Health tourism has progressed rapidly, and nowadays has become number one among the service industries. Some of the leading regional health tourism countries emerged in Malaysia, Singapore, Thailand, and India, for the Middle East (Dubai, Jordan, Israel, and Egypt). Eastern Europe (Turkey, Hungary, Poland, and the Czech Republic), and Western Europe (Germany, Austria, and Belgium). The health tourism industry is rapidly expanding and is anticipated to grow even more rapidly in the near future in Turkey, India, Singapore Thailand, Malaysia and Brazil to name just a few (Transparency Market Research, 2013).

As a result of the rapid advances in the information age, globalization of health care have become more accessible, medical tourism has also expanded provided important opportunities for Asian and Middle Eastern countries to offer health care services to patients from developed countries (like the U. S, Canada and European countries). Such services are available at equal quality with availability of high technological equipment and more favorable costs and shorter waiting periods.

According to the study by Deloitte (2010), the worldwide medical tourism market was expected to grow to \$100 billion by 2010. This tremendous sum of money is shared by over 35 countries. This estimate is based on 22 billion patient services.

Not only does the host institution gain revenues, but also benefits from the international reputation that it gains for its quality health care services.

According to Ramirez De Arellano (2007), the country receives tangible benefits and intangible benefits through investing in the medical tourism industry. The tangible benefits lead to a raise of gross domestic products and therefore an increase in economic welfare, upgrade of services, generation of foreign exchange, creation of a more favorable balance-of-trade, boosting tourism through sharing of know-how and strategic partnership, as well as the contribution for transfer of technology and knowledge. As foreign patients are offered the best services and opportunities resulting in international competition that also creates better services for domestic patients.

Intangible benefits range from the sharing of social and cultural experiences, contributing to development of international relations, global marketing and medical trade, creating a positive image of health care service, gaining a competitive advantage, strengthening the public-private partnership, as a result of patient satisfaction with services.

While medical tourism has many benefits, there are also some negative sides. As some health insurers do not cover the health services received abroad, patients have to "pay out of pocket" for their services. Patients can often return to their home countries a couple of days after the service/operation. However, if side effects, or complication occur from these services, the problem need to be solved in patient's own country. As many countries do not have adequate laws about medical malpractice, in case of malpractice, the support or restitution cannot be received from domestic courts (Ramirez De Arellano, 2007). Nowadays, many state and private insurers encourage the patient to obtain their health care services overseas at a favorable price. Medical tourists are happy to receive the best healthcare service and enjoy tourism at the same time. This also generates a major revenue for each economic stakeholder of health tourism in the region.

Eurostat surveys from all hospitals in Turkey with the Turkish Ministry of Health (Turkish Ministry of Health, 2011) revealed that India is the highest ranked country in the numbers of the most inbound medical patients globally, with Thailand and Singapore in second and third place.

1. 3 Health Tourism in Turkey

There are numerous factors that attract the movement of patients for health tourism across the world, such as specialization in medical services, geographic proximity, convenient prices, availability of health insurance reimbursement and the reputation of the destination health care services.

Since Turkey has a high standard of medical and dental services, it has become an increasingly attractive site for health tourism. Furthermore, Turkey has earned the international reputation as a very friendly hospitable country. Similar to other countries Turkey meets many of the criteria for this type of industry. The attractions for seeking health services in Turkey are varied and can be categorized into four country characteristics (Genc, 2007):

Countries with a large population of Turkish immigrants such Germany, Netherland, and Belgium;

Developing countries with shortages of services due to the lack of infrastructure and physicians (Balkan States, Central Asia, Turkish Republics),

Countries in which the health services are prohibitively expensive and there is a demand for services that are not covered by insurance (USA, Germany),

Countries that have long waiting demand exceeds supply (UK, Netherland and Canada).

According to the World Tourism Organization's World Tourism Barometer (World Tourism Organization, 2014), international tourists arrivals were numbered at 1. 035 million in 2012, it grew by 5% in 2013, reaching a record 1. 087 million. Turkey rose to 6th place in the world with 35. 7 million international tourists arriving. However, in terms of international tourist revenue Turkey was not ranked in the top 10 global ranking of countries in 2012 (World Tourism Organization, 2013), thus there is considerable opportunity for additional developments in Turkish medical tourism to increase revenues.

According to the World Tourism Organization, Tourism Highlights (World Tourism Organization, 2014), although around 35 million foreign tourists arrived in Turkey in 2012, the country earned only \$26 billion in tourism income. Turkey's per tourist income is far below the average among the top 10 countries. While the average spending per tourist was around \$1,100 in the top eight countries, it was just \$743 in Turkey. Unfortunately, this situation has persisted in Turkey's for many years (World Tourism Organization, 2013). This shortfall in revenues can potentially be enhanced by health tourism to enrich the country as well as the city. Needless to say that a major benefit from medical tourism to the Turkish economy is the revenue brought to the country from the patients and their relatives.

As Turkey is a candidate to join the European Union (EU), Turkey offers affordable medical tourism opportunities as it has sufficient capable health personnel as well as advanced medical technology and can thus become a solution for European Countries in order to remedy their health services shortage. The Turkish government has declared its support for health tourism and offers financial incentives to investors. Turkey's Health Ministry also has plans to establish "free health zones" to attract medical tourists from abroad.

The most inbound health tourism numbers by cities in Turkey have been Istanbul, Antalya, Ankara, Kocaeli and Izmir in that order (Turkish Ministry of Health, 2013).

1. 4 Health Tourism in the Izmir and the Aegean Region

To date, Izmir has not reached its capacity for medical tourism. Given that there is considerable additional capacity for such services.

As the city of Izmir has a variety of high quality options for accommodations and offers historic as well as summer resort vacation packages that can provide tourism facilities and a variety of sources of medical services; Izmir becomes a prime candidate for expansion of medical tourism.

Izmir is the third biggest city of Turkey and has many advantageous for further development of health care tourism. Izmir has educated and well trained health care workforce and excellent tourism opportunities. These include geographical position, good climate, many type of health resorts availability of spas & wellness as well as hot spring centers, Elder and Disabled Tourism centers, affordable prices, numerous health institutions (State and Private) and thermal facilities, as such it is an ideal holiday destination and a hub for international flights as well as direct flights and features that could attract expanded health tourism for Izmir.

Because medical tourism involves diverse medical, political, social, cultural, economic factors (Connell, 2011). Empirical research is needed as to the best management and marketing models that can reach capacity in medical tourism offerings.

2. THEORETICAL FRAMEWORKS

Several business models about medical tourism research have potential relevance to this study: competitiveness, clustering, entrepreneurship and small and medium sized enterprises (SMEs) (Vera, et al. , 2008).

2. 1 Competitiveness in Health Tourism

"Competitiveness pertains to the ability and performance of a firm, sub-sector or country to sell and supply goods and services in a given market, in relation to the ability and performance of other firms, sub-sectors or countries in the same market" (Wikipedia, 2014).

The competitiveness represents *"the ability of companies, industries, regions, nations or supranational regions to generate, while being and remaining exposed to international competition, relatively high factor income and factor employment levels on a sustainable basis"* (OECD, 1996, p. 20). *"Competitiveness can be considered at different levels of aggregation: firm, industry, and country"* (Depperu & Cerrato, 2005).

The Global Competitiveness Index (GCI) is to measure the productive potential of nations.

"GCI was developed by Xavier Sala-i-Martin and Elsa V. Artadi. Before that, the macroeconomic rankings were based on Jeffrey Sachs's Growth Development Index and the microeconomic rankings were based on Michael Porter's Business Competitiveness Index. The Global competitiveness Index integrates the macroeconomic and the micro/business aspects of competitiveness into a single index" (Schwab, 2013).

The Competitiveness Index (CI) that was developed by the Institute for Strategy and Competitiveness at the Harvard Business School to assess country level competitiveness about the determinants of national competitiveness. CI evaluates both macro and micro factors (Gonzalez et al. , 2012).

There are some competitiveness measurement studies across the world. One of them is the Global Competitiveness Index (GCI) was first developed for the World Economic Forum (WEF) by Sala-i-Martin, and Artadi and is used in the Global Competitiveness Report (GCR, overall index) that measures 133 countries on the basis of 110 total criteria to assess the competitiveness level at over all. In this index, there are "overall index" and "Sub-indexes" includes basic requirements, efficiency enhancers and innovation sophistication factors for each country. In sub-indexes, there are also 12 pillars of competitiveness included Institutions, infrastructure, macroeconomic stability and health and primary education for basic requirements; higher education and training, goods market efficiency, labour market efficiency, financial market sophistication, technological readiness and market size for efficiency enhancers; business sophistication and Innovation for innovation and sophistication factors (Schwab, 2009).

Another competitiveness research is the World Competitiveness Scoreboard (WCS) which is published by International Institute for Management Development (IMD) as part of to evaluate the different facets of competitiveness, grouped into four factors (economic performance, government efficiency, business efficiency and infrastructure). Competitiveness Yearbook (WCY) that measures 57 countries on the basis of 329 criteria to ranks countries based on the Global Competitiveness Index (Garelli, 2009).

For example; Switzerland ranks 1st in GCI and for the sub-indexes; it is ranked 1st for innovation factors, Singapore is ranked 2nd in GCI and ranked 1st in sub-indexes for Basic requirements of Global Competitiveness Index. Finland is ranked 3rd in GCI and it is ranked as 1st for sub-indexes of innovation and sophistication factors. Germany and USA are ranked 1st in sub-indexes for efficiency enhancers (Schwab, 2013). Turkey is ranked 41st in the GCI (Schwab, 2013) and ranked 37th in overall efficiency in the WCY (Garelli, 2013). The best GCI score is the efficiency enhancers; and, the lowest score is the basic requirements for Turkey in 2013.

2. 2 Clustering in Health Tourism

As medical tourism development depends on a number of different areas of management and marketing such as health care management, tourism and regional clustering in the context of medical tourism are in need of scientific study. To manage health tourism and the stakeholders in a profitable way, many countries and cities have collaborated and made regional cluster to serve their customers with the best health care services and internationally compete.

"A cluster is a geographically proximate group of interconnected companies and associated institutions in a particular field, linked by commonalities and complementarities." (Porter, 1998a, 1998b).

"A cluster is a very simply used to represent concentrations of firms that are able to produce synergy because of their geographical proximity and interdependence, even though their scale of employment may not be pronounced or prominent." (Rosenfeld, 1997).

"Clusters are here defined as groups of firms within one industry based in one geographical area." (Swann & Prevezer, 1996).

"A regional cluster in which member firms are in close proximity to each other." (Enright, 1996).

The cluster theory of Porter mentions that cluster is defined as a “*geographical concentration of companies, suppliers, service providers, and associated institutions in a particular field that not only to compete but also to cooperate*” (Porter, 2000).

Medical tourism has taken its place as one more component of the tourism industry, through its linkages with hotels, airlines and the whole infrastructure of tourism, and in the leisure activities of the tourists have not been systematically studied (Connell, 2011).

Building a health tourism cluster in Izmir and Turkey would consist of stakeholders in health institutions (State and Private), travel agencies, the tourism industry, intermediary and consulting firms, transport industry, Information and communications sector, construction sector (new investments), and the Finance sector.

The health workforce numbers of Turkey in December, 2013 includes in 109000 physicians, 145000 nurses and midwifery; 21160 dental personnel, and 26617 pharmaceutical personnel according to health workforce status report in Turkey of Ministry of Health (The Council of Higher Education in Turkey & Turkish Ministry of Health, 2014) however, according to this report, The total number physician of Izmir is only 7754, dentist 1522 and Pharmacist is 1869. Clearly in major shortfall if health tourism is to thrive.

The population of Turkey is almost 76 million and Izmir has a population of about 4 million.

To be competitive in the international market, the companies, the cities and the countries need to develop ways and models to match the demand/supply equation through clustering. *“In order to more effectively compete, regions need to understand their cluster strengths as compared to other areas”* (Delgado, 2013).

“Humphrey and Schmitz (1995) and Sonobe and Otsuka (2006) assert that cluster is a geographical concentration or localization of firms producing similar products or closely related products in a certain area” (Mawardi, 2011).

“Clusters may include government, nonprofit organizations, educational institutions, and other infrastructure and service providers whose presence is key to the strength of the cluster. The California wine cluster provides a good example of the complex nature of an industry cluster. The cluster includes 680 commercial wineries and several thousand independent grape growers; suppliers of grape stock, irrigation and harvesting equipment, barrels, and labels; specialized publishers, public relations firms, and advertising agencies; world-renowned programs at the University of California; the Wine Institute; and special committees of the California Senate and Assembly”, all dedicated to cooperate (Munnich, 1999).

“There are globally recognized cluster examples such as Hollywood or Bollywood in the film industry, wine industry in California, information technology in Silicon Valley and Boston” (Boja, 2011).

2. 3 Entrepreneurship in Health Tourism

According to Lee (2006), there are many entrepreneurial opportunities associated with this emerging healthcare industry. As some of the countries have a competitive advantage in this industry because of the support and promotion of this industry by their governments and the capability of health stakeholders in region. *“As the costs of medical treatment and hospital queues gradually increase in western countries, the demands for medical services in developing countries are gradually increasing.”* (Lee, 2006). It is mentioned in most of the academic and professional journal that health tourism will certainly become more significant in the near future (Lee, 2006). Therefore, *“countries specializing in attracting medical tourists create new entrepreneurial activity that can lead to a profitable and sustainable tourism industry in the region.”* (Lee, 2006).

The Porter's Five Forces Model and significant entrepreneurship normative models can be used to develop an entrepreneurship conceptual framework in medical tourism (Danell, 2007, p. 13).

According to Amoros, Fernandez and Tapia (2011), the entrepreneurship is a key factor for countries to achieve their competitiveness-level towards their goals in the industries.

As Porter (1998c) states that the Cluster often presents a significant local market, and an entrepreneur might benefit from established relationships. Porter also finds that as the result of using some project and dataset; there is consists of significant evidence of the positive impact of clusters on entrepreneurship. *"A high level of entrepreneurship in a region-industry at a point in time may result in diminished near-term opportunities for entrepreneurship in that region-industry"* (Delgado, 2010).

"Entrepreneurship is a particularly important channel for cluster-driven agglomeration, and may therefore be crucial for the role of clusters in enhancing regional performance" (Delgado, 2010).

2. 4 SMEs in Health Tourism

Constantinides (2013) mentions that operating a free trade zone (FTZ) where is a medical cluster can be developed properly and does not necessarily require "millions of dollars" as *"the enterprise tends to be more effort- intensive rather than capital-intensive, i. e. , it requires multiple business pitches to, discussions with, and approvals from, multiple government departments and private partners"* (Picazo, 2013).

The cluster was used as a tool to create competitive advantages for especially small and medium enterprises (Phinaitrup, 2012). The important part of clustering is increasing the competitiveness level of SMEs. In order to increase the competitive advantage of SMEs in the market, there are two main elements to consider; productivity and innovation. Beside, clustering decrease the transaction cost.

SMEs and entrepreneurship play a particularly important role in the Turkish economy according to Organization for economic co-operation and development (OECD) (2004).

According to Delgado, Porter, and Stern (2012), *"The findings suggest that clusters play a crucial role in the path of regional economic development"* (as cited in Porter 1990a, 1990b, 1998a, 1998b and 2003 & Swann 1992). Business clustering offer mutual benefits to communities and business. The strong domestic clusters might also attract the foreign investments.

The five competitive forces (the bargaining power of suppliers, the bargaining power of buyers, threat of new competitors, threat of substitute products and existing competitive rivalry between suppliers) and the diamond models (Firm strategy, Structure and rivalry; demand conditions, related and supported industries, factor conditions, government and chance) developed by Porter are widely used to determine the competitiveness of a country and a sectoral cluster (Bilgen, 2010).

The five competitive forces are used to define the business model and industry analysis. The forces are; bargaining power of the buyers and power of suppliers, entry barriers, rivalry and substitutes (Grundy, 2006).

The Diamond model is an economical model that developed by Michael Porter that shows the four main factors that affect the competitiveness of a nation and its industries. According to the Diamond for National Competitive Advantage model (Porter, 1990a, 1990b), there is a concept of "clusters", or groups of "interconnected firms, suppliers, related industries, and institutions in geographic locations such country or regions.

The competitive advantage of nations is the outcomes of the four interlinked advanced factors in and between firms in these clusters. The factors includes the firms strategy, structure and rivalry; demand conditions; related and supporting industries; factor conditions, the government also plays a role by *"acting as a catalyst and challenger; it is to encourage –or even push –companies to raise their aspirations and move to higher levels of competitive performance..."* according to Porter (1990a, 1990b).

Recognizing the benefits of clusters as a form of economic organization has influenced governments to implement policies (Sölvell et al, 2003), intended to launch initiatives to support existing clusters or to form new ones in regard to:

SMEs, regional industrial development attracting external funds and foreign investors, research and innovation at national or local level (Boja, 2011).

According to Ketels (2004), *"Clusters are not only a reality of economies across Europe; increasingly they are also an important policy lever on different geographic levels. At the level of the European Union, the European Commission is looking for its role in supporting cluster development across Europe. Providing better data on clusters, convening joint public private research groups for clusters to look at common border issues, and supporting regional cluster initiatives are emerging as the key roles of the Commission"*.

Many regional and international cluster studies have been done. Most of them are in USA and Europe. In Europe, some of the countries have them to lead on the studies and policies about business clusters and regional competitiveness. The UK has in recently become very active in cluster policy and has provided significant budgets for cluster development. Ireland has had a very conscious competitiveness policy for many years, and has used the cluster concept within this context. Finland and more recently Sweden have also become very active in using clusters to set policy priorities (Ketels, 2004).

"One of the first regions worldwide to apply the cluster perspective in its economic policy was the Basque, Spain. In the midst of a deep economic crisis of its mainly traditional manufacturing companies in steel and ship building, public and private sector leaders in the region adopted the cluster approach to change their economic trajectory. A good decade later, the region is one of the richest regions in Spain and has achieved a GDP per capita level equal to the European average" (Ketels, 2004).

As Turkey is a candidate for EU membership, the Chamber of Industry and Commerce is the authority of the Regional Competitiveness Operational Programme (RCOP) in Turkey. RCOP has provided policy documents, the Instrument for Pre-Accession Assistance that was launched within the EU Enlargement Strategy adopted by European Council in December, 2004.

The instrument for Pre-Accession Assistance aims to prepare Turkey for better management of future structural funds. And thus supported Turkey in its membership negotiations in 2007-2013 through Clustering Analysis in RCOP Provinces in March, 2009.

Within this instrument, Turkey has fulfilled the requirements as a candidate country five components: institutional capacity building, cross-border cooperation, regional development, human resources development and rural development. RCOP is one of three sub-components in the Regional Development Component (Turkish Ministry of Economy, 2013).

A number of Competitiveness and Cluster Analysis have been completed in Turkey, there are also some clustering initiatives that have been operating since 2009 in Izmir such as INOVIZ (Izmir for Health) in biomedical technology and organic food clusters. However, in health tourism, the clustering initiatives have not yet been started in Turkey.

Some competitive studies for industrial clustering in Turkey have been done at Harvard University with Dr. Porter. Examples are: The Turkish Textiles and Apparel Cluster in 2012; the Turkish Automotive industry in 2011, Turkey & The Turkish Construction Services Cluster in 2007. However, the cluster study for health tourism have not yet been achieved by the model of Porter. Therefore, this would be the first analyzes for business clusters in health tourism domain in Turkey.

Oz (2002) studied Diamond analyse in some of the industries but not in Health tourism in Turkey. However, the health care study needs to add this research so that Diamond National Competitive Advantage needs to be analyzed for Turkey and Izmir city to identify the potential competitiveness of health tourism.

Turkey Medical tourism Cluster mapping has not been studied yet, therefore first time medical tourism cluster mapping study would be applied to all Turkey with this study for researchers and investors through this study according to literature above and expected outcomes.

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Is De Facto Partnership a Threat to Marriage? a Case Study from Macedonia

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"Changes in family relationships occur as macro-sociological changes in historical time, which take place over decades and centuries, but they also occur as micro-sociological changes during the lives of family members"¹.

David Cheal, *Families in Today's World, A Comparative Approach*.

Abstract

The subject of this work is to examine whether the increased number of de facto partnerships could jeopardize the future of the marital institution in the Republic of Macedonia. The paper will provide existing statistical data on the number of marriages, divorces, and de facto partnerships in the country. Furthermore, it will analyze possible factors which have influenced the increased number of extra-marital communities in Macedonia. For the purposes of this paper we conducted a quantitative research with a sample of 120 respondents aged 18 to 22 years. The questionnaire was outlined to measure the perceptions of young people on marriage and cohabitation. In conclusion, the results from the respondents' answers were used as an inclusive consideration for future projections and possible major projects.

Keywords: cohabitation, marriage, divorce, Macedonia.

Introduction

With the development of contemporary societies, we are witnessing a continuous transformation of the family structure. Today, we have abandoned the classic description of family by George Murdock², who defined family as a social group (composed by adults of both sexes and at least one child) characterized by reproduction, common residence and economic support. New types of families include: single-parent families, reconstituted families (i.e. "step" families where one or both partners have children from a previous marriage), homosexual marital and extra-marital communities, de facto partnerships and individual households. This pluralism of family models is a product of multiple processes: urbanization, industrialization, globalization, the influence of the Western world and the effect of Europeanization.³

¹ Cheal D. (2008). *Families in Today's World, A Comparative Approach*. London; New York: Routledge, p. 107.

² See more about Murdock's definition of family in Murdock, G. P. (1960). *Social Structure*. New York: Macmillan.

³ Мицковик Д. (2008). *Семејството во Европа XVI-XXI век*, Скопје: Блесок, p. 209–220.

In addition to the above-mentioned processes, Macedonia is facing a long period of political and economic transition which has additionally influenced the family structure and the society in general. The economic instability of the past two decades has caused increased labor migration in the European Union and overseas, resulting with an augmented number of families with at least one member of the household abroad. Moreover, with the introduction of the free market economy, the participation of women in the labor market led to further transformation of family roles. In fact, there is an ongoing debate on whether the increased economic emancipation of women in Macedonia is one of the main reasons for postponing marriage and birth.

Political, economic and social changes shape and transform family models as well. Macedonia has started to gradually abandon the patriarchal and extended family models, and substitute them primarily with nuclear families, but also with single-parent families and reconstituted family models, mainly due to the increased divorce rate. The nuclear family model, on the other hand, is undergoing through transformations by itself. In fact, in the past decade, traditional marriage appears to be challenged by the increased number of couples who choose to avoid the commitments of marital communities. Thus, following the example of Western societies, Macedonia has reduced the legal difference between cohabitation and marriage.

Cohabitation

According to the Family Law of the Republic of Macedonia, a de facto partnership or cohabitation is a community in which a man and a woman live at least one year without getting married.¹ Macedonian extramarital communities enjoy the same rights of married couples as far as the right to mutual economic support and property rights are concerned, including legal protection against domestic violence. The Republic of Macedonia does not officially recognize any kind of same sex community, either marital or extra marital.

As stated by the Macedonian State Statistical Office, the number of marriages in 2014 decreased by 1,2% compared to 2013, whilst the number of divorces increased with a share of 8,7% compared to the previous year.² The contrast in numbers is significant when compared data from the first census of 1994 with more recent data. In almost one decade the number of marriages has decreased from 15.736 in 1994 to 13.982 in 2013, whilst the number of divorces has augmented from 710 in 1995 to 2.405 in 2013.³ There is already a significant change in numbers even if we analyze data from five years before. Namely, in 2009, the number of marriages and divorces had increased respectively by 1,6% and by 6,5% in comparison to the previous year.⁴ Whilst divorces continue to increase each year with a constant rate, the data regarding marriages is what caught our attention: from a continuous increasing rate, in just five years there is a significant decline⁵. This drop in numbers is caused by many factors; among the main causes postponing marriage for an older age and living in a de facto partnership are the dominant ones. According to the last official census of the Republic of Macedonia from 2002, the official number of non-married couples living together with or without children was 6027⁶. However, new researches suggest a great increase of this number each year, with even higher estimates. Already in 2009 the number of

¹Family Law, revised text, Part I, Art. 13, General Provisions, retrieved from:

http://www.mtsp.gov.mk/wbstorage/files/zakon_emejstvo_osnoven.pdf (13/11/2015)

² Announcement on Marriages and Divorces by the State Statistical Office of the Republic of Macedonia, 11/06/2015, retrieved from: <http://www.stat.gov.mk/PrikaziSooptenie.aspx?rbtxt=11> (17/03/2016)

³ Regarding marriage and divorce in Macedonia see more in: Радуповиќ, М. (2014). *Традицијата во европските и македонските семејства*. Скопје: Култура.

⁴ Announcement on Marriages and Divorces by the State Statistical Office of the Republic of Macedonia, 08/06/2010, retrieved from: <http://www.stat.gov.mk/PrikaziSooptenie.aspx?id=11&rbr=95> (17/03/2016)

⁵ Since 2008, through a series of legislative reforms, the Government of the Republic of Macedonia began to implement policies to stimulate and support families with three or more children, in order to increase fertility, including housing subventions for single people and young married couples under the age of 35.

⁶ State Statistical Office of the Republic of Macedonia (2004). *Census of Population, Households and Dwellings in the Republic of Macedonia, 2002, Final Data, Book XIII – Total Population according to Territorial Organization of the Republic of Macedonia*. Skopje: State Statistical Office of the Republic of Macedonia, p.47.

children born in extramarital community represented 12,2% of the total number of born children in Macedonia. The same rate (11,3%-12,2%) continued in the following five years as well.¹

This trend was noted in the European Union much earlier. Main causes are considered to be: alterations of ethical and moral standards, general predominance of individualism, emancipation of women, sexual revolution and reduced influence of religion. As an example, in the European Union 40% children are born in a de facto partnership² and the number of divorces has risen from 170.000 in 1960 to 1.040.000 today.³ Compared to this figures, Macedonia's marital community might not be "at risk" at the present. However, if we consider that two decades ago Macedonia was at large a patriarchal society, where divorce and cohabitation were the exception and not the rule, then, this figures are worth major attention.

The expansion of de facto partnerships in Macedonia is a result of multiple emerging factors in our developing society. Among them, increased average age at first marriage, extended studies, postponed employment (due to studies or unemployment) and unresolved housing issue are the leading ones.⁴ In the period from 2009 to 2014, the average age at first marriage ranged between 25 and 26 for women and 28-28,8 for men. In the same period, the average age of women in the total number of births was 27,7-28,5 years old, and 25,9-26,8 years old for first born children.⁵ As far as higher education is concerned, the Republic of Macedonia has implemented the Bologna Process since 2010, thus the new system requires predominantly 3+2 years of studies leading to a Master's degree. Longer studies postpone employment, hence financial independence and residency matters are postponed as well. In addition to the above-mentioned factors, nowadays younger generation enjoy free choice of lifestyle and feel less pressure from societal moral norms.

Case study from Macedonia: Is de facto partnership a threat to marriage?

In order to analyze the general opinion of youth in regard to marriage, divorce and cohabitation in Macedonia, during February and March 2016 we conducted a quantitative research with a sample of 120 respondents. Our focus group was students aged 18-22 years old. However, among the respondents seven answered to be between 23 and 26 years old and four are above 26 years old. Since the respondents were chosen randomly, we disregarded the possibility to conduct a gender balanced research at this stage of the investigation and the outcome was 22 male and 98 female respondents. The reason to put emphasis on the younger generation was to attempt a prediction on the possible future rates of marriage and de facto partnership in the country. Our questionnaire included 52 questions divided into five parts and was anonymously conducted. Due to limitation in space, for the purpose of this paper we used only part of the results, which are elaborated as follows.

As expected, the majority of the respondents live in nuclear families with parents living in a marital community. Almost 10% have divorced parents and there was no single case of de facto relationship. These results were not surprising, since cohabitation is a newly accepted trend in Macedonia and is not typical for the generation of our respondents' parents, which we estimate to be born in the late 1960s or early 1970s.

Figure 1⁶

Status of respondents' parents in figures (Question # 10: Your parents are...)

¹ Announcements on Population (2010-2015) by the State Statistical Office of the Republic of Macedonia, retrieved from: <http://www.stat.gov.mk/PrikaziSooptenie.aspx?id=8&rbr=1723> (17/03/2016)

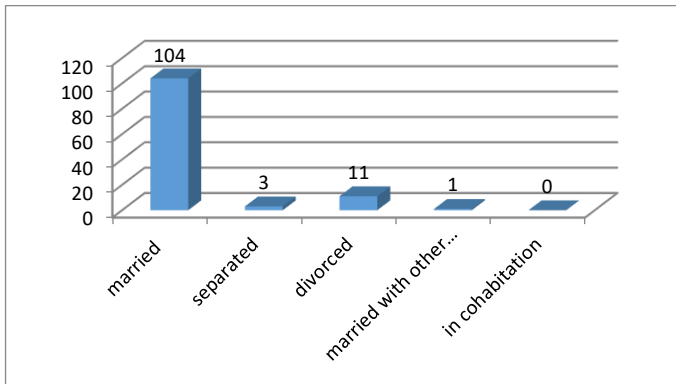
² Share of Live Births outside Marriage according to Eurostat. See more data by country at: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tps00018&plugin=1> (16/03/2016)

³ Мицковик, Д. *op.cit.*, p. 209-220.

⁴ Борнарова, С. (2012). *Социјална работа во семејството*, Скопје: Универзитет Св. Кирил и Методиј, Филозофски факултет, p. 34-35.

⁵ Announcements on Birth Rates (2010-2015) by the State Statistical Office of the Republic of Macedonia, retrieved from: <http://www.stat.gov.mk/PrethodniSooptenijaOblast.aspx?id=8&rbrObl=2> (17/03/2016)

⁶ All figures show results in numbers, not percentage.



In the second section of the questionnaire we asked our respondents general opinions on marriage including reasons to get married, ideal age for marriage, advantages and disadvantages of being married. On the question whether married people are happier than single people, the majority responded positively (70 out of 120). This outcome correlates to the previous question and the fact that most respondents (104) come from families of married parents, which the majority has evaluated as harmonic (64) or well-functioning (49). The positive attitude towards marriage is confirmed with the results of answers from the statement "Everybody should get married": 55% respondents agreed and 45% disagreed with the statement. However, the negative answer from 45% of the respondents is already an indicator that for almost half of our students aged 18-22 not getting married is a possible option for themselves or other people. This liberal perception on marriage is more noticeably in the results of the following question: "Would you be in a relationship/marriage with a partner who has children from a previous relationship/marriage?" with 62,5% stating a positive answer. This result suggests that divorce and presumably having children outside marriage is acceptable and the possibility of dating a person with children from a previous relationship or marriage might be tolerable for their parents and/or family as well.

Figure 2. Opinion on happiness in marriage vs. singlehood (Question # 18: Married people are happier than single people.)

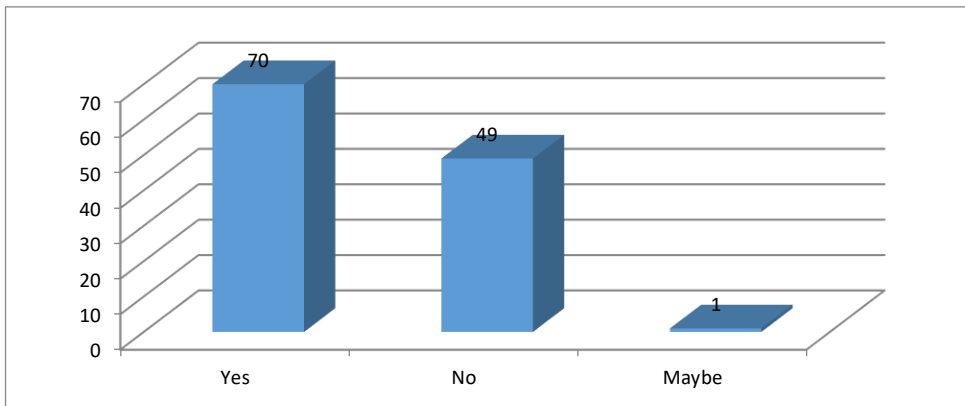


Figure 3. Opinion on marriage in general (Question # 19: Everybody should get married.)

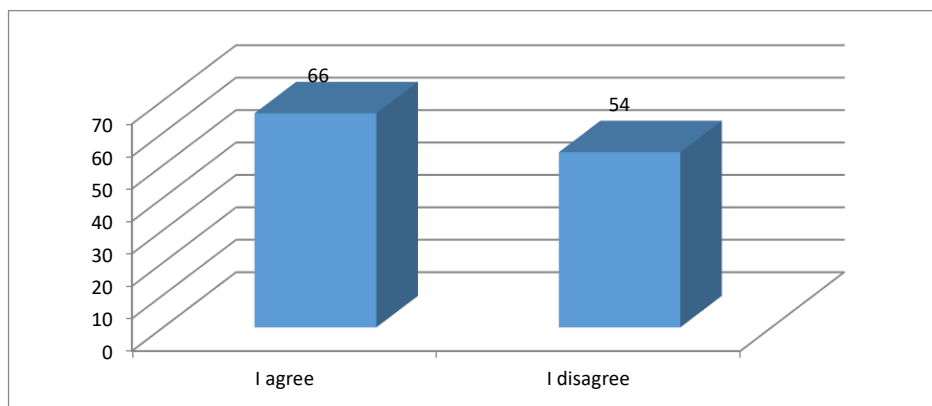
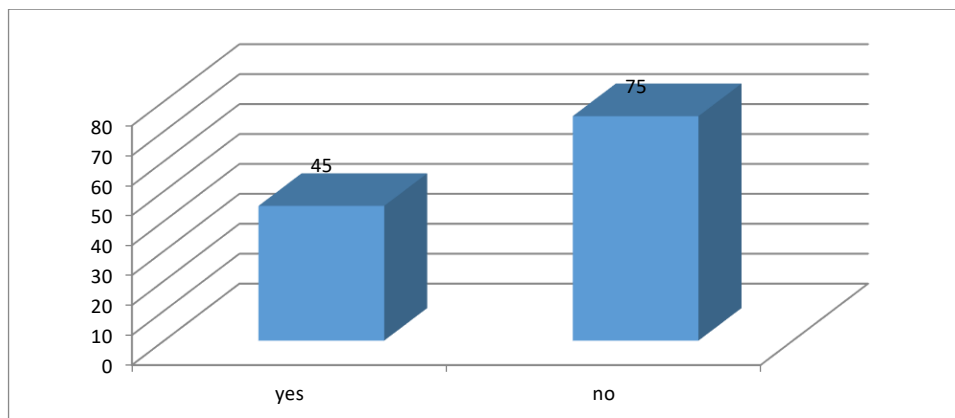


Figure 4. Opinion on marriage, divorce and reconstituted families (Question #27: Would you be in a relationship/marriage with a partner who has children from a previous relationship/marriage?)



The multigenerational type of family commonly known in the region by the term “zadruga” was characteristic for the Balkans until the late 19th and the early 20th century. Besides having more than two generations residing in the same household, it was generally a patriarchal type of family i.e. once a woman got married she used to go to live with her husband’s parents, where his unmarried sisters and married brothers lived as well. Today we consider this family structure almost extinct in the big cities, particularly in the capital Skopje, but it is still present in the rural areas, especially among Muslim population. However, we were surprised from the number of respondents living in extended families (28 out of 120), which was higher than the number of respondents living in single-parent families (17). In fact, high unemployment rate and rental prices frequently force young married couples to live with their parents. In this context, we asked our respondents whether it is acceptable for them to live with their or their partner’s parents after marriage. As expected, the majority of them would prefer to live solely with their partner (80%) and only a small group would accept to live with their parents (8,3%) or their partner’s parents (11,6%).

Figure 5. Question # 7: In what type of family do you live?

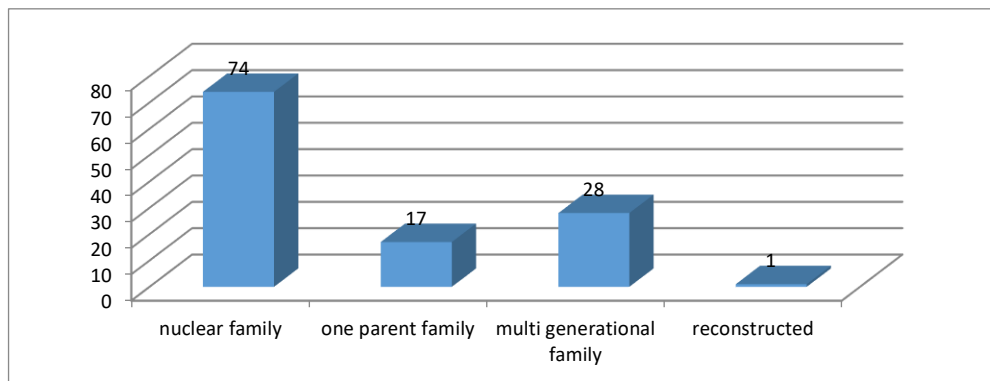
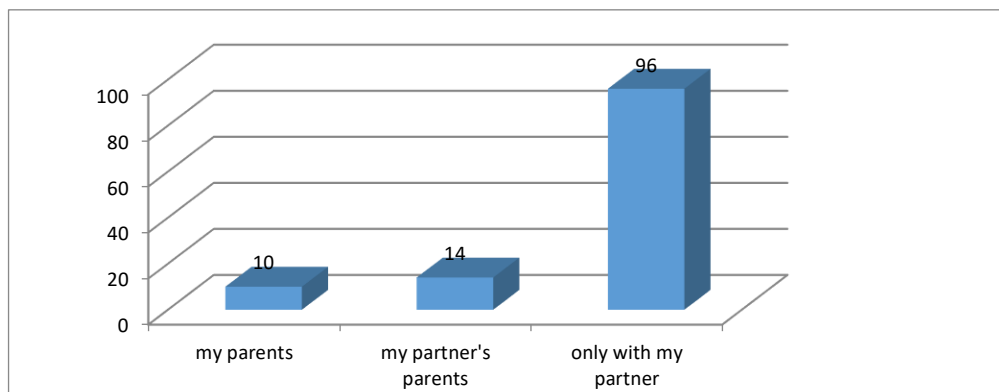


Figure 6. Opinion on multi-generation families (Question 32: "After getting married I would accept living...")



The general outcome of the questionnaire regarding the section devoted to marriage was more expected than surprising. In fact, all answers suggest a rather positive perception of marriage which might be influenced by the type of families the respondents are coming from i.e. marital communities. Even when asked whether people lose themselves in marriage, 73,3% disagree in comparison to the 26,6% who agree with the statement.

The section on divorce and children was not included in this paper due to limitation in space and coherence with the topic. Overall, young generation tend to accept divorce more than the generation of their parents and elderly, and they are more open-minded when it comes to relationships with divorced people or partners with children.

The section devoted on de facto partnership, which is also the main focus of our research, shows that cohabitation is an increasingly common idea among young people. Namely, for the majority of Macedonian youth (65%) pre-matrimonial cohabitation with the partner leads to a successful marriage. With increased mobility from rural to urban areas and particularly towards the capital Skopje, students almost certainly already live without their parents. As a result, they have the possibility to live either with roommates or a romantic partner. In this case, cohabitation with the partner is most likely to happen, whether it leads to marriage or not. Certainly, being "anonymous" in the big city furthermore eliminates the negative perception from family and surroundings on extramarital communities. In this regard, however, our respondents consider de facto partnerships not yet widely morally accepted in the Macedonian society (68,3%). This might be a consequence of multiple factors. Firstly, they come from an environment where marital communities are the norm (see results from question 10 above) and as studies suggest, children tend to accept their origin family structure, which will

probably resemble their own future family as well. Secondly, given their young age (18-22), our respondents probably do not know many couples living together and have not faced the matter in real life. Thirdly, reduced youth mobility abroad¹ is another factor which limits their possibility to meet and accept new types people and hence, of families. Finally, influence from older family members (as shown from the results of question # 46, parents opinion is very important for our respondents in regard to marriage and cohabitation) and the society in general might have an impact on their opinion as well. All the above-mentioned factors might be the reason of the juxtaposition of the results from the two previous questions.

Figure 7. Opinion on pre-matrimonial cohabitation (Question #44: Pre-matrimonial cohabitation with the partner leads to a successful marriage.)

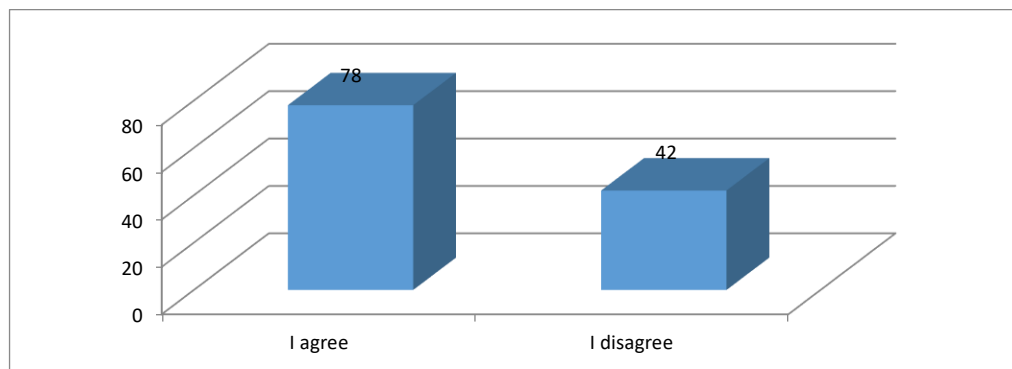
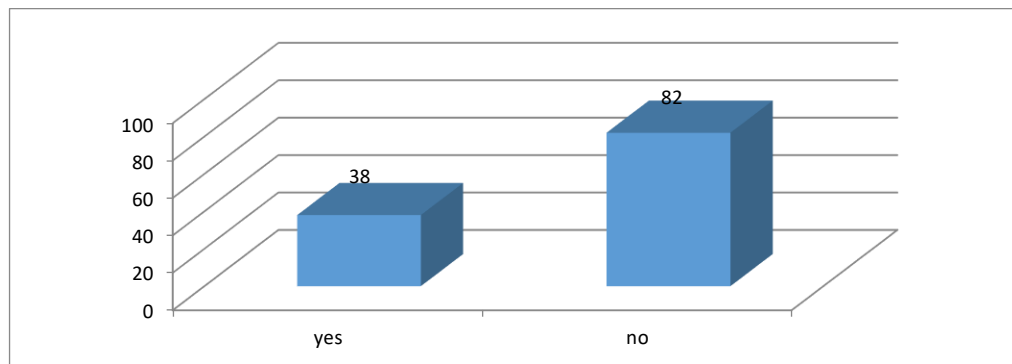


Figure 8. Opinion on cohabitation and moral standards (Question #43: Is cohabitation morally accepted in Macedonia?)



Even though many changes have occurred in the past two decades, pressure from family and society to get married at a reasonable age are still present in Macedonia. Thus, the majority of respondents (58,3%) would not live in an extra-marital community and would prefer to get married with the partner. These results were confirmed with the answers from the following questions as well. When asked in what circumstances would they accept a de facto partnership, the majority of our respondents choose engagement (40%) and "trial marriage" (31,6%) as main conditions. This result suggests that cohabitation with a romantic partner is perceived predominantly as a step towards marriage but not yet as replacement for

¹ The Republic of Macedonia is a candidate country of the European Union since 2005 and students only enjoy limited number of exchange programs within the Union (Erasmus, Erasmus +, Erasmus Mundus etc.). Until 2010, mobility was furthermore restricted due to the EU Schengen visa regime, which some member states (for instance the United Kingdom) still require. The continuous high unemployment rate since its independence in 1991 and expensive airfare until recent years are other factors contributing to a diminished mobility of Macedonians in general.

marriage and confirms general trends of cohabitation leading to marriage. Since a large part of the students still live with their parents, interestingly, 13,3% of them answered that in order to live without their parents they would accept a de facto partnership. This result is understandable, given the age of our respondents and their need for more privacy and independence. Moreover, since 23,3% (question # 7) of them live in a multi-generation family, an extramarital community might be seen as a way to escape from a crowded household.

Figure 9. Opinion on extra-marital communities (Question #42: Would you accept living in an extra-marital community with your partner?)

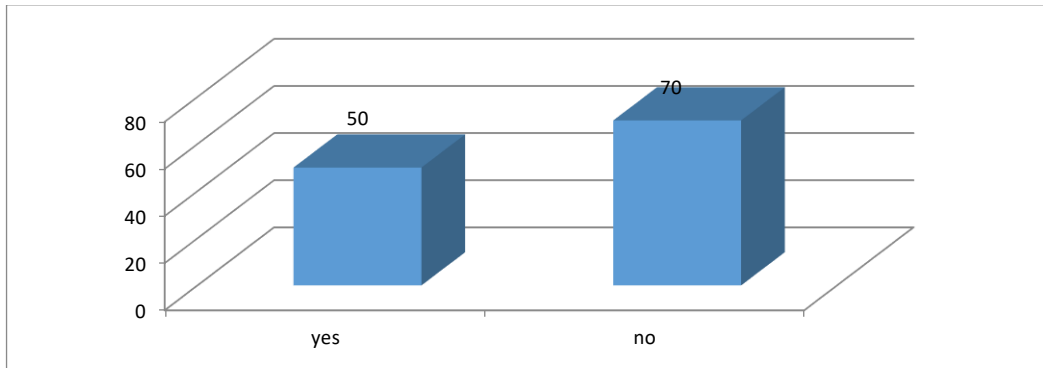
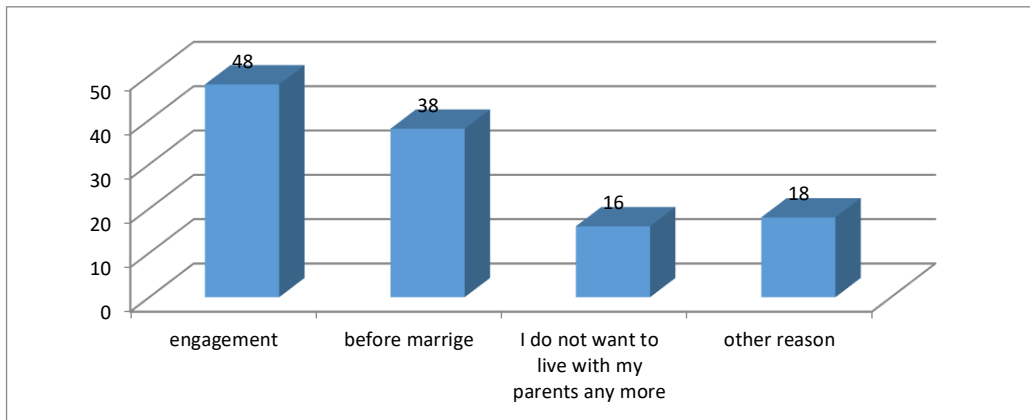


Figure 10. Question # 45: In what circumstances would you accept living in a de facto partnership?



The same pattern of answers can be noted in the further results of the research. For instance, 62 respondents assume that their parents would not agree if they choose to live in a de facto partnership in comparison with 58 with the opposite estimation. This relates to the similar figures regarding their opinion on cohabitation, which means that parents' judgment on whether to get married or not are crucial for this generation. However, even when their personal opinion was questioned, marriage resulted to be very important. In fact, 73,3% of students would not live with a partner who does not want or believe in marriage.

Figure 11. Opinion on parents' view on cohabitation (Question # 46: Would you parents agree if you decide to live in a de facto partnership?)

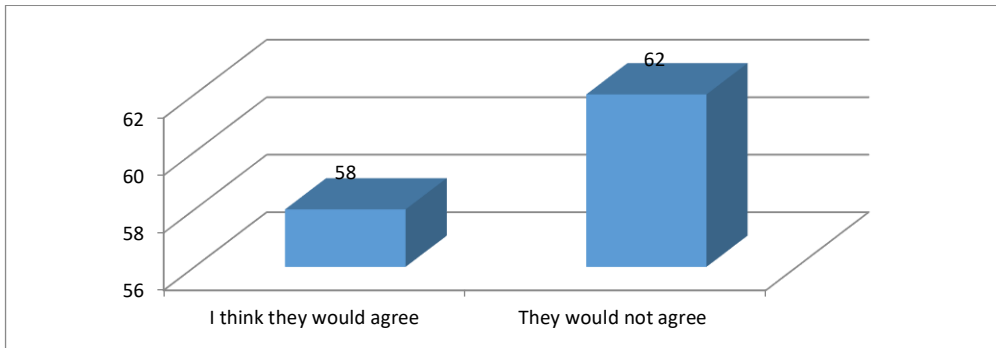
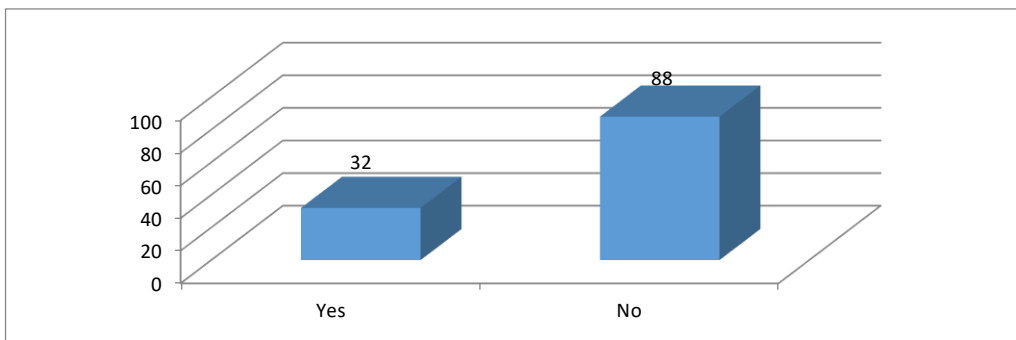
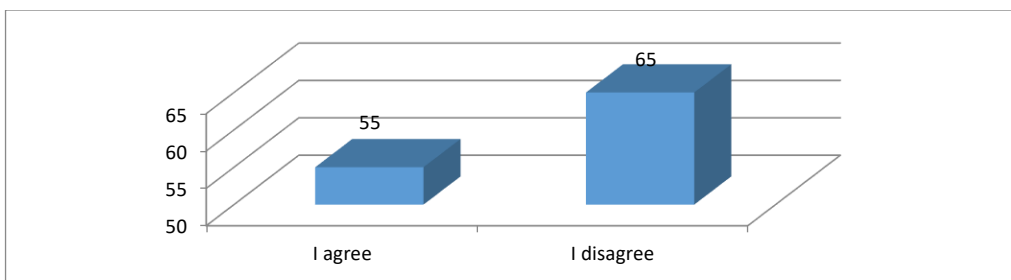


Figure 12. Opinion on cohabitation, marriage and partners (Question # 47: Would you live with a partner who does not want or believe in marriage?)



Finally, we wanted to explore the ground for possible future research and we asked our respondent to express their opinion on illegitimate children. In this regard their view was very divided, with the slight majority having a negative attitude on the matter: 55 respondents would accept the idea of women having children outside marriage in contrast to 65 who still not accept illegitimate children as common in our society.

Figure 13. Opinion on illegitimate children (Question # 48: Women should have children outside marriage.)



Conclusion

The final remarks of our research and the topic of cohabitation refer primarily to the changing attitude of youth towards the concepts of marriage, divorce and de facto relationship. Undoubtedly, the processes of modernization and globalization and the media had an impact and continue to influence new generations in their way of thinking and accepting new forms of families. As a consequence, if divorce and cohabitations were uncommon in traditional Macedonian society until two to three decades ago, today, they are recognized as normal and regular phenomena. However, the opinion remains divided particularly when it comes to extra-marital communities. Our respondents tend to perceive positively the concept of cohabitation, but when it comes to their personal experience, they would still prefer to get married. Marriage in Macedonian society is still considered as a more stable institution and morally embraced than de facto partnership. On the other hand, today the idea of divorce seems to be more accepted than in the past, with a slight retention when it comes to personal experience. In fact, almost half of our respondents would not gladly date a divorced person.

Even though among experts and media in Macedonia there is a general opinion that traditional forms of marriage and family style are disappearing, our research shows clear tendencies to preserve and accept marriage and marital life in general. However, if we take into account that cohabitation, relationship with divorced partners and illegitimate children were taboo topics in our country and region in general, it appears from our results that there is a progressive view on the above-mentioned family models and alternative lifestyle, especially when it comes to approve the actions of others. We could assume that in the future, predominantly as a consequence of the process of globalization, the idea of cohabitation will be accepted more widely. Nevertheless, when it comes to marriage as an institutional form of coexistence, in Macedonia it will not be replaced by cohabitation in the near future.

Furthermore, our research has opened more questions which should be analyzed in depth in the future:

- Is cohabitation a stable form of family model or style?
- How much is Macedonian society ready for this alternative lifestyle?
- Will cohabitation substitute traditional marriage in Macedonia?
- Is cohabitation accepted by all ethnic groups in multicultural Macedonia?¹

Finally, some findings regarding youth's opinion on same-sex couples and their right to adopt children has already caught our attention for a forthcoming project.

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¹ The Republic of Macedonia represents a multiethnic society, where Macedonians (64,18%) and Albanians (25,17%) constitute the major two groups of the overall population. Other minorities are as follows: Turks (3,85%), Roma (2,66%), Serbs (1,78%), Bosniacs (0,84%) and Vlachs (0,48%). Besides different tradition and culture among each ethnic group, there is a historical difference between Christian and Muslim population in the country. Data from State Statistical Office of the Republic of Macedonia (2004). *Census of Population, Households and Dwellings in the Republic of Macedonia, 2002, Final Data*, Book I-Total Population according to Reasons of Presence-Absence, Age, Sex and Ethnic Affiliation, Skopje: State Statistical Office of the Republic of Macedonia, pp. 171-176.

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Participation in Public Space Renewal. Case Study of Poznan - Large City in Poland - A Report

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Abstract

In the paper there are presented questions of public space renewal, especially within a city centre. The authors present a case study of a city of Poznan in which a number of actions are taken in a field of spatial revival. There is accentuated that the most important task is to provide spatial alterations long with social interest and involvement. It is the participation of city inhabitants the most crucial aspect of public space renewal process.

Keywords: participation, urban renewal, public space.

Introduction

In the following paper the author presents the individual interpretation of the conference topic - holistic approach to urban renewal in Polish conditions. Referring to the current spatial situation and Polish planning law in force, there is a need to accentuate that there is either lack of social participation within a planning process or a social consciousness of spatial development and renewal problems. According to this, in author's opinion, it is crucial to support Polish planning system with soft activities aiming at a promotion of wide social participation within planning system, especially at a local scale. It is needed to make local society feel responsible for the space, not only within neighborhoods but also public areas. Holistic approach to urban renewal in Polish conditions means to make people feel part of planning system, believe their voice is important and understand they have a real impact on changes. The author cooperates with the City Council of Poznan and with non-governmental organization so as to promote participatory planning idea and promote the knowledge about the importance of holistic approach to city space renewal – not only economic but above all spatial and social aspects.

Social participation in the process of urban renewal, especially on a local level, is an essential factor of its proper course and successful conclusion. Although the final form of an urban renewal program is a result of state units' decisions, it always needs consultation and societal acceptance. It should be in progress in the preliminary phase of development of such a program, so the local community have a chance to present their views, identify needs, preferences and aspiration, as well as to develop self-awareness of the assemblage.

The Polish Law on Spatial Planning and Development in force, which was adopted in 2007, contains a record of the obligation of public consultation of planning documents (study of a spatial development and a local plan) which are in the preparation. Local community involvement is expressed in the possibility to make proposals, amendments and objections. It guarantees a social participation in the spatial planning, but it is limited to issuing opinions upon professional pre-assumptions during the public inspection period of statutorily specified time. At present, several state agencies are obliged

to presenting their opinion: municipal commission of urban planning and architecture, regional board, the province governor, the county governor, authorities of adjacent communes, provincial conservation officer, military authorities, border protection units and national security, maritime Office, mining and geological supervision office and the Minister of Health. In the same time, there is a lack of the obligation to put spatial planning documents to wider social consultation, which seems to be an important complement to spatial planning processes.

Social participation should primarily address those social groups which are directly involved in the planning process or will experience the effects of certain decisions. These include residents of a given commune, a city or a district, various groups of interest: property or land owners, road users, but also the elderly and disabled, business entities: potential investors, developers, local politicians and representatives of scientific and cultural circles.

Social participation in the process of urban renewal

All activities related to the transformation of urban space should be held with the participation and social interest. There is a need to sensitize city users to the value anthropogenic environment and to build in public awareness belief in the importance of protecting and emphasizing individuality of the space. That increases the sense of identification with the place, and thus belonging to a particular community. In the process of creation of an urban space it should be taken into account not only the visual effect, but even more so societal impact that is a consequence of certain project decisions. Each space, formed in a particular urban layout and developed by architectural elements in a three-dimensional system, should be a carrier of intangible assets and semantic content. The meaning of an urban space, public space in particular, should refer to needs, aspirations and expectations of a community, to whom it may serve, so it is by nature unique. For this reason, in the process of creation of such an urban space standardized models and solutions may not work, because each space has got defined, individualized features that should be emphasized. In this respect, a necessary factor of a proper spatial planning procedure is adequate socialization of the planning process of transformation and renewal of an urban space, especially a public space. Urban revitalization and renewal programs require consultation and social acceptance. It is crucial for creating an area with which users want to identify with and which strengthens their sense of belonging, a sense of place and a sense of spatial order.

The participation of local communities in the process of planning is especially important in the early stages of a project or an urban renewal program. As a result, the community have the opportunity to present their point of view, identify needs, preferences and aspirations. Participation relates primarily to the people directly involved in the planning process in the future or likely to feel its effects. These include residents, property or land owners, road users, potential investors, local politicians, representatives of scientific and cultural circles, but also the elderly and disabled. Proper organization of public participation is extremely important, especially in terms of building the identity of the place, interpersonal bonds and good relationships, in mitigating social conflicts and eliminating manipulation and abuse in fulfillment of particular interests. It is important to prepare the representatives of local authorities to conduct mediation, which will assure that obtaining individual benefits or realization of interest of a particular political party will not become an obstacle to the implementation of general social benefits. Negative assessment of spatial transformation process is usually issued to arbitrarily imposed forms of changes.

Regulation and organizing of spatial processes should not rely on excessive expansion of bureaucracy, but resort to the support of experts who can professionally analyze existing conditions and formulate directions, principles and methods of implementation of spatial transformations. It is important to define the boundaries of top-down management, to protect and develop the ability of local communities to self-organize and apply a real concern for the common good, which here is the space. Strategies and local policies should support efforts to the socialization of the process of programming the transformation and revitalization, and space management [Wiszniewski, 2014].

The socialization of the process of planning was reflected in contemporary planning models [Parysek, 2006], inter alia communicative planning [Sager, 2002], collaborative planning [Healey, 2003], planning through debate [Fainstein, 2000] or participate planning [Sanoff, 2000]. There are also other, developed in mature, democratic civil environments, methods of

public participation in planning processes, such as *charrette*¹ workshops. The principle of the workshop is to replace the top-down decision-making process with a so-called "from scratch" approach. The essence of the workshop is a collaboration of entities in order to build consensus and solutions according to the needs of all stakeholders. *Charrette* principle is a dialogue in which participants have a chance to know and understand the needs of each party and to support a shared vision of the project.

Participation supporting public space renewal in Poznan city – author's experience

The author of the study co-initiated, co-authored and participated in a number of projects aimed at promoting new solutions for the socialization of the process of programming the revitalization in Poznań, and also actions calculated to perfect the processes of planning and urban space renewal. In these activities involves many different units dealing with problems of revitalization - first and foremost Department of Project Coordination and Revitalization of the City Council of Poznan, also cultural centers, foundations, associations, district councils and other non-governmental organizations. The basic assumption of those initiatives is to seek innovative solutions based on the participation of multidisciplinary teams of specialists and the involvement of local communities in the processes of sustainable development and urban space renewal, with an emphasis on public space.

International Urban Workshop in 2007

An interesting pilot project in terms of the socialization of the renewal process of Poznan city was an international urban *Charrette* workshop, organized at the Faculty of Architecture of Poznan University of Technology. They were prepared and carried out in cooperation with the Department of Project Coordination and Revitalization of the City Council of Poznan. During the workshop, Polish, Slovak and German students worked on the concept on renewal of a fragment of downtown in Poznan. The aim of the workshop was a dialogue and understanding in order to initiate an integrated process planning and urban design, comparing the various methods of construction of the program, as well as phasing and realization of an urban project, that is normally harnessed by individual research centers, and therefore, creating the optimum model of programming of renewal processes. Students were representatives of various disciplines - architecture and urban planning, spatial planning and economics. The assumption of a *Charette* was to develop a methodology of design on the areas subject to renewal programs with particular regard to minimizing conflicts between investors, municipality and local community. Moreover the aim was to define the role of an urbanist in the planning and organization of the revitalization program, and to determine his role in the processes of development and renewal of cities. At the stage of building a sustainable renewal program, representatives of the City of Poznan, the company Echo Investment and the representatives of a local community – District Council of the Old Town were asked to comment and to give opinion in order to correct the students' work and to give the project the most real dimension. That elaboration became the basis for a broad discussion on the responsibility for space and the need for the involvement of many different partners in the design process and construction downtown revitalization program.

The Game of Space – Seminar about Public Space 2008

"The game of Space" was another project organized in collaboration with the City of Poznan and professionals in other disciplines - sociologists and economists. The main idea was to test the fields of interest of groups involved in shaping processes of urban public spaces: the residents, investors and representatives of local authorities. It was also to identify areas of convergence of interests and fields of conflicts, to enable better understanding of intentions in decision-making of the various interest groups in regards to management and use of public spaces. The experiment was based on isolating groups on separate panels and simulating the planning of new investments in two selected areas of the city. "Stakeholders" have at their disposal the shares, with which they were able to fill in investment fields. After filling in all the fields of investment players they had to determine the percent of the build-up area of the field and its height. On the second day the results were confronted and discussed. Particular groups of "The game of Space" could observe the effects of their actions and hear justifications of their competitors. As a result, different groups of interest could better understand their arguments

¹ *Charette* workshops are related directly with New Urbanism (*The Congress for New Urbanism – CNU*). *CNU* has a significant impact on the world's spatial policy, thanks to, among others, Charter of the New Urbanism, an annual congresses and numerous publications. Source: <http://www.charretteinstitute.org> and <http://www.ceunet.org>.

and motivations of action, its often different language, and thus better prepare for discussion upon the proposed solutions. The experiment was intended to raise awareness and to demonstrate to warring groups, that most of the problems are associated with the lack of trust, knowledge and understanding of needs of motivations of other participants in the process of development and use of a public space.



Fig. 1. "The game of Space" project was organized in collaboration with the City of Poznań in order to confront different groups of interest and make them collaborate within a game concerning real problems of a given space. Photo by author.

Future City Game. Re-wita Ostrówek – Workshop 2009

Workshops "Re-wita Ostrówek" on Śródka in Poznań was organized by the District Council Ostrów Tumski - Śródka - Zawady, the British Council, Pro Design, Office of Development of Social Relations and Department of Project Coordination and Revitalization of the City Council of Poznań within the project *Creative Cities*. Among participants were architects, artists, investors and developers, community activists, residents of Śródka and representatives of the city authorities. Players were divided into several interdisciplinary teams, whose task was to develop ideas to revitalize this part of town in ten years perspective and giving them an appropriate hierarchy. After the initial presentation of ideas the teams prepared themselves for testing them in the field and among professionals, residents, officials and invited observers. In this way, developers could verify their ideas and subject them to comprehensive criticism. With such an approach, voters could choose the concept, which in their opinion was approved by all, and yet seemed the most attractive and innovative. In addition to formulating specific solutions, workshop provided an opportunity to exchange views on ways to revive devastated parts of the city, and to meet people that are operating for the same purpose, but in different areas.

Creative Cities – Workshops 2012-2013

As a very interesting experience for the author can be regarded the participation in the international project CREA. RE – Creative Regions, led by Adam Mickiewicz University and financed from EU funds within the European Regional Development Fund, Interreg IVC, Innovation and Environment. Participation in this project was the result of an invitation to the author made by the Department of Project Coordination and Revitalization of the City Council of Poznań, to actively participate and substantively support activities of the group set up for this project called Local Support Group for the creative industries in a Group of Creative Space.

The aim of the project was the involvement of local authorities and public and private institutions to promote the creative industries in Poznań. Established within the framework of the initiatives Local Support Group would become a platform for cooperation and exchange of experiences between the different players in the business of creative industries. Many meetings were organized and a series of design workshops held on issues related to educational activities for the public space and the creation of inspiring public space through innovative and interactive solutions in the field of landscape

architecture¹. The overall aim of the project CREA. RE was an attempt to find an answer to the question of how to create effective strategies and projects, supporting the development of the creative sector. Recommendations of solutions, developed during meetings and numerous bottom-up initiatives have been collected in the study Local Action Plan for creative industries in Poznan and Wielkopolska Region², which also constitutes a reference to the provisions in strategic documents of higher order, inter alia: Development Strategy for the City of Poznan till 2030, Poznań Agglomeration Development Strategy till 2020 and Development Strategy for the Wielkopolska Region till 2020.

Common does not mean nobody's – Educational and Cultural Project 2014-2015

Latest venture, in which the author is involved, is a still ongoing educational and cultural project for the public space called the "Common does not mean nobody's". It is a project co-organized by the association called Revitalization Forum, branch in Poznan and the Department of Project Coordination and Revitalization of the City Council of Poznan and additionally financially supported by the Department of Culture of the Poznan City Council, with funds from the Ministry of Culture and National Heritage of 2014.

This project is a continuation and in some ways the culmination of previous operations undertaken in cooperation with the Poznan City Council. It raises awareness of the public space, promotes a sense of ownership of and identification with the space. In October 2008 in Poznan, a seminar on public space was held. Then in May 2009, the scientific conference devoted to public spaces took place under the patronage of the Ministry of Infrastructure, the Mayor of Poznan and the Rector of the University of Technology. The seminar and the conference became stages of preparation of working papers for the Charter of the Public Space – an initiative related to the planned for 2009 in Poznan III Congress of Polish Urbanism. The Charter of the Public Space was supposed to become a disinterested document, programmatic for a creation of Polish public spaces addressed to circles of stakeholders of a public space: investors, communities, local authorities, and, what is important, by those circles formulated. At the conference, a preliminary draft of the Charter of the Public Space was discussed, and the main conclusion was that there is the lack of societal education, especially in the period of preschool and schooling.

Within the framework of the continuation of the actions related to a public space, under the motto "Common does not mean nobody's" (pic. 1), several workshops have been conducted aiming at different age groups: from children, teenagers, students up to seniors. The result of the project was the creation of an illustrated book for adults and children, presenting the most important issues regarding behavior in a public space, answering, inter alia, questions of what the public space actually is and how we should take care of it. The objective was to seek to increase awareness and knowledge of the inhabitants of Poznań on the shaping and quality of public space. The main idea behind the initiative was to develop educational materials for different age groups, for the development and quality of public space based on the records in the Charter of the Public Space, with reference to the specific area of Poznan, but with the possibility of universal use in other cities.

As a result of the workshop, materials from teachers and experts were received, which gave an important information needed for preparation of a book popularizing idea of a public space and the possibilities of its development, addressed to children and adults. The foundation in development of the book both in the substantive, literary and graphic form, was a correspondence of the content with records of the Chart of the Public Space and coherency with the educational materials that were used during the workshops. Each of the topics attempted in the book, in example of an excessive number of cars in the streets, of littering of a public space, of the lack of interesting, visually attractive, ergonomic and economic street furniture, etc., was presented in the form of fold-out pages where the outer side of the text adapted to children, and with an

¹ The author is currently a member of the team conducting research within a framework of statutory activities, DS.PB in the years 2013-2015 on the Faculty of Architecture of Poznan University of Technology, entitled "Art in the city – in the context of creation and social activation of public spaces. An example of a study of Poznań. Physiognomical and semantic study of the inner-city public spaces of Poznan." Project leader: dr hab. T. Matusewicz, team: dr Bartosz Kaźmierczak, dr Dominika Pazder.

² The publication edited by prof. T. Strykiewicz, authors of the study: K.Bogdańska-Gluchowska, O.Hołoga, N.Madajczyk, dr M. Męczyński, dr K. Stachowiak, prof. T. Strykiewicz

internal text addressed to adult readers. At this stage of project implementation, 1,600 copies of the book were released and distributed for free among the groups involved in the project - workshop participants.

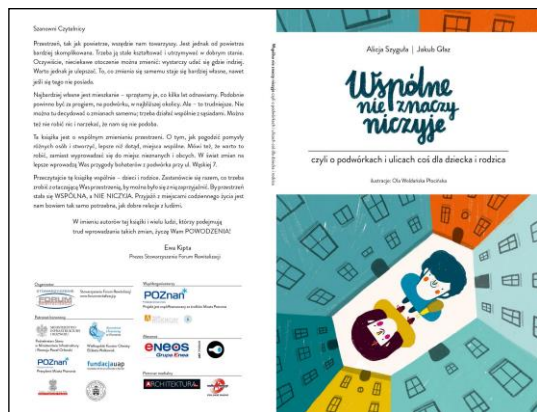


Fig. 2. The from and back covers of a book about public space for children and parents – the outcome of an educational and cultural project for the public space called the "Common does not mean nobody's".

Moreover, it is planned to organize a nationwide conference, during which educational materials for a public space and conclusions of completed workshops will be presented. The aim of the conference is to summarize a series of workshops and provide participants with a feedback from the workshop, the adequacy of educational materials, proposals for changes, etc. For those reasons, amongst the invited guests, in addition to academics, teachers leading the workshops and their participants should be included. During the conference the book on the public space entitled "Common, does not mean nobody's. On backyards and streets, something for the child and the parent." ¹. Project will be concluded with a promotional and integrational event, for example. city game (Mayor's Office), during which all participants of the workshop will be able to meet and confront the acquired knowledge in the urban space in a playful manner. Additionally, a publication of a book on a commercial basis is planned and further distribution to bookshops is intended.

Conclusions

The most important result of ongoing planning and revitalization processes should be a social consensus to establish the plan and the

Introduction of the solution. In this regard it is important to reconsider the role and responsibility of the architect-urbanist or spatial planner. He cannot be limited only to the creation of space. He must also take into account the need for new challenges in negotiation as well as informational and educational aspects. In this context, it is important to create new theoretical solutions including the possibility of their implementation and use in order to minimize conflicts caused by different aims and interests of various social groups.

Reaction to the social evaluation of urban space is crucial in achieving a certain harmony between the social and the urban dimension of the city. This is particularly important, because the functional and spatial structure of the city is less susceptible to change than inhabiting it community. Shaping the urban structures must cause changes in the functioning of the local community, but also give the opportunity to shape the environment by its users. The socialization of processes of transformation - revival and renewal of urban space - is a precondition for the desired effect of the planning and changes

¹ The author of the text for children: Alicja Szygula, the text for adults: Jakub Glaz, illustrations made by Ola Woldańska- Płocińska, and the author of this article, along with dr Bartosz Kaźmierczak, appeared in a dual role - substantive consultant and a representative of an association Revitalisation Forum, branch of Poznan. The book was published in 2014.

of an urban space and building local identity. What is more, societal acceptance of planned changes in the functional and spatial layout of the city is not only the guarantee of assimilation of local groups with the new conditions, but also factor that can ensure a harmonious and sustainable development and local economic growth.

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Universal Service in Albania

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Abstract

Approximation of national legislation in the sector of electronic communications services as well as in the sector of postal services by the *acquis communautaire* of the EU and harmonization with the policy sector and mid-term strategies for the development of networks and electronic communications services and postal services constitute the first steps and important for inclusion and consideration of universal service in the two respective sectors, the electronic communications and postal services. The next important stage is their implementation in practice for defining the elements of universal service in both sectors, to assess their national circumstances, to identify the social groups and different categories of who should be the beneficiaries of universal service respective by sector considering a set of principles concerning the necessity of their endurance by all users in financial terms, regardless of their geographic location, have access to the services offered and in this regard, the need to be cost-oriented evaluating and monitoring their principles for the fees to be the same for the same services and the obligation for the provider / providers of universal service that the respective services together with their charging and non-discriminatory, in order not to harm its competitiveness and development of the postal sector.

Keywords: Universal service, electronic communications, postal services directive, acts, strategy.

Introduction

Services of electronic communications and postal services have a great importance which range from basic needs to cover basic services and the massive expansion in the population of each country, to the need for services which affect the facilitation of activity and daily life of people, for a more rapid and efficient among them, including mandatory administrative services necessary for the government to use by citizens. A definition and a description of this nature, including services means two voices quoted above, namely electronic communications and postal services. It is considered particularly the coverage of basic needs including a specific set of elements with the appropriate functional characteristics for the respective services for electronic communications as well as for postal services. Relevant services covered in the respective through specific law respectively, but inclusion and treating them to a standard set transposition order effective implementation in practice guidelines relevant EU Directive¹ 2002/22 / EC of the European Parliament and of the Council of 7 March 2002 and for the universal postal service Directive², Directive 97/67/EC (CELEX 31997L0067). Thus, in relation to the economic development of the respective countries, strategies and sectoral policies respective to two sectors in which they are found in the electronic communications and postal services, have provided providing universal service for electronic communications and postal services, considering the group of elements necessary to services to be provided and each case also their financial coverage by selecting different methods starting from state subsidies up their coverage of market bidders which include respective services. The essence of the directives quoted above, aims at meeting the needs of the

¹ Directive 2002/22 / EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (*) as Amended by Directive 2009/136 / EC (**) (unofficially Consolidated version).

² Directive 97/67 / EC (CELEX 31997L0067), as amended by Directive 2002/39 / EC (CELEX 32002L0039), as amended by - Directive 2008/6 / EC (CELEX 32008L0006)

internal market for electronic communications services and postal services, in order to provide relevant efficient services, reliable and good quality, available to all citizens with awards affordable and forecasts for their implementation through an appropriate regulatory framework covering the respective field by strengthening the powers and support through development policy and respective strategies. The common for the two services cited and forecast on the policy objectives of the EU electronic communications sector and postal services means that universal service respectively, to conceive and materialize clearly the right of access to users, providing a minimum of services with a quality specified that must be provided, at affordable prices for the benefit of all users regardless of their geographical location.

Universal service in electronic communications in Albania.

Electronic communications services in Albania are regulated by special material law¹, who at the stage of drafting it had targeted transposition of the *acquis communautaire* of the EU and particularly the regulatory framework of 2002 to the electronic communications sector, making the transposition subsequent to the relevant provisions of the *acquis communautaire* in 2009. The updated transposition made in the law cited above, in the electronic communications sector in Albania are harmonized with sectoral policy which is materialized in the medium-term strategy for the development of networks and services electronic communications, the purpose and goal of integration into the common market of the EU electronic communications. But despite the above as well as the fulfillment of a proper legal framework and regulatory framework in line with the *acquis communautaire* of the EU, a delicate phase and harder constitutes the implementation of the specific requirements arising from the need for the provision of universal service, in order to ensure that the elements of this service are available at the quality specified to all users. Factors stimulating and supportive as the liberalization of the electronic communications sector, stage of development of competition in this sector and the harmonization of appropriate regulatory intervention to maintain the balance created in the provision of electronic communications services must have definitely considered the specifics of specific geographical area in which it is desirable to provide elements of universal service in order to have an approach carefully between consumer demand, the technology that enables the service, the stage of development of the market that ultimately constitute the scope of the USO and rules financial coverage set for the service.

Finding the balance needed between the rights and obligations of the users who benefit elements of universal service to the rights and obligations of bidders to those items that represent universal service, unquestionably that requires a hand adjustment and monitoring sequential as an internal need for identification the basic elements of the package of universal service, for determining and securing their financing planned gradually to cover its comprehensive report on the internal need for the elements of universal service. Approach regulatory has an important firsthand, not only in designing the rules, but of particular importance is the identification and is selected the key principles that will make efficient implementation of universal service in accordance with national circumstances and the need on which is based consumer demand. Fulfilling the requirements of the universal service must have the focus degree of market development and competition as well as the extent of subsidy necessary covered services, without turning it into huge financial burden which would create disparities inversely, but provided compensation mechanism for universal service provider. Attention should be paid in the selection made by not distort competition in relation to the services provided by the market which is not under the effects of the obligation for providing universal service elements. Proportionality of intervention for the provision of universal service shall be in accordance with the requirements stemming from EU directives but adapted to national conditions. The provision of universal service as a necessity requires regulatory provision acts enabling legal certainty and preceded possible situations in the future referring efficient solution in the absence of finding compensatory mechanism that may create the market itself. In relation to the basic requirements that can be considered as elements of universal service which are mainly identified with the need for access and services from a fixed location, the section information or telephone directory, for public payphones and suitability of plaformes service for people with disabilities etc, for important social services which can be used for individual purposes by completing a special needs which contribute significantly to the welfare or safety of citizens or particular groups of people, who help people in need (plague), group of services through which information and assistance provided and / or aimed at informing the population, services which are available to all citizens and whose access is not required no prior request or registration. But in terms of the development of technology and the increasing range of services that are based mainly in the services of the website, elements of universal service should be considered

¹ Law no. 9918, dated 19. 05. 2008 "On Electronic Communications in the Republic of Albania"

flexible, but always conditioned by the amount of subsidy and evolutionary to national circumstances which enable the provision of universal service. The definition of universal service elements and their assessment if required to be provided in the electronic communications market in Albania, points out the need to assess the compensation provided by the state structures and by government policies for certain categories and social groups, which in view of the provision of universal service would constitute consumer for this service categories. Some elements of universal service that come as basic elements referred to by the Universal Service Directive as access from fixed location, phonebook for information, do not have the same importance it had in the first moments of time related to the approval of the relevant directive, as over the years and with increased quality of consumer demand has taken priority use of the internet service provider and mainly internet with broadband, but inclusion as an element of universal service in the provision of internet access constitute an element of the universal service to be devoting more bringing difficulties in finding financial mechanism to cover this element of universal service. The other element of universal service identified in connection with telephone to information brought to the fore also considering the desire consumers in relation to the desire for the publication of personal data and constitute in itself option to consider numbers baseline that serve mainly certain social categories and related to basic services and emergency services, police, firefighters, emergency health, and to take into account the fact that wireless networks have on their liability provision of these services, which favored notably communications market electronics in Albania, after expansion, coverage and use of mobile telephony in Albania constitutes a positive development at the national level and in a noticeable difference in relation to the development of fixed telephony which is located in a low and limited extent national. All services cited above in relation to their costs are guaranteed free from cellular networks in Albania and this in itself constitute elements of universal service and fulfillment of consumer demand that should benefit from this service. Elements of universal service defined by the EU Directive that have been assessed in relation to national circumstances, the fact that certain categories of social will have to be included as a beneficiary of these elements of universal service made them subsidized to a certain measure by state policies. It was evaluated the inability internet service broadband to be considered as part of the universal service elements, because of the high cost to produce and lack of financial mechanism to cover. Sectoral policy and regulatory attention is focused in relation to the development of consumer demand and the proliferation of the use of internet service orienting into mass as an opportunity to benefit and delivery of services related to the daily life of citizens as payment for various obligations of citizens, applications and other types required to get service etc, requires the provision of coverage of certain areas geographical low-density population, for which the investment would constitute a burdensome and not profitable for private initiative, blurring thus the possibility of offering internet service in such areas. Hence the inclusion in the national strategy for the development of internet service by doing a combination of policy sectors for the constant attention of regulatory regarded as a priority which ultimately will also be an additional option to assist in the delivery of the elements of universal service even if they currently are not defined as such, but that are compatible with customers' need for these services and in which find access to certain categories of social impossible to cope in other circumstances, to achieve this through joint investments, coverage and service coverage improvement in cooperation between operators and investments separately under the relevant areas identified as areas with low population density.

Universal Postal Service in Albania.

Postal services in a similar way as electronic communications services have their own history of development in Albania and follow the trend of developments occurring also in other countries in relation to the requirements of the time. Postal service in Albania is covered by the substantive special law ¹which has undergone changes, this law is fully aligned with EU directives ²that, "For the common rules for the development of the internal market of Community postal services and improve the quality service", as amended by Directive 2002/39 / EC of the European Parliament and of the Council and Directive 2008/6 / EC of the European Parliament and the Council. Changes made in the law have considered the postal sector policy document for postal services sector as part of the steps for full liberalization of this market by making full transposition of the *acquis* of the EU postal sector. The objectives for the postal service in Albania has followed the trend of policy sectors in the EU to including the provision of Universal postal service being conceived this service as a right of access to postal services for users, ensuring a minimum service of a specified quality as an integral part of this service at affordable prices for the benefit of all users regardless of their geographical location, but adapted to national circumstances.

¹ Law no. 8530, dated 23.09.1999 "For the postal service in the Republic of Albania", as amended.

² Directive 97/67 / EC (CELEX 31997L0067), as amended by Directive 2002/39 / EC (CELEX 32002L0039), as amended by Directive 2008/6 / EC (CELEX 32008L0006).

Even postal services and their respective market trend with a gradual opening to competition in itself constitute a challenge and a real opportunity to pursue positive experiences in the sector of services necessary for the citizens. Universal postal service in Albania is in its first steps and he has a special regulatory attention for the drafting of the relevant provision enabling of universal postal service, aimed at defining the conditions and criteria to be fulfilled by the postal network of a universal service provider, in order to meet the quality standards of postal service.

Determination of the elements of universal postal service also keeps followed their principles for universal electronic communications service, overseen by the same regulatory and followed harmonizes positive experience in other countries that have made possible the provision of this service. Basic elements to consider into the universal postal service have focused on receiving, processing and transport of postal facilities registered and insured categorized by weight, they have considered necessary labor time for which the service is provided for receipt of postal facility and distribution of postal object home address or at the venues of any natural or legal person for certain categories of social groups and beneficiary of this service. Relevant legislation, primary and secondary provides the way of determining the providers / providers of the universal postal service, by referring to a competitive procedure with clear rules and transparent for the parties, specifying clearly the rights and obligations of providers / providers of universal postal service and harmonization of their rights and obligations of beneficiaries of the elements of this service. In analogy with the universal electronic communications service provided financial mechanism is needed to cover the universal postal service, the obligations arising for the other actors involved in this sector as well as clear rules for determining the costs in providing this service, creating monitoring space and audit by the regulator that oversees the sector. The above definitions are in reference to the Law on postal services, the regulatory acts for provision of universal service, in accordance with the terms and conditions prepared by the universal service provider, which have considered the acts of the Universal Postal Union for international postal service. Universal postal service in Albania in analogy with the best international practices has considered into a "ratio fair" the rights and obligations of universal service provider as well as the rights and obligations of users of universal services, necessary dimensions of the postal network of the universal service provider into service function as access points, post processing centers and other elements as equipment and facilities serving for receipt of postal deliveries in order to ensure the provision of postal services. Another appreciated aspect is also density of access points as well as fees for each service that is part of the universal postal service which have the necessity to be affordable for all users, regardless of their geographic location, have access to the services provided and this aspect requires that to be cost-oriented, to preserve their principles for the fees to be the same for similar services by establishing the obligation for the provider of the universal postal service that respective services respective together with their tariffing to be transparent and non-discriminatory, in order not to harm its competitiveness and development of the postal sector. The provider of universal postal service carries obligations to provide this service without abusing the quality of delivery of these services and for this purpose are defined the quality standards of universal service delivery, unified with European and world standards for a universal postal service where considered service delivery time and determination of the manner of reporting on the fulfillment of these standards which are monitored continuously by the regulator of the field.

Conclusions:

- Universal service in both sectors, the sector of electronic communications and postal sector constitutes a service that includes a minimal set of basic elements of the respective services, intended for certain categories and social groups in order to make possible the benefit of these categories in their geographical location, economic conditions and affordable while also preserving the quality parameters for the services provided.
- For the implementation in practice of this service in both respective sectors, primary and secondary legislation have predicted the manner of selecting providers of universal postal service, the determination and evaluation of the basic group-elements to be included in this service, categories and social groups it should be included in the benefit of universal service elements respectively by sectors cited above.
- It is anticipated finding funding mechanism covering universal service respectively by sector and cost assessment methods that enable offering of this service, defining obligations for providing the service at cost, with the transparency, not discriminatory into relation to other services, in relation to different categories of beneficiaries, development and preservation of competition in their respective markets as major goal to bring their respective development.
- Another important aspect in the provision of this service is the regulation, monitoring and evaluation of universal service component elements respectively by sector, considering national strategies that affect and enable the development and

provision of relevant services, including universal service constituent elements, in order not -duplication of them, and harmonization of state subsidies to private initiative in facilitating the provision of universal service elements.

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The Competitiveness in the Light of the Balassa-Samuelson Effect

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Abstract:

The paper aims to analyze the influence of the Balassa-Samuelson effect on the competitiveness of Bosnia and Herzegovina. As we know, the Balassa and Samuelson argue that developing economies have an appreciating currency, because they have relatively high inflation due to higher productivity growth in the production of tradable goods. This problem has existed, more or less, in all transitional countries in the Eastern Europe, and it was particularly stressed in the countries with a fixed exchange rate. This paper just shows that in Bosnia and Herzegovina, in which monetary policy operates on the principles of "currency board", there is an extremely high influence of the Balassa-Samuelson effect, which leads not only to make a competitive position on the international market worse, but it brings up the question of sustainability of the existing currency board system.

Keywords: competitiveness, productivity, exchange rate

Introduction

Exploring the causes of the economic stagnation in the Bosnia and Herzegovina's economy, and having in mind the type of monetary regime that is functioning in Bosnia and Herzegovina, we are inevitably led to study its competitiveness on the world market. It is known that if a country wants to achieve a relatively high growth, in the terms of globalization and integration (profoundly and broadly) then it must be competitive in the world market.

Competitiveness is a relatively young scientific doctrine, which was introduced by Harvard professor Michael Porter during the 80s, when a pure capitalism governed in its full swing over the United States launched by Regan's reforms.

Often competitiveness causes bitter polemics among academic economists⁴, but still this doctrine managed to maintain in the US and European textbooks. The foundation of competitiveness is a productivity of a country. This would mean that one economy is competitive in the world market if it has been productive, or if it produces more output with the same quantity of inputs (labor, materials, etc.), which can be sold in one period on the world and domestic markets.

The productivity of the economy depends on many factors, for example, institutions, macroeconomic conditions, higher education, health of the nation, innovation, entrepreneurship, adoption of new technologies, but also of the exchange rate.

In this work we decided to consider a casual relationship between competitiveness and exchange rate of Bosnia and Herzegovina, in order to realize does an effective currency exchange rate lead to the collapse of economic competitiveness in the global market and in which measure does it too. In order to reach the expected results, we will use well-known Balassa-Samuelson effect.

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⁴ Paul R. Krugman is one of the biggest opponents of this theory, who fundamentally considers competitiveness doesn't have any sense regarding macro aspects, but only from the level of particular enterprise.

Specifically, Balassa and Samuelson argue that developing economies have an appreciated currency, because they have relatively high inflation due to higher productivity growth in the production of exchangeable goods. It is often observed that rapidly developing economies crave for a strong and appreciated currency. What resembles is the case of industrial countries, which have got "A Dutch Disease", which originally refers to the increased inflow of foreign currency after the natural gas had been discovered during the 60s in the Netherlands. Such resources provide an appreciation of the currency and they put a pressure on domestic wages (Buitier and Purvis 1980). However, the real exchange rate is considered unfavorable in the long term, as it follows the nominal. Long time ago, this forced economists to believe that the nominal exchange rate is basically a relative price of currency. If this were so, the nominal exchange rate could equalize prices among countries and maintain a real exchange rate constant taken on the average. The relative prices of currencies would also be independent of the net international investment position of currencies, in the case when the positions of debt/loan were sustainable.

Not so long ago, Krugman (1989) noted that an old assumption about the elasticity of trade as a fixed parameter must be forgotten if we want to justify an unfavorable nature of the real exchange rate. It showed that rapidly developing economies typically have a high income elasticity of demand for exports and a low income of demand for imports. The result of the real depreciation caused by a relatively small increase in price is usually called competitive deflation and is linked to the case of Germany and France in the 90s, when inflation was still high and when the European Monetary System was able to keep up the nominal exchange rates between European currencies relatively stable. Recently, the competitive deflation was also an experience of Estonia, which joined the Euro zone in 2011 by reducing nominal wages in order to attract foreign capital and increase net exports.

If we look at the economic developments from the perspective of global integration of developing countries such as Bosnia and Herzegovina, the economic picture becomes even more complex. The assumption is that in these countries automatic stabilizers should not be any weaker than in the present members. However, future members have significantly unfavorable structure of expenditures, with a high proportion of "fixed" expenses like pensions and healthcare expenses, which do not change depending on the state of the business cycle. (Richer and Romisch, 2003.) Although it seems that new members, because of the weaker automatic stabilizers, will not face the impermissible deficits, they will actually have to rely on an active fiscal policy to stabilize economic developments. It's proved dangerous in their case so far, because the cyclical deficits gradually passed into structural after the end of the recession. If we add the conditions and possibilities of monetary policy in observed countries, we become aware of the limitations of the instruments that can be used in the process of economic stabilization.

Finally, the future members are mostly smaller and more open than the present are. This means that the volatility of production in these areas will be higher, as the need for the stabilization, which is possible during some certain periods of greater cyclical deficits common in the old member states. If it's determined that automatic stabilizers are too weak to stabilize the economy, of which there are indications, one should think of ways of preparing an active fiscal policy to respond fast and effectively to the state of economic conjuncture, respectively how the budget deficit could easily increase or reduce in the current year.

1. The Balassa-Samuelson effect and economic competitiveness

In this paper we analyze the effects of the Balassa-Samuelson effect and how it leads to erosion and violation of competitive ability of a country, starting from the economic conditions, which exist in developing countries like in Bosnia and Herzegovina. This problem has existed in all transition countries in the Eastern Europe, more or less, and it was particularly pronounced in countries with a fixed exchange rate. For these reasons the study and understanding of the Balassa-Samuelson effect as economic phenomenon is particularly important for countries such as Bosnia and Herzegovina, whose monetary policy is based on the Currency Board principles.

After an initial price liberalization, the macroeconomic trends in most countries of the Central and Eastern Europe over the last fifteen years were marked by higher than the average inflation for the Euro area, among other things, and by the long-term trend of the real, and in some cases, the nominal appreciation of the domestic currency. Balassa-Samuelson effect often stands out as one of the main causes of such movements, in other words, the difference in productivity growth among tradable sectors and non-tradable sectors in the country compared with other countries. In fact, by this effect, if the

differences in productivity growth among tradable sectors and non-tradable sectors is higher in a given transition country, than, for example, in the Euro zone, the relative prices of non-trade goods grow faster in the transition country. In a fixed exchange rate system, tightly related countries, it will be reflected on faster growth in the overall level of prices, and in a floating exchange rate system it reflects on the combination of higher inflation and appreciation of the nominal exchange rate of the domestic currency against the Euro. In both cases, the real exchange rate will consequently appreciate.

Balassa and Samuelson (1964) identified the shortcomings of the absolute version of purchasing power parity (PPP) as a theory of the exchange rate determination.¹ They identified the difference in productivity growth among the internationally tradable and non-tradable sectors, which has entered the systemic bias in the ratio of relative prices and the real exchange rates. That model, which is named after them - Balassa-Samuelson's model, says that faster productivity growth will lead to faster growth of domestic prices in the tradable sector in terms of non-tradable sector of an economy to the overseas, and also it will result in the appreciation of the real exchange rate of the country currency. In fact, productivity growth in the tradable sector affects the growth of wages in the same sector, and because of the labor mobility among sectors, the wages increase in the non-tradable sector. So that producers could pay higher wages in the tradable sector they raise the prices of their products, which increases the general level of prices in the economy, and that leads to an appreciation of the exchange rate.

Furthermore, this movement can be seen in the light of the future process of economic and monetary integration. Transitional countries made a strong technological progress by opening their borders towards foreign countries during the 90s, which resulted with faster productivity growth than the growth in the developed Euro zone countries. At the same moment the productivity growth recorded in the tradable sector was higher than in the non-tradable sector. However, the productivity levels in the transitional countries are still much lower than in the developed countries, so it is reasonable to expect that the process of a real convergence will continue. Therefore there is a great interest for research of the Balassa-Samuelson effect in the new EU member states².

2. The Balassa-Samuelson effect – Theoretical platform

In this section we will point out some issues, related to the baseline of the Balassa-Samuelson effect, as well as the individual elements of a faulty perception of the same. This would complete the whole picture of this economic phenomenon and allow a consideration of its impact on the economic trends. One of the assumptions is that the economy could be divided into two sectors, one which produces tradable goods, and which is exposed to foreign competition, and the other one which produces non-tradable goods, where foreign trade is too limited to affect making prices in the sector. As the other sector it is usually considered the service sector, with the exception of transport services.

Starting from the growing openness of the economy, we can ask a legitimate question of the assumption validity of the existence of two sectors, in other words, can we claim the existence of non-traded goods sector, which is the basis of generating inflation based on slower growth of productivity, and thus the appreciation of the real exchange rate. On this subject it has been written by De Gregorio et al (1994), where it stands out that despite the international trade growth in the services, a service sector as a whole it's remained much less "exchangeable" in relation to the other sector, which we consider the tradable sector.³ Their interchange sector criteria is based on the participation of the same in the export invoice and should reach a value of 10% of domestic production. Their calculations, which are based on the 14 OECD

¹ According to the absolute purchasing power parity theory, the nominal exchange rate between the two countries is calculated as the ratio of prices in these countries, so the real exchange rate should be equal to 1 or it will have a tendency to return to that level, if for some reason, there is a deviation.

² In fact, these countries have done so after convergence criteria defined by the Maastricht Treaty required to introduce the euro as the national currency and become full members of the Economic and Monetary Union. Since one of the criteria is related to the achievement of a high degree of price stability, there began to be afraid of a strong Balassa-Samuelson effect, associated with real convergence, that could impede nominal convergence and postpone the introduction of the single currency. This could happen if the Balassa-Samuelson effect was more than 1.5 percentage points per year, which is a tolerance inflation rate in a country that is a candidate for the Euro zone, than the average inflation in the three EU countries with the lowest inflation required under the Maastricht contract.

³ De Gregorio (J.), Giovannini (A) and Wolf (H) (1994): International Evidence on tradables and non-tradables inflation, European Economic Review 38, p.1231

countries for the period 1970 to 1985, show that 45% of the products of manufacturing sector has been exported, while the figure for the agricultural sector has been 24%, and goods of mineral products 31%. Only 4% of services were exported in the period we have looked at, while the real percentage is 2%, if we exclude the transport service. These figures indicate the existence of the "non-traded" sector of goods, including the services sector, with the exception of transport services. Please note that the sector of "tradable" goods include not only manufacturing industry goods, but also agriculture, minerals and transport services, although a large number of studies this sector exclusively limits to the processing industry.¹

Furthermore, the Balassa-Samuelson effect starts from the existence of a single service price for the tradable sector of goods, in a context of the small opened country with no barriers. In reality, the concept of a single price is not confirmed, and various factors contribute to this contribution such as product quality, transportation costs and a pricing policy of the companies, which often tends to adapt to local rates, rather than implementing their own prices converted on the nominal exchange rate basis. However, with an analysis of the components of the appreciation of the real exchange rate we come to the conclusion that such an exchange rate is possible without confirmation of the existence of the concept of one price of tradable goods. The appreciation of the real exchange rate can be viewed through two components, one reflecting changes in the real exchange rate of tradable goods, which can be different from zero even in the absence of a single price, and the other one related to the increase in the relative price of non-traded goods, which basically represents the Balassa-Samuelson effect.

Higher productivity is inherent in the sector of tradable goods than in the non-tradable sector. This assumption is confirmed by looking at the individual country, but also at the international level where we observe the movement of productivity between emerging economies and developed economies. In other words, productivity growth during the "Catch-up" process is especially characteristic of the tradable sector.

Then, the question is whether the Balassa-Samuelson effect is crucial in defining the appreciation of the real exchange rate in terms of the rapid growth and development of the economy more inherent in transitional economies. The Balassa-Samuelson effect, observed as it's been described above, is purely the effect on the supply side, while demand does not play any role in the formation of relative prices. However, relative prices may also rise as a result of growth in demand pressure, which further leads to the appreciation of the real exchange rate. If we leave aside the BS model as we have so far observed and the assumption of perfect capital mobility, we can analyze the impact of demand on the relative prices of different sectors known as Baumol-Bowen effect (1966). Baumol-Bowen effect also provides an explanation for the growth of the relative prices of non-tradable goods introducing the factor of demand and bearing in mind that the income elasticity of the demand for services is greater than when it comes to the elasticity of demand for goods, with the share of services in total demand grows during the process of growth and development economy.

Of course, as well as the other economic dependences, so the level of demand elasticity in relation to income, differs for the variety of products, depending on the level of their development, so that essentially alters the significance of existential or luxury goods and necessities of life.

This dependence was researched by the German statistician Ernst Engel in the last century and he came to the following conclusion, later that was called "Engel laws":

the share of expenditure for food varies inversely with the level of income;

the share of expenditure for clothing and footwear remains nearly unchanged with the change of income;

the share of expenditure for an apartment stays approximately unchanged with the change of income.

the share of expenditure for sports and recreation increases with income.

¹ Measuring the Balassa-Samuelson effect for the Countries of Central and Eastern Europe? Banque de France Bulletin Digest no.122, 2004, p.28th www.banque-France.fr.

In such conditions, the relative prices of services tend to grow in order to have rebalance supply and demand for non-tradable goods. As a result of these trends, we have an appreciation of both - external and internal real exchange rate. In reality we have a situation that the rise in the relative prices of the service sector, is the result not only of lower sector productivity, but also the growing demand in the process of rapid growth and development.¹

The growth trend of the relative prices of the service sector, which provides the Balassa-Samuelson effect, is supported by the most advanced economies, but to this process the trend of growth of the service sector in GDP it's also inherent. This phenomenon, on the other hand, as we stated, is not covered by the BS effect in the manner described above. Therefore, the effect of growth in demand should be taken into account and considered its value. Please note that most studies do not distinguish these two components – the Balassa-Samuelson effect and the Baumol Bowen effect (or inner and outer Balassa-Samuelson effect), in consideration of both effects which have a similar impact on the real exchange rate to appreciate during periods of rapid development. The Balassa-Samuelson effect, of which is better known, it's often known and used as an indicator that essentially includes both phenomena.

Furthermore, the variation in productivity, and its effect on the exchange rate, is often attributed entirely to the BS effect, which is wrong. For example, productivity shocks themselves may affect the appreciation of the real exchange rate through other channels, for example: investment demand channel. Thus, an increase in productivity leads investment growth, which further leads to an increase in interest rates in order to attract the necessary capital to finance the mentioned investments, so ultimately leading to an appreciation of the real exchange rate. The situation is further complicated if we take into account the differences in the elements of the sector components of investment demand.² Briefly, the Balassa-Samuelson effect, in its original form, contributes to the appreciation of the real exchange rate, but that's not the only component of his appreciation, but there are other factors, and all together aim to improve or make the competitive position of specific countries worse on the international market.

3. Empirical research

The Balassa-Samuelson effect has been empirically tested in numerous works, with results largely confirming the theory.³ Summary of 58 studies from 1964 to 2004, published on this subject, can be found in the work of Tice and Družića (2006), in which it is shown that in only six papers empirical analysis resulted in statistically insignificant coefficients and / or coefficients opposite than expected. In the Central and Eastern Europe assessment the Balassa-Samuelson effect particularly encouraged the EU accession process and the question of meeting the convergence criteria. The main features of selected works for these countries are presented in the following table.

Jelena Popova and Oleg Tkachevs⁴ conducted a survey on the existence of the Balassa-Samuelson effect in Lithuania in the period from 1995 to 2002 and its impact on the appreciation of the real exchange rate. The study found that the differences in productivity growth of 1% compared to Germany sampled appreciation of the real exchange rate by 1.4%. It was found that the appreciation of the real exchange rate cannot be fully attributed to the Balassa-Samuelson effect. Balázs Egert (Balázs Égert) In the study which referred to Estonia for the period from 1993 to 2002, has found *existence of the Balassa-Samuelson effect*, and its contribution to inflation was 0.5-2%. Contribution of the Balassa-Samuelson effect to overall inflation is calculated on the way that the growth rate of non-traded goods is multiplied with their participation in the SPI index. Lojschova (2003) showed that in Slovakia, the Czech Republic, Hungary and Poland the Balassa-Samuelson effect influenced the average annual rate of real appreciation of about 2.5%.

¹ Ibidem.

² Fischer C.: Real currency appreciation and the accession countries: Balassa-Samuelson and investment demand, the Deutsche Bundesbank, Discussion Paper 19/02, 2002

³ Funda, J., Lukinić, G., Ljubaj, I. Assessment of the Balassa-Samuelson Effect in Croatia Financial Theory and Practice 31, Zagreb, 2007, p. 320

⁴ Popova, J., Tkachevs, O., On the Balassa-Samuelson effect in Latvia, Centre for European and Transition Studies, August 2004

Research of the Balassa-Samuelson effect in 11 countries in the Central and Eastern Europe has been conducted by Mihaljek and Marc Klau¹, for the period from the mid-1990s to the first quarter of 2008.

It was found an expression of both domestic and international Balassa-Samuelson effect. The Balassa-Samuelson effect at home explained about 84% difference in the prices of tradable vs. non-tradable goods, and international Balassa-Samuelson effect of about 24% difference in inflation between the observed countries and the Euro zone. According to research of Boštajn Jazbec² for Slovenia in the period 1993 to 2001: 2. 1% of the growth in the productivity differences has led to the appreciation of the "external" real exchange rate by almost 1. 5% between the industrial and service sector. In certain periods, 1% of the growth differences in productivity caused a 1. 7% of the growth in the CPI. The existence of the Balassa-Samuelson effect in Slovenia is confirmed by the work of Rothera (2000) and Jazbeca (2002), who obtained similar results. Rother also argued that in the short term a significant impact on the relative price of internationally non-tradable and tradable goods have the monetary and fiscal policy, while the long term there is a difficult to assess their impact because of the large fluctuations in the variables.

The Balassa-Samuelson effect is according to Cipriani (2001)³ relatively weak, which explains the relatively low share of non-traded goods in the consumer price index in the countries which are studied, and significant productivity growth in both sectors, stimulated by the transition process. He also stresses that a significant proportion of inflation in the observed countries result of the actions of other effects, such as growth previously administered prices after the liberalization of certain sectors, which has led to increase in prices of non-tradable goods, which cannot be associated with changes in productivity. When we look at differences in inflation in transitional and developed countries, Égert (2005) believes that other factors should be taken in consideration, among which stands out the impact of changes in import and total prices which are caused by the depreciation or appreciation of the domestic currency (Exchange rate pass-through).

Then he writes about the impact of oil shocks, cyclical factors, inflation inertia, gradual deregulation of administered prices, the rise in prices of tradable goods due to the increase of their quality and credibility of economic policy after periods of hyperinflation.

Table No. 1: The overview of the Balassa-Samuelson effect research in the countries of the Central and Eastern Europe:

Authors	Countries	Period	Results
Arratibel and others (2002)	BG, CZ, ES, HU, LT, LV, PL, RO, SI, SK	1990-2001	BS effect is not significant, and the main source of the growth in the prices of non-tradable and tradable goods are differences in market structure.
Cipriani (2001)	BG, CZ, ES, HU, LT, LV, PL, RO, SI, SK	1995-1999	The growth of the relative labor productivity by 1% on average, resulting in a rise in the relative price of non-tradable goods by 0. 57%. Only 1% of inflation in the observed countries can be explained by the BS effect.
Coricelli and Jazbec (2001)	19 TRANSITIONAL	1990-1998	The elasticity of the real exchange rate to

¹ Mihaljek, D., Klau, M. : Catching up and inflation in transition economies: the Balassa-Samuelson effect revisited, BIS Working Paper, no.270, December, 2008

² Badger, B. : Balassa-Samuelson Effect in Transition Economies: The Case of Slovenia, William Davidson Working Paper Number 507, October 2002

³Funda, J., Lukinić, G., Ljubaj, I., " Assessment of the Balassa-Samuelson affect in Croatia ", Financial Theory and Practice 31, Zagreb, 2007, p.320

	COUNTRIES		differences in productivity was 0. 5.
Egert (2002)	CZ, HU, PL, SK, SI	1991-2001	According to BS effect, the equilibrium of the real appreciation was about 0% for CZ, SI, SK, about 1% for HU and about 3% for PL.
Egert (2003)	ES	1993-2002	The average contribution of the BS effect to the general price level is between 0. 5 and 2 percentage points.
Egert and others (2001)	CZ, ES, HR, HU, LT, LV, PL, SK, SI	1995-2000	BS effect does not contribute to a significant real appreciation of the exchange rate; other factors are important too
Egert (2005)	BG, HR, RO, RU, TR, UK	1991-2004	BS effect poorly determines a general level of inflation and the real exchange rate, except perhaps in HR; more important are other factors.
Fischer (2002)	BG, CZ, ES, HU, LT, LV, PL, RO, SI, SK	1993-1999	About half of the change in the equilibrium of the exchange rate can be explained by changes in productivity, about a quarter by the changes in consumption and about a quarter by the changes in real interest rates.
Halpern and Wyplosz (2001)	CZ, ES, HU, LT, LV, PL, RO, RU, SI	1991-1998	Estimated annual appreciation due to BS effect is 3%.
Jazbec (2002)	SI	1993-2001	Growing of differences in productivity among tradable and non-tradable goods for about 1% gives a boost to the real exchange rate appreciation encouraged by around 1. 5% and the consumer price index by about 1. 7%.
Joko and Tuladhar (2005)	MA	1995-2003	BS effect is not significant.
Lojschova (2003)	CZ, HU, PL, SK, SI	1995-2002	The average annual rate of a real appreciation due to BS effect is 2. 5% per year.
Mihaljek and Klau (2004)	CZ, HR, HU, PL, SK, SI	1992-2001	Domestic BS effect runs between 0. 3 and 1. 6 percentage points, and International between 0. 1 and 1. 8 percentage points.
Rother (2000)	SI	1993-1998	International BS effect runs between 1. 5 and 2 percentage points.

Note: BG - Bulgaria, CZ - Czech Republic, the EC - Estonia, HR - Croatia, HU - Hungary, Lithuania - Lithuania, LV - Latvia, MA - Macedonia, PL - Poland RO - Romania, RU - Russia, SI - Slovenia, SK - Slovakia, TR - Turkey, UK - Ukraine.

Source: Funda, J., Lukinac, G., Ljubaj, I. (2007)

In terms of research on the effect of exchange rate regime choice in the expression of the Balassa-Samuelson effect, *Anne-Laure Baldi* and *Nanno Mulder*¹ came to some interesting results. The investigations included Argentina, Brazil, Chile (ABC countries) And Mexico from 1990 to 2002. According to the researchers mentioned above, fixed regimes affect the relative prices of the two mechanisms. First, the fixed regimes affect the prices of trade goods because the prices are given for the mentioned countries (price takers) on the international market. Rigid regimes force countries to adjust their prices to foreign competition, because the exchange rate cannot perform the function of equalizing domestic and international prices. Nominal depreciation cannot increase import prices of (tradable) goods. Second, fixed regimes also affect the prices of non-traded goods in countries with liberalized capital account, because of the large capital inflows that increase aggregate demand. The theoretical and empirical assumptions are confirmed with the exception of Chile. During the fixed exchange rate regime in these countries non-tradable sector of goods has grown at the expense of the tradable sector.

4. The Balassa-Samuelson effect and Bosnia and Herzegovina

Starting from the impact of the Balassa-Samuelson effect on an economy, it is necessary to point out the essence of the action of this effect, as well as an appropriate selection of the moment of observation, so that quantifying the effects themselves can be more adequate. The essence of the Balassa-Samuelson effect is to distort the competitive position of the country through an appreciation of the real exchange rate. In fact, if we look at the real exchange rate as the relative price of foreign goods and services denominated in domestic goods and services and its close association with the nominal exchange rate, we are able to cover all the factors that influence the competitive position of a country. If we mark with S the nominal exchange rate (British Convention), and with P^* we mark the prices of foreign goods denominated in foreign currencies, then the domestic price of foreign goods is P^*/S . Conversely, if we mark the prices of domestic goods in the domestic currency, then the price of domestic goods in foreign currency is SP .²

The real exchange rate, in other words, the price of foreign goods expressed in domestic goods becomes:

$$\sigma = P / P^* / S = SP / P^*$$

It is clear that in terms of the deterioration of the nominal exchange rate, namely its appreciation, there is also a deterioration of the country's competitive position, and vice versa. The same effect on the competitive position of the country has a price growth in the country and a price fall in abroad. In a light of this we observe the Balassa-Samuelson effect and its impact on price movements in the country, as well as the impact on economic competitiveness. Starting from the theoretical concept and importance of the universality of this effect, it is necessary to choose the right moment of observation, so that effects themselves can be clearer.

This paper starts from the period before the escalation of the global economic crisis, because it is a period in which there were strong reactions from some countries using different economic instruments aimed at economic stabilization. In fact, in a situation where we already have a manifestation of the crisis through the decline of macroeconomic indicators we have a strong performance of individual countries in order to overcome the negative effects of crisis. So there are significant differences in the selection of measures and economic policies to stop the decline in economic activity, and thus different effects on the movement of the real exchange rate. Certainly, the expansionary monetary policy measures and let say measures of restrictive fiscal policy lead to different effects on the movement of the real exchange rate and thus the external competitive position of the country. Choosing one or the other policy is determined by a number of economic variables and factors, not only international competitiveness, so it is interesting for us to observe the long-term positions on the manifestation of the Balassa-Samuelson effect, or period just before the outbreak of the crisis and then aggressive and sometimes very chaotic global response to it. In that period we had strong reactions of individual countries through economic policies of different courses of action, so that we have a more realistic picture on the manifestation of the Balassa-

¹ Baldi, A. Mulder, N. : Exchange rate regimes, relative prices and outward orientation: ABC and Mexico in the 1990s, the OECD Economics Department, November 2002

² Burda, M., Viplosh, T., Macroeconomics, The Center for the Liberal-Democratic Studies, Belgrade 2004

Samuelson effect, and a better insight into the long-term competitive position of the country. Those countries that have had a better competitive position in the period immediately before the crisis, readily entered a period of economic turbulence in certain extend, and after a year or two of strong reactions in which the deterioration of competitive positions is possible, and from the perspective of the real exchange rate things are returning to an initial economic position.

The Table No. 2 shows that the productivity in the tradable sector (Prod T) grew faster than productivity in the non-tradable sector (Prod NT), and the index of relative productivity of non-tradable relative to tradable goods declined.¹ On the other hand, wage growth in the tradable sector (Index WT) was lower than productivity growth, while in the non-tradable sector wage growth (Index WNT) was faster than productivity growth. Also, there is a strong correlation among the growth of wages in the labor market.²

Table No. 2: The manifestation of the Balassa-Samuelson effect in Bosnia and Herzegovina.

<i>Basic indices (2001 = 100)</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>Correlation coefficient</i>
<i>Prod T</i>	100,00	105,48	123,50	124,17	157,14	177,46	203,24	
<i>Prod NT</i>	100,00	107,63	112,03	119,54	123,36	128,28	128,14	
<i>Index W NT</i>	100	102,47	108,89	116,07	129,17	143,27	158,43	0,93
<i>Index W NT</i>	100	109,90	120,91	126,07	126,53	134,76	143,92	
<i>Prod NT/Prod T (Index, 2001=100)</i>	100	102,04	90,71	84,09	78,50	72,29	63,05	0,94
<i>PT/P NT (Index, 2001=100)</i>	100	99,61	97,65	97,45	91,86	91,78	90,98	

Source: Gligoric, D., 2011

In the last two lines of the table we see that there is a high correlation between the relative decline in productivity of non-tradable goods compared to tradable (NT Prod / Prod T) and the relative decline in prices of tradable goods (PT) compared to non-tradable (P NT), which indicates the expression of the Balassa-Samuelson effect in Bosnia and Herzegovina.

If we look at the period after 2008, based on a simple observation of the wage changes in the two sectors, we come to the same conclusion about the existence of the Balassa-Samuelson effect.

¹ Gligoric, D. Effect of choice of exchange rate regime in the real exchange rate of the Western Balkans, University of Banja Luka, Faculty of Economics, Banja Luka, 2011

² First we choose the sectors that will represent the tradable or non-tradable sector. We will then perform a calculation index of productivity by sharing the value added by sectors with the number of employees in the sector for each observed year. The approximation of the tradable sector in Bosnia and Herzegovina included the following sectors: mining and quarrying, manufacturing industry, production and supply of electricity power, gas and water. The approximation of non-tradable sector includes the following sectors: hotels and restaurants, transport, storage and communication, financial intermediation and activities related to real estate, renting and business activities. As an approximation of the price of non-tradable goods there are used for services to retail and tradable prices of industrial products in retail. By aggregate indicators at the state level, due to the unavailability of data, we're weighting inflation rate in the Federation with 0.65 and the price in Republika Srpska with 0.35, starting with the participation of entities in the creation of added value.

Table No. 3: Changes in net wages in the tradable vs non-tradable sector per employee during the period 2007-2012

BAM

	2007	2008	2009	2010	2011	2012
The average gross salary paid in the sector of tradable goods *	845	850	897	926	974	997
The average gross salary paid in all other activities	1015	1236	1342	1344	1402	1416

Source: Department of Statistics.

*It refers to the sectors of manufacturing, mining, agricultural segment of transport activities from traffic, connections and storage.

The relationship between the level of exchange rate flexibility has been observed, using the same calculations that take into account all the Western Balkan countries, on the base of the IMF classification and the index of the real effective exchange rate, there has been the conclusion that there is a statistically significant relationship between these variables. Starting from the point that there has been strongly binding exchange rate in Bosnia and Herzegovina, more specifically the most conservative type of the currency board, it is clear that the existing model of monetary policy contributes to the deterioration of the competitive position of Bosnia and Herzegovina on the international market and contributes to faster overcome, but further deepen the crisis.

The influence of the Balassa-Samuelson effects, as well as all the other factors that contribute to the appreciation of the exchange rate at a time when we have limited possibilities of fiscal effects, the growth of public debt, aggravated and worsened financing conditions, leads not only to a worse competitive position on the international market, but also raises the question of sustainability of the current currency board system. When a country has a CBS, the macro-framework in that country should provide prudent fiscal policy, a healthy financial system, cautious external management and, of course, flexible and non inflationary labor market and hence price mechanism. If there are serious imbalances in one of these elements of the macro-framework, it is a clear indicator of the potential vulnerability and danger for the CBA. ¹More specifically, stable bonds in the course of the crisis on the one hand leads to a deepening of the crisis, while on the other hand creates an atmosphere of uncertainty for the sustainability of the arrangement, which further complicates the situation. The following table presents the sensitivity of indicators on the basis of which we can speak about the sustainability of the currency board.

Table No. 4 The vulnerability Indicators

	2005	2006	2007	2008	2009	2010	2011	2012
	(% GDP)							
Fiscal deficit	2,40	2,90	1,20	-2,20	-4,50	-2,50	-1,30	-2,1
The current account deficit	-17,1	-8,0	-9,1	-14,2	-6,6	-5,5	-9,5	-9,6

¹ Gulde, A., Kahkonen, J., and Keller, P., Pros and Cons Currency Boards Arrangements in the Lead - up to EU Accession and Participation to the Euro Zone, International Monetary Fund Policy Discussion Paper 00/1, 2000, p.4

<i>External debt</i>	25,3	21,1	18,2	17,2	21,8	25,4	25,9	27,9
<i>The growth rate of exports</i>	34,2	36,5	14,96	13,0	-17,7	28,3	15,9	-4,5
<i>The rate of savings *</i>	28,0	28,57	25,88	0,32	8,65	14,7	8,97	9,0
<i>The inflation rate **</i>	3,8	6,1	1,5	7,4	-0,4	2,1	3,7	1,8

Source: Authors, based on data of the CBBH.

If we look at the factors of vulnerability in the period immediately before the crisis, and also in the crisis years, it is evident that there is the deterioration by almost all elements. First, we highlight the negative trends in terms of the fiscal deficit that didn't exist in the period immediately before the crisis, so we can conclude that in the period of the crisis the first condition of sustainability of the currency board has been disrupted, which refers to the fiscal policy managing. Furthermore, the movement of the external public debt is particularly worrying and shows significant growth in the crisis conditions, and in contrast to the private component of the external debt is considerably greater burden. The burden is therefore greater if one takes into account the characteristics of both, where the public external debt shows a much higher level of rigidity in relation to the private foreign debt.

If we take the ratio of total external debt to exports as a relevant indicator of indebtedness the deterioration is evident. We see a strong impact of the crisis on the export trend in 2009, where the external shocks have been completely broken through the sectors of the real economy due to the inability of economic power to use monetary policy measures to affect the current situation.

Since we established the existence of the Balasaa-Samuelson effect in a pre-crisis period, we can assume that it has been especially manifested in the crisis period when the export is significantly reduced, where wages in non-tradable sector remained relatively unchanged, while wages in the tradable sector reduced due to the loss of jobs on the global market.

Generally speaking, our businessmen lost competitive position additionally, in a time of global crisis, in the global market because of the exogenous factors, or the factors to which they could not influence.

Since that kind of monetary regime operates in Bosnia, we must take it as a given and immutable variable, so the policy maker had to react adequately in a time of crisis. Reduction of salaries in the non-tradable sector at an adequate level¹ would contribute to reducing the appreciation and thus strengthening the competitive position of businesses on the world market.

From the table above it is clear that we have the export improvement, indeed lower than the average in the pre-crisis years, and then it's reported a negative trend again in the coming years, and 2012 ended with a minus. These significant fluctuations in exports are an expression of some factors, exogenous and endogenous and represent a challenge for some following studies. Relations with foreign countries are the main source of generating revenue to repay debt, and make the question of pressure on the very sustainability of the CBS in terms of the decline in exports. Negative trends are seen in the movement of savings, which together with all mentioned further, complicates the situation.

In the end, we emphasize that the situation for Bosnia and Herzegovina would be much more difficult if the reserve currency in our currency board system was the Swiss franc or the Japanese yen, as the currencies which are stronger in a period of crisis. We note that one of the main weaknesses of countries with a CBS is that they import the monetary policy of the country in whose currency their domestic convertible currency is linked. Changes in the monetary policy of the country

¹ The authors assume that a cutback of 15% of the wages in the government, municipal and other state organs was enough.

whose currency is bonded with the local currency will be inappropriate to a CBS country if the business cycles of the "reserve" country and the CBS do not match. It is clear that the impossibility of the CBS to make the appreciation or depreciation in order to protect the economy from external shocks generates great costs. In a way, it was good for us that this crisis has a global in character, and the ECB pressed by the problems within the Euro zone, monetary influenced on the financial markets and thus in a certain way through the weakening of its currency has contributed to the strengthening of our competitive position. We must also be aware that the stabilization of the economic situation will come much earlier in the European Union in relation to us, so in terms of reduced ECB intervention in Bosnia and Herzegovina will be presented its complete set-off over the real sector. In support of that, there is a data which demonstrates export movements, where we noted an increase under stronger action of the ECB and vice versa.

As one of the possible options in order to keep the system of a tight attachment of the course, but also to adapt the conditions of the crisis, is changing the central parity rates. We note that any weakening of the currency in order to improve the competitive positions is possible in credible and strong economies, such as the UK, which allowed the devaluation of the pound by 15% in 1992, which became stabilized after that.¹ The investors became aware that the worst situation passed, so that lower value of the currency would make an export stronger and that British investments were much lucrative then earlier. A similar situation happened in Thailand during the Asian crisis, where most of the budget calculations indicated that there was also necessary for the baht to fall for about 15%, in order to restore the competitive position of the Thai industry. But due to the lack of credibility of the monetary authorities in Thailand, there was a headlong lowering for a whopping 50% against the dollar and this trend would have continued even further if Thailand had not responded with drastically increasing in interest rates. A similar, if not worse situation, is here with us, where a change of central parity of currencies led to a period of tighter liquidity, high unemployment and generally speaking the economic chaos.

Conclusion

Changing a currency exchange rate, which is caused by the Balassa-Samuelson effect, in its original form contributes to the appreciation of the real exchange rate, but it is not the only one that completely determines the direction of exchange rate movements. In fact, there are other factors, and they all together aim on improving or worsening the competitive position of the country on the international market, observed through the changing of the real exchange rate.

The manifestation and the impact of the Balassa-Samuelson effect in a sense of appreciation of the real exchange rate is further expressed in countries such as Bosnia and Herzegovina, whose monetary policy is based on the principles of the currency board. We emphasize that in Bosnia and Herzegovina exist the most conservative type of the currency board system and so there is minimum possibility of monetary action. Analogously to previous statement, the effect of the crisis in its full capacity shifts to the real economy sector. Essentially, the reserve requirement ratio in Bosnia and Herzegovina is the only instrument of monetary policy, and thus the only way to affect real variables using the monetary policy. Thus, there is a significant limitation for Bosnia and Herzegovina to use its economic activity to overcome the effects of the crisis. To all said we have to add some facts inherent to the economies with currency boards. For these economies it is very characteristic to have a large level of foreign remittances, which have a positive corrective socio-political dimension, but the economic effects are with the opposite direction. Specifically, the transfers from abroad lead to appreciation pressures, that is, they allow the maintenance of a fixed exchange rate to the unrealistically high level and thus they ruin the international competitive position of the country. Otherwise inevitably currency adjustment would happen and that might, among other things, contribute to the improvement of competitive position and creating favorable conditions for the growth of what we call the real sector.

As we already said, the Balassa-Samuelson effect, as one of the components that lead to appreciation of the real exchange rate, it is interesting from the aspect of the country's competitive position in the period before the escalation of the crisis. In other words, in the period of slower productivity growth expansion, and faster wage growth, in the non-tradable sector comparing to the tradable sector of goods and services leads to the creation of the illusion of much more favorable competitive position of the country confronting the actual situation. Only in times of economic turbulence comes to reducing conditions on real time basis and in the absence of active monetary policy and in the regime of the rigidity of wages, the

¹ Krugman, P., The Return of Depression Economics and the Global Crisis in 2008, Novi Sad, Helix, 2010, p.92

full effect is paid by the real sector's decline, stagnation in exports and the general disruption of the economic position of the country.

For countries with tightly linked exchange rate in which there is no possibility for the active use of monetary policy or where devaluation has no economic justification, the alternative approach is the so-called - fiscal devaluation. This approach implies reducing taxes on labor with the increase of the taxes on consumption, what directly makes exported goods cheaper and imports more expensive. An artificial maintenance of currency makes sense for the economy in the conditions of expansion, but in the period of external shocks, this burden falls on the decline in exports, production, employment and government revenue.

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Cooperation and Importance of School and Family on Values Education

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Abstract

Values are one of the basic identifier of personality traits and are not innate but acquired by training. Although values can be taught in all stages of life, values education gain importance in childhood because personality takes shape in it. Values education firstly begins in family, than continues at educational institutions. Basic values are acquired respectively by taking parents as role models and education at schools. For the strengthened personality traits, the values thought at whole life must be coherent. Especially consistency of school and family that is important on children personality highlights for values education. If there is no consistency between the values that students learned or witnessed in the school and in the family, then conflicts are occurred and these situations cause personality disorders. This research aims to investigate the importance of family and school consistency in values education and how it should be during fundamental/primary education level. Considering findings, proposals were developed for family and school in values education.

Keywords: Values education, family, schools, consistency, character education

"...man's first master and most influential teacher is his mother." Said Nursi

Values Education

All educational efforts try to develop three domains: Cognitive, affective and psycho-motor domains. Cognitive domain contains knowledge; affective domain holds affections, attitudes, and values; psycho-motor domain includes behaviours, acts. Effective educational systems should improve these three domains simultaneously. Ignoring affective domain cause a certain numbers of personal and social problems. As values are criteria and standards for behaviours, students should acquire some values. Values lead our lives and works in many dimensions. That's why, values must be indispensable part of educational systems.

Values education is relatively new umbrella term for a range of common curriculum experiences like spiritual, moral, social and cultural education; personal and social education; religious education; multicultural/antiracist education; cross-curricular themes, especially citizenship, environment and health; pastoral care; school ethos; extra-curricular activities; wider community links; collective worship / assembly; school life as a learning community" (Slater, 2001). The concept 'value education' refers to teaching social, political, cultural, and aesthetic values. 'Moral education' refers to a more universal notion of justice, but this justice becomes meaningful in a social and political context (Veugelers & Vedder, 2003). Lickona uses values education and moral education interchangeably and both as shorthand for "moral values education". Moral education is not a new idea. It is in fact as old as education itself. Down through history, in countries all over the world, education has two great goals; to help young people being smart and helping them to become good (2009). Character education can be defined as a comprehensive school based approach to foster the moral development of students. Effective character education supports and enhances the academic goals of school; in short, good character education also promotes learning (Berkowitz & Bier, 2007)

The conceived character has three interrelated parts: moral knowing, moral feeling, and moral behaviour (as seen in Figure. 1). Good character consists of knowing the good, desiring the good, and doing the good – habits of the mind, habits of the

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hart, and habits of the action (Lickona, 2009). In the same way, Berkowitz & Bier (2007) state that the character education effects various aspects of “head” (knowledge, thinking), “heart”(emotion, motivation), and “hand” (behaviour, skills). Values education aims to improve some traits. Lists of traits are often as numerous as definitions of character education. Several traits are frequently cited by different authors. Among these traits, there are responsibility, honesty, respect, fairness, trustworthiness, caring, justice, civic virtue, kindness, empathy, self-respect, self-discipline, and courage (Pearson & Nicholson, 2000).

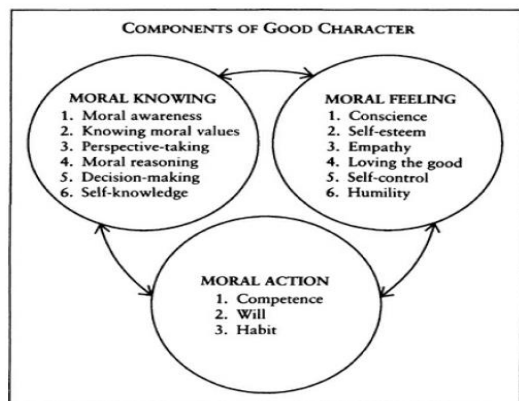


Figure. 1: Component of good character (Lickona, 2009).

Family and Values Education

Character education begins at home. Children develop much of their identities and their beliefs about right and wrong before ever formally entering school. Young children's beliefs about what is right and wrong traditionally have been strongly influenced by their families (Brannon, 2008) that one of the main or sole transmitters of values (Rokeach, 1975). Although school has a central role in developing students' character, the most profound impact on students' development comes from family, notably from their parents whether in social, moral, behavioural, or academic development (Berkowitz & Bier, 2005). It can be said that family is the primary moral educator of the child. Parents are their children's first moral teachers and the parents are also the most enduring influence (Lickona, 2009). Nursi (1995) states this situation as: "Yes, man's first master and the most influential teacher is his mother. In connection with this, I shall explain the following to you, which I have always felt strongly in my own self: I am eighty years old and have received lessons from eighty thousand scholars. Yet I swear that the truest and most unshakeable lessons I have received are those inculcated in me by my late mother, which have always remained fresh for me. They have been planted in my nature as though they were seeds planted in my physical being. I observe that other instruction has been constructed on those seeds. That is to say, the lessons instilled in my nature and spirit by my mother when I was one year old I now see at the age of eighty to be fundamental seeds amid great truths. "

It is clear that how parents raise a child is the predominant influence on the child's character formation. Some of the operative variables are parental affection, consistency of parenting, response to children's cues and signals, modelling, expression of values, respect for the child, and open discussion with the child. All aspects of children's character are impacted by these and other child-rearing factors (Berkowitz, 2002) and in well-functioning character education (Berkowitz & Bier, 2005). "The first step in raising a right child," says Dr. Kohlberg, "is to treat a child morally. " Treating kids with respect means treating them like persons. Treating kids like persons means trying to be fair with them. Being fair means relating to kids at their level and making some allowances for the immaturity of their developmental stage (as cited Lickona, 1983). When children don't have a close relationship with their parents and identification with family values, they are more vulnerable to peer pressure (Lickona, 2009).

School and Values Education

Personality is not simply individualistic. The personality that is constructed is always situated and in dialogue with others, social norms, and cultural metaphors. The child establishes personal borders through a process of interpersonal negotiation (Nucci, 2001). The efforts of school have important point in gaining important, core, ethical values in character education (Abourjilie, 2002). Values education begins at home, continues at school that the second institution in children's life. A climate of acceptance and warmth toward students is an essential element of moral education in every grades. Especially in the early grades of childhood, positive affect be overtly manifest within school content (Nucci, 2001). Children learn values throughout curriculum, texts, and from teachers.

School has an influence later than parenting because (1) parents are much more emotionally salient in the first years of life, and (2) many children do not experience full or even part-time schooling until they are three, four or five years of age, many aspects of character are already developing. Schools can influence a child's self-concept, social skills, values, moral reasoning maturity, prosocial inclinations and behaviour, knowledge about morality, values, and so on (Berkowitz, 2002). Working together, two formative social institutions (school and family) have real power to raise up moral human beings and elevate the moral life of the nation (Lickona, 2009).

Teachers are core component of school and they play substantial role in values education. Before all, teachers need a clear understanding that the character education is the deliberate effort to teach virtues that represent objective moral standards that transcend time, culture, and individual choice. In order to develop virtuous character in their students, teachers must help young people to know what the virtues are, to appreciate their importance and to want to possess them, and to practice them in their day-to-day conduct (Lickona, 1997).

Cooperation of Family and School

Family and school are two major, effective, and formative institutions in values education. If character education is only enforced in classroom but not at home, students confuse about what is wrong or good. When character education continues at home, values become more meaningful in students' life. For consistent and meaningful values education family and school should be cooperated. As Passy (2005) says the classroom provides a context in which all children given a chance to learn the values that the teachers believe should be learned at home.

The first step is for the school to be very clear about how it sees the complementary responsibilities of home and school regarding character development. Those responsibilities can be expressed in two simple statements: (1) The family is the first and most important influence on a child's character. (2) The school's job is to *reinforce* the positive character values (work ethic, respect, responsibility, honesty, etc.) being taught at home (Lickona, 2004).

Parents must be a partner with school because a child's parents also act as his or her teacher. Also, it is similarly true that teachers act in loco parentis while students are under their care (Berkowitz & Bier, 2005). As children enter school, teachers join in the process of shaping children's minds, attitudes, and behaviours by forming a partnership with parents (Brannon, 2008). Without parents' support and cooperation, educators' efforts and influence will be limited. Even if the schools conduct during school hours, the likelihood of lasting impact on the character of a child is less when school values are not reinforced at home (Lickona, 1988). Character education is most effective when schools and parents work in partnership (Berkowitz, 2002). The long term success of values education depends on forces outside the school – on the extent to which families and communities join schools in a common effort to meet the needs of children and foster their healthy development (Lickona, 2009). In other words, schools and parents need to work together to continue developing students' character throughout their educational career (Brannon, 2008).

If educators view children simply as students, they are likely to see the family separated from the school. That is, the family is expected to do its job and leave the education of children to the school. If educators view students as children, they are likely to see both the family and the community as partners with the schools in the children's education and development (Epstein, 2010). The character development must be the highest educational priority for schools and this priority should be underlie else the schools do. They can challenge especially the family, to their part in teaching the young the virtues they need to make a good life and to build a good society (Lickona, 1997). Healthy character education means empowering all stakeholder groups, including students, support staff, and parents. Character education is a perfect complement to

academic fervour. Parental involvement in schools is a win-win-win proposition for students, parents, and school. Society also wins (Berkowitz & Bier, 2005).

There was a growing sense that schools, families, the whole human community – all those historically responsible for passing on a morale heritage to the young- must come together in common cause to elevate the character of children (Lickona, 1997). An ideal comprehensive character education program would be a collaborative effort of administrators, teachers, counsellors, and parents (Pearson & Nicholson, 2000). It is known that, children learn what they live. So, it is important that adults demonstrate positive character traits at home, school, and in the community (Abourjilie, 2002). School and individual teachers within schools are a major influence, alongside the family on developing values of children (Halstead & Taylor, 1996).

Cooperative values education need joint responsibility of stakeholders and strategies that involve family and school to values education. Berkowitz & Bier (2007) -see family commitment to character education as effective strategy- in their research examined 33 character education programs across USA and found out scientific effectiveness. Family/community participation was one of the pedagogical strategy from successful programs. There are some strategies for cooperative values education:

Role Modelling: Children need to see role models of good character in a variety of situations within the family and community and to receive consistent messages about the value of good character. (Brannon, 2008). LeGette assume modelling good character in the home for effective values education, modelling and teaching children good manners, keeping children busy in positive activities and not reducing character education to words alone (cited as Abourjilie, 2002). One of the surest ways to help our children turn their moral reasoning into positive moral behaviour is to teach by example. Teaching respect to kids by respecting them is certainly a way of teaching by example. When we respect our children, we're letting our actions say what we think is the right way to treat other people (Lickona, 1983). The behaviours and practices of adults in the student's life should align with the moral mission of the school. To promote respect in students, adults must treat young people respectfully, and to foster responsibility, they must give students responsibility (Berkowitz & Bier, 2005). Good character needs to be taught from a "do as I do" not a "do as I say" perspective. In addition to serving as role models, administrators, teachers, and counsellors each have specific roles to play. An administrator's role is to focus primarily on the school community and environment. Teachers focus their efforts on how classmates relate to one another. School counsellors serve as a consultant to other school personnel as they focus on helping children develop character traits that will enhance their understanding of self and their relationships with others (Pearson & Nicholson, 2000). In teacher and students or students-student relationships, children beware of each other's values, attitudes and behaviours in much the same way as within the family (Passy, 2005).

Involving parents to values education: Teacher should create a written code of behaviours for the classroom and the school and asking parents to read and sign the code. They should consider parents as representative present while developing such codes and notify parents of student misbehaviour, via notes, phone calls, and personal visits. They can develop a list of suggested readings and resources in character education and sharing it with parents. And finally teachers should send monthly newsletter on teacher character education efforts (Abourjilie, 2002).

Similarly, Brannon (2008) propose to teacher identify five most successful ways they found to include parents in their character education programs. (1) Include a component of what teacher teach about character education as homework including a family discussion or activity. With these activities, students should be asked to share what they are learning each week with their families to help build the partnership between home and school. (2) Sharing what the teachers are doing in class with parents through teachers' newsletter or Web site. This provides parents to see and follow character education activities clearly. (3) Parent's knowing about class rules, consequences and ways they can help. (4) Inviting parents to serve as volunteers, so they continuously exposed to terminology and expectations for behaviour in classroom or school. (5) Planning events related to character education. In these events, parents and children can attend together to practice and discuss what they learned.

"The Scotia-Glenville Experience" can be given an example for parallel curriculums in home and classroom. "The Scotia-Glenville Experience" states that the families are the first teachers for moral education. The character development curriculum was written by a team of parents, teachers and administrators. At each grade level, parents receive a "family

guide" with all the classroom, lessons for their child's grade level. For every classroom lesson, there is suggestion for how to follow through on the lesson at home. An example from this project, the first lesson deals with family responsibilities. The teacher asks "What job can you do that will help your family?" Children respond their ideas. Then the teacher gives each child a personal learning activity worksheet, which is a part of every lesson and which the children takes home at the end of day. The teacher says "At the top of your worksheet, draw a picture of something you can do each day to help your family." Under the pictures there are the days of week with spaces children can check to show that they carried out their responsibility for a given day. Finally, at the end of classroom of the classroom lesson, the teacher reads the "Family Note" printed at the bottom of the parallel learning activities. The same responsibility, or a new one, may be chosen each day. (Lickona, 1988).

In another work, Lickona (2004) recommend teachers some techniques for cooperative involving parents to character education: Affirm the Family as the Primary Character Educator, Expect Parents to Participate, Provide Incentives for Parent Participation, Provide Programs on Parenting—and Work to Increase the Turnout, Get the Program to the Parents, Assign "Family Homework", Form Parent Peer Support Groups, Involve Parents in Planning the Character Education Program, Establish an Ongoing Forum for Parents, Form a Parents' Character Education Committee, Make a Moral Compact with Parents, Renew the Compact, Extend the Compact to Discipline, Extend the Compact to Sports and Other Co-curricular Activities, Extend the Compact to Combating the Effects of the Media, Be Responsive to Parental Complaints, Increase the Flow of All Positive Communication between School and Home, Let Parents Know What Work Is Expected and Send Home Regular Reports.

Conclusion

Importance of family, school and cooperation of these two major institutions in values education were discussed in this paper. Values education is an essential part of education and its presence as old as general education. Children firstly acquire values, good traits at home, that is character education begins at home and the parents are their first teachers. As "Children see, children do!" role modelling and living values play important role in values education at home. Character education begins at home and continues at school. Children learn values throughout educational activities at school with leadership of teachers. Teacher is also a respectable figure in child's character development. Teachers should endeavour to teach moral values and must help young people to know what is right and what is wrong. Schools have real power for values education.

Family must be a partner of school because without parents' support, educators' efforts are bounded. Character education is more effective when school and family work in partnership. Cooperative character education requires combined responsibility of stakeholders in character education. This partnership is also an approach for family-school cooperation. Role modelling, involving parents to values education, parallel curriculums are some techniques for collaboration.

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Economic Growth, Policies and Influencing Factors - The Case of Albania

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Abstract

Monetary and fiscal policies are two policies that the government could use to keep a high level of growth, with a low inflation. Fiscal policy has its initial impact on the stock market, while monetary policy in market assets. But, given that the goods and active markets are closely interrelated, both policies, monetary as well as fiscal have impact on the economy, increasing the level of product through the reduction of interest rates. In our paper we will show how functioning monetary and fiscal policies. But also in our paper we will analyze the different factors which have affected the economic growth of the country. The focus of our study is the graphical and empirical analysis of economic growth, policies and influencing factors. For the empirical analysis we have used data on the economic growth in Albania for 1996 – 2014.

Keywords: Monetary and fiscal policies, economic growth, export growth, FDI, economic indicators, Political stability

1. Introduction

1.1 Economic Growth in Albania

From 1996 until 1999 year the Albanian economy has increased to high levels. After 2000 year, the economy growth has suffered declining. Then has continuing of sustainable growth with averaging 6% per annum, this for the period until the end of 2008.

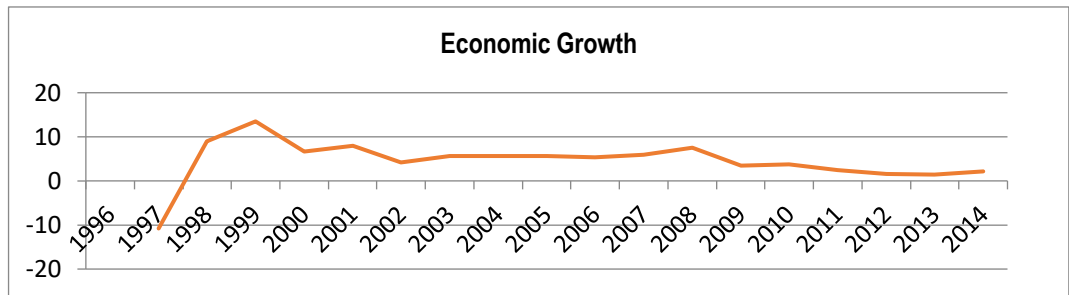
The global crisis exerted significant pressure on the economy. As a result of the global crisis, the growth rates were lowered considerably. Real growth in 2009 year, was halved from its historical trend, but continued to be positive (3.3 % of GDP), as a result of limited financial exposure to international markets and expansionary fiscal policy initiated before the crisis.

Because of strong economic links of trade with Italy and Greece, the crisis in these countries was reflected in the decrease in remittances and exports in the Albanian economy, which led to a significant slowdown of economic growth and particularly of budget revenues. The economy has continued with a moderate growth rate of 3.8 % in 2010 year and 3.1 % in 2011. In 2012 year and throughout 2013, economic growth is weakening further. The growth rate decreased to 1.3% in 2012 and continued to fall sharply during 2013 year. During the nine months of 2013 the economic growth estimated INSTAT resulted in 0.4% compared with the same period of a year ago. Domestic demand remains very weak and the prospects for an immediate acceleration of private consumption and investment remain poor. Foreign demand has been the main driver of growth in the past two years, however, it remains conditioned by unfavorable developments in the economies of the euro zone and non-diversified base of exporters, both in terms of products, as well as markets.

For 2014, the World Bank estimates that Albania has had an economic growth at 2.1%.

Although INSTAT are not doing nearly as data that has been the economy in the final quarter of last year, the World Bank estimated that there has been increasing, although it is modest.

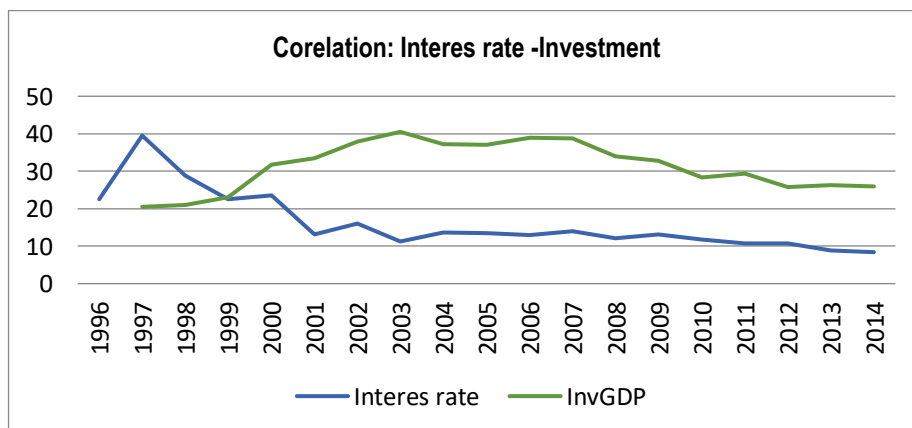
For 2015 the forecast of the bank is the level that has the Albanian government program, and estimated the economy to grow by 3%, as well as the global economy.



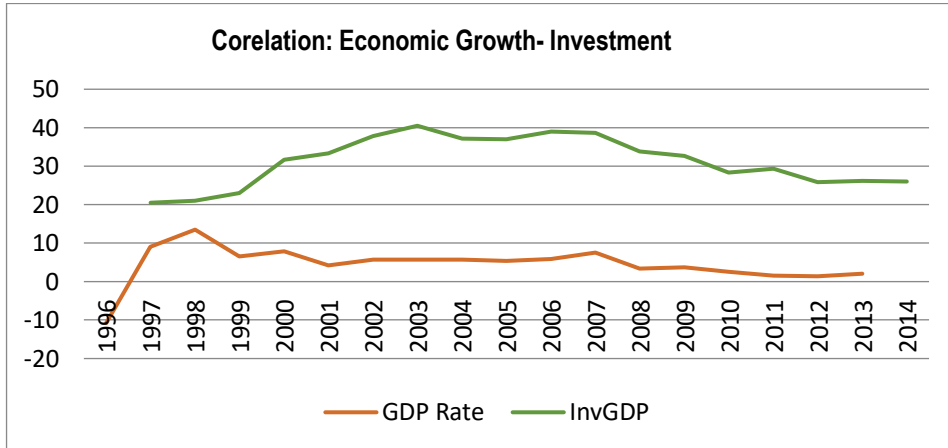
Source: INSTAT Database

1.2 Economic Policies in Albania

During 2002 and onwards, cyclic economic poverty and low inflation pressures demanded to pursue a stimulating monetary policy. Facilitating monetary policy of the Central Bank caused the interest deposit and credit rates to decrease in minimal levels. This affected the demand for credit by increasing the investments.



As shown in the graphic, it results that reduction of interest rates after 2000 encouraged the investments. The correlation coefficient between these two indicators is (-.503') statistically important [See Appendix], showing a negative moderated relationship which means that if interest rates decrease, investments increase. Increase of investments and improvement of balance of trade with other countries have been a support to the economic growth.



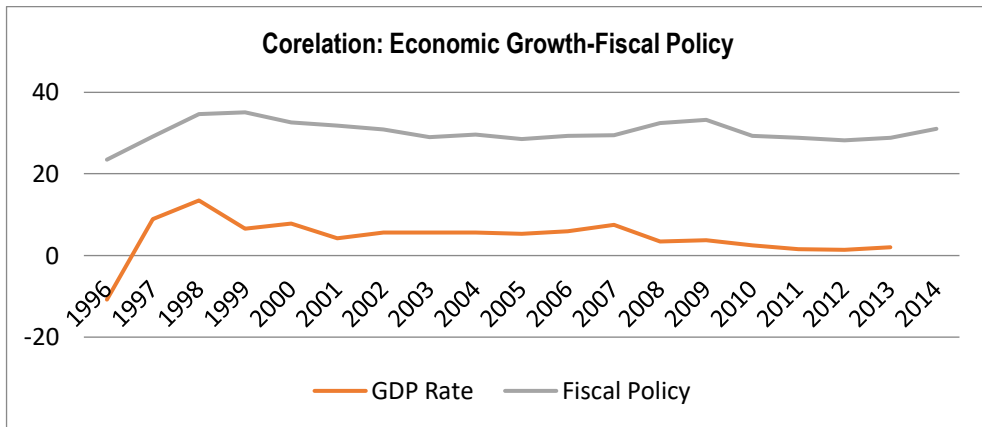
A strong relationship between the economic growth and the investments is seen after 2007, where investment and the economic growth moved with the same trend. The correlation coefficient for this period is (0.830) statistically important which shows a strong relation between these indicators. For the period between 1996-2007 the relationship between investments and the economic growth is very weak, the correlation coefficient for this period is low (0.173) and statistically not important. Based on an evaluation from the Bank of Albania, the investments' increase in 2008-2013 was affected even by the reduction of business non-safety indicator. The relations between business insecurity and investments in economy and customers' insecurity with the private consumption are reciprocal. In times when insecurity is reduced, the economic indicators record an increase and vice versa.

During the last ten years, the foreign investment flows played an important role to the productivity, production, employment and exports in the country's economy.

From the monetary policies' point of view, the inward FDI flows are important since they affect the exchange rates and the balance of payments

Besides FDI, another influence in increasing the demand was the increase of consumption mainly for 2008 even when the consumer's insecurity indicator was low. For the period between 2008-2013, the increase of consumer's insecurity indicator reduced the private consumption by reducing mainly the consumption of long-term goods which have an elastic demand. Ensuring a sustainable economic growth and targeting inflation would require keeping a stimulating monetary policy for middle term period. The monetary stimulus provides the time necessary for making structural reforms which provide a long-term economic growth and tone down the costs of these reforms. Structural reforms aim to improve sustainably the business climate, increase the production and competitiveness of the Albanian economy in increasing the economic-financial sustainability in the country.

Effects of the fiscal policy in the economic growth are determined by increasing the government expenditures and tax changes. But, increasing the government expenditure and reducing taxes increase the budget deficit. Fiscal stimulus is determined by changes in the primary deficit report to the GDP. Positive changes of these reports show positive stimulus whereas negative differences signal fiscal consolidation.



The chart shows that the increase of government expenditures and the increasing pace of domestic product had the same trend. Such an increase of fiscal consolidation is accompanied with a growth of GDP. The correlation coefficient between these two indicators is (0.707) [See the Appendix], showing a strong positive relationship.

1.3 Empirical Analyze and Influencing Factors

Based on the above analysis we conclude that some of the factors which have affected the economic growth in Albania are the domestic investments, FDI, and improvement of balance of trade. Of course, the economic growth was affected by other factors, but the above are the ones we will analyze. In order to determine the general influence of these factors on economic growth, we will perform the empirical analysis by building a multiple regression model. In building such a model, we considered the previous empirical studies in the area by adopting it to the country's conditions. Before we build the empirical model and determine the affecting factors, we analyzed the correlation for each factor related to the other ones. Reciprocal correlation between factors was analyzed: domestic investments – FDI - balance of trade. Correlating analysis resulted in:

1. Domestic investments – FDI. [Correlation coefficient = 0.994]
2. Domestic investments – balance of trade/GDP. [Correlation coefficient = -0.398]
3. FDI – balance of trade/GDP. [Correlation coefficient = -0.338]

By analyzing the above correlations, we see that there is a strong relation between domestic investments and FDI. Since there is multicollinearity, one of the variables – domestic investments – is not included in the model. This is because we should present a more real picture of other independent variables' influence (FDI, NX/GDP) to the dependent variable such as GDP, and analyze the importance of influence of each independent variable to the dependent one.

Given the conditions, affecting factors will be FDI and balance of trade. Meanwhile, another affecting factor will be considered the political stability which is a very important factor for the economic growth in our country.

2. Literature Background

Contemporary literature offers more materials from different scholars who have analyzed the influence of affecting factors on economic growth. We have analyzed some of them here.

Empirical studies has shown that growth of trade in goods with other countries or reduction of protectionism was associated with a higher economic growth. Eduarts (1998) explains that besides factors as capital accumulation, labor force growth, including differences in the level of technology, countries with low scale of the protectionism tend faster than countries with large trade restrictions. In his empirical study Harrison (1991) studied the relationship between the opening of the economy

and the economic growth between different countries concluded that the level of openness of the economy has positive impact on GDP growth. Trade was therefore linked with economic development describing trade liberalization as an engine of growth.

This view is confirmed by Obadan (1994b), when he stressed that trade plays the role of engine of economic growth, especially through increased specialization and exports. Trade leads to the separation of labor. This in turn increase the growth of the country's GDP.

Mwaba (1999) concluded that increased of trade opening tends to rise the level of economic growth. In their study Dollar and Kraay (2001), based on data for 100 countries, analyzed the relationship between the change in the level of trade and economic growth. Their results showed that there was a strong positive relationships between the level of trade and economic growth.

In later studies, Obadan and Elisabeth (2008) analyzed the influence of trade on the Economic Development in Nigeria. Their resultsshowed that trade openness has a positive impact on Nigeria's economic growth.

The role of foreign direct investment (FDI) in the country's economic development is widely debated, according with various opinions for and against. Many countries have welcomed FDI as an essential contribution to the development processes and facilitate entry into the world economy, it is appreciated in a wider context of strategic reforms for economic restructuring and development. Empirical studies acknowledge the role of FDI in economic growth and development of host countries, especially in emerging economies. Alfaro (2003) studied the effects of FDI on growth in the primary, manufacturing and services sectors. Her results showed that benefits of FDI vary greatly across sectors.

Borensztein et.al. (1998) in their investigation evaluated the effects of FDI in economic growth relying on data for the period 1970 to 1979 and from 1980 to 1989 for 69 development countries. Their results showed that FDI have positive effect on economic growth, although the magnitude of this effect depends on the quality of the human capital of the host country. So in countries with very low levels of human capital the direct effect of FDI is negative. Carkovic. M and Levine. R (2002) studied the effects of FDI on economic growth of the host country. In their study they reached the conclusion that the effects of growth of FDI depends on the level of education of the host country, the level of economic development, the level of financial development and the of trade opening. Alfaro et.al (2003) in their empirical analysis examined the various links between FDI, financial markets and economic growth using cross-country data for the period 1975-1995. Their results showed that FDI as indicators play a ambitious role contributing to economic growth. Blomstrom. M and Kokko. A (2003) in their study reached the conclusion that FDI can play an important role in raising the technological level of a country, creating new employment and contributing to economic growth. Shaari et.al (2012) in their study analyzed the impact of FDI in real GDP in Malaysia. They analyzed the data of 1980-2010 period using Ordinary Least Square method. Results showed that FDI helps to reduce unemployment rate and increase economic growth (GDP) in Malaysia. If we refer to the economic stability, the empirical studies have shown that economic growth influenced by this factor. Alesina. A et.al (1992) studied this relationships by analyzing the data of 113 countries for the period of 1950-1982. In their study they reached the conclusion that the political instability and economic growth are closely linked. The main result of their study was that countries that for a long period of time the government has collapsed economic growth has been lower than in other countries.

3. Theoretical Analyze

The influencing factors on economic growth that we have chosen are as following:

1. The degree of trade openness (NX/GDP)
2. Foreing Direct Investment (FDI)
3. Political Stability (PLS)

We have chosen Global Domestic Product (GDP) as the dependent variable, while the index of the opening of the economy and FDI are independent variables. Political stability is used as a dummy variable. Increased foreign trade affects on economic growth. This factor is associated with the variable of economic openness indicator which is calculated as rate of

trade balance divided by GDP, $(X - M) / GDP$. This variable is used as an approximation of the level of a country's trade with the rest of the world. Opening trade has a positive impact on economic growth. The expected sign of this variable is positive. FDI has a positive effect on economic growth so the expected sign of this variable is positive. Also, political stability has a positive impact on economic growth and the expected sign of this variable is positive. The variable descriptions are displayed in Table No.1

Table no. 1 Variables Description

Variables	Priori hypothesis	Definition	Units
The degree of trade openness NX/GDP	<i>positive sign</i>	<i>Indicator of current account</i>	%
Foreign Direct Investment	<i>positive sign</i>	<i>Indicator of financial account</i>	Million/lek
Political Stability	<i>positive sign</i>	<i>Indicator of economic development of the country</i>	Dummy variable

4. Specification of Model

We have established the following hypothesis:

H_0 : Chosen variables have no effect on economic growth

H_1 : Chosen variables have positive effects on economic growth

Based on the analysis of the variables the functional appearance of the model will be:

$GDP = f(NX, FDI, PLS)$

Linear equation that expresses the relationship between the explanatory variables has the form:

$GDP = \beta_0 + \beta_1 NX + \beta_2 FDI + \beta_3 PLS + \mu_t$

Expected sign variables is:

$\beta_1 > 0, \beta_2 > 0, \beta_3 > 0$

We will test the model based on the following hypothesis:

$H_0 : \beta_1 = 0, \beta_2 = 0, \beta_3 = 0$

$H_1 : \text{At least one } \beta \neq 0$

For testing the hypothesis was used the time series of data for the period 199–2014 which received by the Bank of Albania, INSTAT and the Ministry of Finance.

Based on the data of the time series was done the regression analysis using the program SPSS-21. The test results are shown in the tables at the APPENDIX of this paper.

5. Empirical Result

Based on the results of the test the model is significant. According to the Anova table of the Fisher test the significance coefficient is $(.000) < 0.05$, so the independent variables in the model explain better the dependent variable. Since Adjusted R Square = 0.950, the model's explicability is high, so, the dependent variable variation is explained with the changes of dependent variables.

All the independent variables have an effect on the dependent variable. Also, according to the T test all the independent variables are significant because the coefficients for each factor are less than < 0.05 . (See Table no.2). The results are displayed in Table No.2

Table no.2 Summary of multiple regression results

Variables	Unstandardized Coefficients β	Standardized Coefficients β	Significance
(Constant)	816502.214		.002
NX/GDP	20175.657	.141	.055
FDI	697.502	.812	.000
Political Stability	225081.045	.316	.001

Based on this results the equation will be:

$$GDP = \beta_0 + 20175.6NX + 697.5FDI + 225081 PLS + \mu_t$$

All the independent variables have the expected sign. So null hypothesis are rejected and H_1 hypothesis are accepted. The coefficient before the variable in the regression equation affects the dependent variable (GDP) when respective independent variables change per unit. From the regression equation we see that all variables have an important influence on GDP.

6. Summary and Conclusions

As the world economic recovery is followed by a high uncertainty degree, the Albanian economy records positive increasing rates.

Besides the important contribution of foreign demand on export increase, application of a facilitating monetary policy and the follow-up of fiscal incentive, have encouraged recently the increase of domestic demand affecting positively the domestic product.

From the empirical study we have concluded that there is an important relationship between the affecting factors we have considered and the economic growth.

According the result of empirical study trade openness – economic growth relation is positive. The higher the export, the higher the economic growth.

Therefore, the increase of foreign demand by stimulating exports affects positively the economic growth. So, exports are the most important factor since they affect largely the economic growth. FDI are considered useful in economic growth. In the context of transitional economies toward a market economy and the trends of economic integration and globalization, FDI are given the priority for the better of economy in general. Determining the FDI flows effect on domestic demand is important in the stabilization process of the economy through monetary policy means. But, it is important that monetary decision makers understand the influence they have on acceleration of inflation pressures or unemployment rate effects.

According the empirical study, the relation between GDP and FDI is positive. This conclusion supports the estimation that FDI are an important source in developing the country's economy. Based on the results of the study, the political stability affects the economic growth and this effect is statistically important. The relationship between the economic growth and the political stability is positive. Therefore, we conclude that if the country is characterized by a political stability, this will affect largely the economic growth.

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APENDIX

1. Table of Regression

Variables Entered/Removed^a

Model	Variables Entered	Variables Removed	Method
1	Stabilpolitik, OpenNxGDP, FDI ^b		Enter

a. Dependent Variable: GDP

b. All requested variables entered.

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.980 ^a	.960	.950	74687.43902

a. Predictors: (Constant), Stabilpolitik, OpenNxGDP, FDI

ANOVA^a

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	1720144325005.867	3	573381441668.622	102.789	.000b
	Residual	72516776115.898	13	5578213547.377		
	Total	1792661101121.765	16			

a. Dependent Variable: GDP

b. Predictors: (Constant), Stabilpolitik, OpenNx/GDP, FDI

Coefficientsa

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
1 (Constant)	816502.214	208215.550		3.921	.002
OpenNx/GDP	20175.657	9555.750	.141	2.111	.055
FDI	697.502	61.554	.812	11.332	.000
Stabilipolitic	225081.045	56017.109	.316	4.018	.001

Dependent Variable: GDP

Table of Correlation

Correlations

		GDP Rate	InvGDP
GDP Rate	Pearson Correlation	1	-.191
	Sig. (2-tailed)		.462
	N	18	17
InvGDP	Pearson Correlation	-.191	1
	Sig. (2-tailed)	.462	
	N	17	18

Correlations

		GDP Rate	FiscalPolicy
GDP Rate	Pearson Correlation	1	.707**
	Sig. (2-tailed)		.001
	N	18	18
FiscalPolicy	Pearson Correlation	.707**	1
	Sig. (2-tailed)	.001	
	N	18	19

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		InvGDP	GDP
InvGDP	Pearson Correlation	1	.102
	Sig. (2-tailed)		.697
	N	18	17
GDP	Pearson Correlation	.102	1
	Sig. (2-tailed)	.697	
	N	17	18

Correlations

		InteresRate	InvGDP
InteresRate	Pearson Correlation	1	-.503*
	Sig. (2-tailed)		.033
	N	19	18
InvGDP	Pearson Correlation	-.503*	1
	Sig. (2-tailed)	.033	
	N	18	18

*. Correlation is significant at the 0.05 level (2-tailed).

Helping Women Cope with Life Behind Bars

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Abstract

Implementation of group therapy in Malaysian prison through Cognitive Behavioural Therapy (CBT) approach is deemed important to improve the psychological well-being of the inmates. Numerous studies had been conducted but most of them provide statistical data based on cross-sectional studies but findings on effect of psychological treatment is still very scarce. This preliminary study aimed to examine the impacts of group therapy on psychological well-being of women prisoners, particularly in Malaysia. Sixteen women inmates from Women Prison in Selangor, Malaysia were chosen and assigned by the prison authority to receive eight group therapy sessions. The respondents in this study were of different race/ethnic groups, different faiths, socio-economical and criminal backgrounds, aged between 27 to 56 years old. Self-report measures DASS21 was utilized to examine their psychological well-being before and after eight sessions of group therapy in a duration of four months. This study employed a pre- and post-test design study without a control group. Statistical analyses used were descriptive statistics and paired-samples t-test. The results of this study revealed that there were significant differences in psychological variables as indicated by significant decrease level of depression and stress. Although not significant, their level of anxiety has also reduced. The findings of this study the self-belief and psychological well-being of the inmates. The findings could be used to add knowledge and to better understand the inmates and the rehabilitation methods that work for them. It also give some insights if group therapy can be considered as one of the programs that can support the rehabilitation process of the inmates

Keywords: Prison, women inmates, group therapy, Cognitive-Behavioural Therapy, intervention, treatment, psychological well-being, depression, anxiety, stress.

1. Introduction

Life of marginalized people such as prison can challenge anyone. Being in custody with rigid structure can be an extremely harsh reality for someone who had never been to prison before. When prisoners were asked about what is it like to serve a sentence in prison? These were some of their responses (as cited in Quora, 2013): "The toughest part about serving a prison sentence is not being able to tell your loved ones when you would see them at home (Schuhmacher, 2013)"; "Prison is a lonely place. I wake up every day knowing that there is no person there for me to lean on, no one to share my secrets with, no one I can completely trust" (Winfrey, 2014); "Serving a life sentence for some could create mental compensatory mechanisms which

serve to soften the impact of the possibility you may never go home" (Griffin, 2013). Other inmate was quoted as saying that "I was scared every day of my life in there" (Brooks n.d. in Stein, 2007).

So, how can an inmate cope or even experience happiness and with the monotonous daily routine, lack of privacy and loss of freedom? While some inmates need help coping with the length of their incarceration, dealing with being separated from loved ones and friends or accepting that the prison is going to be their home for a period of time or forever. Others need to be taught how to live and survive in the prison environment (Crawford, 2003).

Group psychotherapy has always been suggested as part of prison inmates' rehabilitation. An abundant of studies had been carried out to examine the benefits of art therapy and cognitive behaviour therapy with prison inmates in many countries (Kendall, 1993; Gussak, 2004; 2007; 2009, Clark, 2010; Kobayashi, Matsumoto, Imamura, Wada, Ozaki, Takeuchi, Hasegawa, Imamura, Tania & Adachi, 2011; Akpama, 2013). Meta-analytical studies (Khodayarifard & Shokoohi-Yekta, 2010) have revealed that cognitive-behavioural intervention methods have good impact on inmates. These studies demonstrated that there were apparent improvement in mood, behaviour, and problem-solving, an increase in independence, a decrease in depressive symptoms, and also appropriate identity within the group dynamic (Gussak, 2004; 2007; 2009 in Ismail, Abd. Manaf & Jaafar, 2016).

"Cognitive behavioural therapy (CBT) builds a set of skills that enables an individual to be aware of thoughts and emotions; identify how situations, thoughts, and behaviours influence emotions; and improve feelings by changing dysfunctional thoughts and behaviours" (Cully & Teten, 2008, p.6). In other words, CBT works by changing people's attitudes and their behaviour by focusing on the thoughts, images, beliefs and attitudes (cognitive processes) and how this relates to the way they behave, as a way of dealing with emotional problems. The therapies also facilitated disclosures of previously suppressed feelings, increased self-insight, and improved ability to deal with the stressful prison environment, and also helps to treat inmates who suffer from anxiety and depression (Johnson, 2008).

Stress, anxiety and depression are two common issues in prison population and these psychological states are often associated with imprisonment experiences among inmates, especially female inmates (Ahmad & Mazlan, 2014). In support, prison researchers (e.g. Castellano & Soderstrom, 1997; Unver, Yuce, Bayram & Bilgel, 2013) noted that prisoners were found to be depressive, anxious, and stressed. In Malaysia, a descriptive analysis by Ahmad and Mazlan (2014) demonstrates that as compared to their male counterpart, the female inmates had higher inclination to struggle from stress and depression. Empirical evidence (Wooldredge, 1999 in Picken, 2012) has also shown that inmates who participate in prison-sanctioned activities experience less depression, anxiety and stress than those who do not participate in such activities.

Particular characteristics in the prison environment might have lessen their coping mechanisms but experience in some psychological-related intervention could probably minimise some of the adverse psychological effects. Training in these areas will support inmates to think positively and improve positive changes in them and most likely heighten their coping mechanisms. This study was meant to shed light on the efficacy of psychological intervention using cognitive-behavioural therapy approach on women prison inmates in improving their mental well-being as indicated by reduction of depression, anxiety and stress levels that could eventually enhance their coping skills. The term inmates and prisoners are used interchangeably to refer to the imprisoned people.

2. Method

Prisoners are regarded as a vulnerable population for research study purposes (Bulman, Garcia & Hernon, 2012) and hence, access is limited. As it did not meet the four requirements of true experiments which are manipulation, control, random assign and random selection, the research design of this study could not be treated as a true experimental study. To fit the condition, the present study (Ismail, Abdul Manaf, Hashim & Jaafar), followed a pretest-post-test quasi experimental design involving a control group quasi-experimental as the design may or may not include control groups (Stone, 2010). Also known as one group study design, data was collected from study participants' before the intervention (pre-), and the same instruments were again used to collect data after the intervention (post-). Inferences on the effect of the intervention were made by observing the statistical difference in the pre-test and post-test results. This approach enables the researchers to determine if the participants experience outcomes of psychological well-being as a result of this program.

2.1 Sample

Restrictions with data collection and recruitment of participants in correctional settings - a prison in this study was out of the researchers' control. In the present study, such condition has limited the researchers to collect a larger target sample size to increase the reliability, validity and causality of the intervention. Selection of participants was made via purposive-sampling method by the women prison authority based on three main criteria outlined by the researchers which were: (i) Malaysian; (ii) able to read and write either in Malay or English language; and (iii) still serving their term in prison until the intervention ended (approximately in a period of four months).

The respondents in this study were of different race/ethnic groups, faiths, socio-economical and criminal backgrounds, respectively, aged between 35 to 56 years old. Thirty-seven inmates attended the initial or forming stage but some did not stay until the termination stage of the eight sessions for several reported reasons, among which were release from prison, transfer to other prison, and involved in other activities organized by the prison authority.

2.2 Data collection

Self-report measures utilized to obtain the psychological well-being data from the participants were the Malay DASS 21 version (Ramli, Salmiah & Nurul Ain, 2009). The scale which comprises of 21 items – seven items for each respective sub-scales i.e. depression, anxiety and stress, was reported to have excellent psychometric properties (Ramli, Salmiah & Nurul Ain, 2009) and have been used in various educational and health service settings in Malaysia. The participants in the group therapy were given tests once before the intervention and once immediately after. The duration between the two data collections was approximately four months (eight sessions). Since only 16 participants stayed until the end of the therapy session, only their data of their pre- and post-intervention was retained and analysed.

2.3 Intervention Procedures

Eight 90-minutes sessions of CBT were conducted. The therapy group was trained once in every two weeks. The group members were kept small i.e. between six to seven participants in the earlier sessions, and eventually left with four to five per group upon closure at the end of the therapy sessions. As the fundamental principle of CBT is that thoughts (cognitions) cause peoples' feelings and behaviours, the direction of the therapy conducted for the women prison inmates focus on knowledge/thinking, emotion and behaviour enhancement through discussion, lectures, role playing and assignments. Thus, the activities were designed to undertake several aims as follows:

- i. self-exploration and self-awareness;
- ii. group relationship building and cohesiveness;
- iii. development of sense of gratitude and self-appreciation;
- iv. identifying core beliefs and altering false beliefs;
- v. combating negative distortions by rational positive thinking in navigating challenges and threats;
- vi. understanding the skills involved in establishing, maintaining positive self-belief and positive emotion in a constructive ways; and
- vii. goal-setting and plan of action (development of pro-social behaviour and healthy lifestyle)

At the end of each session, all groups were gathered for 10 minutes for reflection and reviewing the different cognitive and behavioural skills they have learned using Socratic questioning to prompt (Briggs, 2014; Padesky, 1993) responses such as "What have you learned as a result of our time together?"; "Is there anything that was particularly meaningful to you about your time in therapy?"

2.4 Data Analysis

Paired samples t-tests was specifically chosen to analyse the data as this study typically consist of a sample of one group of participants that has been tested twice (a "repeated measures" t-test). This test is used to determine whether there is a significant difference between the average values of the same measurement made under two different conditions, before and after treatment. Another reason was the scores are for the same people which suggest there is an underlying relationship between the scores. In sum, this statistical analysis was utilized to compare two means that are repeated measures for the same participants - scores might be repeated across different measures or across time.

3.0 Findings

All participants (n=16) in this study were females aged between 26 to 57 years old with different religious and various academic background ranging from lower certificate of education to professional diploma and bachelor's degree. Majority of them (56.25%) were Muslims and the rest were Christian, Hindu and Buddhist. Prior to their imprisonment they were company director, account manager, religious teacher, nurse, clerk, beautician, boutique manager, music instructor and also house makers.

The DASS measure (overall) and its sub-scales - depression, anxiety and stress utilized used in this study reported high reliability indices of between alpha coefficients (α) .809 to .954.

As demonstrated in Table 1 below, the the results of t-test inferred that the participants in this study experienced a significant improvements in their overall mental well-being after taking part in the group therapy. In details, the post-test results implied that the participants were significantly less depressed and less stressed at the end of the therapy. As for anxiety, although there was no significant difference in the score, the participants reported lower level of anxiety after participating in the eight sessions of therapy when compared to the condition before the therapy four months before.

Table 1

T-Test Findings of Mean Changes of Participants' Scores on the DASS after Eight Group Therapy Interventions (N = 16)

Scale & Subscales	Pre-test	Post-test
i. Depression, anxiety & stress (overall DASS)	(M = 1.04, SD = .71)	(M = .55, SD = .44), $t(15) = 3.85$, $p > .005$, $d = 0.83$
ii. Depression	(M = 1.12, SD = .82)	(M = .52, SD = .48), $t(15) = 3.90$, $p \geq .001$, $d = 0.89$
iii. Anxiety	(M = .89, SD = .67)	(M = .53, SD = .42), $t(15) = 2.97$, $p \leq .01$, $d = 0.66$
iv. Stress	(M = 1.10, SD = .73)	(M = .61, SD = .47), $t(15) = 3.54$, $p > .005$, $d = 0.80$

4.0 Discussion and Conclusion

The purpose of the present study was to investigate if group therapy using CBT approach can help women inmates cope with their life behind bars by improving the psychological well-being. The results of this one group (pre- and post) study design revealed improvement in psychological well-being and was effective in lowering the means of DASS i.e. depression, anxiety and stress. The therapy experienced by the women inmates enable them to adjust better psychologically as exhibited by the results of t-test that their depression and stress indicated significant reduction. Although not significant, the result also demonstrated a decrease of anxiety after participating in the group therapy. These discoveries were in tandem with earlier studies in other countries (Apkama, 2014; Khodayarifard & Shokoohi-Yekta, 2010; Cully & Teten, 2008; Bully, 2008) which suggest that CBT adjusts the individuals' life for healthier psychological and mental well-being.

Participants came from different background, ethnicity, age, educational level and socio-economic status. The similarities were, they were female and they were put into prison because of their criminal behaviours, either deliberately or inadvertently. Nevertheless, the types of crime they have done were different and the jail term imposed on them also varied. Interestingly however, they shared similar goals in life that is to walk out free and get involved in life activities outside the high concrete wall. In discussing the findings of this study, some verbal expressions of the participants are included as the researchers believed that their words were important to support the empirical data.

In the earlier part of the group therapy there was less communication between participants. Clear enough, they did not know why they were chosen; whether the issues that they share would be kept confidential; what would happen after each session and what they could get from their participation. As the researchers interacted freely with the participants throughout

the session as a means of creating an enabling environment for the participants, trust gradually developed. Initial stage is somewhat difficult due to the challenges of life experience in prison and probably the caution of showing emotion or appearing weak/vulnerable (Hatcher & Noakes, 2010) but once group cohesion was established the inmates become much more playful and relaxed. Group feedback was always welcomed and obtained. "We are counting the days for the next session and looking forward to do the activities and assignments in the therapy," conveyed the participants.

In one of the sessions which was aimed to help the participants contest negative distortions by rising rational positive thinking, they talked about anxiety that they have. For instance, Participant A expressed that she was very apprehensive when she arrived in the prison compound to serve her sentence and did not know much on what to expect. In support, other participants revealed that they were very nervous and anxious but after sometimes when they started to follow the rehabilitation program they overcame their anxiety and began to accept the fact that nothing much that they can do to change the decision. But Participant A said that when she heard talks that she might be released on parole in a near future she shared, "I am getting more anxious now. I wait for the day to come – everyday...when I met a fellow prisoner or bumped into prison officers who knew me...they always ask why I am still here as they thought that I was already released. My disappointment also become stronger....but I must stay strong for my children and grandchildren who are waiting for me to come back home. But I don't know when the day will finally arrive." This condition is in fact in agreement with DeRosia (1998, p. 36) who acknowledges Wheeler's (1961) conception about the typical "U-shaped curve", that is inmates experience stress upon initial entry into prison, resume more usual functioning as they adjust and become acclimated to the situation and environment, an again experience anxiety problems when nearing release.

Findings of this study demonstrate that cognitive behavioural therapies were effective in reducing clients' mental health problems. Through replacing the unfavourable patterns with adaptive cognitive and behavioural ones, these interventions enable the individual to make use of a richer behavioural range in dealing with their issues and to plan their actions (Khodayarifard & Shokoohi-Yekta, 2010).

Participant B on the other hand hoped to be granted parole. At the end of this session she conveyed that she would work hard to maintain good behaviour, obeyed prison rules and follow all instructions given by the prison authority as violation of any of those rules could reduce the chance of parole. "I have to be apprehensive about being on parole because that is what will keep me functional," she said. Taking a broad view the ability of practising and utilizing it in various situations helps reduce tension and impulsiveness throughout life (Khodayarifard & Shokoohi-Yekta, 2010). The outcome of the therapy received by the inmates involved in this study support appropriate decision-making, which eventually lead to evasion of criminal behaviour.

Participant C who was serving a long sentence shared about her misery and her plan when walked out of the prison: "I felt miserable when I first come here...even now I still feel it. After serving my sentence for two years here, I still miss my family... so much. Even though I look forward to my family visit, I feel more stressful when they left. I'm not able to touch them and hug my son. When I'm released from this prison I want to be a better person. I'll do cosmetic surgery on my face, get dental treatment and colour my hair. I want to have good meals with my family and take care of my boy who was two years old when I left him to serve the prison sentence. We'll go for holiday. I want to be a better wife to my husband who visits me every week with my children." Her expression was in agreement with findings of earlier research works (Castellano & Soderstrom, 1997; Unver, Yuce, Bayram & Bilgel, 2013) that prison inmates experience depression, anxiety, and stress. In fact Crites (1976 in Sobel, 2006) has noted that the most difficult and painful aspect of imprisonment for women is separation from their children. In a more extreme situation, some long term inmates cut themselves off from these relationships as a means of avoiding the anxiety and despair that accompany separation (John Howard Society of Alberta, 1999).

Inmates subjected to any form of therapy differ significantly from those who did not pass through any form of therapy in their psychological adjustment (Crocker, 2002; Loucks & Zamble, 2000; Melgosa, 2008; Akinade, 2012 in Akpama, 2013). However they also voiced out their worries and concerns about their life after release. They get nervous. They were afraid if they would not fit in the outside world and if their family members and friends would accept them like before. Another crucial aspect was if they could get jobs to support themselves and their family and whether they can get employment upon release. These apprehension and anxieties were indeed valid. "Employment is an important component of the re-entry process. Even more than a steady source of income, jobs can provide a sense of structure and responsibility to former prisoners as they struggle to reintegrate after release. Unfortunately, many will face a difficult path toward finding and keeping employment" (Visher, Debus & Yahner, 2008, p. 6). Nonetheless, interestingly Participant D gave her suggestion

to combat this thought, "I think we can use the knowledge and skills that we have acquired in our vocational training here first like sewing, cooking and baking, to start small business. May be we start on-line business."

Religious belief and practice were their root of strength (Mohamad Jodi, Mohamad, Mohd. Radzi, Che' Seman, A. Rahman, Senin, Ramlan & Johari, 2014). They also have good relationship with the care takers like the prison warders and officers. Some reported that they have some trusted friends that they shared their emotions and feelings with. This is in fact another aspect of development of pro-social behaviour and healthy lifestyle that they were practising as a coping mechanism and that perhaps they need to be aware of.

The results of this study indicates that psychological interventions through CBT group therapy, can help to improve psychological well-being of the women inmates by reducing their depression, stress and anxiety. As noted in previous research works, the fundamental nature of CBT is to help prisoners to better comprehend their problems and to cultivate new strategies for tackling them. It is consequently suggested that to improve inmates' psychological health, counselling and psychotherapy, individually or in group need to be provided in all prisons throughout this country. Although counselling is a rather new service and not all prison have the opportunity to have trained and experience counsellors or psychology officers (term used in Malaysian prisons), as suggested by Ismail, Abd. Manaf and Jaafar (2016) prison authorities should employ the services of sessional or locum counselling/psychotherapy practitioner or work with local universities to design and conduct programmes to train the new prison staff to value add the rehabilitation process in the prison and ultimately help the inmates eliminate learned thoughts and behaviours that are undesirable.

The interventions designed for this preliminary intervention work with women prison inmate in this study might work better if prison counsellor were involved as they were expected to know the prison systems better. Follow-up on the psychological progress of these inmates need to be done to establish that those affected are fully adjusted and psychological intervention can be specially designed to help them cope in life, inside and outside the prison.

"Prison is a self-contained environment in which everyone's activity is tightly regulated and monitored" (Bulman, Garcia & Hernon, 2012, p.1). The women inmates have no choice but to participate in the rehabilitation activities designed for them. Undeniably, they gained a lot of knowledge and skills to the inmates especially through suitable vocational trainings for the Group psychotherapy could be bridge the gap of physical and psychological development much needed by them to teach the women prisoners how to live and survive in the prison environment and help them to cope with the length of their incarceration.

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The comparison of MCDM Methods including AHP, TOPSIS and MAUT with an Application on Gender Inequality Index

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Abstract

Gender Inequality Index is a major indicator presenting level of development of the countries as Human Development Index, which is calculated regularly every year by UN. In this study, an alternative calculation has been proposed for measuring gender inequality index which is an important barrier for the human development. Each indicator in the index integrated as MAUT- AHP and also AHP-TOPSIS and these methods carried out again for the alternative ranking member and candidate countries of the European Union. The main objective here is to represent that the indicators form gender inequality index can be reclassified with different weights for each indicator.

Keywords: Development Indexes, Gender Inequality Index, AHP, TOPSIS, MAUT

Introduction

Gender inequality index (GII) which highlights women's empowerment is one of development indices to strengthen the information having from human development index. Human Development Report produces four composite measures which are Human Development Index, Inequality-adjusted Human Development Index, Gender Inequality Index and the Multidimensional Poverty Index since 2010. Gender Inequality Index presents the loss in potential human development due to distinction between females and males. GII ranges between 0 and 1 and higher GII values refers to higher levels of inequalities (HDR, 2015). It is a composite measure with three dimensions which are reproductive health, empowerment and the labor market. The maternal mortality ratio and the adolescent birth rate are the indicators of reproductive health. The share of parliamentary seats held by the woman and the share of population with at least some secondary school are dimensions for empowerment. And participation in the labor force is the measure for labor market (HDR, 2015).

Multi-Criteria Decision Analysis (MCDA) have a widespread applications area in the world. In recent years MCDA methods has been used by combining two or more methods to create more successful methods. Lai (1995) represented the relationship between AHP and MAUT and proved that AHP-MAUT is combined in a consistent structure. Supçiller and Çapraz (2011) realized supplier selection applications by using AHP-TOPSIS. Tyagia M. , Kumar P. , Kumar D. (2014) developed a hybrid model using AHP-TOPSIS for analyzing e-SCM performance. Zolfani, Jurgita and Inzinerine (2012) presented a hybrid model based on AHP -TOPSIS and perform personnel selection. Valim et. al. (2013) compared AHP and MAUT methods for suppliers selection for an industrial company. On the other hand, Safari and Ebrahimi(2014) ranked the countries in terms of Human Development Index by using modified similarity multiple criteria decision making techniques. In this study we developed and compared two hybrid models which based on AHP-TOPSIS and AHP-MAUT for ranking member and candidate of the European Countries in terms of Gender Inequality Index. It is concluded that AHP-MAUT hybrid model gives more reasonable results than AHP-TOPSIS model.

Research Methods:

In this study the methods commonly used in the literature TOPSIS&AHP and AHP&MAUT are integrated and proposed as an alternative methods doing fair classification for the indicators form gender inequality index.

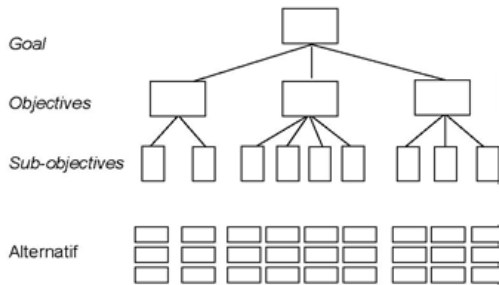
Methodology:

In this section we give brief explanations about the methods used in this study.

AHP:

The Analytic Hierarchy Process (AHP) introduced by Saaty is a multi-criteria decision-making technique to solve complex decision problems (1977 and 1994). This method uses a multi-level hierarchical structure of objectives, criteria, sub criteria, and alternatives (Figure 1). AHP is a preferable model due to its easy to use has been extensively studied and is used in a wide variety of decision situations by many researchers, in fields such as, business, industry, healthcare etc.

Figure 1: Hierarchical Structure of AHP



AHP methodology can be implemented in three steps. Each step needs to be performed to be resolved in a decision-making problem with AHP are described below. In the following m refers to the alternative numbers and n refers to the criteria numbers.

Step 1: It can be stated objective (goal) and in turn defined the criteria picked the alternatives.

Step 2: In this step firstly, elements can be compared to one another, two at a time, with respect to their importance on an element above them in the hierarchy and then structured the comparison matrix (a square matrix of size $n \times n$). All values of each cells that are on the diagonal are mathematical inverses of each other ($a_{ii} = 1$ and $a_{ij} = 1/a_{ji}$). The preference strength is expressed on a ratio scale of 1-9 (Saaty, 1980).

$$A = \begin{bmatrix} 1 & a_{12} & \dots & a_{1n} \\ \frac{1}{a_{21}} & 1 & \dots & \cdot \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ \frac{1}{a_{n1}} & \cdot & \dots & 1 \end{bmatrix} \quad (1)$$

The *Standard Preference Scale* used in the AHP method is provided in Table 1 as follows. In the AHP method, the scale range 1–9 is assumed sufficiently representing human beings' perception.

Preference Level	Numerical Value
<i>Equally Preferred</i>	1
<i>Equally to Moderately Preferred</i>	2
<i>Moderately Preferred</i>	3
<i>Moderately to Strong Preferred</i>	4
<i>Strongly Preferred</i>	5
<i>Strongly to Very Strongly Preferred</i>	6
<i>Very Strongly Preferred</i>	7
<i>Very Strongly to Extremely Preferred</i>	8
<i>Extremely Preferred</i>	9

Table 1: Preference Scale for Pairwise Comparisons

Step 3: It has been normalized each matrix element by the sum of elements in each column and we calculate the sum for each row. B column vectors are utilized in the calculation of the equation (2). Priority vector which is specified below by W column vector is obtained by forming the arithmetic average of the each line of the B matrix.

$$W = \begin{bmatrix} w_1 \\ w_2 \\ \cdot \\ \cdot \\ \cdot \\ w_n \end{bmatrix}, \quad w_i = \frac{\sum_{j=1}^n b_{ij}}{n} \quad (2)$$

Measuring consistency of the judgements, Saaty(1980) proposed Consistency Index (CI), which is a measure consistency of the subjective judgements. It is calculated given following formula below;

$$CI = \frac{\text{maks. eigenvalue} - n}{n - 1} \quad (3)$$

$$\text{maks.eigenvalue} = \sum_i w_i.c_i \quad (4)$$

Consistency Index is used by comparing a value called *Random Consistency Index (RI)*. There are different *Random Consistency Index* values used by different researchers in the literature. In this study, the values given in the following table are used.

Table 1: Random Consistency Index Values (Malczewski, 1999)

n	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
RI	0, 00	0, 00	0, 58	0, 90	1, 12	1, 24	1, 32	1, 41	1, 45	1, 49	1, 51	1, 48	1, 56	1, 56	1, 59

The consistency ratio (CR) is obtained by comparing CI with the set of numbers called random consistency index (RI) with the following formula given below.

$$CR = \frac{CI}{RI} \quad (5)$$

If Consistency Ratio is greater than 10%, test results are inconsistent ($CR \geq 10\%$), then the result from the AHP method will be of no use in decision making. The higher consistency ratio, the assessment result becomes more inconsistent.

TOPSIS Method:

The TOPSIS method was initially presented by Yoon and Hwang (Yoon and Hwang, 1981) and Lai, Liu and Hwang (Lai, Liu and Hwang, 1994). This method is a process of finding the best solution among all practical alternatives. TOPSIS is based on that the chosen alternative should have the shortest geometric distance from the positive ideal solution (PIS) (Assari, A. , Mahesh, T. , Assari, E. , 2012) and the longest geometric distance from the negative ideal solution (NIS). The TOPSIS method is expressed with six steps as follows:

Step 1: Firstly create an evaluation matrix consisting of m alternatives and n criteria, with the intersection of each alternative and criteria given as a_{ij} , therefore a matrix in form $(a_{ij})_{m \times n}$

$$A_{ij} = \begin{bmatrix} a_{11} & a_{12} & \dots & a_{1n} \\ a_{21} & a_{22} & \dots & a_{2n} \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ a_{m1} & a_{m2} & \dots & a_{mn} \end{bmatrix} \quad (6)$$

Step 2: Calculate the normalized decision matrix. The normalized value r_{ij} is calculated as follows:

$$r_{ij} = \frac{a_{ij}}{\sqrt{\sum_{k=1}^m a_{kj}^2}} \quad i=1, 2, \dots, m, j=1, 2, \dots, n \quad R_{ij} = \begin{bmatrix} r_{11} & r_{12} & \dots & r_{1n} \\ r_{21} & r_{22} & \dots & r_{2n} \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ r_{m1} & r_{m2} & \dots & r_{mn} \end{bmatrix} \quad (7)$$

Step 3: Calculate the weighted normalized decision matrix. The weighted normalized value v_{ij} is calculated as follows;

$$V_{ij} = \begin{bmatrix} w_1 r_{11} & w_2 r_{12} & \dots & w_n r_{1n} \\ w_1 r_{21} & w_2 r_{22} & \dots & w_n r_{2n} \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ \cdot & & & \cdot \\ w_1 r_{m1} & w_2 r_{m2} & \dots & w_n r_{mn} \end{bmatrix} \quad (8)$$

Where w_j is the weight of the j^{th} criterion and

$$\sum_{j=1}^n w_j = 1$$

Step 4: Determine the ideal (A^+) and negative ideal (A^-) solutions.

$$A^+ = \{(\max_i v_{ij} | j \in C_b), (\min_i v_{ij} | j \in C_c)\} = \{v_j^+ | j = 1, 2, \dots, m\} \quad (9)$$

$$A^- = \{(\min_i v_{ij} | j \in C_b), (\max_i v_{ij} | j \in C_c)\} = \{v_j^- | j = 1, 2, \dots, m\}$$

Step 5: Calculate the separation measures using the m-dimensional Euclidean distance. Determine the worst alternative and the best alternative, respectively, are as follows:

$$S_i^+ = \sqrt{\sum_{j=1}^m (v_{ij} - v_j^+)^2}, j = 1, 2, \dots, m \quad (10)$$

$$S_i^- = \sqrt{\sum_{j=1}^m (v_{ij} - v_j^-)^2}, j = 1, 2, \dots, m \quad (11)$$

Step 6: Calculate the relative closeness to the ideal solution.

$$(12)$$

Step 7: Rank the alternatives according to s_{iw} ($i=1, 2, \dots, m$)

MAUT (Multi Attribute Utility Theory):

Utility is a measure of desirability and gives to a uniform scale to compare and/or combine tangible and intangible criteria (Ang, Tang, 1984). Utility function is a device which quantifies the preferences of a decision-maker by assigning a numerical index to varying levels of satisfaction of a criterion (Mustafa, Ryan, 1990). For a single criterion (X), the utility of satisfaction of a consequence x' is denoted by $u(x')$. The utility is generally calculated as the sum of the marginal utilities that each criteria assigns to the considered action (Figueira, Greco, Ehrgott, 2005). Multi Attribute Utility Theory takes into consideration the decision maker's preferences in the form of the utility function which is defined over a set of attribute (Pohekar, Ramachandran, 2004). In this method both quantitative and qualitative criteria can be used. The most common method of multicriteria utility function is the additive model (Keeney, Raiffa, 1993).

There are two important MAUT categories discrete and continuous alternative problems. Discrete type alternative problems set of alternatives consist limited alternatives. Continuous alternative problems called multiple optimization problems feasible sets of alternatives usually consist of a very large number of infinitely many alternatives (Wallenius, J. et. al., 2008)

The utility functions can be either additively separable or multiplicatively separable with respect to single attribute utility. Additively form;

$$U_i = \sum_{j=1}^m w_j U_{ij} \text{ for all } i \quad (13)$$

where,

U_i = Utility value(overall) of alternative i

U_{ij} = Utility value for the alternative of i (criteria for the j)

n = Total number of criteria

m = Total number of alternatives

The multiplicative form of equation for then utility value is defined below(Keeney, Raiffa, 1976).

$$1 + ku(x_1, x_2, x_3 \dots x_n) = \prod_{j=1}^n (1 + k k_j u_j(x_j)) \quad (14)$$

j = attribute (alternative) index

k = scaling constant

u = overall utility function

u_j = utility function for each operator

In this studying, It has been used the additive type model. In the MAUT method, it can be used six important steps(Alp İ. et. al. , 2015);

Step 1: Generate the criteria (C_1, C_2, \dots, C_n) and alternatives

Step 2: Determination of the weight values (with AHP)

$$\sum_{i=1}^m w_j = 1$$

Step 3: Form the decision matrix

Step 4: Calculate the normalized utility values;

$$u_i(x_i) = \frac{x - x_i^-}{x_i^+ - x_i^-} \text{ (for criteria to be maximized)}$$

$$u_i(x_i) = \frac{x_i^+ - x}{x_i^+ - x_i^-} \text{ (for the criteria to be minimized)}$$

where;

$$x_i^+ = \text{the best value of the alternatives}$$

$x_i^- = \text{the worst value of the alternatives}$

Step 5: Calculate total utility

$$U_i = \sum_{j=1}^m w_j U_{ij} \text{ for all } i$$

Step 6: Rank the alternatives, Choose an alternative which gain the most utility.

Findings:

In this article, we studied on Gender Inequality Index (GII) Indicators for the Candidate and Member countries of European Union. This index measures reflecting inequality in achievements between women and men in three dimensions: reproductive health, empowerment and the labor market as seen Table 2 given below.

Table 2: Explanations of Indicators used in the analysis

Indicators	Explanations
Maternal mortality ratio	(deaths per100, 000 live births)
Adolescent birth rate	(births per 1, 000 women ages 15–19)
Share of seats in parliament	(% held by women)
Population with at least some secondary education (for men)	(% ages 25 and older)
Population with at least some secondary education(for women)	(% ages 25 and older)
Labour force participation rate(for men)	(% ages 15 and older)
Labour force participation rate(for women)	(% ages 15 and older)

When examined GII calculations, it can be seen that all of the indicator's importance is in the same level. However, it has criticisms from some scholars and policy makers about indicators since they are not equal each other, as in the human development index (Safari, Ebrahimi, 2014). By thinking these critics, it has been created as an alternative method of ranking countries in terms of gender inequality index.

This study is compromised two important stages. Firstly by using analytical hierarchical process method, it can be achieved the comparing elements (indicators) to one another, two at a time, with respect to their importance with in the hierarchy and structured the comparison matrix (a square matrix of size $n \times n$). Weights given below in Table 3 have been created randomly in order to set an assignment for the criteria.

Table 3 Comparison Matrix for the criteria of the GII

	C1	C2	C3	C4	C5	C6	C7
C1	1	2	3	4	5	6	7
C2	0, 5	1	2	3	4	5	6
C3	0, 33	0, 5	1	2	4	5	6
C4	0, 25	0, 33	0, 5	1	2	3	3
C5	0, 2	0, 25	0, 25	0, 5	1	2	3
C6	0, 17	0, 2	0, 2	0, 33	0, 5	1	2
C7	0, 14	0, 17	0, 17	0, 33	0, 33	0, 5	1

Table 4 represents normalized values for each element of the comparison matrix. The last column of the Table 4 called Priority vector (Criteria Weights) obtained by forming arithmetic average of each line.

Table 4: Normalized values for the comparison matrix

	C1	C2	C3	C4	C5	C6	C7	Criteria Weights
C1	0, 39	0, 45	0, 42	0, 36	0, 3	0, 27	0, 25	0, 35
C2	0, 19	0, 22	0, 28	0, 27	0, 24	0, 22	0, 21	0, 23
C3	0, 13	0, 11	0, 14	0, 18	0, 24	0, 22	0, 21	0, 18
C4	0, 1	0, 07	0, 07	0, 09	0, 12	0, 13	0, 11	0, 1
C5	0, 08	0, 06	0, 04	0, 04	0, 06	0, 09	0, 11	0, 07
C6	0, 06	0, 04	0, 03	0, 03	0, 03	0, 04	0, 07	0, 04
C7	0, 06	0, 04	0, 02	0, 03	0, 02	0, 02	0, 04	0, 03

According to the Table 4, Consistency Ratio (0. 03) has been calculated by using formula (5), which represents that AHP is reasonable for the analysis. Further, countries are listed with TOPSIS and MAUT method after defining weights with AHP.

In the TOPSIS method, initially evaluation matrix is formed consisting of 32 alternative countries and 7 criteria. Table 5 given below represents evaluation matrix for TOPSIS method partially.

Table 5: Evaluation matrix for TOPSIS Method

	C1	C2	C3	C4	C5	C6	C7
Denmark	5	5, 1	38	95, 5	96, 6	58, 7	66, 4
Netherlands	6	6, 2	36, 9	87, 7	90, 5	58, 5	70, 6
Germany	7	3, 8	36, 9	96, 3	97	53, 6	66, 4
Ireland	9	8, 2	19, 9	80, 5	78, 6	53, 1	68, 1
Sweden	4	6, 5	43, 6	86, 5	87, 3	60, 3	67, 9
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Serbia	16	16, 9	34	58, 4	73, 6	44, 5	60, 9
Turkey	20	30, 9	14, 4	39	60	29, 4	70, 8
The F. Y. R. Macedonia	7	18, 3	33, 3	40, 2	55, 6	43, 1	67, 5
Bulgaria	5	35, 9	20, 4	93	95, 7	47, 9	59

Table 6 represents weighted normalized evaluation matrix, which is calculated by multiplying criteria weights with each column of the Table 5.

Table 6: Weighted normalized evaluation matrix

	C1	C2	C3	C4	C5	C6	C7
Denmark	0, 07	0, 07	0, 8	6, 39	0, 55	0, 7	0, 47
Netherlands	0, 1	0, 1	0, 76	5, 38	0, 48	0, 7	0, 53
Germany	0, 14	0, 04	0, 76	6, 49	0, 56	0, 59	0, 47
Ireland	0, 23	0, 18	0, 22	4, 54	0, 37	0, 58	0, 49
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.....
Romania	3, 04	2, 56	0, 08	5, 19	0, 5	0, 48	0, 45
Serbia	0, 72	0, 76	0, 64	2, 39	0, 32	0, 4	0, 39
Turkey	1, 12	2, 56	0, 12	1, 06	0, 21	0, 18	0, 53
The F. Y. Macedonia	0, 14	0, 89	0, 62	1, 13	0, 18	0, 38	0, 48
Bulgaria	0, 07	3, 45	0, 23	6, 06	0, 54	0, 47	0, 37

Table 7 represents the ideal (A^+) and negative ideal (A^-) solutions of weighted (with AHP) normalized decision matrix.

Table 7: The ideal and negative ideal solutions of weighted normalized values

A positive	3, 04	3, 45	1, 06	7, 00	0, 59	1, 01	0, 64
A negative	0, 03	0, 00	0, 06	1, 06	0, 14	0, 18	0, 35

Separation measures (S^+ , S^-) are measured by using the m-dimensional Euclidean distance Formula (10)(11) thus it's determined the worst alternative and the best alternative. Finally the relative closeness to the ideal solution is obtained. Separation measures of each countries and relative closeness to the ideal values has been given at Table 8.

Table 8: Separation measures

	S^+	S^-	TOPSIS values	Ranking
Denmark	4, 56	5, 42	0, 543	13
Netherlands	4, 77	4, 43	0, 482	17
Germany	4, 54	5, 51	0, 548	12
Ireland	5, 06	3, 52	0, 41	21
Sweden	4, 83	4, 35	0, 474	19
United Kingdom	3, 43	6, 22	0, 645	3
Croatia	4, 52	4, 08	0, 475	18
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Serbia	5, 88	1, 8	0, 235	30
Turkey	6, 44	2, 79	0, 302	28
The F. Y. Macedonia	7, 09	1, 09	0, 133	32
Bulgaria	3, 29	6, 09	0, 65	2

After getting the ranking with TOPSIS, it has been performed MAUT method. Marginal Utility Scores, which is the identification of best and worst values in the MAUT method, is given as follows.

Table 9: Marginal Utility Scores

	C1	C2	C3	C4	C5	C6	C7
	Min.	Min.	Max.	Max.	Max.	Max.	Max.
Denmark	5	5, 1	37, 99	95, 54	96, 56	58, 7	66, 4
Netherlands	6	6, 17	36, 89	87, 68	90, 47	58, 5	70, 6
Germany	7	3, 8	36, 86	96, 29	97, 03	53, 6	66, 4
Ireland	9	8, 24	19, 91	80, 52	78, 56	53, 1	68, 1
Sweden	4	6, 53	43, 55	86, 54	87, 27	60, 3	67, 9
United Kingdom	8	25, 76	23, 53	99, 82	99, 9	55, 7	68, 7
Iceland	4	11, 49	41, 27	91	91, 58	70, 5	77, 4
Luxembourg	11	8, 35	28, 33	100	100	50, 7	64, 6
Belgium	6	6, 71	42, 38	77, 5	82, 88	47, 5	59, 3
France	12	5, 74	25, 73	78, 01	83, 21	50, 7	61, 6
Austria	4	4, 13	30, 33	100	100	54, 6	67, 7
Finland	4	9, 21	42, 5	100	100	55, 7	64
Slovenia	7	0, 62	27, 69	95, 78	98, 03	52, 3	63, 2
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Macedonia	7	18, 26	33, 33	40, 16	55, 6	43, 1	67, 5
Bulgaria	5	35, 9	20, 4	93	95, 7	47, 9	59

Total utility values have been calculated for each country after normalized values are obtained by multiplying with AHP coefficients (Table 10).

Table 10: Final Utility Scores

	C1	C2	C3	C4	C5	C6	C7	Total utility	Rankings
Denmark	0, 93	0, 87	0, 83	0, 93	0, 93	0, 71	0, 45	0, 88	4
Netherlands	0, 9	0, 84	0, 8	0, 8	0, 82	0, 71	0, 66	0, 84	7
Germany	0, 87	0, 91	0, 8	0, 94	0, 94	0, 59	0, 45	0, 85	6
Ireland	0, 8	0, 78	0, 29	0, 68	0, 59	0, 58	0, 54	0, 66	17
Sweden	0, 97	0, 83	1	0, 78	0, 75	0, 75	0, 53	0, 88	2
United Kingdom	0, 83	0, 29	0, 4	1	1	0, 64	0, 57	0, 64	19
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Montenegro	0, 87	0, 59	0, 21	0, 74	0, 9	0, 33	0	0, 62	23
Romania	0	0, 14	0, 06	0, 77	0, 85	0, 47	0, 38	0, 21	32
Serbia	0, 57	0, 54	0, 71	0, 32	0, 49	0, 37	0, 18	0, 54	29
Turkey	0, 43	0, 14	0, 13	0	0, 23	0	0, 67	0, 24	31
Macedonia	0, 87	0, 5	0, 69	0, 02	0, 14	0, 33	0, 51	0, 58	26
Bulgaria	0, 93	0	0, 31	0, 89	0, 92	0, 45	0, 08	0, 55	28

Results and Discussion:

Gender inequality index (GII) which highlights women's empowerment is one of development indices to strengthen the information having from human development index. In this study we monitor development of the countries in terms of Gender Inequality index to highlight the importance of gender equality for the countries development. On the other hand, the main purpose of this study is to develop an alternative method to rank countries based on gender inequality index by taking into account the suggestions of critics defending not to give equal value of all indicators used in the ranking. In that reason, it is developed AHP-TOPSIS and AHP-MAUT hybrid models.

The weights obtained by AHP method is listed with TOPSIS and MAUT Method respectively. It is seem that ranking obtained by TOPSIS method is quite different according to the countries' level of development given report by UN while MAUT Method gives much more meaningful results. Correlation between total utility value and GII index values for 2014 is quite high (0.94) obtained by MAUT Method while it is very low (0.007) obtained with the TOPSIS method. It is reasonable to say MAUT gives more preferable results according to the correlation test. According to the ranking with AHP-MAUT hybrid model, Finland is most advanced country while Sweden is the second and Island is the third advanced country based on GII.

In this study, we have given random weight to the criteria in order to perform as an example. We will be attempted to ranking again based on expert opinion for further study.

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APPENDIX 1

	S ⁺	S ⁻	Topsis sıralaması	Sıralama
Denmark	4, 56	5, 42	0, 543	13
Netherlands	4, 77	4, 43	0, 482	17
Germany	4, 54	5, 51	0, 548	12
Ireland	5, 06	3, 52	0, 41	21
Sweden	4, 83	4, 35	0, 474	19
United Kingdom	3, 43	6, 22	0, 645	3
Iceland	4, 48	4, 93	0, 524	15
Luxembourg	4, 31	5, 99	0, 581	7
Belgium	5, 29	3, 31	0, 385	24
France	5, 16	3, 27	0, 388	23
Austria	4, 59	5, 99	0, 566	10
Finland	4, 42	6, 05	0, 578	9
Slovenia	4, 62	5, 41	0, 539	14
Spain	5, 86	2, 25	0, 278	29
Italy	5, 78	2, 55	0, 306	27
Czech Republic	4, 61	5, 95	0, 563	11
Greece	6, 32	1, 5	0, 192	31

Estonia	3,93	6,03	0,606	4
Cyprus	5,37	3,05	0,362	25
Slovakia	4,14	5,88	0,587	6
Poland	5,11	3,41	0,4	22
Lithuania	4,48	4,57	0,505	16
Malta	5,46	2,42	0,307	26
Portugal	6,88	0,96	0,123	33
Hungary	4,13	5,71	0,58	8
Latvia	4,04	5,86	0,592	5
Croatia	4,52	4,08	0,475	18
Montenegro	4,68	3,97	0,459	20
Romania	2,32	5,74	0,712	1
Serbia	5,88	1,8	0,235	30
Turkey	6,44	2,79	0,302	28
The F. Y. Macedonia	7,09	1,09	0,133	32
Bulgaria	3,29	6,09	0,65	2

APPENDIX 2

	C1	C2	C3	C4	C5	C6	C7	Total utility	Rankings
Denmark	0,93	0,87	0,83	0,93	0,93	0,71	0,45	0,88	4
Netherlands	0,9	0,84	0,8	0,8	0,82	0,71	0,66	0,84	7
Germany	0,87	0,91	0,8	0,94	0,94	0,59	0,45	0,85	6
Ireland	0,8	0,78	0,29	0,68	0,59	0,58	0,54	0,66	17
Sweden	0,97	0,83	1	0,78	0,75	0,75	0,53	0,88	2
United Kingdom	0,83	0,29	0,4	1	1	0,64	0,57	0,64	19
Iceland	0,97	0,69	0,93	0,85	0,84	1	1	0,88	3
Luxembourg	0,73	0,78	0,55	1	1	0,52	0,36	0,73	13
Belgium	0,9	0,83	0,96	0,63	0,67	0,44	0,1	0,81	9
France	0,7	0,85	0,47	0,64	0,68	0,52	0,21	0,66	16
Austria	0,97	0,9	0,6	1	1	0,61	0,52	0,86	5
Finland	0,97	0,76	0,97	1	1	0,64	0,33	0,89	1
Slovenia	0,87	1	0,53	0,93	0,96	0,56	0,29	0,82	8
Spain	0,97	0,72	0,83	0,46	0,48	0,56	0,42	0,77	11
Italy	0,97	0,91	0,6	0,53	0,62	0,25	0,11	0,76	12
Czech Republic	0,93	0,88	0,26	1	0,99	0,53	0,55	0,78	10
Greece	0,93	0,68	0,33	0,34	0,36	0,36	0,26	0,62	22
Estonia	0,73	0,54	0,29	1	1	0,65	0,58	0,65	18
Cyprus	0,77	0,86	0,07	0,61	0,65	0,65	0,69	0,63	20
Slovakia	0,87	0,57	0,26	0,99	0,99	0,53	0,56	0,68	15
Poland	1	0,67	0,36	0,66	0,72	0,47	0,38	0,72	14
Lithuania	0,73	0,72	0,4	0,82	0,89	0,64	0,5	0,68	16
Malta	0,8	0,5	0,09	0,48	0,58	0,21	0,45	0,52	30
Portugal	0,83	0,66	0,63	0,14	0	0,62	0,44	0,61	25
Hungary	0,63	0,67	0	0,97	0,98	0,37	0,13	0,56	27
Latvia	0,67	0,63	0,24	0,98	0,98	0,62	0,51	0,63	21
Croatia	0,67	0,66	0,47	0,75	0,88	0,37	0,05	0,62	24
Montenegro	0,87	0,59	0,21	0,74	0,9	0,33	0	0,62	23

Romania	0	0, 14	0, 06	0, 77	0, 85	0, 47	0, 38	0, 21	32
Serbia	0, 57	0, 54	0, 71	0, 32	0, 49	0, 37	0, 18	0, 54	29
Turkey	0, 43	0, 14	0, 13	0	0, 23	0	0, 67	0, 24	31
Macedonia	0, 87	0, 5	0, 69	0, 02	0, 14	0, 33	0, 51	0, 58	26
Bulgaria	0, 93	0	0, 31	0, 89	0, 92	0, 45	0, 08	0, 55	28

Social Impact of the Urban Transformation (Diyarbakir Sampe)

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Abstract

The implementation of 'The Urban Renewal Project' in Suriçi district of Suriçi county of Diyarbakır city was aimed in accordance with the protocol signed by the relevant institutions in 18.12.2008; however, that project couldn't have been implemented because of the severely reactions gotten by the local community by year 2016. It was aimed with that project to research the reasons of the reactions of the target group that resides in the project area and to reveal the potential social effects of the project over the target group from the sociological point of view within the context of 'The Urban Renewal Project'. Because of building an opinion about what the possible social effects were, a situational analysis was carried out on the low-income group who lives in Suriçi area and in housing estate in Üçkuyular campus and who has the same social, cultural and economic features with the target group. The questionnaire technique was used in Suriçi and Üçkuyular for achieving desired data, and two different questionnaire forms were prepared for them. It was interviewed with 196 householders in Suriçi and 50 householders in Üçkuyular.

Keywords: Urban transformation, Urban renewal, Suriçi, Üçkuyular.

Introduction

The purpose of this project is to specify the demands of the target group who resides in the project area and to reveal the potential social effects of the project over the target group from the sociological point of view within the context of 'The Urban Renewal Project'.

The expectations of the target group must be considered for being wholesomely improved and implemented of the intended project. It is thought that there is a concern about meeting the expectations caused by uncertainty sense predicted as resulted from a lack of knowledge in the target group. Our assumption has been tested by this study. Another problem that the study would like to reveal is what will be the reactions against a possible urban transformation project. Because of that the assumption, which is about that the target group accepts the need of an urban transformation in Suriçi but believes that they will be damaged from a possible implementation, was tested.

Another important factor of the urban transformation project is its social effects which it will create. Social effects are differed from each other as being effected from spatial factors, environmental conditions and evolutionary changes with person to person, person to group and group to group relationships. Firstly, it was researched what kind of relationship differentiation would the spatial factors cause. It was investigated in which level the changes of the relationship of a family with itself and with its environment would be after passing a high rise house from a detached house. Another factor is the environmental conditions. Within this context, how the environmental changes in which the target group live would affect the life standard was tried to be determined. The other factor is what will be the extent of the individual and group communication.

Scientific method of research was used for revealing the expectations of the residents of Suriçi from Urban Transformation Project and the possible social effects of the project. Having created a perspective about what the possible social effects were, a pre-existing situation analysis was made with the target group and the low-income group, who live in housing estate of Üçkuyular campus and who are in the same social, cultural and economic level with the target group. Üçkuyular campus is composed of two different areas. Two classes, both middle income and low-income families, live in the campus. But the target group is the families chosen from the area where the low-income class lives. The questionnaire technique was used in Suriçi and Üçkuyular campuses for achieving the desired data. Two different questionnaire forms were prepared for Suriçi and Üçkuyular. It was interviewed with 196 householders in Suriçi and 50 householders in Üçkuyular.

1. Urban Transformation Approaches in Turkey

Although the urban transformation approach is understood multi-dimensional in Turkey, it is mostly approached as unidimensional. The urban transformation, which was planned in the legal frame of the urban transformation project, was basically approached on its physical dimensions; and need for its cultural, intellectual and moral restoration wasn't completely identified. TOKİ (Housing Development Administration of Turkey) was involved actively in urban transformation with the rights of given by the housing estate law dated in 5.5.2004 and numbered with 5162 and by the decree law about general staff and its system. This situation has been caused for emerging a new approach.

According to this approach, renewal of the suburbia and the areas that lead to visual pollution by the standardized houses is urban transformation. It was aimed to remove the visual pollution and centralizing in the cities developed irregularly and in the way of masses whereas the aim was a planned and qualified urban transformation which doesn't damage to the environment, historical and cultural structures (Çolak,2014; Kılınç & Çelik, 2009; Turgut & Ceylan, 2009).

Lefebvre says that desire and representation underlie the main state urbanism. He states that the claims of them about the fact that these two factors have a connective character and keep the consistency in the society are unnecessary (Lefebvre, 2013: 143). New comments have been emerged about that the cities have been both the channel and actually the transporter of the power struggle throughout history. Within this context, it is essential how the cities were instructed and how the urban spaces were designed (Akçalı, 2013).

1.1 Critics against Urban Transformation

It was aimed to annihilate the chronical problems of the city via urban transformation; although these problems were resolved partially, new problems emerged with the project tried to be carried out. Because of that various critics are made over urban transformation approach. According to Marxist thought, generally leading groups have created one kind or other private places, old cities and wilderness. The new one is to create a mass and total social environment. That the producing activity expands so widely is actualised according to the favours of the people who invent and manage it and profit from it. This not only puts the place in surplus value production but also aims to reorganize the productions depended on the information and judgment centres. According to these approaches, urbanism conceals this huge operation. It hides the basic characters, meaning and purpose of the operation. It conceals them with a positive, humanist and technological profile. It is a capitalist strategy. This strategy stultifies "the user", and the participant becomes a simple resident. Capitalist strategy degrades them not only as a house but also the functions of the surplus receiver of the house. Urbanism ideology exaggerates the significance of the operations that it allows and is called "concerted". It gives the users an impression that it approaches the persons and things coequally in a suitable and modern way (Lefebvre,2013:147).

City planners aim to resolve the problems of the cities clearing the lower socio-economic class out of the city centres, that Burgerss wants to draw attention in the Dew Points Model theory (Dolu, 2010: 206). Generally, TOKİ is widely criticised about these reasons. But the housing estate in Diyarbakır city made by TOKİ isn't far away from the city centre even if it is in the city surrounding. Specially, because of the expansion of the city through the TOKİ area made it stay in the city centre. However, luxury buildings and edifices were built in these new structuring

areas. That the housing estate of TOKI which has a simple and ordinary view remains in between edifices and luxury buildings displays simply the socio-economic level of the residents.

Another criticism for urban transformation is being standardised of the social sphere with the standardizing of the spatial areas. Some researchers have analysed drawings of the French architects; and distinguished that the drawings of 8 thousand architects are almost similar to each other, and there are such small differences between themselves (La Corbusier, 2005: 116). Lefebvre says that the place thought as a production is a result of the production relationship which paid attention or approached by an active community. According to him, urbanists seem as ignoring or not knowing that they are themselves in the production relationships and complete the order of these relationships. Much as they think that they manage the place, they just carry it out in reality (Lefebvre, 2013: 146). French architects state that it shouldn't be given any initiative to the ordinary individuals in the building of the housing types and their demands shouldn't be taken in consideration. Because every family demands their houses considering their current requirements apart from social habits. While crowded families demand houses with many rooms, women demand the ones with wider kitchens and bathrooms (La Corbusier, 2005: 163-167). Architects' views about not taking the thoughts of the families into consideration are such as to support the Lefebvre's expressions. That the urbanists involved in the production relationships and drawing in accordance with these relationships are understood from their similarity with the drawings of the 8 thousand investigated architects. When the standardized production of the TOKI houses is considered, it is understood that they are in a similar system. While TOKI houses are planning, only technical subjects like engineering factors are considered. Some community facilities such as mosque, school, shopping malls, etc. are also built around these houses. However, the inside or type of the houses aren't formed considering the social structure. There are a lot of different category of people from low-income group who are from counties to middle class group, from agriculture sector to service and production sector inside the target groups which TOKI takes into consideration. Although they appeal to many different groups about life conditions, the houses produced by TOKI are all standardised. This situation reveals a very huge risk like standardizing life styles of the social groups.

One of the critics on urban transformation is about the approaches of TOKI about transformation. It is stated that the chance of being a householder over 20 years such as paying rent in the housing estates which are unprofitable and built by TOKI in the city surroundings is offered like a golden opportunity. It is said that this option offered to the lessees is indeed an expressively softer type of displacement. According to this approach, the lives of the neighbourhood residents are ended being banished from the areas where they've lived for years. Because the maintaining of the lives of the poor depends on their relationships which they've established with their life space in their living places. If you take them 30-40 km away from the city and a place (a life) to where they don't get used to, you cut their relationships from job opportunities, social networks, cultural practices and spatial patterns (Koca et al., 2013: 220).

1.2 The Building Logic of the Houses

The types of the houses are changeable according to the logic of the building makers or causers and according to the opportunity and need of the residents. The houses made as "build and sell" by private sector are built very carefully at maximal level about providing the residents of that area and in accordance with the socio-economic level of the area. The houses built by TOKI generally address to low or middle class group. Therefore, while TOKI is building the houses, it considers the economic possibilities and requirements of the residents. The basic logic of the directors while building the houses is to satisfy people's main living need even if at minimal level. That's why it isn't considered that interior design of the houses isn't useful.

The houses built for low-income group generally have an area between 65 and 85 m². In 27,7% of the houses in Turkey, 5 or more people live in a house. But this rate is 63,4 in Diyarbakır. These numbers are average out at Diyarbakır (TUIK, Turkish Statistical Institution, 2011). It is also seen from the study that there are more children in the families whose educational levels are low with reference to the hypothesis of the fact that more the educational and income level rise, more consciousness about family planning. These data show that most of the people who live in Diyarbakır have at least 3 children. It is revealed that children live in the salon in 1+1 houses, and the children who are a child of a family with 3 or more children have a single room at most 5 or 8 m². The

number of persons for living in a room including salon is 1,7 in Diyarbakır (TUIK, 2011). It shows that possibilities apart from needs are important while building and allocating such small houses to big families.

It can be said that the houses built for low-income class by housing development administration aren't very useful for maintaining a normal family's life. However, there's a different usefulness beyond "build and sell" logic with regard to environmental planning. The private sector which build and sell for low income groups build almost adjacent houses where you can hardly breath and which haven't any environmental planning or social life areas. Their main production logic is building houses which profits high, have minimal cost and also have interior usefulness.

1.3 The Resistance Developed to Urban Transformation

Sometimes a resistance is developed against urban transformation by the residents who live there. This resistance is sometimes caused by some of the neighbourhood residents who would like to gain much advantage. Aforementioned residents find less the amount of the money offered for their own houses and demand much. However, these type of resistances can't be very effective because these are generally individuals, and laws support the municipal authorities that serve for transformation. Another type of the resistances is revealed by some left ideal parties, associations and unions. Urban transformation in Turkey became effective after AK Party, which is a right ideal party, had come into power. Therefore, on behalf of creating a new strategy against right ideal party, left ideal groups try to prevent urban transformation which is one of the biggest argument used for community development and which can sometimes change into an unearned income. What type of socio-cultural effects the urban transformation will create on the city dwellers doesn't discussed by anybody but it is used as an argument by the government party for community development and by the left ideal group for preventing unearned income.

1.4 Urban Transformation in Diyarbakır

People have flowed into cities together with developing of the technology and production in Turkey as well as all other developed countries. While the problem of non-planned urbanization caused from immigration has been resolved in developed countries, it is still a very hot topic in Turkey. A new dwelling unit called slum was formed instead of urbanization because of economic reasons from 1950s to 1980s; financial impossibilities caused by immigration, lowness of industrialization and development level in Eastern and South-Eastern Turkey after 1980s; and populist municipal works and political culture which prevent planning and implementing of the reconstruction in ghettos which are seen as a potential vote centre in election terms (Kılınç & Çelik, 2009).

Various projects have been implemented to prevent providing of transformation of slums and new forming of them in many part of the Turkey. Unfortunately, complete result hasn't been taken from these projects many times. For example, it was aimed to decrease the slum areas directing the slum residents to the Yenişehir campus built within the context of preventing slums and urban transformation works in Erzurum. But middle class groups who live in old houses in the city centre such as officials, workers and artisans settled in these houses in Yenişehir, and these families gave an opportunity to other people for replacing the empty houses renting their houses out. This project partly prevented forming of new slum areas even though it couldn't restrain them (Kocaman et al., 2008).

The reason of urban transformation in Diyarbakır is unplanned urbanization as well as in all Turkey. But the difference of it from the ones in other cities is that the place where the transformation will be done is Suriçi area which is one of the oldest settlements in the world. Unplanned urbanization has been seen in this area since 1960s which has a large number of historical structures in and above the ground in the form of strata. Buildings are so near to each other. 20% of the structures in this area are still among the historical buildings. Unfortunately, a major part of these buildings have been restored not in accordance with its origin and destroying its architectural texture; and they've been used as houses. These historical buildings have also lost their touristic features because of reinforced concrete buildings made subsequently. The lowest income group live in this part of Diyarbakır. Hence, the buildings are so uncared in this district which has a great number of lanes. It was aimed to carry out the urban renewal (Slum transformation) project by force of the protocol signed by relevant institutions in 18.12.2008 within the context of integrating Suriçi district of Suriçi county, which is in the centre of Diyarbakır, one of the oldest

settlements in the world and is surrounded with one of the biggest castles in the world, into tourism. Workers can start to settle in different parts of the cities by means of house diversity in the developing cities and rising of transit system. The reason when the workers choose their houses is related with their economic incomes. The houses of the low-income groups and middle-class groups are abreast in the biggest campus of housing estate administration in Diyarbakır while the districts are expanded according to socio economic structure. Being abreast of the houses causes positive results with regards to adopt themselves and a communication with each other, but not every time. Because the low-income persons in Diyarbakır are generally composed of the families which came by immigration in 1990s. Some of these families succeeded to adapt the urban life giving up their cultural habits from county whereas some of them have been maintaining their behaviours such as animal husbandry and sound pollution. This causes various troubles for middle class adapted mostly to urban life.

2. Findings and Interpretation of the Findings

The findings achieved from two different areas were evaluated comparatively, of which are Suriçi campus that has a historical structure and planned to be being urban transformation and Üçkuyular campus formed by TOKİ. The residents of both campuses are composed of the same socio-economic and socio-cultural class. Because the low-income group of Üçkuyular campus is composed of the persons who came from Suriçi and other the same socio-cultural areas.

The effects of the same social stimulus result similar reactions in the similar social classes. The problems of the both campuses were researched and compared with each other.

Table 1: Common problems in Suriçi campus

	Frequency (Person)	Percent
Robbery	123	62,8
Drug addiction	116	59,2
Power cut	84	42,8
Lack of social domains	36	18,4
Cleaning and Environmental plan	35	17,9

It is seen in the table that social problems are the most effective ones seen in the campus. It was explained that the robbery with 62,8% rate is the most faced problem in Suriçi campus. 59% of the persons to whom the problems were asked complained from drug addiction. Physical problems such as power cut (42,8%), lack of social domains (18,4) and cleaning and environmental plan (17,9%) are less than social problems.

Table 2: Common problems in Üçkuyular TOKİ campus

	Frequency (Person)	Percent
Not being any shopping mall	30	60,0
Drug addiction	14	28,0
Robbery	13	26,0
Prostitution	12	24,0
Lack of educational institutions	10	20,0
Environmental plan	5	10,0

It was seen problems similar with Suriçi in Üçkuyular campus. But when it is compared with Suriçi, it was seen a decrease at 50% level in social problems such as robbery and drug addiction. Because the houses in Suriçi campus are detached, bungalow, tumbledown and like ruins, it is suitable for drug production and robbery. As it is stated in the broken window theory, the streets where there are slums and hovels turn into the places that are used generally by prostitutes, drug sellers, vagrants, street gangs, narcotic addicts, namely all kinds of criminals. To sum up briefly, according to broken window theory, small disorders invite bigger disorders and finally vital crimes

(Beşe, 2006). Data achieved from Suriçi support broken window theory. As a matter of the fact that Üçkuyular composed of apartments in the form of sites got decreased the rate of crimes such as narcotic addict and robbery. But it is remarked that the prostitution has increased. That there are mostly 1+1 studio houses in the area has made Üçkuyular attractive for prostitutes because of lack of security in the area since the sites are newly-built. It is stated that the biggest problem faced in Üçkuyular (60%) is not being of shopping malls. The reason why the complaints were so high was that Üçkuyular campus of low-income class was new, and the shopping malls and other social domains hadn't been completed yet when the research was made.

The support given to urban transformation in the area was determined as only 34,7% despite its positive effects on decreasing crimes. That the level is so less arise from some concerns of people against urban transformation.

Table 3: Possible negative features of urban transformation

	Frequency (Person)	Percent
Injustice will be in property price	124	63,3
My economic conditions will be worse	126	64,3
I will be removed from the city	86	43,9
I will be settled in the houses unsuitable for my life style	55	28,1
I will be removed from my neighbours and relatives	53	27,0
I will be removed from my social life in my district	53	27,0
Other	13	6,5

One of the biggest concerns of the neighbourhood residents is that TOKİ can treat inequitably while paying the expropriated price of urban transformation. This price generally is changeable according to the size of the land of the house. The price of a detached house built on a 250 m2 land is more than a triplex house built on 120 m2. This situation has caused a wrong sense in the residents. They think that it must be paid more for high rise houses regardless of being less of their lands.

6,1% of the residents haven't any income. These people maintain their life only receiving government aid and some other institutions' aids. The total ratio of the persons whose income is under minimum wage is determined as 66,6%. The residents of Suriçi use the water illegally as much as don't pay doorman due because they live in detached houses. In case they move in the TOKİ houses, they will pay for house, apartment due, electricity and water, transportation. It will be impossible to supply these expenditures for the persons whose income is under minimum wage. So it is the biggest concern of them against urban transformation that their economic conditions will be worse (64,3). Hence, it was seen that 78% of the residents of Üçkuyular couldn't pay their monthly instalments because of their economic problems even though their instalments¹ were so low. But 66,8% of the residents in Suriçi said that they were happy form their lives. The reason why they are happy is that there is a balance between their incomes and expenditures.

58% of the persons asked for the subject in the Üçkuyular campus stated that their life standards in TOKİ houses were getting better in proportion to their previous settlements. The rate of the persons who said that their life standards didn't change is 22% while the rate of the ones who stated that their life standards became worse is 20%. 96% of the participants explained the reason why they chose TOKİ houses as "being householders" regardless of change in their life standards.

One of the possible problems of the project is that they will be centred in one area and will carry their problems from Suriçi to their new settlement. That it is a high probability is revealed clearly in our findings, too. When it was asked to the residents the question "if you don't accept TOKİ houses, to which district would you like to move?",

¹ TOKİ sells its houses with instalments till 120 months, and takes lower payments from low-income groups.

19,9% of the participants answered directly as Şehitlik district¹ whereas 15,9% of them gave the “Yenişehir district” answer. It was understood in the interviews that most of the persons who gave the Yenişehir answer would like to move Şehitlik district. Namely, it is estimated that 35% of the persons who will leave Suriçi will centre in Şehitlik district. The main reason of this situation is that the rent payments and house prices are lower than the other part of the city as well as there aren't such payments like expenditures of doorman, apartment, electricity and water. It is, in brief, economically more liveable for them.

Suriçi residents are of the opinion that the houses that will be allocated for them are highly out of the city. When we asked their thoughts about where the houses should have been built, 29,8 of the participants answered as “city centre”. If the rates of the persons who said districts are considered, the rate of the persons who would like that TOKI should be built in city centre will be directly or indirectly 66,6%. Both the numbers achieved from the findings and the explanations of the participants in the interviews show that the concern of being isolated in case of being settled out of the city is dominant. Also, it is understood that some of the residents wouldn't like to leave from their district in no way by the time it is considered that 12,6% of the neighbourhood residents would like TOKI to be built in Suriçi.

Another social effect of the urban transformation is its changes on neighbourhood and relative relationships.

Table 4: The state of neighbourhood relationships in Suriçi

	Frequency (Person)	Percent
Good	169	86,2
Normal	18	9,2
Bad	9	4,6
Total	196	100,0

Suriçi campus is composed of narrow streets. The houses were constructed adjacent and collaterally to each other. The doors of the houses lined through both sides of the streets look each other. Neighbourhood relationships are quite advanced because the most of the houses are detached and yard-type. Chatting of the neighbours in front of the houses and using of the narrow streets as sitting areas are often observed. As it is seen in the above table, the rate of the persons who said they were in good relationship with their neighbours is 86,2%. But negative results arise also on social relationships together with urban transformation.

Table 5: The state of neighbourhood relationships in TOKI houses

	Frequency (Person)	Percent
Good	23	46,0
Normal	18	36,0
Bad	9	18,0
Total	50	100,0

The residents of TOKI houses in Üçkuyular campus are in better relationships than the residents of Suriçi although both groups have the same socio-cultural structure. The rate of the persons who said that their relationships are good with their relatives is 46%.

	Frequency (Person)	Percent
Have no relative	34	68,0
1 house	8	16,0

¹ Şehitlik is a district bind with Yenişehir town. Socio-economically low-income people live in this district. A very big part of the district is composed of deedless (illegal) houses. It is similar to Suriçi with regard to both socio-economical and socio-cultural features.

2 houses	4	8,0
3 houses	1	2,0
4 houses	2	4,0
9 houses	1	2,0
Total	50	100,0

Table 6: The numbers of the relatives in TOKI houses

The neighbours of the 22% of the participants from TOKI houses are composed of their relatives; and the rest 68% of them live away from their relatives.

Table 7: The state of neighbourhood and relative relationships of the TOKI residents with regard to their old settlements

	<i>Frequency (Person)</i>	<i>Percent</i>
<i>Became worse</i>	20	40,0
<i>Became better</i>	10	20,0
<i>Nothing changed</i>	20	40,0
<i>Total</i>	50	100,0

It is seen that the neighbourhood relationship in Suriçi campus is very high and they keep good relationships with each other. But it is seen that 22% of the residents in Üçkuyular are weak at relationships with their relatives and neighbours even though they live near their relatives. 40% of the residents of Üçkuyular stated that their neighbourhood and relative relationships became worse with regard to their previous settlements. This data shows that the physical environment that we live effects the relationships of individuals with other people. Rising of the apartment floors which are elements of the modern life, Communication between people is getting cut off, and relationships are being effected negatively.

There is a structure in Suriçi campus similar to “mechanical solidarity society” of Durkheim. The reason of this arises from the fact that the residents composed of the persons come from countryside.

Table 8: The state of immigration of the residents of Suriçi campus

	<i>Frequency (Person)</i>	<i>Percent</i>
<i>Habitant of Diyarbakır</i>	76	38,8
<i>Immigrants between 1950-1969</i>	14	7,1
<i>Immigrants between 1970-1979</i>	16	8,2
<i>Immigrants between 1980-1989</i>	27	13,8
<i>Immigrants between 1990-1999</i>	49	25,0
<i>Immigrants in and after 2000</i>	14	7,1
<i>Total</i>	196	100,0

As it is seen in the table, 61,2% of the residents in Suriçi campus are composed of the persons immigrated from countryside to Diyarbakır at sequential time intervals. Because Suriçi looks like countryside more than the other parts of the city with regard to houses even though it is in the city centre, it allows the residents to maintain their previous life styles.

Table 9: Current life styles of the residents in Suriçi campus with their perspectives

	Frequency (Person)	Percent
Maintaining rural life	60	30,6
Maintaining urban life	53	27,1
Neither rural nor urban	83	42,3
Total	196	100,0

When it is considered that the rate of the habitants of Diyarbakır is 38,8%, it is so interesting that the rate of the persons who feel themselves as urbanite is 27,1%. This shows that even the persons born in this city don't feel themselves as urbanite; moreover, it can be seen that 28,1% of the residents who live in Diyarbakır for or more than 20 years couldn't have adapted to urban life yet.

Table 10: Current life styles of the residents in TOKI houses with their perspectives

	Frequency (Person)	Percent
<i>Rural</i>	11	22,0
<i>Urban</i>	11	22,0
<i>Neither rural nor urban</i>	28	56,0
<i>Total</i>	50	100,0

While the rate of the persons who evaluate their lifestyles as rural in Suriçi is seen as 30,6%, this number decreases to 22% in Üçkuyular. But there is an increase in the number of the ones who don't feel themselves neither rural nor urban. This situation derives from being far away of the campus from the city centre and not having been completed the view of its modern city sites even though they live in apartments which is a necessity of urban lifestyle. Cities are the places where the individuals should treat according to formal rules and the social orders are based them in proportion to countryside. The main features of urbanites are reaching the information provided by the urbanites more than countrymen, answering different lifestyles, recovering from "village" thought with interacting, hope of being tolerated and open-mind. It can't be said that the urbanization has caused for both developing of urbanization conscious and culture and mentality of treating according to the formal rules (Kılınc & Çelik, 2009). The emphasis in the evaluations made over the relationships of place and human is relative to the effective decisiveness of the place design in forming of lifestyles. The writers and thinkers who evaluate this subject remark that the architects who have full knowledge of place via place maintain it also on human life.

Conclusion

Urban transformation practises are made for reforming of the featureless and unhealthy places formed after rapid urbanization. With regard to its concept, urban transformation aims to make better the life standards of the cities. The city areas which gotten worse with illegal housing and being occupied of the public lands should be reused for the sake of city via the urban transformation projects. But sometimes, this is done with a destructive perspective while being carried out. Urban transformation practises in Turkey generally handle the transformation only with regard to its physical side. These types of practises increased in developed western countries in 1960s are understood as a unique concept in Turkey; and this can cause revealing of the problems which don't involve its social features. It can be said that the plans and programs of the urban transformation practises experiences in Turkey haven't been formed at the result of the strategies and actions based on current situation.

It is understood that dwelling production fails to satisfy low and middle income groups about offering alternatives, in particular with the houses built by public sector. Specially, it is observed that accessibility for the houses built by TOKI for low-income group is still so limited, they are useless when the individual numbers of the families are considered (6 persons

or more generally live in the 65% of the houses in Suriçi), they don't satisfy their need. It was determined that public domain which is one of the main problems of our cities felt behind the projected standards of the regulations. Its main reasons are not being achieved of the domains by public, allocating these areas planned for public to other usages and not being realized of investments which should be done such as schools, health facilities. The fact that making of the social and technical infrastructures after superstructure can be seen among the reasons of production public domains under standards.

Ignoring current spatial identity texture and features in the urban transformation projects in our country, it can be given new and unsuitable planning decisions; and the structures produced in the area can't establish the bond between past and future. This situation causes creating of cities that's the origin of the bigger problems in future. It can be sad that the residents of these areas are urged to either move other parts of the city or form another slum area out of the city while the cities are transformed with capital (fund) logic.

The neighbourhood residents are composed of the groups that can survive with solidarity relationships for keeping up in illegal labour market and living in the city. It can be understood that they feel themselves secure with the effect of solidarity culture and being together with the persons like them although their life standards are quite low. But they can suffer a trauma when they are unwillingly forced to leave the places where they feel secure, then to move to either housing estate out of the cities or another part of the city.

When the data achieved from the study is considered, it is seen that the neighbourhood residents would like to live in detached houses similar to the ones in agricultural villages. The rate of the persons who wouldn't like to move TOKI houses and who accept moving to the detached houses with garden built by TOKI are respectively 78,1% and 80,1%. The types of the houses offered for low-income group by TOKI are the same. But these types of houses aren't suitable for the family structure of this area when it is considered that the average number of the family members is 7,6 according to the data achieved from our research of family members of the residents. Averagely 7,6 persons must live in each 1+1 60 or 80 m2 house.

It was seen that 78% persons of the residents who lived in the houses in Üçkuyular built for low-income group by TOKI delayed their payments and couldn't pay their debts. It is the main problem of the low-income individuals live in TOKI houses. 40% of the persons live in TOKI would like to return to city centre. But it was understood later in the face to face interviews that many of the ones who didn't want to return maintained to stay at these houses because the property belonged to themselves. So a risk can be revealed because the low-income persons can turn towards unauthorized land market or form new slum areas in the city centre.

All in all, it is foreseen that the negative effects of the transformation can be removed considerably if the social structure of the area is considered, the types of the houses, public domains and environmental planning are formed according to it even though there has been a sense against that urban transformation damages the social structure.

It is thought that urban transformation must be done in the districts which are out of the cities or in the centre and where criminal rates such as prostitution, narcotic addiction and robbery are high and there is highly unplanned structuring. Or the social structure in these areas can be destroyed with social corruption.

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Elements of National Identity in Nowadays Social Media

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Abstract

International politics discourses, cultural representations, entertainment choices, touristic offers and other national identity facets give us numerous examples on how countries represent themselves on global scene. What's interesting for any social sciences research is that this is a process that goes parallel with the very present globalisation process. It is the new rule that sets the play of national and local actors. It is an ideological war, where everybody strives to obtain a better definition of nationhood in its member's eyes, as much as in the others perception, in order to negotiate a better position in the world's image perception and history. The balance between natural means and constructed narratives, in achieving these circumstances, represents a question for this paper. On the other hand, the globalisation of markets led to a standardisation of products and offers, which, by time, can lead to losing identities as individuals or national groups. As a reaction, this process has generated an intense search for authentic national products, stories and representations that are still able to play an important part as national focal points, a powerful bond between individuals to base their identity on, through differentiation between them and the others. Last but not least, the goal of sharing national identity elements, as underlined by its theorists and promoters, is also to oust prejudiced or incorrect perceptions about a certain nation and, propose an image that could lead to a significant positive understanding of a nation's specificity. This paper will try to present several social sciences theoretical perspectives, as, possible answers to the question on 'how to synthesise the complexity of a nation's specific in an adequate comprehensive image?' are highly debated nowadays. In a plural and globalised environment brought along with the rising of a fusion, multi-disciplinary field of knowledge, the identity of national groups becomes a topic of major interest for our research. Authors like Smith, Anderson, Anholdt, Gilroy and Barthes will provide us with a theoretical background for our research. Semiotical analysis, Content analysis and in-depth explanatory data were used to underline how newer generations perceive and replicate national identity symbols and references. Finding possible patterns in their shared online experience can lead us to a possible better understanding of their actual perception upon nowadays concept of national identity, shared and valued representations of their affiliation to a national group.

Keywords: Identity, national identity, globalisation, nation branding, myths, symbolic communication.

1. Theoretical framework

The concept of *national identity* has been analysed by various theorists and scholars using a multi-dimensional approach on the relationship between this and other social defined concepts. What rests persistent are some common assumptions that will be presented in this paper and will drive us to extract some of the primary features of this notion. According to Anthony Smith (1991) for example, the origins of nations and national identity can be found by interpreting *ethnic identity* as a pre-modern form of collective cultural identity. In his perspective,

"Collective cultural identity refers not to a uniformity of elements over generations but to a sense of continuity on the part of successive generations of a given cultural unit of population, to shared memories of earlier events and periods in the

history of that unit and to notions entertained by each generation about the collective destiny of that unit and its culture" (Smith, 1991, p. 25).

Smith also underlines that: 'there is a felt affiliation, as well as a cultural affinity, with a remote past in which a community was formed, a community that despite all the changes it has undergone, is still in some sense recognised as the "same" community' (Smith 199, p.33).

A *national identity* is essentially a multi-dimensional reality; it cannot be shortened to a single element when approached. This is the result of the fact that the shaping of national identity is by nature a subjective process that conforms to changes along the time. As Billig observes, any attempt to even it out across cultural barriers or to paste past constructions of national identity over the present day structures, will fail to acknowledge the intrinsic subjective and fluid nature of national identity. An "identity" is, therefore, a representation for "ways of speaking about self and the community", *your* self and *your* society and correspondingly, it does not develop in a social void but rather in a strong relation with manifested forms of existence, "identity is a form of life" (Michael Billig, 1995: 69).

The shape shifting nature of national identity is underlined in Tajfel's (1982) social identity theory. The author emphasizes that "we" must categorise ourselves with a distinctive label, thus "we" are "Romanian" or "Serbian". This listing not only classifies us in our uniqueness, distinguishing us from "others", but also it functions as a national label, in a sort of universal code for naming nationality. Social identity is, in Tajfel's perspective, "a categorisation framework made out of sets of comparisons, with the purpose to contrast and emphasise distinctive characteristics among groups". The process he describes as parts of social identity formation implies an active progression: people set themselves to form "in-groups" by differentiating from others, as an active choice. By doing this, the new-formed group consolidates itself and underlines the blood links or other affiliations among its members. This provides them with a sense of belonging and continuity within the formed community.

A prime aspect of this theory is the fluctuating character of identity. The reasons determining people to identify themselves with social groups are based on various factors (race, class, gender, ethnicity, affiliations etc.). These are becoming primarily relevant in time and for different reasons, based on the social context. For this basis, when a particular group identity obtains prominence, in a particular circumstance, the actions of any member within the group will tend to be determined and channelled by the norms and goal of the whole group.

Summarising Smith's theory on national identity, we can now state that national identity is a multi-dimensional changeable reality characterised by five fundamental attributes:

1. historic territory or homeland
2. common myths and historical memories
3. a common, mass public culture
4. common legal rights and duties for all members
5. common economy with territorial mobility for members (Smith 1991: 14)

The fuller account of the deep roots of cultural memories does begin to provide a hint, for Smith speaks of national symbols being conveyed in taken-for-granted ways in so much of the life of a political community:

... flags anthems, parades, coinage, capital cities, war memorials, ceremonies of remembrance for the national dead, passports, frontiers, . . . national recreations, the countryside, popular heroes and heroines, fairy tales, forms of etiquette, styles of architecture, arts and crafts, modes of town planning, legal procedures, educational practices and military codes . . . all those distinctive customs, mores, styles and ways of acting and feeling that are shared by the members of a community of historical culture . . . (Smith 1991: 77).

Smith means to portray national identity as fully capable of holding a serious influence over the individual, and uses the terms "potent and durable" in describing the emotion of attachment that is reinforced by national ceremonies (1991: 78).

But nowadays, the mythical structure of national identity described by Anderson or Smith starts to be confronted by the emerging of other multiple complex structures and phenomena, like the social media sphere. The multiple mediums in which a national identity is shared and received have led to the conclusion that the idea of national identity as it is seen now has to be rigorously interrogated. Based on Smith's named national identity symbols, we will try to take a glance over the new ways of sharing young generation's national affiliation and identity.

Supporting inter-disciplinary research, we chose to explore the concept of national identity by taking into consideration Roland Barthes's concept of myths and mythology. For the French author, a "myth" is not a fabricated story, but the perpetual upholding of mass-culture upon the world. In his book, "Mythologies" (1957), Barthes is interested in what can be found beyond the images that we are daily exposed to, how these affect us ideologically, and whether or not we can pull apart a myth to reveal what lays underneath it. Barthes's discourse expounds how, what we appreciate as being natural, is in fact an illusive reality assembled in order to mask the real society's power structures. He tries to unveil how often nations have accredited mythical representations of national characteristics in order to sustain economic or political interests. According to this theory, what we appreciate today as being a new area of marketing theory has been utilised through history to hidden alternatives. Myths are living narrative structures developing alongside our society, context and identity. Still, in this emerging globalised society the way new generation perceive national identity is influenced by the content associated with it.

2. General structure of analysis: the social media context of nationalism

The question that rises refers to how nowadays digital generation deals with national membership, how do they relate to their national identity and which are the contexts in which they share it.

In his book, *Born Digital* (2010) Urs Gasser analyses the three types of public that animate the digital era, underlying that we now live in the first era of "digital natives", children who were born into and raised in the digital world. *Digital settlers* are defined as people older than teens who faced the transition between analogical and digital era. They are capable of using digital technologies, but still rely on traditional analog forms of interaction with a bit of nostalgia. *Digital Immigrants* are people that learned to use social media and e-mail late in their lives. They are those who use digital technologies for interactional use, not particularly social media, but e-mail lists. *Digital natives* are those who were born in the digital era and use digital means in order to communicate or express themselves. They do not remember a world with printed cards and post sent letters.

As Gasser characterises them, *Digital natives* live much of their lives online without distinguishing between online and offline worlds. Instead of thinking about their digital identity and their real-space identity as separate, they just have an identity with representations in several different spaces. One of their main features as a group is set by a set of common practices that links them, for example, the amount of time spent using digital technologies, their natural tendency to multitask, the tendencies to express themselves and relate to one another in ways mediated by digital technologies, or their almost "instinctive" defined patterns of how to use/access information, create new knowledge or art forms, are among those practices. The same author observes that for these young people, new technologies (computers, smartphones, tablets, consoles) are primary mediators of human-to-human connections.

Their 24/7 network linked communication is therefore starting to transform human relationship in fundamental ways - connected to one another and to the world of bits in this manner. *Digital natives* are constantly connected but the very relationship of their interaction is changing. Even though online friendship is based on the same structure as the traditional one (shared interests, frequent interaction, shared goals etc.), "they are often fleeting; they are easy to enter into and easy to leave, without a goodbye; and they are also perhaps enduring in ways we have yet to understand"¹.

In terms of information change, *Digital natives* experience information differently from their parents. "Many digital natives experience information to be malleable; it is something they can control and reshape in new and interesting ways"².

¹ Urs Gasser, *Born Digital* (2010), Basic Books; First Trade Paper Edition, pp.5;

² *ibid* p. 6

3. Analysis of targeted group social media activity

Three key concepts are related to our conceptualisation: nationalism, national identity and national consciousness (Hroch, 2000). As Hroch states, nationalism is the only ideological framework which promotes "the nation" as the highest political value and this may be crucial for understanding nowadays national consciousness even it is still to theoretical presented. People usually see themselves instinctively or empirically as members of nations (Geller, 1983), but most people do not express personal feelings or embrace political ideologies that could be called "nationalist", rather their language and beliefs betray a national membership (Thompson, 2005).

On the other hand, another type of manifestation has taken the attention of the theorists, after Billig has first presented it in 1995: the concept of banal nationalism. Banal Nationalism refers to everyday representations of the nation which build a sense of national belonging. For example, the use of national flags in everyday contexts, spotting events, sharing or singing national songs, the symbols on national money, use of popular expressions, the use of *togetherness* ("our team", "the voice of the people", "together we win" etc.) are all representations of banal nationalism. Billig¹ also argues that the hidden power of modern nationalism makes it a very powerful ideology, partially because it remains largely unexamined and unchallenged, yet it remains the basis for political movements, ideological discourses, and most political violence from today.

Following a research conducted in 2007 by Steve Fenton, Department of Sociology, University of Bristol, UK, regarding the level of apathy and antagonism towards national identity among young adults, theorists suggest that we ought to reconsider any assumption that national identity is 'normally' a powerful and important marker, embraced with enthusiasm². As *Digital natives* are strongly associated with the modern idea of the individual, modern nationalisms require a certain level of individualism. This means that individual identity has a particular importance in modern nations:

... the modern discourse of national identity is closely linked to the idea of the individual. ... National identity assumes a special priority over other collective identities in the construction of personal identity (Calhoun 1997:125).

more so, The individual does not require the mediations of family, community, region or class to be a member of the nation. Nationality is understood precisely as an attribute of the individual ... the trump card in the game of identity (Calhoun 1997: 46).

We turn again to Smith's arguments to explain why national identity still makes an important impression on the individual – we handle the national money, we watch the parades and national enjoyments, we exercise the etiquette and the ways of acting and feeling, and we visit the countryside. This does not mean we will agree with all or treat it all as supremely important, but it does suggest that the message of national membership will be conveyed by, if nothing else, sheer routine and familiarity. But, then again, Smith's interpretation fails to explain the link with an intrinsic understanding of national pride: people may experience things as routine and familiar, such as the coins, sporting events, or forms of etiquette, but still fail to link these things to national symbols.

So the question still stands: how does this digital generation relate to national symbols, and the secular values associated with them? Do they still believe in national pride and identity, do they still relate to it?

Therefore, our interest is focused towards observing how the young generation is perceiving the concept of "national identity" in today's social media context. The targeted group are Romanian students, age 18-25, both male and female, who have an active Facebook account and share their daily experience in the online. We collect data related to national identity symbols and representation from their social media posts between December 2015 and March 2016 and interpreted them in the light of the theoretical background described above.

¹ Billig, Michael. (1995). *Banal Nationalism*. London: Sage Publications;

² Steve Fenton, "Indifference towards national identity: what young adults think about being English and British", *Nations and Nationalism* 13 (2), 2007, pp. 321–339

Our empirical research showed that qualitative conversation-style evidence is especially suited to grasp some insight into how, and how importantly, our target views national identity. The period associated to our research covered Romania's National day (1 of December) when everybody, regardless their age expressed their sense of belonging to a national identity. National flags, traditional costumes and songs were shared on social media by all our subjects, some of them expressing their national identity with an active voice.

This 23 years old student (foto 1) chose to dress up in a parade uniform with the occasion of Romania's national day. His simple text "Happy birthday, Romania" shows a profound attachment to national symbols



La multi ani, Romania!



photo 1

Students part of the Erasmus program were particularly active around Romania's national day expressing their attachment to their country by posting flags and other national symbols. This 21 years old student (foto 2) actually composed a poem dedicated to his "homeland" that promotes an exaggerated national pride that "does not bow in front of others".



E-n genă, sau rasă dacă tu vrei
Să nu plec niciodată, să rămân lângă ai mei.
E-n genă, să nu flu preș pentru ei
Eu nu am președinte, am voce și idell... See more



photo 2

His returning home expresses a feeling of comfort and safetiness, as his Facebook post states “feeling safe in Romania” just as his plane landed. The refuge in nationality as a safe spot for his identity associated with family and friends in very much visible in this case.



photo 3

On the contrary, following their huge desire to share experiences and interactions, some subject relate to national symbols with amazement, like this 21 years old student (foto 4) who recalls a discussion with his neighbour on the first of December. His wonder about why his neighbour displayed the national flag outside his window shows how relative national pride can become, as this student was not raised to value such symbols, as he declares. The fact that he appreciated his neighbour's intentions show's, on the other hand a particular sensibility to the gesture and a visible need to share his experience with the social media community.

The number of likes achieved (likes given also by people in the targeted group) show that the digital generation still appreciate national pride gestures, but more as a curiosity, as they do not understand such a desire to express national pride and they do not see it as a natural gesture.

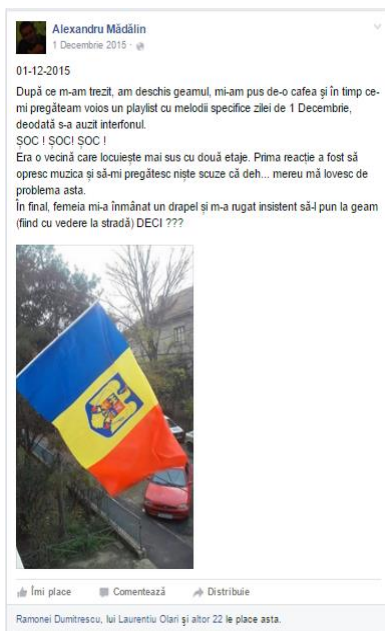


photo 4.

Our ongoing research still observes the targeted group's behaviour and will soon analyse in a more conceptual way the presence of national symbols in digital generation's online communication. The period of time covered for this paper (1.12.2015 - 1.03.2016) managed to highlight some of the occasions in which they still feel the need to express their national belonging:

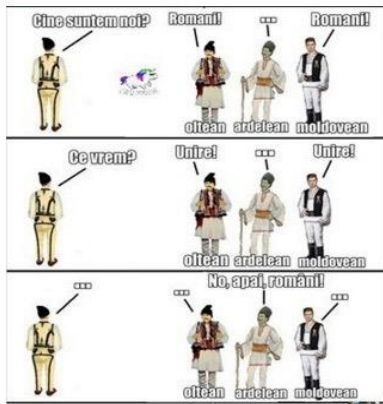
1. to mock a social situation in Romania. Digital natives are well known for their humour and satirical way of presenting social facts. The economical situation in Romania, corruption or political events are related to national symbols (such as flag, national coin or historical figures) in order to create a humorist context in which they can share their ideas, relatively debate upon them and generate laughing.



2. to engage people in common cause fighting. The digital generation empirically feel the power of national symbols and use them in the online to engage the community in a social or political cause. For example, the targeted group was particularly active between 14 and 24 of February 2016, as on 14th of February people around the world celebrate Valentine's day, while young people militate for recognising our own "love day" celebrated on the 24th of February. A mention must be made here: digital generation are more against imports of foreign celebrations and try to cling on traditional celebration. This attitude is not grounded in a sense of national consciousness, but more in a quest to find an identity.

3. To emphasise regionality. Digital generation is actively involved in promoting regional culture, as they recognise element of regional identity, specific habits or stereotypes associated to their region. Even if some are considered slow (from the Ardeal region) or manipulative (Oltenia region), traditional clothes, stories or jokes are used to emphasis on this topic

Ioan Alexandru Costea shared Junimea's photo.
23 December 2015 · 🌐



John Dillinger
12 December 2015 · 🌐



Amza Pellea-Daca vreti sa-i cunoasteti pe olteni
Amza Pellea-Daca vreti sa-i cunoasteti pe olteni

YOUTUBE.COM

For example, the post of a 21 old student is a video containing in itself an element of national identity; this, first, because of the actor Amza Pellea, recognised as one of the best Romanian players. Moreover, and more specifically, it can be seen the identification with the Oltenia region. The element of textual identity is present in this post in the name of the video, and in terms of visuals, besides the images in the short movie, you may notice the symbol "=" used by the subject in the description. The "equal" sign represents a strong and close association with the regional identity presented in the short movie he shared on social media.

The reality of digital generation shown in their social media posts highlights the fact that young people are conscious of the contexts in which national identity is evoked, but, they use national symbols with a temporary enthusiasm as 'just a bit of fun'. Indirect evidence in their social media sharing show how national identity is compared with other identities or related to them. Clearly young adults still speak warmly about local communities, family and friends. But it may be that, for many, national identity is weakly embraced not because it can give a foundation to other identities, but because many young adults seem more and more suspicious of collective identities. Their view of themselves as individualities is formed in relation to their life trajectories, their careers, families and friends, and a local digital community, not a national consciousness. But if national identity is considered to be located in the patterns of everyday life, it may be that young adults are failing to recall their national significance and prefer to use the myth of national identity to communicate personal points of view in a humours way. The concept of banal nationalism that we referred to may be more banal than nationalism and the urge to analyse in a qualitative way the concept of national identity was never as striking as nowadays.

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The Church, the Pulpit, and the Poor. the Role of Preaching in Poor Relief Efforts in the Thinking of Samuel McComb (1864-1938)

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Abstract

The problem of the poor has been a constant in the life of nations. There have always been poor people to whom society, governments, and the Church have been looking in various ways across the ages. One important aspect is the way the Church has behaved in relation to the poor, because it is the institution that preaches a certain kind of moral code, and a certain kind of human value. This paper focuses on the role of preaching and the role of the Church in poor relief efforts, as presented in the writings of Samuel McComb (1864-1938). The main argument in the thought of McComb is that the Church will always need to be involved in poor relief efforts, but not simply by helping the poor with material needs, but also by offering spiritual guidance. These efforts should be coupled with the preparing of the believers to be directly involved in poor relief, based on a moral code, which is presented and explained from the pulpit.

Keywords: church, pulpit, preaching, poor, morals

Introduction

There is an important social factor in modern society that has retained its appeal for a great number people, namely the Church. A quick look at any church history book and one will certainly notice that the Church has played an important part in society, both in the realm of worldly affairs, as well as in the affairs of the soul. It is a fact that not all the actions of the Church were righteous, and abuses were quite frequent. However, it is doubtless that it had, and it still has, a genuine care for the poor, the afflicted, the abused, the orphan, the widow, and anyone who has a need. The following paper will analyze the arguments presented by Samuel McComb (1864-1938) regarding the importance of preaching for society, as well as the importance of preaching and the Church in poor relief efforts. The paper will focus mainly on the books written by McComb, but it will not look at any statistical data, because the argument is based on his religious and pragmatic principles. The thesis of this paper is that preaching and the Church can have a positive impact in society, not by adapting to every aspect of social change, but by presenting a mature and well developed system of moral values. In spite of the fact that McComb was part of the Emanuel Movement, this paper will not analyze any of the aspects related to the movement, mainly because the part of McComb's argument that is analyzed, has no direct link to the movement.

Samuel McComb begins the tenth chapter of his book, which bears the title *Religion in Modern Society*, with a straightforward question, which leaves no room for interpretations, namely what is the role of religion in modern society? The book in which this question is raised was published in 1910, more than a century ago. In the meantime the world has seen two world wars, countless regional wars, on various continents, the rise terrorism and the massive migration of population into Europe. Such events force thinkers to evaluate the role of society, its elements and they it is organized, in order to preserve or further the development of society.

The Need for Religion in the Modern World

As soon as he asks the question, McComb answers by showing how some of his contemporaries saw the relevance of religion for their time. The first category believes that religion is obsolete, there is no more rational or emotional use for it. However, it can still be tolerated as long as it acts as a police force in subduing the humbler classes. This idea presents

some in favor of splitting society into classes, rather than pursuing the benefit and the elevation of one's neighbor. Such an idea can be detrimental to the entire idea of human progress. Dividing people into classes is not progress, but rather a quite shameful regress to darker times, when one was forced to live in a set environment and with a set value, due to one's birth. McComb connects this idea with that of a rather sexist remark, namely that religion can be tolerated if it is an 'aesthetic outfit of the feminine mind'. Such a remark reduces the role and value of a woman to a creature of whimsical emotions, rather devoid of any high rational capabilities. Downplaying the role of women with regards to religion and society is an obvious proof of devaluing women's value as human beings. This argument does not have to be connected to the feminist movement, or the equal rights movement, but to a clear and obvious fact of history: women have played as crucial roles in history as men have (McComb, 1910, p. 281).

After presenting this first category of people, McComb concludes that with such people there is no argument, because they define others as lesser beings. However, McComb believes that most people still consider religion as a reality. These people find it quite difficult to reconcile the role of religion with the realm of experience. For these men the question regarding the contribution of religion to modern life is particularly important, because it can set the difference between high or low human value. McComb begins his argument from the Church, which he claims is the 'institution which claims to represent the Christian religion, to incarnate the spirit of its Founder, and to realise His ideals' (McComb, 1910, p. 282). The problem is that the Church did and does not connect the idea to the deed. As McComb underlines, it appears the Church missed on incarnating these ideals. He looks at the life and work of Jesus Christ and his achievement, and the achievements of the Church. The difference is overwhelming. He also appeals to an earlier essay in which he depicts Christ as addressing his messages in two realms of human experience: normal and the abnormal, or the healthy and ordered state, or the disordered, unhealthy state. His question is whether the Church is able to live out both realities (McComb, 1910, p. 282).

The connection between principle and reality is represented by Jesus Christ himself. In order to make his point, McComb has to present the fundamentals of Christian life and practice. In this case, such a fundamental principle is the relationship between a spiritual office and the representative of that office. According to McComb Christ had a prophetic ministry, which was passed from him to man by the office of the preacher. The preachers must fulfill a number of duties, that were fulfilled by Christ, otherwise, the connection is lost. McComb believes that the preacher should promote virtue by calling people to live it out. The pulpit therefore acts as a guide to morals and the active involvement in sustaining and promoting virtue. Preaching is one thing, but preaching with a specific purpose of fulfilling in one's life a set of principles is quite another. If the church, as an institution, and the preacher do not stand out in the crowd as a guide to virtue, the source of a specific kind of morals will be either lost, or presented by other institutions, which will, most likely, dilute it. The church stands out in society as a specific institution, which promotes a specific kind of ethos, through a specific kind of offices. These all orbit around the preacher's office (McComb, 1910, p. 282).

The Hands-on Preacher

Living out the Christian faith is no easy task. However, McComb argues that a preacher should resort only to preach. There is much more at stake for his office than talk from the pulpit on various themes. According to McComb the preacher needs to 'solve doubts and perplexities' (McComb, 1910, p. 283). The preacher's office has an intrinsic element of constant human interaction. Life is complicated and difficult. There are various challenges faced by church members on a daily basis. Problems vary from the simplest to the most complex. The job or better yet, the calling of the preacher is to know first of all his working material, the Bible, and then to adapt the timeless truths to the social, religious, political and economic context of the people he pastors. The church members face problems constantly, which they try to solve on their own. Some succeed, others do not. Regardless of the issues McComb argues that the preacher's task is to stay with his people and guide them. Doubts and perplexities, as McComb calls them, are no easy task, but the believers know that the preacher should be there for them to explain how to solve matters of the spirit and their application to every-day life. The preacher is, therefore, not a simple orator, but an actively involved person, who deals in morals (McComb, 1910, p. 283).

Another aspect of the preacher's activity is revealing 'new vistas of truth' (McComb, 1910, p. 283). In modern society there is no shortage of problems. People do not or cannot escape meeting other people and live in society, in connection to the other. This is in itself a problem, because it is the very source of inter-human friction. Therefore, the problems are quite big. Relational issues are present in one's private life, family life, social life, at work and in relation to the private and state institutions. Help can come from many, but the preacher stands out as the person who could do most good, because he

deals in moral good and in applying such teachings to every day problems. The church and the ministers can become a decision making force in the relationships of believers and the rest of the world. The new vistas of truth are the teachings extracted from Scripture, understood in their proper context, and applied to new or modern or contemporary situations. In a most optimal scenario, the preacher is a highly educated person, who is able to see the way past teachings apply to contemporary and personal problems. However, this is not the case all the time. Higher education can be replaced with common sense and meekness. These two characteristics stop the preacher or the minister to express opinions in matters that he does not understand. The teachings of the Bible, the fundamental writings for the Christian minister, are, therefore the starting point for any debate, but its teachings must be adapted to the problem at hand. In some way, regardless of the problem presented, a dedicated minister will not abuse the Scripture, but will inevitably find some text within it, that he would use at least to better explain his own take on the problems.

McComb goes back to history in order to present his argument. He sees sermons as tools to awaken the conscience, to point out the abuses of power at all levels, to start and sustain revivals that changed the faces of nations, and guided people into the work of self-regeneration. In his mind there is no stopping what a well built sermon can do. A powerful message delivered from the pulpits or, where not possible, simply from the mouth of a well-prepared preacher changed cowards into heroes, moved people against evil, cleared the issues people struggled with, and even attempted to bring people out of the miseries of their time (McComb, 1910, p. 283). In short, McComb sees the element of the sermon as a paradigm shifter.

Having the history of Christianity and the history of preaching at hand, McComb rightly asks whether the power of preaching has past. One of the culprits was agnosticism. However, he sees this threat as passing. Its paralyzing power vanished, and the result was a revival of interest for the religious mysteries. However, McComb is quite realist, but with a touch of drama, and acknowledges that people will look not to the pulpit for solving their problems, but to the 'professor's lecture, the review article, the newer drama, the formal treatise' (McComb, 1910, p. 284). Due to the form and content of these elements, he argues that preaching or the sermon has lost its appeal. There was a power shift in his age, but not from agnosticism to faith, but from preaching to agnosticism to lay erudition. As McComb scans his historical context, he argues that, in spite of the appeal of academic thinking, but devoid of the spiritual, there is a resurgence of 'religious eloquence', because even if the 'Word of God is not bound' (McComb, 1910, p. 284). The weakest element in this context is not God or the Bible, but the preacher. If there is anything going wrong with religion, it is because man, more precisely: the preacher has done something wrong. McComb stresses the importance of preaching because it can make a difference for the real problems of man. Preaching is not only about God, but about God, man, and how the two interact. Therefore the sermons bring a palpable supernatural element into the every-day life of believers (McComb, 1910, p. 285).

The force of the preacher's sermon and the power of his influence are limited by a couple of elements. First, the preacher should make proper use of 'sound and thorough religious thinking, by the note of intellectual conviction' (McComb, 1910, p. 285). McComb blames the preachers of his time because they lack this element. The general sensation is that the preachers have never understood what intellectual depth their theology has. McComb presents this ideas as 'ethical and intellectual grandeur of Christianity' and 'its boundless wealth of truth which, touching man at every point, lifts him out of time into eternity and satisfies the craving of the intellect for unity largeness, and power' (McComb, 1910, p. 285). His definition of what Christianity deals with in terms of content, is important to help contemporary congregations, regardless of denomination and historical background, to lean towards and embrace the academic training of at least a part of its congregants and ministers. The reason is that when entering the realm of academic training the chances of understanding the philosophies and morals that can be different from the backbone of Scriptural teachings. When the contact between opposites takes place, argumentation gives birth to new ideas, new trains of thought, new ideological ground to discover. The contact breeds new understandings for all that makes human value count or not. McComb goes back into the history of preaching and he gives the examples of various preachers from all history of Christianity, so he argues in favor of rational interactions in order to discover and apply moral discernments to issues of every-day life (McComb, 1910, pp. 285–286).

McComb does not argue in favor of keeping the truths of old, but to re-vitalize the teachings of the Gospel for the understanding of modern man. The historical context is different, and modern man might have to face different problems, but the core text of Christianity is the same, namely the Bible. The job of the preacher is to 're-study and re-vitalize the regnant ideas of the Gospel of Christ, who will steep them in the living realities of experience and make them once more the possession of heart and conscience' (McComb, 1910, p. 286). McComb does not retreat into mysticism or extreme

rationalism. He mingles the spiritual and the rational into a coherent system of teachings, which can aid modern man in his daily problems.

Christianity and Moral Values

Christianity as a useful tool for modern man is the main aspect of McComb's endeavors. Modern man could, but should not renounce Christianity out of whim. Instead, modern man should scout and research his options and devotions, in order to get the best context for his life on earth. Christianity is a matter of both heart and conscience. The rational and the spiritual are not mutually exclusive. McComb is aware of the capacity of preachers to speak with no practical application of their teachings in real life problems. Instead of simple exhortations, McComb suggests that preachers must implement positive suggestions for their audiences. The preachers deal in religious ideas, which can left in the high spheres of a spiritual intangibility. However, such an approach to sermons is counterproductive. The hearers must be given the method of applying the ideas about the spiritual and the moral realms into their daily situations. McComb makes an important remark about the spheres of knowledge. He argues that the preachers should not ignore the scientific and the practical means through which truth can be delivered. Science and the practical are not against the spiritual, and McComb argues in favor of both realms to interact. There is not spiritual truth that cannot be applied to daily life, as well as there is no scientific fact that can go against the spiritual truth (McComb, 1910, p. 286).

McComb was part of the Emmanuel Movement, which started in a church, and worked on the principle of mind over body, but with a strong emphasis on medicine and good habits. The aim of the movement was to cure various functional nervous disorders, with the aid of proper psychological methods. Positive suggestions were part of the methods of treatment, but also an active involvement of the spiritual side. God is a most active part of the healing process, but He does not heal all in the same way. Furthermore, the promoters of the Emmanuel Movement had to face detractors who argued that they lacked faith since they did not allow God to heal without the use of medicine. The answer was always the same, namely that God heals all and every disease, but in a close collaboration with the sick, who needs to re-order one's moral principles. As part of the healing process, hypnotism was also used (Elwood, McComb, & Coriat, 1908). The *Religion and Mind* book covers all the fundamental details for understanding what and how Emmanuel Movement worked and what it stood for. The rationale behind McComb's argument in his *Christianity and the Modern Mind* is closely connected to the movement. He does not resume his activity to healing the functional disorders or various other physical ailments, but he focuses on the larger social sphere.

The practical side of McComb's approach is for people to understand what bad habits are, and how they can and need to be changed with good ones. His remark that 'it is not enough to glorify the face of goodness' (McComb, 1910, p. 287) is the foundation on which he argues in favor of eradicating poverty. McComb argues in favor of teaching the methods by which men may make goodness their own. Goodness is not something that grows by itself. It is learned and exercised. McComb presents the purpose and the importance the modern pulpit should have in modern society, namely to 'be rich in suggestiveness, in scientific aim; in hints that make for practice' (McComb, 1910, p. 287). His opinion marks the importance of the spiritual and the religious to communicate and cooperate with the scientific. The pulpit should not deny the truth of science, lest it becomes absurd and stands to loose ground and people. The pulpit thus becomes a promoter of mental health and a communicator of spiritual truth in relation to science and scientific development. The church and the preacher do not impede and do not go against science, but accept in full knowledge the importance of science for the religious man and the believer. Also, the pulpit should not stand idle towards implementing the teachings of Scripture, or the moral side of the teachings into the every-day life of men. The practical side aims towards the repair of the functional psychological disorders and the healthy relationship with one's neighbor.

The Two Kinds of Poverty

After explaining what the purpose of preaching is, McComb addresses three issues of great interest for the modern man: poverty, sickness, and crime. This paper focuses on the presentation of McComb's perspective on poverty. Christianity does not rely on a cluster of miscellaneous writings, without having a central figure, whom focuses them into a coherent set of values. For Christianity the person of Christ is fundamental. Without him the message of Scripture would be a simple set of moral and historical teachings. Because traditional or conservative Christians see Christ as the Son of God and the second Person of the Holy Trinity, the entire Bible is considered as having absolute value. Therefore, issues such as poverty

are not seen only as an inter-human relational issue, but it is a relation that has a spiritual foundation, as well as a Person who is actively involved in it. McComb presents the life of Christ as one deeply involved in to the lives of others. However, he marks the fact that Christ was especially close to the poor, the sick, and the unfortunate. The purpose of his friendship with these people was to relieve them of their suffering (McComb, 1910, pp. 287–288).

Of significance is the reversal of value, the Judgment scene (Matthew 25:31–46), where Christ identifies with the sick, the poor, and the criminal. Of these he was certainly poor, but the imagery can be extended. He became sick with the sin of humanity and a criminal in the eyes of the multitudes who accused and condemned him. The image is complete in the final perspective of his life and ministry. By identifying with the destitute, McComb believes that the moral standard is set not by the relationship of one with him, but by the relationship of one to another, having the foundation in faithfulness in Christ. One might possess the power and patience to build a set of actions that could alleviate poverty, and even propel one towards wealth, but this is not possible unless there was some outside influence (McComb, 1917b, p. 70). The example of Christ is to be copied and fulfilled by the church also in present day. McComb believes that what Christ was for Palestine then, must also the Church be for society today. This means that the church/es must take up the legacy of Christ's ministry and fulfill it in society today (McComb, 1910, p. 288). The church and its ministers do not exist for their own sake, but for the sake of the other, starting from their faith in a transcendent God. The message of the pulpit should be people oriented.

When McComb analyses the issue of poverty in the life and ministry of Jesus Christ, he comes to a quite peculiar conclusion: the issue does not present itself as important for Jesus as it does for modern society. The issue is almost inexistent. McComb also points to the reason: the eschatology of Jesus, which presents all those who suffer in this age, as inheritors of vast riches in the new kingdom. He did not come to overthrow governments and destroy political structures. He did come to reforma man, and to enable man to help fellow man. Any resort to violence and destruction does not fit the logic and moral of loving one's neighbor (McComb, 1919, p. 233). This new kingdom is a new social state, a regenerated state, which places the formerly suffering individual in complete contrast to those who kept him in that state. McComb turns to the example of Jesus and the Pharisees where he says that Caesar should get his part and God should get his part. In this new expectancy, Caesar may keep all his cut, because it amounts to nothing. The possession of earthly wealth and riches is not the reason man must live in history. If one is poor, than his share is in God, not in gold (McComb, 1910, p. 289).

The material world is put in stark contrast with the spiritual realm of God and his subsequent eternal kingdom. According to McComb Christ's message was about a conscious detachment from materialistic desires and the entrapment. The point of his message was, therefore, not material welfare. The problem itself is not the material possessions of man, but one's attachment to them. Christ is presented as the example to follow. However, following Christ is not about copying his actions, but doing the things he did, through the understanding of his reasoning. A conscious conviction is different from a bare copying action. McComb talks about Christ as having gained liberty, power, and oneness with his Father, but not only through meditation and prayer, but also by 'His own utter detachment from material things, in His perfect renunciation of all forms of self-hood' (McComb, 1910, p. 289).

This idea presents a challenge for the history of the church, because, as McComb argues, from the early church times, poverty has been constantly preached and glorified, in spite of the riches gathered by the church/es. Renunciation was presented as a sure way of gaining eternity, together with other acts, but the church had no problem in joining the political sphere. McComb underlines that the Church was not called to act as such, but in a complete submission to the freedom Christ offered through the conscious attachment to his teachings. In spite of the 'mountains of riches' and the grasping of the 'sceptre of Caesar', the Church was called to do something it never truly achieved. McComb believes Christ preached poverty in order to take man's desire for the things of sense, and turn his attention towards the things of the spirit. An immediate problem arose: poverty for the sake of poverty or poverty as an end in itself. This was not the message of Christ. The spiritual values are not meant to destroy man's joy and freedom, but to ennoble life, to lift man's value and love for oneself and for one's neighbor. The consequence of poverty for poverty's sake was that 'all life became impoverished and the healthy instincts of human nature crippled' (McComb, 1910, p. 290). Therefore, poverty is by no means what society has been seeing since the message of Christ. Instead it should be an enlightened way of life, in which genuine joy and fulfillment are the crowns of one's life. Detachment from the material things, and the conscious embrace of spiritual values, should lead to a worry free way of life, to a worldview that seeks the spiritual to the detriment of the material, and the cultivation of genuine love towards God, oneself, and one's neighbor.

Poverty is not an end in itself, as McComb argues, because the purpose of it is to 'ennoble life, to make man larger, happier, and more effective' (McComb, 1910, p. 290). Scarcely can anyone conceptualize poverty in such terms, without thinking about the countless alcoholic and drug addicted people, whom we equate with poverty. Such poverty man cannot desire, the reaction, quite natural, is to act in such a way as to avoid it. People are involved in helping the poor, either as individuals, or as groups of volunteers, or as professional social workers. However, Christ did not preach this image of poverty, and McComb believes that the point of Christ's preaching on poverty is not for man to become an alcoholic or drug addict, although this type of poverty must be addressed thoroughly. As McComb argues, the poverty Christ preached was one that was about the conscious detachment from earthly possession, or the avoidance of materialist addiction. This kind of poverty does not deny possession of goods, but it does argue freedom from the love of goods or materialistic desires. The worries associated with possession are therefore canceled, the desire to become rich is replaced with peace and a healthy reorientation towards the true values of the spirit. Self-imposed poverty guides man's principles and desires towards the 'higher regions of activity and happiness and spiritual freedom' (McComb, 1910, p. 290). This kind of poverty involves one's person, as well as the one's relations towards others. Perhaps the desires of man are connected intrinsically with what one sees around and in others' lives. However, true happiness and true human values are to be found in a healthy detachment from the materialist desires, and the new found focus on the spirit, on oneself and one's neighbor's needs.

In an unavoidable and expected contrast lies poverty as one sees it all around. McComb argues that poverty as man generally understands it 'involves no exercise of the will, no choice of the higher good, and offers no outlet into larger freedom' (McComb, 1910, pp. 290–291). Materialist poverty should have the enrichment of the soul as an almost immediate reaction. This is not the case, however, with the poor of the world, or with the poverty as an end in itself. Poverty should free men from any materialistic enslavement, in order to allow his attention to focus on spiritual values, human value, and the progression of society, and the overall humanity. As McComb presents poverty it 'degrades, debases, and enslaves man. It pollutes and destroys, but no longer emancipates' (McComb, 1910, p. 291). Misunderstood poverty and materialistic abusive love, both enslave man. The two extremes leads to no benefit, except for oneself, in the case of the materialist, and a deep dissatisfaction and depression, in the case of the poor. This kind of poverty transforms men into criminals, who, in religious terms, sin and are prone to temptations that hurts one's neighbors. The final step in the debasing situation of the poor is suicide (McComb, 1910, p. 291). Taking one's life is not the result of genuine joy or fulfilment.

The poverty recommended by Christ is different from the poverty that plagues society. The first is about ennobling and emancipating man, while the second is the result of social injustice. Inequalities between classes and the incapacity of men, governments, leaders, and organizations to solve the problem of crippling poverty only makes the desolate sight of abasing poverty even more destructive and corrosive. The common element of both kinds of poverty is the detachment from material things or riches, but the second kind of poverty brings no uplifting of the soul, no inner joy, and no pleasure in life without the possession of riches. People fear a great many things, and poverty is only one of them. However, fear is crippling, and keeps men from forming authentic moral values. They cannot be put into practice. This is why poverty cannot be addressed properly (McComb, 1915, p. 57). McComb rightly asks what the Church has done to relieve people from this kind of destructive poverty and argue in favor of the ennobling kind of poverty. McComb is well aware that the state has an active role in helping the poor, but the Church has a precise purpose in this problem. The abject poverty that McComb talks about has the destructive effect of canceling the 'moral and spiritual influences' that could help these poverty stricken to find a way out of their situation. McComb uses a strong word when talking about losing the moral and the spiritual influences, namely the word 'sterilise'. Abject poverty sterilizes both moral and spiritual influences, which means that they are completely lost and impossible to regain (McComb, 1910, p. 291).

McComb marks the difference between two types of poverty. The first is a freely accepted status, as the result of an informed and conscious philosophical or theological thought is a positive acceptance of such a situation. However, the second type of poverty leaves men without destitute. Their life is empty of any opportunities, it swirls into sadness and misunderstanding. Once these are installed in one's life, the joys of one's own home become a distant cry, and 'shuts up the sufferer in a solitude and shadows his path with fear and despair' (McComb, 1910, p. 292). The second kind of poverty is no simple matter. The church has a word and a genuine interest in solving such matters, but the financial side of the battle is clearly insufficient. The church cannot and should not eradicate poverty through material or financial means. These can be used, at best, at a local level, to relieve the poor of their immediate needs, such as food, shelter, and clothes. However, the real aid and the most effective means the church can use to eradicate poverty, or at least set an increasing trend to help the poor, is to use the pulpit or preaching in an effective way, which would ensure that the hearers – believers

or not - change their perspective on the matter. The preacher should be able to understand how the mind works in order to properly address matters of the mind and the soul (McComb, 1909b, p. 10). If people change in the pews of most churches, the change in the matters of poverty will change as well much faster and more efficiently. The happiness of man is an important issue for society and church, but it is the system that needs to be reformed. This is necessary because it the same system that a few rich, and the many poor (Elwood et al., 1908, p. 146).

The War of the Church

The church/es do not live in an

Abstract world. Thus, the message delivered from the pulpit must reach the real life issues of the hearers. The purpose of the church, McComb believes, is 'to realise the aim of its Founder', but by doing this, the church 'must apply to the life conditions of these and such as these, the truths of the Christian doctrine' (McComb, 1910, p. 292). The Church cannot be separated from Christ. Regardless of the denomination, the figure, the message, and the ministry of Christ are all part of the essence of the church's life. Any message must address the practical side of life, the real issues faced by the congregants each day. McComb names three distinct ways in which the Church can and should implement the values of Christ in the life of modern society. The first way is to acknowledge and proclaim the sacredness of man's life for God. In other words, the Church must make sure that the message of the sermons proclaim the value of man before God. Man's value must be stated in order to make one responsible for their 'immortal destiny' (McComb, 1910, p. 292). There is a specific and well defined purpose for such a message. It refers to creating a society based on love, or the law of love. For McComb the law of love is equal to cooperation. In order for such a law to work it is imperative for greed and selfishness, to be systematically driven out from men's 'heart' (McComb, 1910, p. 293).

In this context the Church has no easy task. McComb argues that it has to 'pit its energies and wage relentless war' against poverty seen as 'malignant power' (McComb, 1910, p. 293). There are no breaks in the war against poverty and there is no postponing of efforts. If poverty is seen as a disease which ruins the souls and forces man against man, as well as takes God out of men's lives, it must be addressed as a matter of urgency. The incapacity of men to have communion and change society for the better because of poverty, presents itself as a challenge that can cripple nations, by ruining individuals. Not all advice will work on the poor, because even if some such advice seem easy to grasp and implement, the vice has a terrible force of enslaving the senses and the mind (McComb, 1917a, p. 37).

According to McComb the Church deals not only in the spiritual, but it should also be involved in 'great industrial and social problems' (McComb, 1910, p. 293). The scale to which the Church must operate is unimagined. In spite of the history of the Church's involvement in trade and politics, the new involvement in industry and the social sphere, transforms it into an institution of great importance. McComb was no stranger to what industry and social problems were in his time. The involvement of the Church meant dealing in the issues of the people working and living in the industrial environment. Being involved is not the same as identifying with a certain political or economic doctrine. McComb warns that the Church should not identify with the doctrine of Socialism, nor any of its offshoots. However, Christ's teachings do have a number of common points with actual social problems, Christ was not a socialist. The involvement of the Church should be seen in such domains as child labor, congested living quarters, and the education of the youth in physical and moral aspects (McComb, 1910, p. 293). If the Church retreats into sterile dogmatic or liturgical debates, the vast majority of the reachable will remain outside the Church. According to McComb the Church is by no means an institution that deals purely with the spiritual, but it gets down into the streets, into the cruel realities of the social realm. Some turn religion into their own most horrid fear. They worry about institutionalizing their fear, but they lack the insight for true religion, which is related to the divinity, not to man (McComb, 1909a, p. 61). It should be on constant alert in order to spot the issues that threaten or have already destroyed part of human value and the spiritual connection to God. Therefore, the Church become an important player in the realm of industrial and modern issues. The Church becomes a reformer of economics, not by speculating, but by being involved in the lives of those who make up society, the people.

A controversial issue for Christianity is to proclaim the moral structure of the Universe and the eternal judgment of God. McComb argues that these two elements are at the heart of all things. This idea has yet another practical or, rather, political aspect. McComb believes that in order for a state organized in accordance with Christian principles, it must believe that the moral structure of the Universe and the eternal judgment of God are part of its fabric. As the Church must fulfill the message

of Christ and it must follow in His example, it must also argue in favor of society built on such principles. The State is compelled to place the moral structure at the base of all the elements that make up society, the political system, and the social structures. The principles of industry cannot be different from those of the general Christian moral principles that make up the fabric of society. The logic of McComb's social structure is that, in spite of the fact that a Christian state would need the aid of benefactors, the Church should uphold and proclaim a moral order which is based on the principle of justice (McComb, 1910, p. 294). In this society there are no individual moral structures that can work separately from the main moral structure. This does not cancel freedom of speech or freedom of will, but it does offer a fundamental principle.

Extending beyond the Boundries of the Church

The Church does not exist in a confined space, but it should reach out, beyond its members, to the world and its needs. The Church that follows the example of Christ, argues McComb, takes care of its own, but also of those who are outside the denominational or religious walls. McComb calls this kind of church the 'almoner to the poor' (McComb, 1910, p. 294). The Church is an open institution, made up of volunteers, who are, at the same time, people, human beings, prone to error, but also prone to goodness and openness in love towards their neighbor. This is why when McComb talks about the Church it can refer both to the institution – administered by the clergy, pastors, deacons; as well as to the members of these churches, the believers. Among these members there are the poor. According to McComb, they need the help of the congregation/church, but the church/congregation should not limit their help only to their own, but also to the destitute outside of the congregation, regardless of who they are and how they got destitute. The Church can be and should be, through the pulpit, a 'champion of the cause of the poor and the oppressed' (McComb, 1926, p. 13). There are three elements, in McComb's vision, that are needed in order to properly minister to the poor. First there is the need for spiritual influence. This means that the help provided through the material needs must be accompanied by a message of hope that is founded in the relationship between God and humanity. The second elements is moral uplift. This means that the message for the poor needs an element of moral guidance, which should have the result of getting one's life back on track, by giving up vices, and striving for clearness of thought, steady emotional state, and healthy body. The third element is Christian sympathy. This means that the poor who is helped must know that there is no hidden desire behind the help one receives, there is no hidden agenda, and he or she will not be the scape goat in some elaborate scheme aimed at illicit profit (McComb, 1910, p. 295). The Christians must love their fellow man. This love should be based on genuine faith in God, genuine moral construct, and genuine desire to help wherever it is necessary.

There is most important idea that McComb presents to the churches as a warning. Since charitable boards and associations came into existence, with the specific purpose of aiding the ministry and creating a professional environment for aiding and helping the needy, the church members have not been as involved in the ministry of the poor as before. Therefore, McComb argues that the churches should begin involving the members in poor-relief activities. The difference between the work done through an association and the work done by the churches is that the latter can 'console the unhappy, and the destitute, and train the soul in the spiritual values of life' (McComb, 1910, p. 295). The ministry of the church implies the active involvement of regular members, and that face to face involvement can aid the better understanding of one's capacity and the other's needs. Perhaps one the most important aspects of personal involvement is the removal of fear from the poor's heart, and replacing it with peace, fellowship, and brotherhood (McComb, 1910, p. 295). The personal involvement does not mean that the one who helps the poor will simply give without receiving anything. Instead it is a reciprocal aiding endeavor. The giver will understand better the needs of the poor, he/she will be able to develop one's humanity, care, meekness, gratitude, and one will develop genuine desire to help further.

McComb believes that in order for the Church to be or become and stay an institution of value to society, it must be in constant contact with its source of power, the spiritual realm, and its founder, Jesus Christ. However, power is not meant in a violent and oppressive manner, but as the strength to gather people, from within and without, to work together for noble causes, which would aid humanity as a whole, as well as individuals, in their ennobled human status. The Church should be the 'friend and helper of humanity', 'the defender of the weak, the poor and the oppressed', but also the 'leader in the service of man, which is also the service of God' (McComb, 1910, p. 317). If the Church manages to break the barrier of isolation and retirement into sterile theological debates, it will become an institution with a genuine human face, and a human heart. The connection between the spiritual realm and the physical realm will aid many to understand what the Church does and how it can help, together with other valuable institutions, the poor and the needy. The Church can be a paradigm shifter, and a powerful ally to anyone who desire to genuinely help the poor and the destitute.

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Teacher's Belief in Enhancing Children Imagination Through Children Malay Traditional Song

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Abstract

The purpose of this study is to examine the teacher's beliefs on imagination construction of preschool children in class, explore and understand the beliefs of preschool teachers on the concept of imagination and understand the beliefs of teachers on using children traditional Malay songs to improve preschool children's imagination. This exploratory study adopted the use of qualitative method of inquiry to provide an in-depth understanding of the area being investigated. Interview and observation of four preschool teachers were purposively selected from two government schools were used to collected data. Findings revealed that all the teachers in this study expressed their views that All the teachers involved in this study expressed their views that imagination is related to creativity and it is regarded as fundamental to the child's ability to be creative. All the teachers also believe that children traditional Malay songs can boost the child's imagination because such songs have the characteristics that suit well with children. Hence the songs are easy to be appreciated and understood by the children and indirectly it can simplify the process of building child's imagination.

Keywords: Imaginations, creativity, beliefs

Introduction

Our daily lives are constantly surrounded with various problems that demand us to think for the best solution. Whether we realize it or not, amid our struggle to think for problem solving, creativity plays an important role in helping us to find ways that are innovative and effective. Since creativity can be defined as creating new idea or concept (Guilford, 1950; Mindham, 2005), divergent thoughts (Butcher & Nice, 2005), innovative (Butcher & Nice, 2005), and seeing things in a new light (Mindham, 2005), the definition given clearly demonstrates that creativity is the key to many things related to daily life.

In the process of building creativity among children, there are two elements that need to be addressed, namely imagination and expression. According to Susan (2010), imagination of a young child is at a very high level. The child must be given opportunity and enough space for their imagination in order for them to think creatively. Egan (1999) confirms that imagination is a need to ensure that we think and be creative constantly in our modern society.

Imagination is a mental picture of a phenomenon that goes beyond human logic. Imaginative activities are involved in the creative process because creative ideas are generated through imaginative ability. The ability to imagine is an essential prerequisite to publish and translate creative ideas (Azhar, 2004). The ability to imagine are within every individual and it

can be performed any time and in any situation regardless of age and background level. Nevertheless, to be a creative person, the ability to imagine is one of the most important factors of being a human.

Imagination can be triggered using words to describe or illustrate certain abstract, view the conflict events or occurrences, reverse a hypothetical events, and using alternative thinking to something that has been considered (Schirmacher, 2002). Critical thinking can permeate all aspects and beyond these aspects critical thinking is the real imagination activator. Imagination is usually associated with the allegation that fantasy practices as something that do not exist. But imagination in actual is the basis for any creative activity and it is an important component in every aspect of human life. This implies that every product around us have been created by human on the basis of imagination. According to Ribot:

"Every invention, whether large or small, before being implemented, embodied in reality, was held together by the imagination alone. It was a structure erected in the mind through the agency of new combinations and relationships. . . . The overwhelming majority of inventions were created by unknown inventors; only a few names of great inventors are extant. The imagination forever remains true to its nature, whether it manifests itself individually or collectively. No one knows how many acts of imagination it took to transform the plow, which started out as a simple piece of wood with a fire-sharpened end, from this simple manual tool, into what it became after a long series of alterations that are described in the works devoted to this subject. In the same way, the dim flame from a branch of resinous wood, which was the first crude primitive torch, led us, through a long series of inventions, to gas and electric lighting. All the objects used in everyday life, including the simplest and most ordinary ones, are, so to speak, crystallized imagination."

(Ribot, 1906)

Built imaginations are often based on material obtained from reality through one's environment and experience. Moreover this factor is very important that influence one's imaginative ability. In addition, imagination also plays an important role on human action and development. Every human experience is translated through imagination because it is through imagination that human can conceive something that cannot be seen, describing information obtained through stories of others and describing something that are experienced by other people. The relationship between imagination and experience are closely intertwined and constantly influence each other. Apart from experience, imagination can also be influenced by one's emotions. Each feelings and emotions require different forms of imagination. This is because each feelings and emotions that are seen and experienced will produce different imagination (Ribot, 1906). In one particular situation, emotions may affect imagination; nevertheless, imagination may also affect emotions. Schirmacher (2002) explains that creativity is dependent on one's environment. Each creator includes those brilliant inventors who are product of their time and environment.

Studies show that a decrease in the level of a child's imagination is caused by environment and culture of the child rather than caused by natural process (Torrance, 1974). Children should be exposed to different forms of experience so that they have the opportunity to play with fantasy in order to encourage them to imagine.

Music is seen as one of the tools that contribute to the children holistic development which includes the intellectual, emotional, physical, social and aesthetic developments. This is because musical activity is an integral part of their daily activities such as singing, moving, dancing, and playing musical instruments and the sounds that they produced on their own. Gadsden (2008) affirms that the arts allow us to imagine and allows individuals to put themselves in the experience, situation and environment that transcend different time, ages and contexts in viewing the world through different perspectives.

According to the philosophy of contemporary music pedagogy, music concepts such as melody and rhythm are good teaching materials using traditional music of local culture. Zoltan Kodaly who is an educator of Hungary suggested that the use of folk music when teaching kids in school because music is considered to be the children's "musical mother tongue" (Choksy, 1988). Folk music can evoke a sense of belonging to the singer and the listener to something bigger than themselves, such as the family and society (Davis, 2005; Kvideland, 1989). Due to most of folk music are based on environmental themes such as animal sounds that surrounds them, thus it could help the overall children development more easily. Folk music also allows the child to remember, absorb and react faster in a manner that is distinctive and creative in style. According to Kodaly, before one is able to understand the music of other countries, it is necessary to first understand the music of his country (Choksy, 1981).

Kupari (2003) stated that teacher's beliefs are critical element in determining teaching and learning processes in the classroom. According to Cooney and Lin (2001), every action carried out by the teacher in the classroom is resulted by the teacher's beliefs. With particular emphasis on aspects of teachers' beliefs, hopefully it will help the teachers to be able to transform their way of teaching in educating the children, especially on the creativity aspect. This is because the study on teachers' beliefs and practices in class will contribute as basic knowledge that can be used for us to understand and develop a more effective teaching practices in the future (Kang & Wallace, 2005; Levit, 2001 ; Luft, 1999; Tsai, 2002). Stipek et al. (2001) mentioned that teachers uphold something that is reliable. This fact will shape teaching practices in the classroom. Pajares (1992) and Hofer et al. (1997) stated that teacher's beliefs can influence the perception and evaluation on the results of teaching, in addition to the choice of methods and activities.

Previous studies found that teacher's characters can influence (Pianta et al., 2005; Saracho & Spodek, 2007; Mashburn et al., 2008), trust (Cassidy et al., 1995; Chang, 2003), and quality of early childhood programs (Burchinal et al., 2000, Bryant et al., 1994; Pianta et al., 2005; Howard-Jones, Taylor, & Sutton 2002; Peisner-Burchinal et al., 2001) on the social, emotional and cognitive developments. However, there are very few studies that examine its influence on imagination and creativity, especially in the early ages of children.

Therefore, effort that can stimulate the ability to express idea of their minds need to be given further attention. Freedom in imagining and expressing ideas should be seen as necessary actions so that they will have the opportunity to play with fantasy and encourage them to imagine things. This can generate children who are able to cope with rapid changes that will constantly occur in their lives in the future and generate the world that puts high value on individual with innovative and creative character.

The purpose of this study is to examine the influence of teacher's beliefs on imagination construction of preschool children in class to enhance creativity of young children. The main objective is to:

1. Explore and understand the beliefs of preschool teachers on the concept of imagination in creativity development.
2. Explore and understand the beliefs of teachers on using children traditional Malay songs to improve preschool children's imagination.

This study provides room for discussions among preschool teachers on implications for teachers who are educating and continuing professional development and may indicate cultural differences in the creativity concept. Furthermore, this study will also provide basis for judging whether current practice meets the requirement to promote children's imagination. The findings from this study will also be able to determine how teachers conceptualize imagination and what impact that their concepts have on their interpretation and objectives both in curriculum requirements and in professional preparation and training.

Method

Research design

In order to obtain an in-depth understanding of teachers' conceptions of imagination in creativity development and their beliefs about the best way in promoting imagination in the classroom, this exploratory study adopted the use of qualitative method to provide further understanding of the area being investigated. The use of qualitative method is appropriate for this study because it is an attempt to understand the phenomenon of interest from the participant's perspective, not the researcher's. A qualitative researcher is interested in understanding the meaning that people have constructed; that is how they make sense of their world and the experiences that they have in the world (Sherman & Webb, 1988). Moreover, Burn (1997) asserts that the task of qualitative methodologist is to capture what people say and do as a product of how they interpret the complexity of their world, to understand events from the viewpoints of the participants.

Sampling

The subjects of this study consisted of four preschool teachers who were purposively selected from two government schools. As Denzin and Lincoln (1994) put it, many qualitative researchers employ purposive, and not random, sampling

methods. In the context of this study, the said teachers have been purposely selected for the fact that they might show differences in ideas, beliefs and practices because of the different characteristic of their personalities and physical settings.

Data Collection Methods

Data were gathered using semi-structured interviews consisting of open-ended questions and classroom observations. The use of two instruments act as data triangulation to increase authenticity and trustworthiness of the data collected. The data gathered from the interviews and observations were shared with the teachers and discussions were held with them to find out why they acted in certain behaviors during their actual teaching.

Findings

In this study, the analyses provide broad conceptual themes to address the research questions. The themes are:

1. Teachers' conceptions about imagination.
2. Teachers' belief on using children traditional Malay songs.

Teachers' conceptions about imagination

All the teachers involved in this study expressed their views that imagination is related to creativity. Imagination is regarded as fundamental to the child's ability to be creative.

"To be creative, children need to be imaginative."

"Imagination is important to children because imagination can improve their creativity."

Teachers also explained that through imaginative skills, development of children's creativity will grow faster. This can be seen through the results of their creative artistic creations that are more unique and interesting.

"Children's creative outputs are resulted from description of their imagination."

"Imagination can make children more creative because they would imply something else, such as car that can fly with wings"

Teachers' belief on using children traditional Malay songs.

All the teachers interviewed believe that children traditional Malay songs can boost the child's imagination. This is because such songs have the characteristics that suit well with children. Hence the songs are easy to be appreciated and understood by the children and indirectly it can simplify the process of building child's imagination.

"Children are likely to be more inclined on something that interest them and fit well with them."

"The children songs are usually short and easy with simple melodies."

The ability to attract children interest is very important in the learning process. If the kids are interested they will then be able to give full attention to something that they do. Children's songs are sung by the children at all time and these songs are easy to sing and remembered by them.

"Children's songs fit well with their souls."

Apart from the children's song that fit well with their self and souls, the teachers who were interviewed also emphasized that the songs are using lyrics according to their surroundings.

"The lyrics of children's songs are based on their surroundings. For example the song entitled 'Cak Kekok Kaki Ayam'. The song deals with cock fighting that child often see in the village. "

In addition, it is also explained that there are lyrics without meaning in children's songs. Meaningless words can be used to improve children's imagination.

"The sound of 'chok' on the song entitled 'Cok Cok Kendung' is a word without meaning in this song. Thus teachers can exchange with other sounds to boost children's imagination."

There are also children's songs created accompanied with game. For example, a song entitled 'Enjit-enjit Semut'. The song is sung while making movements or activities related to the song being sung. With activities or movements that are accompanied with singing, therefore the singing of these children will be more effective because it involves cognitive, affective and psychomotor domains simultaneously.

"Kids love to sing with movement involved. Sometimes the movements are changed by the teachers and the children."

Summary

The development and improvement of children's creativity level have always been the main goals set by the Ministry of Education for preschool education. Since the preschool curriculum were drafted and introduced in 2001, up to the drafting of KSPK in 2011, the emphasis on creativity in teaching and learning processes in order to produce creative and innovative students has never been pushed aside. In fact it has to be emphasized even more seriously in the development of preschool children. In an attempt to increase knowledge level of students in various disciplines, they should also be taught on thinking skills and how it can help them to solve everyday problems. Skills in creative and critical thinking are the main skills that must be practiced in the process of teaching and learning in the classroom (Ananda, 2005). Mello (1996) explains that teachers can foster creativity in teaching and nourish children's creativity in addition to environmental and creative programs.

Music has been seen as one of the tools that contribute to holistic children development, which include intellectual, emotional, physical, social and aesthetic developments. This is because musical activity is an integral part of their daily activities such as singing, moving, dancing, playing musical instruments and producing sounds on their own. Despite the importance of creativity and the role of music in the development of children education has long been recognized in Malaysian preschool education, but their appreciation, understanding and implementation are often put into question (Ministry of Education, 2009). In reality the present preschool education curriculum are more focused on formal education that emphasizes academic achievement of preschoolers (Rohaty, 1984). The emphasis contradicts with the specialists' view on child development (Fortson & Reiff, 1995) who often emphasized that comprehensive children development through creativity and aesthetic construction should be raised in the process of teaching and learning in preschool education.

The use of children traditional Malay songs should be considered in the construction and improvement of children's imagination because such songs have the characteristics that suit well with children self-development. This characteristic in turn will create a learning process that could capture interest and attention of the children based on the songs characteristics which are simple, short, and easy to sing and remember.

Therefore, in order to create an innovative society that could survive in a challenging environment that further lead to well-being of society and country, effort should be carried out in a prudent and systematic manner as well as going through appropriate process. This is because, in order to produce individuals who are able to innovate, characters of a creative innovator must exist within individuals and to create a creative individual, there should be ability to imagine.

It is reasonable to say that imagination development is indeed valuable for our education system and that abundance of benefits for the children can be gained if it is implemented effectively. Teachers are in position to either enhance or inhibit children's imagination development, thus they should make an effort to promote imagination in the classroom. Other relevant authorities like the Ministry of Education, the Curriculum department and teacher training institutions also play an important role to ensure that the aim of promoting children's creativity through the power of imagination could be realized. The development of children's imagination need to be given higher priority in the education agenda to achieve a holistic and more meaningful growth for our children.

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The Role of Education for Identity Formation Among Albanians and Serbs of Kosovo: the Application of the *Difference-Blinded Approach* for Establishing Citizenship Regime in a Multi-Cultural Society

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Abstract

As a result of striving accession to the EU, all states in southeast Europe have as precondition to solve inter ethnic conflicts and to balance the system in a way that makes the relations between dominant group and minorities one of the mutual respect, based upon the principle of non discrimination. In Western Balkans some of the most controversial issues in the past decade have revolved around the educational rights. The fragile society of Kosovo faces many challenges, and the system of education is just one of them. The ongoing dialogue between Serbia and Kosovo and painful process of state building often overshadows important educational issues. The educational system of Kosovo is segregated, extremely divisive and highly politicized. It is widely accepted that education has strong impact on individual's identity formation. In this context ethnicity, nationality and citizenship constitute just a few of the possible identities within the individual's self-conception being the most relevant to the relationship between citizen and the state. In the analyses of the theoretical foundations of multiculturalism the role of education in a culturally diverse society is very important for identity formation based on the concept of the citizenship as identity. By constitution Kosovo is a multicultural society but the meanings and expressions of this are contested both within the dominant Albanian majority and Serbian minority. Conceiving comprehensive discussions if Albanians and Serbs of Kosovo in the future could potentially accept to identify themselves through the citizenship of the new state before their ethnic and national based identities (cross linked with Albania respectively Serbia), it is a broad topic and beyond the scope of this paper, but for the purpose of this study the concept of the citizenship as identity is considered only in a narrower context - that of the role of education in identity formation.

Keywords: education, identity, recognition, citizenship, multiculturalism.

1. Introduction

The road to an active and diversified civil society can be especially long and arduous where the legacies of communism are reinforced by the deliberate manipulation of nationalism. Kosovo illustrates well the important role that nationalism and myths play in shaping human behavior. The negative nationalism that characterized the Balkans during the 1990s promoted authoritarianism, which fostered an intolerant political culture. The Serbian myth known as Kosovo battle fought in 1389 marked the beginning of the collapse of ex-Yugoslavia. The history of myths was served to younger generations for decades through school curriculums and state media. Hatred and segregation was reflected in every segment of Kosovo public system of education, affecting the joint education system, which had been in place since the World War II.

Historically, school curriculums were designed from outside of Kosovo. History falsification and the impact of myths throughout school curriculums in Kosovo have had a serious impact on the education of new generations. Since the fall of communism in the 90s the Western Balkans had been undergoing fundamental and multiple transformations. 'These transformations are complex in their nature and difficult to explain by a single paradigm or model. Such a complex transformation, where democratization and transition take place in conjunction with nation- and state-building and European integration, usually comes at the expense of a truncated picture of the region' (Jano, 2008).

During the complex process of transformation the legacies of communism and nationalism in Kosovo had a crucial role in designing the educational system in Kosovo. This paper aims to explore the impact of education for the ethnic and national identity formation of both Albanians and Serbs in Kosovo, to the extent that such alternative is considered threatening for the future of Kosovo and its EU Integration process. The study presents the legacies of nationalism and communism in

shaping the human and political behavior by discussing historical and current levels of segregation in Kosovo's system of education.

2.0 The history and development of the Kosovo's education system

2.1. Education for ethnic Albanians during the Ottoman Empire and Serbia's rule

Kosovo cannot be proud for the tradition on education during the 500 year occupation under Ottoman Empire and the period under Serbia's rule until the World War II. Living most of the time in the circumstances of discrimination, repression and wars it was difficult for the Albanian majority population in Kosovo to establish schools in their own language. The first document in written Albanian dates from the 16th century. The first written document of the modern Albanian language is of the year 1462. The book "Meshari" by Gjon Buzuku was published in 1555.

Under the Ottoman Empire rule no Albanian schools were allowed to be established independently. Institutionally only the religious schools were operational under the control of the empire through their local representatives. Educational battles of Albanians continued but it was difficult to set up a system of schools in which there would be minimum ottoman impact." Clandestine efforts aimed at promoting the Albanian sense of nationhood in religious schools were taking place alongside the institutional struggle for the Albanian schools. A demand for Albanian language schooling was voiced in the parliament by Albanian members of Xhemijet, the party representing Muslims in Sandjak, Kosovo and Macedonia. However they also developed an underground activity and helped to revive secret schools. Secret schools were entirely secular, while secular and religious teaching content was combined in the religious schools. Albanian nationalist from Kosovo staunchly opposed the education of Albanians in Serbian schools, for as Hasan Prishtina said; they teach something other than what we wish our lads to learn." (Kostovicova, 2005). Albanian culture and Albanian nationhood was mainly developed through Islamic institutions like mektebs, medreses and tekkes.

There was not either a proper and institutional organized system of education in Kosovo in between two world wars. Serbian influence in those rarely established schools in which Albanians could attend classes was prevailing. Some of the attempts to establish schools in Albanian did not survive and after the establishment of some schools under the system of Serb, Croat and Slovene Kingdom it was almost difficult to see Albanians from Kosovo having access in them. Although there were few schools established, they were all in Serbian and on the other hand denying to Albanians to establish their schools in their own language. This contributed to their illiteracy until the World War II was finished.

2.2 System of education for Albanians in Yugoslavia (1945-1974)

After WWII the education system for the majority Albanian population did not substantially improve. Between 1946- 1968 today's Kosovo was officially a district called Kosovo and Metohija (Constitution of PFRY-1946). With the new constitution of 1963 the Peoples Federative Republic of Yugoslavia (PFRY) became the Socialist Federative Republic of Yugoslavia (SFRY) and Kosovo gained the status of Autonomous Province while Albanians from the notion "national minority" were defined into "nationality". Regardless of these changes there was no essential improvement of the quality of life for Albanians in Kosovo. In the years to come, Kosovo-Albanians were marked by repression and discrimination in almost all aspects of public life. Following constitutional amendments initiated by the federation and coupled with the student demonstrations of 1968, the treatment of the Albanian majority population of Kosovo started to move in a positive direction. In this context mass education for Albanians in socialist Yugoslavia saw some progress. One of the main reasons was the fall of Aleksandar Rankovic, a high Serbian official of secret police who was well known for his repressive policies against Albanians. 'The fall of Rankovic came after a failure of his behind-the-scenes attempt to overthrow Tito and re-establish a Serb dominated centralized state similar to the one that prevailed during the period 1948- 63 1965.' (Lukic, 1996).

After Rankovic's fall, Serbian law began to devolve some control over educational issues to Kosovo; however, this still did not allow young Albanian intellectuals to independently develop their national culture. During this period education became one of the top priorities of Kosovo's Communist Party, noted by a qualitative advance in the years to come. 'The opening of the University of Pristina in 1970, with Serbian and Albanian languages enjoying equal standings, paved the way for mass education of the Albanian student' (Kostovicova, 2005). This situation was better when compared to the Rankovic era, but despite these improvements, the overall situation in Kosovo did not substantially improve. Being aware of that,

Yugoslav authorities tried to soften the standard of living in the province. Substantial investments in the province, mostly in mines, energy, and large automated industries, created few jobs and did little to reduce unemployment. Unemployment remained high.

2.2.1. Education system between 1974-1981

The spread of Albanian education reached its peak with the new constitution of the SFRY in 1974. The new Constitution of 1974 upgraded Kosovo's legal status. Two constituent parts of Serbia (Kosovo and Vojvodina) were established as autonomous provinces but also with their right as federal units. The 1974 Constitution provided full equality to republics and autonomous provinces, allowing participation in the new collective presidency. This consisted of 9 members: the President of Yugoslavia, representatives from the six republics and those from the autonomous provinces. 'The 1974 constitution formally defines the autonomous provinces as constituent members of the federation. 65 Kosovo and Vojvodina are granted de facto the status of sovereign republics in almost all respects, differing from the other six republics insofar as they are not granted the right to secede from the federation.' (Mertus, 1999). The years 1974 – 1980, marked the 'late Titoism' period. This period allowed Albanians in Kosovo space to develop their cultural, political and national identity within the new education system. Despite this advance, there were consistent problems, as many federal mechanisms were in place to keep the education within the Yugoslav ideological contexts. Serbian authorities constantly fought against the idea of having an independent system of education for Kosovo-Albanians, accusing Albanians of developing the so-called irredentism and separatism movement in Kosovo schools. The Serbian government insisted that Kosovo returned to the pre 1974 situation. In order to do this, the Government had to cause obstructions at the federal level. 'With the constitutional devolution of 1974, republics and provinces 66 became masters of their educational policy and decided on the network and structure of the schools and curricula. However, general guidelines for the educational policy were subject to an agreement in the federal level.' (Kostovicova, 2005). In order to achieve its political aims, Serbian authorities insisted upon a return of its legal control over Kosovo schools and the university. This led to a consistent confrontation between the authorities and ethnic Albanians over the Kosovo education system. Many Albanian political prisoners came from Kosovo schools and the university. At that time, Kosovo had the highest number of the political prisoners at the federal level. 'From 1971 to 1981, public expression of political dissent was suppressed in all parts of Yugoslavia, but the greatest percentages of political prisoners were Kosovo Albanians.' (Mertus, 1999). After Tito's death and between 1981-1989, several officials planned on how to strengthen the power of the Yugoslav 67 federation. These attempts were developed in continuity from Belgrade, as Serb leaders saw their chance to take power from the other republics at the federal level. Yugoslavia became a fragile society full of animosities and mixed feelings, starting with those who predicted injustice coming back for them, to those who were encouraging ethno-nationalist leaders to go ahead with their plans.

2.2.2 Abrogation of Kosovo's autonomy (1989- 1999)

Milosevic's policy to reconquest Kosovo had begun in 1988, with a powerful propaganda campaign launched against Albanian 'nationalists and separatists'. He prepared the situation on the ground by raising tensions on his visits to Kosovo by feeding animosity between the Serbian population and their Albanian neighbors. The promotion of Serbian hegemony started in Kosovo in 1988. Over a four -week period during the February and March of 1989, Milosevic crushed Kosovo's autonomy by initiating violent demonstrations that claimed the lives of over one hundred Albanians (Sell, 2003). Simultaneously, he began to prepare his tactics in political and legal contexts. In meetings with communist chiefs of the other Yugoslav republics Milosevic made it clear that he intended to revoke Kosovo's autonomy. In order to do that legally, he had first to amend Constitution of Republic of Serbia. According to 1974 Constitution, amendments related to the status of Kosovo and Vojvodina as autonomous provinces could not be passed in Serbia's assembly without prior vote of both Kosovo and Vojvodina assemblies.

Determined against Milosevic's initiative the majority of Albanian delegates of the Kosovo assembly refused to vote proposed amendments. Feeling under pressure and intimidated by the presence of the Serbian police who had surrounded the Kosovo Assembly building with special police units, and tanks, they were unable to stop the passage of this act. 'In a state of emergency, without the required quorum, without counting votes and by voting of persons that were found in the hall but who were not delegates, the Serb president of the Assembly of Kosova, proclaimed on March 23, 1989 the approval

of the constitutional amendments.' (Bieber, Daskalovski, 2003). It can be argued that any act passed under a threat, denying the real will of the people, can and should be void. Therefore the decision of the assembly of Serbia, which passed on March 28, 1989, was considered invalid by Albanian delegates. As a response, on 2nd of July 1990 the Albanian delegates, comprising of the majority of Kosovo's Assembly approved the declaration of independence of Kosova. 'Being denied from Serbian police to access the assembly building this act was passed at the gates outside the assembly building. This preceded the Constitution of the Republic of Kosovo, which was approved on September 7, 1990.' (Bieber, Daskalovski 2003). Abrogation of Kosovo's autonomy and living under the Milosevic's repressive regime was unacceptable for Kosovo Albanians. Consequently, they started to organize the so-called 'civil resistance' against the Milosevic's regime.

2.2.3. Albanian 'parallel' system of education

One of the most repressive actions of Milosevic's regime was the dismissal of all Albanian education personnel. Albanians rejected the Serbian curriculum that had been adopted by the Serbian Educational Council. This was the pretext for the regime to use Serbian police forces to forbid Albanian access to their schools. Thousands of Albanian professors and students from primary to university level were dismissed, only Serbs were allowed to have access to the public schools. The 'Serbianization' of the Kosovo police force was a strong clue as to the future look of Kosovo's schools. This repressive situation pushed the Albanian community to look for other alternatives. As a form of their civil resistance to Serbia, Albanians created their own system of education out of the public facilities. 'Self-financed post autonomy graduates in Kosovo were the generations of the Kosovo Republic. They no longer studied the people's heroes who had fought for 'brotherhood and unity' of Yugoslav nations and nationalities' (Schwandner –Sievers and Jurgen Fischer, 2002).

Education was organized in private houses and garages, especially for high schools and University of Prishtina (UP). New curricula were enacted with an aim to promote the Albanian national identity. 'This came to be known as parallel education. It was the cause that galvanized the entire Albanian community in Kosovo into action, triggering its unprecedented homogenization. Albanian parallel education in Kosovo emerged as an embodiment of the Albanian civil and peaceful resistance, and an argument used to prove the existence of the Albanian independent state in Kosovo' (Kostovicova, 2005). Schools and the University were the most important institutions where the Serb and Albanian communities mixed to some degree, before 1990 in Kosovo.

After the Albanians were forced into a completely separate social life, walls of division appeared between the two communities, and Kosovo developed two extremely segregated systems of education, which have remained almost the same into the present. Albanians contributed to this system by giving their houses free of charge for Kosovo schools and paying taxes to Kosovo's Government in exile from 1991 to 1998 in order to maintain the parallel educational system. 'Attempts to convene an Albanian parliament in Kosovo or establish a police force were thwarted, whilst the Government of the self proclaimed Kosovo Republic had to seek safety in exile' (Waller, Drezov, Gökay, 2001). Parallel institutions became a point of national pride and motivation for further solidification among Albanians for their statehood. The launch of the parallel system was also a gesture by Albanians to show to the international community 'the independent Kosovo'. LDK leadership used this model of success as an important symbol and proof of Albanian statehood in Kosovo. 'One Albanian analyst suggested that Ibrahim Rugova should more accurately be called "President of the parallel schools of Kosovo" than 'The President of Republic of Kosovo', his official title. This very same education system, in private house, inadequate cellars and garages, helped sustain the metaphor of Kosovo as a prison' (Waller, Drezov, Gökay, 2001). Because of the development and continuity of the educational and health care system after 1991 and some other aspects of civil resistance, K-Albanians were able to maintain to some degree a parallel political sphere independent of Serbia. As outlined above civil society in Kosovo emerged and took its form within the context of non-violent civil resistance led from LDK and Mr. Rugova. 'The nonviolence movement became part of the modern Albanian identity that drew together both village patriarchs and urban intelligentsia in a common effort to avoid a tragedy' (Clark, 2000). Certain strategic goals were clear as to why Albanians named their movement as non-violent and peaceful: first, to avoid offering a pretext for Serbian police and military forces for brutal interventions (although there was a systematic repression of Albanian civilians during 1990s), second, the importance of involving international support both in political and humanitarian aspect, and third, to strengthen the limited social space by fulfilling basic social needs for Albanian population, such as medical care and education. Non-violent civil resistance represents the first phase of the development of the civil society in Kosovo (Clark, 2000). While in much of the communist bloc, peaceful transition from totalitarian and one-party rule to plural and democratic

regimes, buttressed by civil society contributions, was made possible, Kosovo's civil society experienced a different kind of development (Khadr, 2008).

3.0 History of partition from opposing perspectives and its effects on the state building and EU integration processes

Parallel system of education for Albanians on one side and Serbia's state curriculums imposed for Kosovo Serbs on the other side during the 1990's have had a direct impact in establishing a completely segregated and divisive education system in Kosovo after the war of 1998-1999.

Today Kosovo has two parallel systems of education, the dominant education system organized by Kosovo institutions attended from the Albanian majority and some non-Serb minorities, and education institutions funded by Serbian Government attended from Serbs and some other minorities. Nowhere in Europe is there such segregation in schools as in Kosovo. Kosovo institutions and international community have failed to offer an integrated and homogenous school curriculum both for Kosovo Albanians and Serbs. On the other side, minority Serbs are constantly prevented from Belgrade for their minimum integration in Kosovo's education system. Consequently, the formation of ethnically based identity among younger generations remains a natural alternative and as a result both ethnic and national identities play important roles in guiding their political behavior.

History of education has played a particularly important role in communicating the national narrative to younger generations and fostering the development of those identities. Today, both sides teach their children about Kosovo's history from two completely opposing perspectives, each country's national narrative vilifies the other producing mutual hatred among younger generations from both sides.

This model of teaching the national history through two different systems of education within Kosovo's territory promotes and reinforces the national and ethnical identity among the new generations from both sides. Serbs neither want nor see a need to participate in designing school curriculums considering them to belong to self-declared state of Kosovo. Albanians governing with the majority of educational institutions in the country prefer to implement curriculum not always in the spirit of the Constitution of Kosovo which defines Kosovo as multiethnic state. This kind of rejection from both sides produces what is called the stateness problem by harming the state-building process. Simultaneously Kosovo's EU integration perspectives that should encourage and promote tolerance between different ethnic groups in a multicultural society are harmed - elements those guaranteed by the Constitution of the Republic of Kosovo based on the concept of the citizenship as identity. Consequently, number of individuals who could potentially identify themselves with the new state of Kosovo based on the values of the citizenship as identity is less compared to the ethnocentric individuals who identify strongly with their ethnicity and maintain a belief that only their ethnic group is centrally important. Many of us have witnessed that ethnocentric arguments have justified many horrific events in the history of Balkans, including genocide and ethnic cleansing.

Therefore the failure of democratization in Kosovo among other reasons can be attributed to the system of education with full of contradictions where the strength of the national and ethnic identity prevails. As more ethnically divided schools are, the more difficult it is for democratization to succeed and even more difficult to link Albanians and Serbs with the new state of Kosovo.

Given the foregoing discussion, one can ask what kind of roles should education play in a multicultural society that has yet to achieve its ideals and if it is possible at all to recognize and develop a positive bicultural identity for minority Serbs in the future?

4. Conclusions

Kosovo and Serbia delegations during the dialogue in Brussels have reached agreement on mutual recognition of diplomas in both countries. It is only an agreement of technical nature allowing those with a diploma from both sides to apply for a job and potentially work in these two respective countries in the future. In fact the ongoing dialogue between Serbia and

Kosovo and painful process of state building overshadows the core of the educational issues discussed in this paper. The educational system of Kosovo remains segregated and extremely politicized.

The issue here is not of doing reforms in legislation by designing and redesigning policies and strategies for various levels of the system of education. As Terrice Bassler describes, the context of education in South East Europe is diverse and full of contradictions. There are breakthroughs and occasional triumphs, such as peace agreement or an election that heralds a better time, a national education reform process launched or legislation passed, a new project or program approved, a textbook or training delivered. There are twist and turns in the Ministry of Education-or an entire Government, for that matter (Bassler, 2005). Kosovo makes no exception in doing similar experiments sponsored from the international community and local institutions on behalf of reforming education system in Kosovo.

In fact the problem doesn't rely in such reforms. The essence of the problem is that the education in continuity was conducted in extreme nationalist spirit impacting and strengthening ethnic and nationalist identity among younger generations, it therefore cannot be changed with the sort of reforms that are more of a technical, formal and of a quantitative nature. This problem as pointed out in this paper is rooted deeply after the World War II , during the Yugoslav times , continuing under the regime of Milosevic and the concept survived and was even incarnated under UNMIK administration and now in independent Kosovo. This is mostly because the international community wrongly invested in improving relations between the Albanian majority and the Serb minority in Kosovo. Although most of it looked organized while designing policy papers and legislation for education, in fact, the main action was missing. This action had to be followed by the international community. International community under the UNMIK administration was focused mostly on designing policy papers in cooperation with the local authorities but it never had the right approach to the problem. The core of the problem that many internationals in Kosovo never understood was how Albanians thought they were perceived from Serbs (and visa versa) because this had a significant influence on how both sides came to understand themselves who they are. The process of identity formation involves dialogic negotiation with others and this is what was lacking for many years after the war.

For instance UNMIK never used the educational institutions and schools in order to support youths' development toward a positive sense of ethnic identity by organizing several programs that can build up their sense of interaction among the ethnicities improving their understanding on other ethnicities. If students from both sides were allowed for the minimum interaction they would have better understanding of the ethnic identity, they would become more tolerate and respect on other ethnic groups. Instead, under UNMIK the separation/traditional type of education isolated from the mainstream society was allowed to be established among the Serbian community and the concept of the multiethnic Kosovo in fact it was only a farce promoted in the bill-boards all over Kosovo.

Identity is negotiated between the people who live in the same space and recognition from others as they develop their own identity is very significant. Modern democratic societies are characterized by the increased importance of recognition. As such, recognition has become increasingly significant for the development of self identity and the recognition of others has gained a new importance for our modern identity. As a result, in our modern society misrecognition or lack of recognition during the process of negotiation can mean oppression. Misrecognition means denial of one's worth as a human being and this is likely to result in lack of self-esteem (Taylor, 1994).

More concretely, today's misrecognition between Albanian and Serb youngsters is exclusively a product of the wrong approach of the international community applied while building and developing the education system in Kosovo after the war of 1998-1999. International community in Kosovo without some thorough analyses and in attempt to respect individuals equally, regardless of their cultural particularities have applied the so-called *difference-blinded* approach where collective differences have been treated as if they did not exist. With this approach, equal respect means that individuals are treated exactly the same way, universally meaning same rights as anyone else, regardless of race, religion, or gender. The principle of this recognition is very simple: an equal treatment regardless of cultural and social differences (Taylor, 1995). Kymlicka recognizes the significance of culture for developing our sense of self. He argues that cultural membership has a considerable significance for achieving the sense of belonging to a cultural structure and history (Kymlicka, 1989).

The institutional design of Kosovo as civic and multiethnic state with elements of individual liberalism where all of its individual citizens are equal before the law (Albanians, Serbs, Turks, Roma, etc) to some degree referred to the Christian Joppke's concept of citizenship as rights and as identity somehow was introduced in Kosovo's case (Jopke, 2007). The problem though relies on the fact that universal legal rights of citizenship were offered only through the official policies, papers, strategies and finally in the constitution. In other words through the *difference-blinded* approach which may work

well in societies where there are no cultural differences but in cases like Kosovo it continued to produce misrecognition between younger generations from both sides. Misrecognition as a concept incarnated in the education system established after the WWII survives these days as in both curricula that of Kosovo (implemented by the majority of Albanians) and Serbia (implemented in Kosovo by local Serbian minority) younger generations continue to be educated in the spirit of nationalism by demonizing the other side. Mainly youngsters from both sides are taught that their race is superior compared to the other and that is why ethnocentrism is present in every aspect of public life. Consequently, Serbs continue to reject the state of Kosovo creating the stateness problem in the territories where they live, while the majority of Albanians contribute to the contested statehood of Kosovo by refusing its civic and multiethnic character.

As a result, tension between civic and multicultural concept of citizenship on one side, and ethno-national concept on the other side is high as a number of people question the legitimacy of the state of Kosovo as a new polity.

The situation wouldn't be different if Albanians and Serbs would be asked for instance to design the character of the new Kosovo's state symbols, as one option would be the Serbian nationalist royalist flag with two dangerous looking white eagles on black background and the other option would be the double black headed eagle on the red background. Still, excluding the minimum cultural particularities while offering to establish a citizenship regime undermines the consolidation of Kosovo's civic and multiethnic state itself. Today in 'civic and multiethnic' state of Kosovo, for instance ethnic Serbian schools (tolerated and supported from UNMIK) continue to enhance a social life segregated from Kosovo by developing strong political ties with Serbia. Segregated education influences the formation of national and ethnic identity among new generations, interlinked with Albania and Serbia. This kind of political climate is not in favor of the future Kosovo's EU perspective as long as out there we have thousands of young Albanians and Serbs waiting for their moment in history to show all possible hatred out of their ultranationalist kitchens that has fed them for years within the two segregated systems of education. Segregated system of education in Kosovo will continue to shape the personality of the youth by cultivating their national and ethnic identity and the sense of belonging to the nation before providing educational skills and knowledge for the potential labor markets of the future.

As both ethnic and national identities play important roles in guiding political behavior it is important for Serbs to struggle to maintain ethnic identity and culture but by trying models of coexistence with the dominant culture in Kosovo. The integration of bicultural type that speaks both languages and is accepted by the mainstream society, without losing the tie to their cultural community is the best model for Serbs of Kosovo to be considered. On the other side Kosovo's institution especially Ministry of Education must endeavor to start a public dialogue through which cultural particularities of the other side should be recognized publicly and within the context of school curriculums. Although this sounds way to utopist it is the only hope that one day in the future Serbs could be integrated into Kosovo's education system by simultaneously recognizing the cultural particularities of the dominant group. Otherwise such a situation is nothing more or less than what the constitution of Kosovo and criteria's for EU integration require. This remains the only solution in lack of clear strategy from the Kosovo Government to attract and integrate Kosovo Serbs through economy, an offer that wouldn't be rejected because social welfare is always a better option rather than the option of cheering ultranationalist songs with the empty stomach. As long as we have this level of corruption in Kosovo this is equally an utopist option and it is not imaginable to see such a vision to be implemented from Kosovo Government. Thus having such weak starting positions due to the high degree of corruption the government of Kosovo is one of the rare governments in Europe that negotiates the rights of its citizens (in this case of Kosovo Serbs) with another state (in this case with Serbia).

Education is one of the strongest means of bringing about a change in society. It is considered to be the foundation of society as it brings social prosperity and political stability. Good education helps contribute to the development of good human beings, which is why education is a major aspect of any developing society. In attempting to realize an ideal multicultural society intercultural understanding is very important. Although it is hard to be achieved it is not impossible if engaged dialogue can be promoted in classrooms by introducing various perspectives on a controversial issues to students from both communities. It remains to be seen if Kosovo institutions will succeed to change the role of education in the "post-national" era. On the other side, in a world of global markets and supranational political organizations only time will show how distinctive will national education systems of Kosovo and Serbia will remain against pressures for international convergence.

One thing is for sure that with current attitudes Kosovo can be defined as a state with institutionalized civic identity but hidden behind the uniform of nationalist and ethnic identities always threatening with death to the Kosovan citizenship and keeping Kosovo's statehood unfinished.

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Provision of Health and Social Services for Drug Addicts in the Republic of Macedonia

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Abstract

The Republic of Macedonia experienced a rapid growth in drug addiction after its independence in 1991. The complexity of the problem represents a serious challenge for all relevant factors involved in creation of policies as well as actors in delivery of health, education and social services. Provision of necessary service required appropriate amendments of relevant laws based on the adopted international legislation. The most significant legal changes were introduction of the principles of pluralisation of social protection (Law on Social protection, 2004), that enabled emerging of new private for profit and nonprofit actors as providers of services as well as introduction of the principle of decentralization, enabling establishment of services on local level. Additionally, a number of national and local strategies and programs were developed and adopted within the system of health and social protection. These changes contributed to an increase in the number of available services offering variety of treatments responding to the individual needs of beneficiaries. Despite the increase in offered service, the state has yet to respond to the ever rising problem of addicted children. So far, little has been done for this age group of addicts that requires specialized and adjusted service provision. Provided social services are facing the problem in the sustainability of the available services provided within the nongovernmental sector that is mainly financed from foreign funds.

Keywords: system of social protection, social services, health services, drug addicts, addicted children.

Introduction

Legal framework for protection of consumers of drugs, psychotropic substances and precursors

The problem of dependence on drugs is a multidimensional and complex problem that causes a series of negative consequences with economic, social, health, educational and safety character. This global problem is set high on the agenda of international organizations and agencies that sought solutions for overcoming, reducing and preventing of this phenomenon.

With the aim to introduce the phenomenon and to review the situation in the local context, we will give an overview of the main international documents without an ambition to enter in their detail elaboration.

Universal Declaration of Human Rights guarantees the right of every person to a standard of living that will provide an adequate health and well-being for them and their family, including medical care, where mothers and children are entitled to special care and assistance.

Based on the European Charter of Patients' Rights everyone has the right to a proper service in order to prevent illnesses. Health protection amongst others should be provided through raising people's awareness, guaranteeing free of charge health procedures in regular intervals for different population groups exposed to risks, and ensuring access to all of the achievements that are a result of scientific research and technological innovations. Health care protection should be provided by creating conditions for equal access for all without any discrimination.

International Convention on Civil and Political Rights guarantees the right to life and prohibits the liberty of depriving of life, which implies health protection as well as protection from abuse of drugs and other psychotropic substances and requires countries to adopt positive measures to increase the life expectancy of people.

The International Pact on Economic, Social and Cultural Rights obliges each country to recognize the right to physical and mental health that can be achieved, and completion of this right requires the following measures to be undertaken: protection, treatment and suppression of certain diseases and creating conditions for providing medical services and assistance in all cases of disease, creation of basic conditions for good health (quality food, housing, access to quality drinking water, proper sanitation and etc).

International Convention for Abolition of all Forms of Racial Discrimination which prohibits discrimination in exercising the right to health and medical assistance. European Social Charter guarantees the right to health care, social and medical assistance and the right to social protection. It complements the European Convention on Human Rights which guarantees various rights and freedoms. The Charter has several provisions that express or imply the right to health, health and wellbeing of children and young people which are protected by Articles 7, Article 11 and Article 17. According to Article 1, health education in schools should be a priority of public health policy, incorporated in part of the curriculum, with special emphasis on: smoking, drugs, alcohol abuse, nutrition and sexual education, accessible to all children without discrimination.

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention of 1988) provides improvement of cooperation between signatory countries for efficient combat against various aspects of illicit traffic in narcotic drugs or psychotropic substances as a problem that has an international dimension. It obliges countries to provide criminal and other offenses punishments depending on constitutional regulation due to possession, purchase or cultivation of narcotic drugs and psychotropic substances for personal consumption and taking appropriate measures to prevent illicit cultivation and to eradicate plants containing narcotic drugs and psychotropic substances with strict respect for the fundamental human rights.

Based on the Convention on the Rights of the Child: Countries should take appropriate legislative, administrative, social and educational measures of protecting children from illegal use of narcotic drugs and psychotropic substances as defined in relevant international treaties, aiming at prevention of use of children in illicit production and trafficking of these substances.

Domestic legislation also guarantees protection of the rights of drug users in the Constitution and other various legal acts:

Based on the Constitution (Article 39) every citizen is guaranteed the right to health care, but also notes the obligation of citizens to preserve their health and health of others. Hence, children not only have a right to health care but have the obligation to preserve their own health, which among other things implies not to the use of drugs and other psychotropic substances that endanger their health and but their responsibility to care for the health of others, more precisely not to incur other children to use drugs.

According to the Law on Child Protection (Article 9) the state and its institutions in the system should take all available measures to protect children from illegal use and other forms of abuse of children in the illicit production and trafficking of narcotic drugs, psychotropic substances and precursors.

The Health Care Law assumes provision for citizens with the right to protect their health and provides access for all citizens to general preventive measures which should ensure healthy environment, systematic health examinations and other measures and activities to prevent diseases. That assumes health care for all citizens by taking measures and activities for

preservation and promotion of health, preventive, diagnostic - therapeutic and rehabilitation measures based on principles of: accessibility, rationality and continuity. Drug addiction as a complex social and health problem requires a long-term healing process and individual approach to persons by providing multi-professional teams for assistance.

Based on the Law on Health Insurance the insured persons are provided with basic health services that include preventive measures, more specifically health services for identification, monitoring and assessment of health condition. This is a very important Law that affects the users and drug addicts in order to implement preventive, therapeutic and rehabilitation measures, examination and assessment of health condition, treatment, rehabilitation, care, accommodation and meals in hospital setting.

Children exercise health insurance rights on the bases of their parents insurance until the age of 18 years or in case of continuing education until 26 years old. There are cases when they can exercise the rights on health insurance after reaching 26 years such as cases when due to illness they had to interrupt their schooling (Article 16). This Law and Health Care Law do not specifically regulated treatment of children addicted to drugs.

Law on Protection of Patients' Rights ensures quality and continuous health protection in line with current developments in health and medicine, in accordance to the individual needs of the patients with full respect for the dignity of their personality and in respect of their best interest and the absence of any kind of mental or physical abuse.

- Protection of patients' rights is based on the principles of humanity and accessibility, which is very important especially for drug addicted children, respecting privacy and human relations between the patient and health worker based on ethical principles, which is also very important for the specified group.
- Respecting the principle of availability, based on health services that are constantly available and accessible to all patients equally and without discrimination.
- Equal opportunity to protect the rights of all patients in the Republic Macedonia.

Law on Social Protection provided establishment of daycare centers for persons who use or abuse drugs and other psychotropic substances and precursors. These Centers provide the following services for addicted persons and members of their families: counseling services, information and education, employment, cultural - entertainment and leisure activities.

Law on Control of Narcotic Drugs and Psychotropic Substances prohibits dispensing medicines containing narcotic drugs, psychotropic substances or precursors to minors and persons who show signs of mental disorder. Parents, adoptive parents, guardians, teachers, health workers, social care employers and sports workers are obliged and responsible to take measures to prevent and suppress abuse of narcotic drugs and psychotropic substances among children and youth.

The Government adopted program for drug abuse, psychotropic substances and precursors in educational institutions. The Ministry of Education and Science at the beginning of each year publishes guidelines for promotion and coordination of regular educational activities related to damages caused by use of narcotic drugs and psychotropic substances on health, learning and development of children and youth. Centers for Social Work after established contact with the addicted person and their family are obliged take all necessary measures for their rehabilitation and if needed to provide referral to an appropriate health institution.

The problem of drug use and drug misdemeanor aspects are regulated in the Criminal Code which foresees sanctions for person that manufactures, sells or offers for sale or for buy to sale, hold, transfer or mediate in the sale or purchase or otherwise releases narcotic drugs, psychotropic substances and precursors as well as prescribes penalty by law for violations of public order and peace for the ones who are involved in taking narcotics, psychotropic substances and precursors.

The Republic of Macedonia develops a strategic approach in taking measures to address this problem through adoption of a National Drug Strategy in the Republic of Macedonia (2006 -2012) and (2014-2020). The Strategy, lists separate risk groups such as addicts in prisons, victims of trafficking, Roma, athletes that use doping, young people involved in criminal groups, etc. Leading principles and objectives of the strategy are the principles for protection of human rights, guaranteed safety of all citizens in the Republic, equal opportunities for all, balanced approach, adapting to the needs of different target groups, shared responsibility and coordinated approach and the principle of availability and cost effectiveness.

1. HEALTH CARE FOR DRUG USERS

Drug users are treated within the existing network of public and private health institutions. Their treatment includes: treatment in day hospitals, hospital treatment, detoxification and substances treatment. The majority of drug users are treated through day hospital treatment, where they are treated with substances, psychosocial interventions, individual or group counseling and psycho-social therapy.

Persons with problematic abuse of heroin have been provided with substance methadone therapy and therapy with buprenorphine, for the sole purpose to achieve complete abstinence, to prevent development of abstinence crisis, to reduce the incidence of recidivisms, to improve their psychological and social functioning, to prevent HIV infections, to prevent contracting hepatitis B, C and D and to reduce involvement in criminal acts and antisocial behavior.

The largest number of person with problematic use of heroin seeks treatment with methadone. Methadone treatment program for persons who use drugs is conducted under the established protocol for performing health activities established by the Ministry of Health of the Republic of Macedonia, which refers to the use of methadone in the treatment of opiate addiction. In order to involve one person in the healing treatment, the following health tests are required: comprehensive physical and psychiatric examination, laboratory tests (general blood test, levels of fats and sugars in the bloody, test for Hepatitis C and HIV status).

For treatment of persons between 16 and 18 years a parent or guardian consent is required. The available treatment is not provided for persons under the age of 16 years.

The substance methadone therapy also covers beneficiaries from correctional institutions in the country.

Substance therapy with methadone is provided within the Centers for prevention and treatment of drug addiction in the following cities: Gevgelija, Bitola, Veles, Stip, Tetovo, Kavadarci, Ohrid, Strumica and Kumanovo.

In the capital city Skopje, the treatment is provided within the Center for prevention and treatment of drug abuse and other psychoactive substances-KiselaVoda, in the Department of the Clinical Center in Psychiatric Hospital „Skopje “- Skopje and in the Hospital “8th of September”.

Treatment with buprenorphine is administrated within the University Clinic of Toxicology - Skopje. In order to begin the treatment with buprenorphine, one needs to carry out the following tests: a comprehensive physical and psychiatric examination, laboratory tests (blood test, tests on the levels of fats and sugars in bloody, tests for Hepatitis C and HIV status).

In 2014 the above mentioned health institutions have treated over 1200 patients with methadone substance therapy. Apart from the treatment in public health institutions above 150 patients have privately financed their substance therapy treatment in private health institutions. The University Clinic of Toxicology-Skopje in 2014 administered treatment with buprenorphine to 230 persons. Their treatment was covered with the public health insurance scheme by the Ministry of Health¹.

Unfortunately, the number of beneficiaries that can receive methadone therapy is limited. The closed list for intake of new patients on methadone and buprenofin therapy puts individuals in an uneven position. Patients who are not enrolled in the program and are in situation of dire need for addiction treatment and are in unfavorable position compare to other patients who receive needed health services and have uninterrupted access to service.²

In Macedonia there is a complete absence of a specially designed program for the treatment of minors for drug addiction. Drug addicted persons who are younger than 18 years instead of being included in special treatment programs, are fully marginalized and discriminated. This current problem has been more increasingly emphasized by the civil sector and

¹Program for health condition of addicted persons in the Republic of Macedonia for 2015, Government of the Republic of Macedonia, Official Gazette no. 196/2014

²Protection on the rights of patients with the focus on persons users of drugs, Association for emancipation, solidarity, and equality of women RM-ESE.

indicates the violation of the rights of children and their inability to be provided with adequate health services and health care.

Civil society organizations and the Red Cross of the Republic of Macedonia are active participants in the treatment of persons who use drugs. Within the Program for reduction of drug use they provide assistance in nine different cities in the country. Their services are focused in providing: medical, social and legal assistance for persons who are receiving treatment for drug dependence, people who use drugs, and people who aspire to abstinence or are already in the phase of abstinence from drug use. The main aim of these services is to provide beneficiaries with access to health care, to advance their rights related to their health and to contribute to the process of their social integration. This program also involves families of drug users as well as professionals that work in health and social services as target groups.

The following medical services are covered under this program: basic treatment of wounds caused by prolonged or inappropriate injection of drugs, counseling and education for health protection, motivation for treatment and referral to health facilities.

2. SOCIAL SERVICES FOR PERSONS WHO USE DRUGS

Social protection is provided through a system of measures, activities and policies for prevention and for overcoming the basic social risks to which drug users are exposed to such as reducing poverty and social exclusion as well as strengthening of their capacities for social integration.

At the national level, the treatment for drug users is provided by public and private institutions as well as civil society organizations. Through multidisciplinary approach and continuous monitoring and technical support an appropriate response to the needs of the target groups has been established by following further decentralization and expanding of the network of services for treatment of drug users.

The principles of decentralization and pluralism can be noted in the process of social protection where provisions of services have been provided by local government, civil associations and religious organizations.

Some municipalities have adopted local strategies and action plans for reduction of drugs abuse that through certain activities aim to ensure reduction of the availability of drugs, reduction the number of persons experimenting with drug use, development of health and social services that will provide accessible and effective treatment and care for people who use drugs and harm reduction from drug use.

The rights of social protection that can be obtained by drug users are in the form of financial assistance, more precisely social financial assistance and permanent financial assistance, cash compensation for assistance for care by another person, allowance for blindness and mobility, depending on health and financial situation of the drug user.

Rights in the area of non-residential protection are: rights of social service provided for persons that cannot be obtained in other institutions.

Non-residential social protection for people who use drugs is provided in the form of daycare centers for drug users, providing services for persons who use drugs and other psychotropic substances as well as services for members of their families. The aim of these services is to provide appropriate services, information, counseling and education for work engagement and engagement in cultural, entertainment and recreational activities. The beneficiaries require immediate assistance in the process of their social reintegration after completing the program of medical treatment. The Ministry of Labour and Social Policy has established these types of day care Centers in Ohrid, Kumanovo, Strumica, Skopje and Kavadarci.

Currently the Social Work Centers offer daycare centers for persons who use or abuse drugs and other psychotropic substances. There is one faith based center in Strumica and daycare center in Ohrid. The daycare center in Strumica is a part of the multisectoral cooperation between the Ministry of Labor and Social Policy, Ministry of Health, Municipality of Strumica, Nongovernmental organization and the Orthodox Church.

The services of providing information, advice on treatment of addiction and referral to a competent institution that should be provided to children who use drugs are very limited. This category of children mainly receive assistance in kind such as

food, clothing and hygienic supplies which indicates to the poor financial situation of these drug users. Part of the juvenile drug users received counseling and were referred to use services for homeless in the Shelter for homeless people in Skopje.

The reports of Centers for Social Work has limited data on the services provided to drug using persons. Professional, advisory and counseling assistance has been offered insufficiently. Based on the available statistics for 2012 all of the Centers for Social Work (30) recorded 396 drug addicts of whom 366 were male and 30 were females. Regarding their age most of them were in the age group from 26 to 45 years 325 males and 23 females. However, based on the available data for 2013, there were 47 new registered beneficiaries. This indicates on the small number of people who sought assistance from the Social Work Centers in accomplishing some rights provided by the Law on Social Protection. There are cases where drug users were registered in the Social Work Centers not as drug users but as socially excluded persons.

A daycare centre for administration of methadone therapy has been established within the largest prison in the country since 2006. The medical facility has 120 providing treatment to drug dependent persons as well as to other patients. The assistance administered to these beneficiaries includes counseling for overcome the problems that drug addicted prisoners face. Inmates from other prisons in Skopje, Bitola and Ohrid also receive methadone substance therapy. This assistance is offered in conjunction with local treatment centers and the University Clinic of Toxicology (for buprenorphine). Apart from medicament therapy they are offered counseling for overcoming the existing risks they face with.

Presentation of social services for drug users provided by NGO "HOPS" and NGO "Doverba"

NGO "HOPS" established their first needle exchange program in the year of 1997. This program enabled them to identify other drug abuse related problems. Namely, besides the problem of sharing injecting equipment, their clients manifested needs such as attainment of health care and social care rights as well as the lack of respect for their human rights. This lead to the need to introduce additional services in the program such as medical, social, and legal services as well as counseling service, testing for HIV and offering of various educative services for drug users.

NGO "HOPS" expands its activities with the opening of two drop-in centers in Skopje in 2005 and 2006. In addition to this they develop outreach work at multiple locations, encompassing the suburbs of Skopje.

The service of providing information on identity documents refers to the provision of information on required documents for obtaining personal documents, and in the case of minors, provision of information for obtaining a birth certificates, for obtaining certificates for citizenship and alike. In this regard they have contacted 10 children, and 6 of them were referred to the competent institution for acquisition of personal documents. These persons were mainly referred to the Regional registry services and to the Regional offices of the Ministry of Justice and Ministry of Interior.

All programs of the NGO "HOPS" are harm reduction programs, except for the program in Gevgelija. The services provided in Gevgelija are administrated by a social worker, and include: help and assistance in obtaining documents, assistance for obtaining social and health rights, counseling, education, motivation for treatment and referrals to appropriate social and health institutions. In the period from 2012 to 2014 HOPS have administered a total of 27.297 social services.

The data of NGO "HOPS" on work with children who use drugs shows that during 2015, they have provided assistance in information to 11 children about the necessary documentation for obtaining health insurance. They have assisted 8 children and their parents to connect with the Health Insurance Fund as a responsible institution where they can obtain their right to health care. Also, they have offered individual counseling assistance to a number of children.

NGO "Doverba" primarily offers social and counseling services. By provision of adequate financial and logistical assistance to drug users who are not in position to initiate the process of obtaining documents on the health care and social care.

The fieldwork in association "Doverba" started functioning in 2002 and provides the following three types of field work: outreach in frequent places where drug users meet; fieldwork in the homes of drug users conducted mainly on the initiative of user's parents especially in case when they are unable to motivate their children to sought help in the counseling centre; and field social work interventions that include offering mediation and technical assistance in obtaining documents needed for health insurance, social protection or any other kind of mediation and assistance in contacts with public institutions.

The process of social services begins with establishing contact with drug user, conducting personal needs assessment, planning services to mitigate the risks in his/her surrounding. Planning the support that will enable connection with the primary social network of beneficiary, planning development of the client in areas that will contribute to improvement of participative interaction in the surrounding. Social services may be administered as day care services in a community, advisory-therapeutic and social educative services as well as services for independent living. Offered services are complimentary and related to other offered services. The services include a plan for continues monitoring and evaluation of planned and achieved goals and revision of the planned activities depending on the changes occurring at particular drug user and their environment.

An indirect treatment causes changes in the users surrounding that affects the unproductive interaction of drug user. Mainly referring to material and economic aspects of environment, socio psychological aspect is a result of these two aspects of the environment related to other social factors such as social compensation of the environment.

The direct treatment is applied when the problems of the user are of psychological and somatic nature as well as when problems are overcome. The social worker is in a role of therapist working on the personality issues, attitudes, value system, emotions and behavior as well as on stimulation, activation and development of current potentials of the person with the aim of improvement and social integration in the environment. Besides counseling that is used in the direct treatment they are implementing psychotherapeutic method, group therapy, psychodrama, reality therapy, cognitive therapy, and other methods and techniques.

In practice, they usually combine indirect and direct treatment which basically represents the complex treatment that is needed due to the complexity of the problem that drug users experience.

Fieldwork aims at establishing contacts with hard to reach population that already has risky behavior of drug abuse. Field work is only part of the social health services that are applied for addicts and is accomplished through education and distribution of educative and preventive materials as well as referral to institutions that offer services for drug users. Fieldwork is highly flexible and adapted to the needs of drug users and is accomplished through three approaches: outreach in public, outreach to the institution and outreach in homes, in cases where drugs are used in homes/apartments of addicts.

3. FINDINGS AND ACTIVITIES OF THE OMBUDSMAN FOR CHILDREN USERS OF DRUGS

The Ombudsman has investigated the problem of drug use through in a longer period of time through visits to institutions responsible for the healing and treatment of drug users and acting upon complaints or institutionally initiate inquiries. According to the findings of the Ombudsman, the number of children users and addicts to drugs and other psychotropic substances is constantly growing whereas the starting age among children is decreasing (first experiences are noted at the age between 7 and 8 year old children). Predominantly, these are children without parents or parental care and are from the Roma community.

The Ombudsman has identified:

- Lack of appropriate facilities and human resources in the network of health care facilities as well as lack of adopted treatment protocols, treatment and rehabilitation of children who use drugs,
- Lack of strategy and special measures for separate treatment of children that differs from treatment of adults.
- Lack of opportunities for placing children in special institutions for healing and treatment.
- Insufficiency of space and appropriate conditions for therapeutic treatment and accommodation for addicts, lack of separate unit for drug addicts in the Psychiatric Hospital "Skopje", and space for protection and inclusion of all interested addicts to participate in the treatment of addiction.
- Insufficient number of centers for addiction and clubs in Skopje and other municipalities where there is an emerging need to treat addicted persons.

The Ombudsman has repeatedly addressed the authorities with a request to seriously consider this problem and proposed to undertake all possible measures (legislative, administrative, social and educational) for preventing children who use drugs and become addicted, especially to establish health care institutions for appropriate treatment, support and care of children users drugs. Considering the raising trend in the number of addicts and having in mind the age group of affected children, the Ombudsman recommends introduction of educational programs in schools to prevent and reduce drug

addiction and other psychoactive substances so children from the earliest age will be informed about the damage and the consequences from addiction.

Additionally, the Ombudsman recommended continuous education of the general population as well as of health workers about modern trends in medicine in the field of addiction prevention and engaging society in more frequent and timely medical checkups in order to provide early detection of addictions.

Because children are more frequent in becoming users of drugs and other psychotropic substances, the Ombudsman considers as necessary the following:

- The state should adopt specific strategy;
- Special measures should be undertaken for the proper treatment of children different from the treatment of adults;
- The need to create opportunities for placing children in separate institutions for healing and treatment;
- Active involvement of all institutions and institutional bodies which are authorized and obligated to take care about the rights of child: health, social, educational and other aspects.
- Provision of appropriate protection and health care for children.
- Children should be provided with protection and care necessary for their well-being and the institutions, services and facilities responsible for the care or protection of children shall be in accordance with the standards established by competent authorities, particularly in the area of safety and health, the number and suitability of staff in the institutions as well as professional supervision.
- Establishing a day care center for children who abuse drugs through inter-sector cooperation of the Ministry of Health and Ministry of Labor and Social Policy.

CONCLUSION

Treatment of drug users in the Republic of Macedonia dates from the late 1970s and early 1980s, with the introduction of substitute methadone therapy. Until the adoption of the first National Strategy on Drugs in 2006 this type of treatment was centralized. In 2006, the Ministry of Health opened 10 new offices for treatment and harm reduction of drug use, including methadone maintenance treatment in the cities of Strumica, Kumanovo, Stip, Ohrid, Gevgelija, Bitola, Veles, Tetovo and Kavadarci and one in the main prison in Skopje. These services work with the support of the Ministry of Health, Ministry of Labor and Social Policy, Social Work Centers, the local community and NGOs and their work was initiated within the program for building coordinative response to HIV/AIDS in the country (supported by the Global Fund). This development has increased the coverage on the territory of the Republic of Macedonia with substance methadone treatment, the availability of therapeutic services and strengthening institutional capacities. In addition, a growing number of health professionals operate effectively at the local level through a multidisciplinary approach and by introducing a new model for continuous monitoring and technical support in order to have an adequate response to the needs of the target groups.

The implementation of the Macedonian National Drugs Strategy (2006-2012), was followed by further decentralization and expansion of the network for treatment services and harm reduction of drug use, including methadone maintenance treatment, with the opening of two additional centers in Skopje as well as two additional centers in prison facilities, one in the city of Bitola, and one in the investigation prison "Skopje", in Skopje.

The introduction of new models for treatment of dependent drug users was accomplished with the introduction of buprenorphine in 2009, within the highest levels of health care, tertiary health care, at the University Clinic of Toxicology, Clinical Centre Mother Teresa in Skopje. Buprenorphine is used for detoxification and substitution therapy.

At national level, drug treatment is provided in different health, social and civil organizations. Predominantly, drug treatment is available in the framework of public health services, making the public sector leading actor in treating drug addiction with medicaments. Also, four private psychiatric services offer treatment of drug addiction. National system for treatment covers outpatient and hospital treatment, detoxification and substitutive therapy. Most treated drug users receive outpatient treatment which offered opioid substitution therapy, psychiatric interventions, individual or group counseling and social and psychological therapy. Inpatient drug treatment consists of psychosocial interventions with pharmacological assistance in terms of treatment for addiction withdrawal. Detoxification can take place in an outpatient or in hospital settings.

The Association of Social Workers of the City of Skopje in 2003 actively operates the SOS line for assistance of drugs as a permanent service to all citizens in the Republic of Macedonia. Through a toll-free number citizens can get information on the types of drugs, their effects, harmful consequences of their use for the treatment in domestic and foreign institutions, as well as information on HIV / AIDS, sexually transmitted infections, and assistance in scheduling a free counseling provided by expert.

So far, there were three day care centers opened for people who use or abuse drugs and psychotropic substances. Programs for harm reduction from drugs are established in 13 cities in the country.

Despite the actions taken, the problem of drug abuse in the country is rapidly growing. It is estimated that in the Republic of Macedonia 6000-8000 persons can be considered as addicts on heroin and may face serious health and social consequences.

National Drugs Strategy of the Republic of Macedonia (2014-2020) and the Action Plans and activities that address new challenges identified in recent period, include:

- The need to improve the quality, diversification (in terms of sensitivity to cultural differences, gender, age, ethnicity) and the availability of centers for substance therapy with methadone,
- The need for reorganization, decentralization and increasing the availability of tertiary primary to primary level, treatment of drug addiction with psychotropic substances -Buprenorfine.
- The mandatory need for administration of psychiatric services in drug addiction treatment in specialized clinics.
- The need for conducting research and analysis on the reasons for the increasing number of deaths as a result of methadone overdose.
- Continuous high prevalence of mortality associated with drug abuse.
- The need for conducting analysis for the high incidence of road accidents deaths related to possible use of psychoactive agents as a risk factor.
- Growing trend to use of more psychoactive substances at the same time, including drugs containing psychotropic substances.
- Challenge and the dynamics of illegal drug markets, including changing of routes for transporting drugs across the borders drug trafficking, the use of new communication technologies.
- Preventing the diversion of chemicals that can be misused as precursors for illicit manufacturing of drugs.
- Emerging trend in the EU countries that is present in the country with appearance of new psychoactive substances.
- Development of social services for drug users at local level.
- Designing social protection programs specifically focused on assistance and support for children who abuse drugs.

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Regulation of Electronic Communications Market

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Abstract

The field of electronic communications for the importance of the everyday life, and the impact that reflects the economic development, it is considered important, so that the approach to electronic communications services has found attention from state structures in each country, consequently in Albania. Its electronic communications market operates on the basis of a special material law, under the supervision and continuous monitoring of the regulatory entity (AEPC), who fulfills his regulatory mission through ex-ante intervention in the market, as well as attention and legal responsibility over those of the Competition Authority which extend its effects through ex post interventions. The structure of the market for the (number and dimensions of the players) in order to successfully fulfill the regulatory mission it should not be a political objective, but to be finalized in concrete results. Political objectives focused on innovation and technological innovation, to increase investment, expanding opportunities for consumer choice, in terms of competitive prices for market products /services, which ultimately serve for the final goal of the regulator to maximize social welfare, are provided to only as a combination of regulatory measures and legal instruments to achieve those objectives, through the use of appropriate models for market regulation as a first step to target the achievement of effective and comprehensive competition, and measuring the performance of the markets in which regulation orients in a competitive market dynamic.

Keywords: Regulation, competition, market, entrepreneurs, analysis, regulatory, consumer, liability

Introduction

The structuring of the electronic communications market in two levels, the level of wholesale markets and the level of retail markets, itself this segmentation serves effective development of competition in these markets. Development of competition in domestic markets as an integral part of the electronic communications market based on domestic legislation, which provides legal possibilities for intervention by the two institutions mentioned in the above, imposing that the two institutions AEPC and the Competition Authority to establish cooperation and coordination of actions for continuous involvement of two institutions in the development of competition, which through the process of monitoring and analysis conducted, intervene in case of identification of a ineffective competition and not consistent with the purpose of the substantive law of the field ¹and competition law² under which determine the role to be played by the Competition Authority ³to regulate economic activity in cooperation with the regulator and other institutions.

Legislation provides relevant regulatory intervention through measures in two possible variants of ex-ante and ex-post, respectively by AEPC and the Competition Authority determinations made in the relevant laws. Two of the above institutions, have a special importance for addressing fundamental issues of competition in this market, considering aspects of the consolidation of this market in the products and services its constituents, but even in the presence and increasing the market to new players and consolidation of existing players, as a provider of electronic communications services. Technological innovation and the current trend that supports the development and perfection of networks that enable the delivery of services based (IP Internet Protocol) necessarily require the identification and sharing of services in terms of monitoring for the assessment of their competitiveness, which represents an evolution of the services offered in the

1 Law no. 9918, dated 19. 05. 2008 "On Electronic Communications in the Republic of Albania" amended;

2 Law no. 9121, dated 28.7.2003 "On Protection of Competition" amended;

traditional manner on basic physical infrastructure, but also it requires, among other new services and business models that are in step with the respective Regulatory oversight and consumer requirements.

In this new environment, regulators must find ways to adapt their rules to ensure fair competition, to stimulate investment and innovation, and to consider the protection of customer priority.

Two Institutions of the above cited, respectively, in their missions reflect the legal responsibilities and scope of their action field in the implementation of the relevant mission, so if AEPC has the mission: "As an independent regulator and precursor for the markets of telecommunications and postal looking to achieve a regulatory framework that promotes a favorable environment for investors and provides solutions, price and best quality for all users of telecommunications services and postal services in Albania", although with a little more specific field of action for the field of electronic communications, the Competition Authority has indicated in its mission as: "Independent institution which acts to ensure a free and effective competition in the market in compliance with the Law "On Protection of Competition" based on three main pillars that define the Competition: abuse of dominant position; Prohibited agreements in the form of cartels and mergers or concentrations of enterprises as well as the entire legal framework regulating the activity of an independent institution in the Republic of Albania. This institution conceives its function as promoter and advocate of competition and consumer interests, with the ultimate goal to generate growth market. "

Competition, fundamental and complex aspects of the market

History of the development of the electronic communications market in all its origins, has made it clear that the competition is a key element that performs and provides a functional combination of binomial request-offer. It's proven and it is abundantly clear that not only markets monopoly, but also markets, which are monitored by regulatory supervision of direct, often characterized by high prices, poor quality of service and development of innovation is incompatible with the requirements of the customer. Networks and service providers in terms of financial and security saturation for not losing the market, tend to be slow to develop new networks and services. In contrast, most competitive markets force networks and service providers to pay more attention to the customer needs, both in terms of price and in terms of quality and innovation in products / services in the market. Benefits of proper development of competition, and the pressure that brings such a development in the market, it has made it possible to clearly identify the transition from markets built on the basis of monopolies towards fully competitive markets trend, in which increases the opportunity for a variety of products / services and technologies on which facilitated and offered in the market. This means among other things the presence of multiple players in a market as potential bidders, instead of a single provider, to which so directly create opportunities for the benefit of consumers by reducing prices, improving the quality of service, as well as an advantageous introduction of new technologies and services. In other words, if the market is in terms of an effective competition or tend toward it, then this reduces the need for ex-ante regulatory intervention at every level of the supply chain products / services needed for the customer.

The features of the market economy, despite the "freedom" in which they appear, can not be identified clearly if the economy itself which they represent does not work built on a base of rules sanctioned by law and respective regulatory acts. Designed in such a frame of rules will pattern their behavior in the market and its actors, in terms of the development of competition with a complete set of features identified as: free, fair, efficient, dynamic, competitive, comparable with other analog economies, flexible in relation to consumer demand, etc, which together will constitute an efficient model of an economy in full competition.

European legislation and transposed to a high degree in many economies of countries outside the EU, has identified and considered as very important the necessity of defining the market and identifying its competitive features or not, and necessary steps to be followed to achieve efficiency and competitiveness regardless development stage in which it is identified. The dimensions of the market depend on a factors group that among other are associated the degree of development of industry and market weight of actors being considered, with technologies and quality of consumer demand which considered together define and model the elements of the offer will be launched. The competition aspect is supported by numerous debates academic and professional but their essence has to do with determining the precise position and principled separation between the state and the role of regulatory bodies with the economic freedom necessary for not obstructed breathing due to its development and to assign the role of cooperative and supportive of one another and

removing the maximum role of beneficiaries or negative impact on the exercise of state weight detrimental to the development of economic freedom and its efficiency in relation to consumer demand.

The process of interventions ex-ante and ex-post in the electronic communications market

The need for regulatory intervention ex-ante and ex-post, is determined by the stage of development of the market, the features of its competition, and each of the types of interference mentioned in the above are designed as a set of rules and procedures based on legal tools necessary which define the market power of entrepreneurs and their dominant position or not.

Economic –legal concepts for dominant power, abuse of dominant position, identification of potential market concentrations and types of concentrations and procedures for the control of concentrations, prohibited agreements in the market and their types, market monopoly, duopoly, oligopoly and cartels possible etc, market investigation procedures, the preliminary investigation, in-depth investigation, constitute the basic concepts that has defined in its outreach Law no. 9121, dated 28.7.2003 "On Protection of Competition" - changed.

The commonality of treatment made in the respective cited two laws under which act the Competition Authority and the regulator of the field on the "dominant power" essentially for entrepreneur/ entrepreneurs, who individually or jointly possess a position of economic power which enables a significant expansion, helps in the way of their behavior in a different and independent way from the other competitors, by different categories of users and consumers.

The concept of the relevant geographic market, which means a geographical area for the provision of the products / services that are provided by the entrepreneur / entrepreneurs in the fulfillment of the requirements for products / services in terms of competition which are homogeneous and distinguished from neighboring areas differentiated in conditions of competition between them.

The concept of the relevant market as a market made up of electronic communications services provided in the country or in some regions of his and other electronic communications services that greatly can replace that service, as well as the relevant product market / service: products or services that are interchangeable or substitutable in terms of their functional characteristics, their prices or their intended use in terms of competition or the structure of supply and demand. Identification of relevant markets, products / services offered in these markets done through the process of market analysis, a process which is based on principles such as, technological neutrality, transparency, non-discrimination and the principle of security and competitive environmental protection.

Based on the principles cited above, the process of market analysis carried out by the regulator with relevant professional structure which can make market analysis at its own initiative or at the request justified by market parties in order to identify the stage of the relevant market competition and the presence or not of entrepreneur/ entrepreneurs which may result in dominant position in the market analyzed. The process of market analysis has focused on the definition of the relevant market, analysis of the need for regulation in the relevant market, competitive level analysis of the relevant market, determination of entrepreneurs/ entrepreneurs with significant market power and determining the liability/liabilities imposed for entrepreneur/entrepreneurs identified with significant market power.

The process of market analysis and relevant legislation creates opportunities for collection and recording of any information needed by entrepreneurs in the market, and can use the results of (customers) public surveys, studies and international comparison carried out by third parties for markets analog, can prepare questionnaires and to publish these documents, which should be accessible to interested parties. Identifying the need for regulation in the relevant market or the need for ex-ante intervention, which comes after an analysis of the phase in which the development of competition in the market analyzed has considered and is obliged to prove the fulfillment of the three main criteria as: the existence of high barriers and non-transitory entry ; if there is a market structure which does not attempt towards effective competition within the relevant time horizon and try the paucity of competition law which only does not avoid in fully way respective market/markets failure. In the analysis to identify the level of competition and the assessment of the status of entrepreneurs / entrepreneurs, who are actors in the market that is analyzed on their position in this market, based on the data analyzed performed the market assessment of the relevant part of the respective entrepreneurs analyzed in detail the characteristic

features of the relevant market compared with data such as income, number of users, the volume of traffic that they develop, transmission capacity etc.

Such market its characteristics for entrepreneurs/entrepreneurs among others evaluated over the control infrastructure factors, over the technological advantages or individual superiority in relation to other competitors in the market, facilities for privileged access to the capital market and financial resources as well as countervailing power of purchasers. Considering the advantages of entrepreneur/entrepreneurs on their opportunities for diversification of products/services as well as their weight and influencing factors stemming from economies of scale or advantages that have for development of network sales or supply chain.

Ex-ante regulation often takes the form of sector specific regulation, based on clear rules in advance, while ex-post regulation aims to stop behavior that is shown to be detrimental to the development of competition and takes enforcement options, including fines, orders, or stop harmful behaviors identified. Adjusting ex-ante and ex-post have differences between them since ex-ante interventions considered as interfering with the fastest effect of market regulation with preventive nature after tests conducted have an objective of a prediction for a short term on the main development trends of competition while interventions ex-post or ex-post adjustments, essentially have their retroactive nature since it comes as a result after identifying effect and their effect is different from ex ante intervention. But the combination of these two interventions maximizes the conditions for the development of competition, intending it to be effective and complete.

Conclusions:

Ex-ante regulation is selected as fast and direct way by regulators of the field which has been effective turning nature monopoly markets such as telecommunications markets only two decades ago towards establishing effective market competition.

Ex-post adjustment realized through the competition law has served and serves inability to meet the regulatory action in order to direct field and to recover the possible consequences between the parties on the market on cases of distortion of competition and the factors that help its achievement.

Legal and regulatory acts should be far-sighted, to be flexible and neutral to allow the introduction of new technologies and new services in the market of electronic communications in order to develop the market and increased consumer demand.

Laws and regulatory acts to promote competition serve as an important catalyst in the field of electronic communications. The elimination of barriers in this area related to the dimensions of the market in terms of the number of players in the market, or as otherwise known to the competition barriers of licensing providers despite increasing opportunities for fair and effective competition which ultimately will be reflected in mature markets, remains of particular importance, continuously monitoring aspect of such markets and regulatory pressure for possible intervention in cases of fading that right effective competition.

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Explanatory note Accompanying document to the Commission Recommendation on Relevant Product and Service Markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services

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Direct Participation of Citizen in Democratic Decision Making at the Local Level

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Abstract

The Essence every proper democracy is characterized by the level of participation of citizens in decision-making for different local issues and affairs. The right of direct participation of citizens in decision-making on local issues proclaimed even by the norms prescribed by domestic legal frame (countries apart) but also internationally, which determine in an almost standardize form the participation of citizens in decision-making such as civic initiatives, gatherings of citizens, referendum, public audience, polls, surveys, petitions etc. Through these forms of participation citizens are directly involved in making decisions about local affairs and issues related to the life and the common interests of the local level. Therefore, people with their participation can influence in decision-making in various fields, such as, in the area of decision-making for local policies dealing with legal acts (regulations and other local acts), plans and programs, as well as concrete development projects at the local level. The object of this paper deals with the most common forms of citizen's participation in decision making at the local level which are illustrated with some concrete examples on how is regulated by legal norms and practically implemented in some countries with developed democracies: the USA, Great Britain, Switzerland and the countries of Central and Southeastern Europe such as Estonia, Hungary, Kosovo.

Keywords: citizen, participation, establishment, law, local self-government, referendum.

Introduction

The first level where the democracy begins and testes is exactly the local government, precisely the first level of local government. Local government is the first gate where the citizen has the chance to be active in local government unit and get the necessary experience to participate in higher levels and develop the democratic and political culture.

In order to achieve this, the citizen shall be provided these three basic conditions:

1. If the citizen is guaranteed the legal framework of the right to participate in decision-making on local character;
2. If the local authorities have the political will to implement the legal framework and
3. If there is awareness and readiness of the citizen for using his rights to affect local decision - making.

The right on local self-government or its participation whether direct or indirect citizens in deciding on public affairs of common interest it is provided not only by national legislation (Constitution¹, law, statute) but also by the European Charter on local self-government², which defines local self-government as a group of local institutions that have the right but also the obligation that certain citizens of the local community to enable, directly or through their representatives, to govern certain public affairs relatively in independent manner, in their own responsibility and for their own interests. The participatory approach of policymaking and lawmaking at EU and Member States also is rooted in the Lisbon Treaty³. More specifically, Article 10 provides that "every citizen has the right to 'participation in the democratic life of EU; decisions will be taken in the most transparent and as close to the citizen ".

1 The Constitution of the Republic of Kosovo, Pristina, 2008 Section, 2,123,124.

2 European Charter of Local Self-Government, adopted by the Council of Europe in 1985, Strasbourg

3 The consolidated version of the Treaty on European Union; [http // eur-lex.europa.eu](http://eur-lex.europa.eu)

2. The forms of direct participation of citizens in the democratic decisions

Every proper democratic system of local self-government to perform its functions and to meet the set out democratic principles is obliged to incorporate forms of direct participation of citizens in the decision-making process on local importance issues. Since citizens have no legal forum to decide on various issues, the possibility of their involvement in the process of establishing democratic forms and their participation in almost all systems of local self-government is regulated by the provisions of constitution, law and statute local self-government unit.

Since the regulation of local self-government system varies from one country to another, the framework of forms for democratic participation of citizens is changing, not only by their volume, but also the manner of organization, depends as required by legal regulations.

The most characteristic and frequent forms of participation of citizens in the process of direct democracy, which enable the participation in local affairs, to decide in the unit of local self-government, especially in the matters of meeting the daily needs are: public polls (surveys), civic initiative, public audience, gatherings of citizens referendum and also other forms, such as petition and complaint.

2.1. Public Polls (surveys)

To decide on local issues there are several public opinion surveys organized on specific issues. Through these surveys for a certain issue, citizens are asked directly. Citizens' opinions can be expressed instantly, orally or in writing, for specific issues. This form of citizen participation in the process of decision is made in order to gather the opinions of citizens, ordinary or representative category, to clarify any political event, economic issues or other matters of general interest. For example, public opinion is required for the initiative, adoption, amendment or cancellation of a legal act of the municipal council or executive body of the municipality.

Usually, public opinion polls are organized via public media (newspapers, radio, television, electronic portals, but not ruled out other forms, such as specialized companies dealing with this activity.

The survey of public opinion as a form of citizen participation in the decision making process on local issues, practiced in almost all the countries with a developed democracy. Thus, for example, in Estonia this form is justified as: "To decide on local issues can be public opinion polls or a referendum. At least 1% of citizens of the local unit, but not more than 5% of its inhabitants, can vote, have the right of initiative for the approval, modification or cancelation of a legal act of the Council, or executive local government¹. "It is common practice that the results of the survey are published, or presented in written (the report) to the relevant authority for the thoughts and decisions arising from the implementation of specific survey.

2.2. Civic Initiative (people)

Civic Initiative (people), as a democratic institution, is old and known since ancient Greece, as *vox populi* - as the voice of the people as a form of democratic expression. Even though the range of involvement of the scope of functions and duties of local governments is large, for some cases with interest, bodies of this level of government cannot, or do not need to solve at certain moments, in cases when they are not in their competence, they are not included in the work plan, annual budget, or activity program, then these bodies pursue alternative way, for certain issues want to listen the voice of the people, which is their desire and determination of the matter.

The difference to the survey, which comes and reflects by the certain body of the relevant local government unit (the Council or the Executive Body), the initiative comes from the citizens, as a form of democratic expression. Initiative should be

¹ Local governments in Central and Eastern Europe and in the community of independent states. Anthology of the Institute for Local Self-Government and public services, Budapest, 1994, p 83

understood, primarily, as interest, which is a reflection and an opposite direction from the definition of local government; its purpose is to meet or conduct public affairs in the interest of the local population. People initiatives often can not be limited to local boundaries, because sometimes it exceeds these limits. This primarily depends on the purpose of the request submitted and the level of its completion.

Civic initiatives as a form of democratic expression is known almost in all democratic countries, but it is more expressed in the USA, often known as a petition. Thus, "a group of people formulate a joint proposal, which convey a significant number of signatures also other people and address the representative body to decide on the proposal"¹. Through this form, which in Anglo-Saxon countries, in particular in the USA, citizens regulate issues of local concern mainly in the cities, where the local administration (government) doesn't pay any special importance to certain issues, which remain to be initiated by the citizens.

People initiatives as a form of democratic expression and opportunity to achieve certain goals of citizens interest, among countries with developed democratic system, is practiced in all countries of Eastern Europe that passed the transition. This form of citizen participation is already a legal category as well, e.g. In Hungary, the people initiative is provided by the special provision, under which: "It is possible that people initiative to be submitted to the Council related to any matter of the scope of its authority. The electorate 5-10% of voters may file the people initiative to the mayor. It is his obligation to discuss and decide on the people initiative at his closest meeting"². Even with the Law on Local Self-Government in Kosovo, the Citizens' Initiative is regulated by the Article 70. which allows citizens to take initiatives for local issues, but must be signed by 15% of the registered electorate in the certain municipality.

2.3. Public Audience

Public audience, as a new form of democratic expression, is mainly related to the corresponding activity and the way of solutions to numerous problems that concern citizens locally. It is the practice in almost all local governance systems; local government authorities (in most of the cases mayors) organize public audiences, where citizens and representatives of local organizations can ask questions and have proposals on issues of public interest.

This is a form of expression, where citizens can directly engage in the nomination process, but also the determination of the public interest issues. Thus, the public audience now cannot be understood only as a matter of politeness and courtesy, which at some time characterized spiritual leaders, or leaders. Public audience, as a democratic institution, has taken the form of a mandatory legal provision at the local level, not only in countries with developed democracy but also in other countries that successfully passed the democratic transition. Thus, by the law on municipalities in Hungary, there is a provision with special regard which regulates the form of organization and holding the public audiences. With this provision, "The Council, after being notified in advance, invites citizens in public audiences to local officials-mayor, which are mandatory required to be held once a year."³

Even with the Law on Local Self Government of Kosovo, the issue of public audience is regulated by Article 68 where the mayor is obliged twice a year to organize public meetings with citizens⁴, where they will be informed about projects and achievements and hearing the concerns and proposals of citizens on local issues.

2.4. Assemblies of citizens

The institution of the direct participation of citizens in the process of determination, is known since Ancient Greece (assemblies of polis), but as the most expressed form is still practiced in the Great Britain as "Town Assembly" which usually takes part once or twice a year in the parishes, which count under 300 residents, and do not have a chosen representative body (designated elders)⁵. In these assemblies, the citizens except making decisions on numerous issues, they also elect the chairman of the parish, which is usually the executive body.

1 Same there

2 Same there . pg. 98

33 Same there. pg. 100

4 Law on Local Self-Government in Republic of Kosovo, 2008. Article 70

5 Vojislav Simovic, Municipal system and municipal politics, Prishtina, 1972, pg.86

Meanwhile, in the USA, the institution is known as "town meeting" This is in fact a special annual assembly of qualified electors. These electors gathered in the meeting, constitute the elected "legislator" body. The assembly approves basic decisions on the "politics" of the city, electing local officials, confirms the budget, approves the amount of fees, approves decisions on referendums etc.¹

It is worth to underline that the decisions in the citizen's assembly are approved by majority in public form.

It is a practice that the forms of citizen's assemblies are regularly used for public discussion on the occasion of proposed projects and plans, as well as systemic ones, as well as development plans at the local level and beyond. This form of citizen participation in the decision-making process is the most common form practiced as a democratic form of direct self-government at the local level.

2.4. Referendum

The referendum is the most preferred among democratic forms where citizens directly decide important issues and specific problems of a self-government unit. The referendum is public, with the participation of all citizens which enjoy the right of vote. The rules of the referendum shall be determined by law², depending on the issues raised and which have to be approved directly by citizens, members of an organization etc.

Legal and constitutional theory recognizes three forms of the referendum such as:

- State -Referendum
- Local -Referendum
- Consultative - optional Referendum

As for the matter of the issue to be decided by referendum we can distinguish: the constitutional referendum (approval of the constitution), the law referendum (approval of the law), local referendum - direct placement for any act or decision within the self-governing unit, or adoption of any document or act of an enterprise or organization (political, trade unions etc.) - institution, optional and consultative referendum.

Initiative and the decision on the referendum is taken by the competent authority for approval of the decision to go for the referendum (mostly Parliament), or by the request of citizens (a right that is recognized to a certain number), depending on how it is foreseen by the constitution or law.

Through the referendum, citizens by secret vote shall be determined **pro** or **contra** the preliminary submitted proposal. The decision taken by referendum is obligatory for the organ, which has declared the referendum. The question is what pushes representative bodies, or even its own citizens to undertake an initiative of organizing a referendum? The motives can be different and diverse. In this case we will mention three as the most common: **first**, if an issue cannot be resolved in regular procedure (e.g. In the municipal councils-City), but the question remains open (contest open). This contest is followed in arbitration solution to all citizens of certain territory, then through a referendum; **Secondly**, if an issue is too important for local government and with the risk of failure of the decision by the representative organ, then this issue is forwarded for the referendum and **thirdly**, the motive may be of political nature which is more often when resolving any vital but also sensitive issues (national aspect, religious, gender, etc.) to certain citizens of the local unit, or even wider. Also, the results of the referendum are often exploited and use as political guidelines for the serving leader to make decisions of a political nature, for example the announcement of early elections.

With the referendum can be raised all the issues with economic character, legal and political, and the final decision is whether the majority voted "pro" the proposal, actually over 50% of the total number of citizens eligible to vote in the referendum. It is the practice of many countries that by law is foreseen a series cases, where a referendum may be required. Regarding the organization and holding of referendums, especially for local issues, Switzerland and the Scandinavian countries are more well-known in this matter.

¹ Same there. pg.87

² In Referendum is decided by the absolute majority of voters who have been in a referendum, provided that in referendum has participated majority of the voters registered in the local government unit.

2.5. Other forms of participation of citizens

Through the forms of direct determination and declaration, the citizens can participate in local self-government through signature of lists for candidates (independent) of citizens in local elections, petitions, proposals and complaints. These forms of participation or declaration of citizens are regulated by law or other acts of local self-government units (statute, regulation).

The lists of candidates (independent) of citizens for local elections - is a more frequent form and in increasing trend of participation of citizens or groups of citizens to participate in local elections for representative bodies or candidates for the Executive Body (head union-mayor), in local self-government systems, which is elected by direct elections. Through this form of participation and determining the election of their candidates, rather than political parties, citizens are justified by the fact that their candidates represent their interest better towards local authority than candidates who hold the guise of a political party, which represents in these bodies, where on their decisions, quite often they have justification conform their political entity status.

Petition- is a form of reaction or "protest in writing" through which citizens ask the competent authority to take necessary measures in order to solve the problem determined at the local level. The petition is usually filed-arranged by a certain group of people, which organizes the activity of collecting signatures for it. The procedure of filing a petition is provided by law or the statute of self-government unit. The law also defines the time limits within the petition is organized and the body who is obliged to take the decision and give the response to the applicants of the petition.

Complained- is an individual or collective action where a citizen or group of citizens can complain about providing or not providing proper quality of public services. Every citizen has the right to complain to the competent authority at the local government unit. The procedure of filing complaint is regulated by law or municipal normative act. After filing the complaint, the body to which the complaint is filed is obliged to examine and decide (within 30 days) and return the answer to the complainant or group of complainants about its decision on the issue that was the subject of complaint

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Labour Law of E.U. About the Free Circulation: A Comment on Recent Discussion According to Most Relevant Pronunciations of Justice Court

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Abstract

Today, into Shengen's area, some of the european countries -among which the Austrian Republic- because of illegal immigration and because of the terrorist attacks too, decide for the temporary national frontier closing: directly between the same countries that build up the European Union. If it happens, in this period, it would mean also the unavoidable restriction of the working rights among the european citizens. But what did represent and does represent the freedom of circulation among the workers in the law Community system? Naturally there will be a law discussion about: in this occasion we try to give an answer to this question, according to the right, but - above all- let's try to bring back the discussion on a line of law correctness, according to the recent decisions of the European Court of Justice that set limits to the topic.

Keywords: Labour Law of E.U., Free Circulation, Justice Court

1. Il principio di libera circolazione delle persone

Nel diritto comunitario, com'è noto, le normative che regolano la circolazione delle persone all'interno del territorio dell'Unione Europea costituiscono uno dei capitoli più rilevanti e significativi.

La libera circolazione dei cittadini della U.E. ha una sua propria caratterizzazione, prettamente economica, che tuttavia pare essere funzionale soprattutto al raggiungimento degli obiettivi europei in materia di politica sociale. Invero il diritto alla libera circolazione (dei lavoratori) è finalizzato alla costituzione di un unico mercato del lavoro su scala europea: per tale motivo a tutte le persone che lavorano all'interno dell'Unione, proprio in quanto soggetti economici, deve essere assicurata la piena libertà di spostamento tra i vari Stati-membro che costituiscono la Comunità: siano essi lavoratori subordinati, lavoratori autonomi o persone giuridiche (1).

In particolare, sul punto, si è osservato che la libertà dei lavoratori ha implicato la abolizione di qualsivoglia forma di discriminazione *ab origine* basata sulla nazionalità delle persone, con riguardo al diritto di ingresso nel territorio comunitario, all'accesso al lavoro, alle condizioni, al soggiorno ed al diritto di mantenervi la propria residenza (2).

Per l'effetto, quindi, l'esigenza di favorire la mobilità intra-comunitaria dei lavoratori ha superato i criteri (obsoleti) basati sulla nazionalità, interni ai singoli Stati-membro: non a caso si sono succedute nel tempo una serie di norme di attuazione, a partire dal 1961, e la stessa Corte di Giustizia ha avuto modo di pronunciarsi più volte sull'argomento. (3)

Nel campo di applicazione delle normative sulla libertà di circolazione rientrano anche i componenti della famiglia del lavoratore (il coniuge e i discendenti che siano minori di anni ventuno): tuttavia c'è da dire che il diritto di soggiorno dei familiari non costituisce un diritto autonomo, bensì è naturalmente collegato alla circostanza che il lavoratore abbia già esercitato il suo proprio diritto di libera circolazione e che disponga di un alloggio. (4)

In patica l'esistenza di un mercato del lavoro comunitario permette che lavoratori e datori di lavoro possano scambiare in piena libertà le domande e le offerte di impiego, dando esecuzione ai contratti di lavoro conclusi. (5)

Quanto ai contenuti del diritto medesimo, esso si estrinseca innanzitutto nella parità di accesso ai posti di lavoro disponibili in ciascuno dei Paesi-membro della UE, ed è identificabile nella garanzia della parità di trattamento nell'accesso all'impiego tra lavoratori nazionali e lavoratori che provengono da altri stati comunitari. (6)

In buona sostanza la garanzia di parità di trattamento trova fondamento nella impossibilità di far dipendere la assunzione del lavoratore a criteri discriminatori in ragione della sua nazionalità. (7)

In effetti il divieto di discriminazione, *a contrario*, rappresenta un autentico limite giuridico sia per i comportamenti dei poteri pubblici, sia per la autonomia dei privati: sicchè le clausole discriminatorie che siano contenute in norme, o contratti (individuali e/o collettivi), sono da considerarsi radicalmente nulle. (8)

Ovviamente la libera circolazione può essere parzialmente limitata dalla (legittima) richiesta di attestati di qualificazione professionale, poichè le regole per il rilascio di tali attestazioni risultano ancora essere diverse nei vari Stati-membro, in prevalenza per ciò che riguarda i lavoratori autonomi. (9)

2. La libera circolazione dei lavoratori

Sempre in ordine al contenuto del diritto in esame e sulla base del diritto alla libertà di circolazione di chi lavora, il principio di parità di trattamento del lavoratore costituisce, evidentemente, una parte integrante del diritto di libera circolazione: trattasi di una garanzia di carattere generale – la quale inerisce alle condizioni di lavoro e che deve trovare puntuale applicazione in relazione a tutta la materia lavoristica – su cui, peraltro, si è più volte soffermata la Corte di Giustizia. (10)

Il principio di parità gode comunque di un'ampia valenza protettiva: non a caso tale garanzia è funzionale sia alla integrazione dei lavoratori migranti che alla tutela degli stessi cittadini del paese di accoglienza. (11)

Ciò detto, si osserva quanto segue: il principio di libera circolazione non può che implicare il diritto a spostarsi liberamente nel territorio degli stati-membro e, quindi, il diritto del lavoratore a lasciare il proprio territorio nazionale, onde accedere ad una attività lavorativa in un altro paese comunitario. Quanto alle formalità, esso sarà applicabile semplicemente con la presentazione di un documento di identità, senza il rilascio di alcun visto di uscita: detta facoltà coincide con il diritto di ingresso del lavoratore migrante in ognuno dei paesi della UE, che non è condizionabile da alcuna forma di visto di ingresso. (12)

Altresì, la libertà di circolazione del lavoratore si concretizza nel diritto di soggiornare senza il rilascio di alcun permesso costitutivo del diritto. (13) Accanto a tale diritto esiste la ulteriore facoltà, esercitabile dopo la cessazione dell'attività lavorativa, di continuare a risiedere sul territorio dello stato ove è stata esercitata l'attività lavorativa, sempre ricorrendo determinate condizioni di durata del lavoro. (14)

Infine, quanto alle residue limitazioni legali che sono, ad oggi, ancora poste alla libertà di circolazione dei lavoratori, giova ricordare che sussistono ancora due limiti: un primo, di carattere meramente residuale, che riguarda l'accesso dei lavoratori extra-nazionali all'impiego pubblico nelle amministrazioni dei singoli stati-membro (limite che, occorre dire, si va riducendo sempre più, sia grazie alle direttive di coordinamento in materia, sia alla luce delle numerose pronunce della Corte).

Ovviamente sussiste anche un altro -ed ulteriore- limite: il quale concerne, invece, le ragioni di ordine pubblico, di pubblica sicurezza, ovvero di sanità pubblica, su cui conviene soffermarsi alla fine del presente articolo.

Dunque è facile notare che, quanto all'oggetto del divieto, esso non può che riguardare i singoli provvedimenti, adottati in casi eccezionali da uno (o più) stati-membro, relativamente al limite di ingresso sul territorio nazionale, o alla espulsione di soggetti dal territorio medesimo (16).

Ovviamente non possono sussistere mere ragioni di carattere economico, ma solo motivazioni gravi che riguardino minacce all'ordine pubblico, alla sicurezza, o per la sanità e l'igiene: anzi, a tal proposito, l'Unione sta cercando di armonizzare i vari criteri nazionali, ancora oggi non uniformi, pur restando fermo – in capo alle competenti autorità nazionali – un certo potere discrezionale, con riferimento, in particolare, alla procedura di espulsione. (17)

3. La libera circolazione di servizi

A completamento della materia che ci occupa, si deve sottolineare che il Trattato sul funzionamento della Unione, nell'evidente intento di assicurare la piena mobilità dei fattori produttivi in senso ampio, con gli articoli 56-62 TCE prevede, inoltre, la libera prestazione e circolazione dei servizi: questa costituisce, in un certo senso, il pieno completamento del diritto alla libera circolazione dei lavoratori.

In effetti per "servizi" devono intendersi, secondo l'art. 57 TFUE, «le prestazioni fornite normalmente dietro retribuzione, in quanto non siano regolate dalle disposizioni relative alla libera circolazione delle merci, dei capitali e delle persone». Tali prestazioni comprendono attività di carattere industriale, commerciale, artigiane e, infine, le libere professioni. (18)

L'art. 56 TFUE, rispetto all'esercizio dei servizi, peraltro, prevede il divieto di restrizioni nei confronti dei cittadini degli Stati membri stabiliti in un paese della Unione che non sia quello del destinatario della prestazione.

In secondo luogo, con l'art. 57 paragr. 2 TFUE, è previsto che per il prestatore (il quale, a titolo temporaneo, eserciti la propria attività in un paese diverso da quello di origine) il pieno diritto di esercitare la propria attività «alle stesse condizioni imposte da tale Stato ai propri cittadini». (20)

La libera prestazione dei servizi non può che comporsi - analogamente alla libera circolazione dei lavoratori subordinati e al diritto di stabilimento - sia del diritto di accesso all'attività che del diritto al trattamento nazionale: ma, mentre il primo diritto presuppone l'esercizio continuo e permanente di un'attività in un altro Stato membro, la libera prestazione dei servizi riguarda anche un esercizio solo temporaneo e occasionale di un'attività non salariata (all'interno di ognuno degli Stati-membro).

Come per il diritto al libero stabilimento, anche nella libera prestazione dei servizi sono in primo luogo vietate le discriminazioni "dirette", ossia quei casi in cui la normativa nazionale prevede espressamente un trattamento diverso e meno favorevole per i liberi prestatori rispetto a quello applicabile ai soggetti stabiliti (come nel caso della norma francese, che vietava ai soli medici stabiliti in altri Stati di visitare più di un paziente per un periodo complessivo di due giorni).

Naturalmente è fatto divieto anche delle discriminazioni "indirette" (dette anche "occulte"): ossia, per meglio dire, è vietata qualsiasi forma di discriminazione dissimulata che, sebbene basata su criteri in apparenza neutri, nella vita pratica vada a produrre lo stesso identico risultato discriminante.

Il principio è stato affermato, ad esempio con riferimento alla normativa italiana, in materia di concessione di lavori pubblici che, per quanto riguarda i subappalti, accordava la preferenza alle imprese che svolgevano la loro attività prevalentemente nel territorio della Regione interessata dai lavori (21).

Sono, infine, vietate le discriminazioni "materiali", cioè quelle che derivano dall'assimilazione della situazione del prestatore di servizi straniero a quella del prestatore nazionale rispetto a requisiti che risultano per il cittadino di uno Stato membro più difficili da acquisire (come nel caso delle normative professionali, in cui lo Stato, imponendo ai liberi prestatori la risposta a requisiti previsti dalla normativa nazionale, non tiene conto del fatto che tali soggetti sono già tenuti a rispettare i requisiti richiesti per l'esercizio dell'attività nello Stato di stabilimento) .

Si noti che, come già osservato in tema di diritto di stabilimento, mediante una giurisprudenza ormai consolidata la Corte ha assunto -nei confronti delle discriminazioni indirette o materiali alla libera prestazione dei servizi- un approccio diverso, che non si limita ad accertare l'esistenza di una discriminazione, quanto piuttosto verifica se sussiste un ostacolo alla libera circolazione dei servizi (22).

Sicché il principio del trattamento nazionale, che è stato sancito all'art. 57, terzo comma TFUE, non può e non deve essere inteso nel senso restrittivo della necessità della applicazione integrale della disciplina nazionale alle attività di carattere temporaneo, che siano esercitate da imprese stabilite in altri Stati: invero, piuttosto, la libera prestazione dei servizi, come del resto quella dei lavoratori -in quanto principio fondamentale sancito dal Trattato- potrà essere limitata sempre e solo da normative di carattere temporaneo che siano giustificate dal pubblico interesse e che siano rese obbligatorie per tutte le persone e le imprese che esercitano la propria attività sul territorio di tale Stato.

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Demographic Ageing of the Population in Bulgaria

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Abstract

Bulgaria is one of the most rapidly ageing countries in the world. The article examines the shift in the age structure of the population in Bulgaria in the period 1960-2014 as a result of the change in the main demographic factors – birth rate, death rate and external migration. The shift in some main measures of population ageing such as median age, dependency ratio and old age dependency ratio is presented and a comparison with some European countries is done. The results show that as a result of the decrease in birth rate, increased life expectancy and external migration, the age structure of the population of Bulgaria is changing and the proportion of the older people becomes higher while the proportion of the younger people decreases. The median age in Bulgaria is one of the highest and the dependency ratios are one of the lowest in Europe mainly due to the decrease in the birth rate.

Keywords: ageing, age structure, death rate, birth rate, migration

Introduction

In almost all countries worldwide the proportion of the people at age 65 and over is increasing. Ageing is related mainly with a change in the age structure as a result of the demographic transition – a process in which a transition from higher birth and death rates to lower birth and death rates occurs.

According to the United Nations Organization report “World Population Ageing: 1950-2050”, population ageing is: 1. unprecedented, without parallel in human history; 2. pervasive and is a global phenomenon affecting every person; 3. enduring and 4. population ageing has profound implications for many facets of human life (United Nations, 2002).

Bulgaria is one of the countries where considerable ageing of the population is observed. This process has gained strength in the last decades mainly due to the decrease in fertility, the increase in life expectancy as a result of the drop in mortality predominantly in child age and external migration.

In this article we examine the shift in the age structure of the population in Bulgaria in the period 1960-2014 as a result of the change in the main demographic factors. The shift in some main measures of population ageing like median and mean age, dependency ratio and old age dependency ratio is presented and a comparison with some European countries is done.

2. Research methods

To examine the shift in the age structure of the population in Bulgaria in the period 1960-2014 are used crude birth and death rates, life expectancy at birth and life expectancy at age 65. External migration is represented by data from the National Statistical Institute (NSI) in Bulgaria and the estimations of the net migration provided by the United Nations Population Division.

The change in the age structure by age is also presented by broad age groups, namely: population under working, working and working age and by age pyramids of the population. Calculated by the author are the main indicators of aging of the population - the median age, dependency ratio and the ratio of dependency in old age. The main indicators of population aging for comparison with other European countries have been calculated on the basis of EUROSTAT data.

3. Results and discussion

3. 1. Dynamics of the levels of population number, birth and death rates in the period 1960-2014

In order to better understand the reasons leading to population ageing in Bulgaria and more precisely to the shift in the age structure, it would be necessary to study the dynamics in the population number and the factors that have led to this shift in the period 1960 – 2014.

The dynamics in the population number in the period 1960-2014 is presented on figure 1. Figure 1 shows the gradual increase in the population of Bulgaria from 1960 to 1989, when the population grew from a little over 7. 8 million to almost 9 million. In the next 25 years though as a result of the changed socio-economic conditions in the country, the population started to decrease and in 2014 it reached levels that were lower than the ones at the beginning of the period – 7. 2 million.

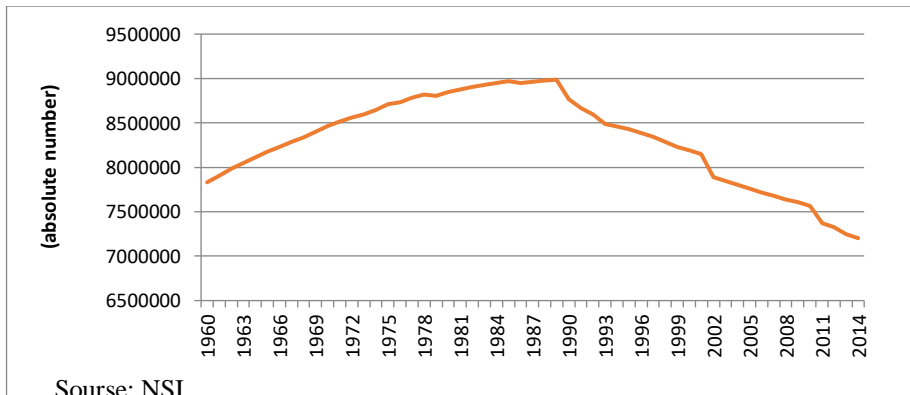


Fig. 1 Dynamics of the population number, the birth rates and the death rates in Bulgaria in the period 1960-2014

The shift in the number of the population is due to the changes in the birth rate, the death rate and the external migration.

The external migration in Bulgaria is one of the most important demographic factors having an impact both on the decrease of the population number and on ageing as it affects predominantly the younger people. The migration of the younger people on the one hand affects negatively the birth rate and the reproduction of the population and on the other hand aggravates the age structure of the population (M. Mourgova, 2016).

Data on external migration has become available since 2007 when Bulgaria joined the European Union and EUROSTAT started monitoring this data. Precise figures on the number of the individuals that have emigrated are not available. The reason for this is that the NSI reports only the individuals that have officially changed their place of residence. It does not take into account the individuals that permanently live abroad without changing their permanent address or in other words the total number of emigrants has significantly been underestimated. The data on people that have emigrated from the country in the period 2007-2014 is presented in Table 1:

Table 1. External migration in Bulgaria in the period 2007-2014

Years	2007	2008	2009	2010	2011	2012	2013	2014
External migration (absolute number)	2, 958	2, 112	19, 039	27, 708	9, 517	16, 615	19, 678	28, 727

Another source of data on migration is the estimations of net migration received from the United Nations Population Division for the period 1960 – 2011. These estimates are presented in Table 2:

Table 2. Estimates of net migration in Bulgaria in the period 1960 - 2010

Years	1950- 1955	1955- 1960	1960- 1965	1965- 1970	1970- 1975	1975- 1980	1980- 1985	1985- 1990	1990- 1995	1995- 2000	2000- 2005	2005- 2010
Net migration (in thousands)	- 118	- 43	- 1	- 6	- 43	- 95	- 22	- 184	- 356	- 107	- 83	- 83

Source: UN, Population Division: World Population Prospects: The 2012 Revision

The dynamics in the crude birth rate is presented on Fig. 2. At the beginning of the period the birth rate decreases. An increase is observed after the mid 60s and until the beginning of the 70s, when the birth rate increases as a result of the natalist policy pursued by the state during this period. After the mid 70s there is a significant drop in the birth rate and it reaches its lowest level in 1997. A slight increase in the crude birth rate can be observed after 1997 but the levels in the period between the mid 60s and the 70s were never reached again.

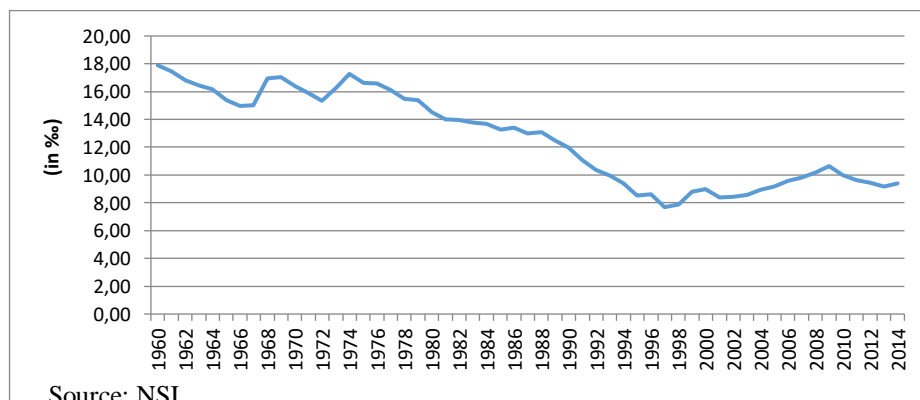


Fig. 2 Dynamics of the crude birth rate in the period 1960 – 2014

Another factor having an impact on the population number is the death rate. In the period 1960 – 2014 the crude death rate among the entire population of Bulgaria increased almost two times (Fig. 3).

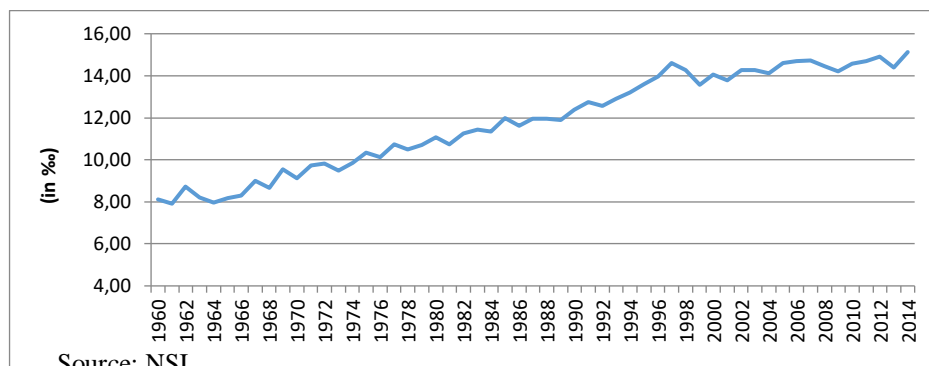


Fig. 3 Dynamics of the crude death rate in the period 1960-2014

The shift in the average life expectancy at birth could be used to measure the shift in the death rate for the entire population. From 1960 to 2014 as a result of the decrease in mortality, the life expectancy at birth increased from 69.3 years to 74.69 years or by 5.39 years (Fig. 4). While the increase by almost two years after 1960 until the 70s is maintained until the mid 90s, only for the last 20 years the average life expectancy at birth has increased approximately with four years.

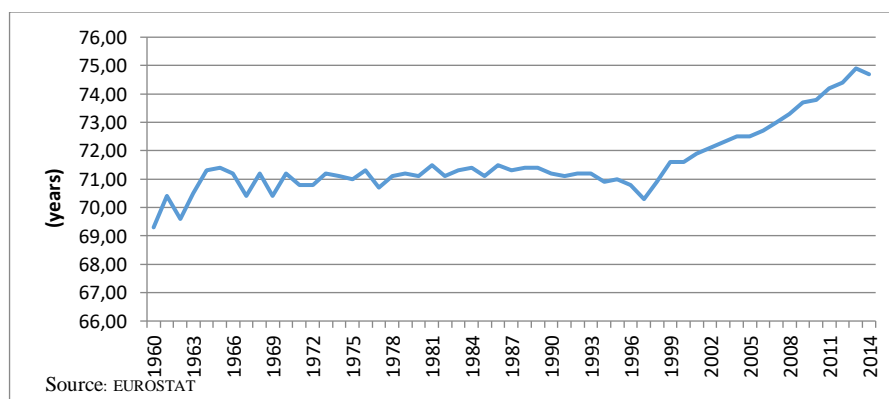


Fig. 4 Dynamics of the life expectancy at birth in Bulgaria in the period 1960 - 2014

In relation with ageing a better indicator is the life expectancy at the age of 65 (Fig. 5). In 1960 the life expectancy of the people at age 65 was almost 15 years and it marked a slight decrease in the next 35 years but preserved these levels until the mid 90s. After the profound decrease in 1997 the life expectancy of people aged 65 years increased by the end of the period and in 2014 it was about 16,05 years.

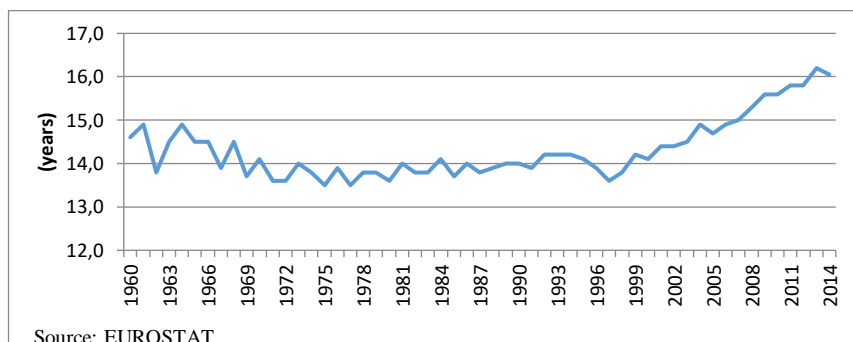


Fig. 5 Dynamics in the life expectancy at age of 65 in Bulgaria in the period 1960-2014

3. 2. Dynamics in the population by broad age groups

As a result of the shift in the birth rate, the death rate and under the influence of external migration, the population structure changes. There are changes also in the population structure with respect to the broad age groups and namely the below working age, the working age and the above working age population. On Fig. 6 is presented the dynamics of the proportion of these groups of the population. In the last 55 years the proportion of the working age population has marked almost no changes. Changes can be observed though in the proportion of the below working age population and the above working age population - from 1960 until 2014 the proportion of the above working age population has increased almost three times while the proportion of the below working age population has decreased two times as a result of the drop in the birth rate.

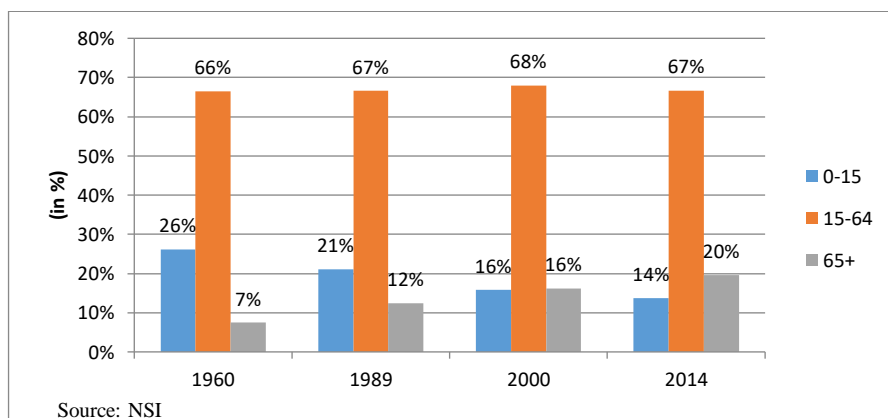


Fig. 6 Dynamics in the relative share of below working age population, working age population and above working age population (1960-2014).

3. 3. Main measures of population ageing

The main measures of population ageing are median age, dependency ratio and old age dependency ratio.

Median age is the age that divides a population into two numerically equal groups where half of the people are younger than this age and half are older. The median age in Bulgaria has increased significantly in the last 55 years as a result of the population ageing and from 30. 26 years it has risen by 12. 9 years - to 43. 16 years. For males this increase is from

29. 86 to 41. 20 years or an increase of 11. 34 years, while for women the increase is higher - from 30. 72 to 45. 26 years or an increase of 14. 54 years. The higher media age for women is due to the lower death rate in comparison with men.

The dependency ratio expresses the relationship between the broad age groups: the population aged 0 to 15 and aged 65 years and over and the population in the age group 15 to 64 for 100 persons.

Table 1. Main measures of population ageing

Measures	Men	Women	Total
Median age			
1960	29. 86	30. 72	30. 26
1989	34. 96	37. 15	36. 01
2000	37. 45	40. 75	39. 11
2014	41. 20	45. 26	43. 16
Dependency ratio (in %)			
1960	49. 95	51. 29	50. 62
1989	49. 01	51. 40	50. 21
2000	44. 74	49. 58	47. 18
2014	44. 53	55. 49	49. 96
Old age dependency ratio (in %)			
1960	9. 88	12. 55	11. 21
1989	16. 51	20. 77	18. 65
2000	20. 55	27. 00	23. 81
2014	23. 54	35. 25	29. 34

Source: EUROSTAT

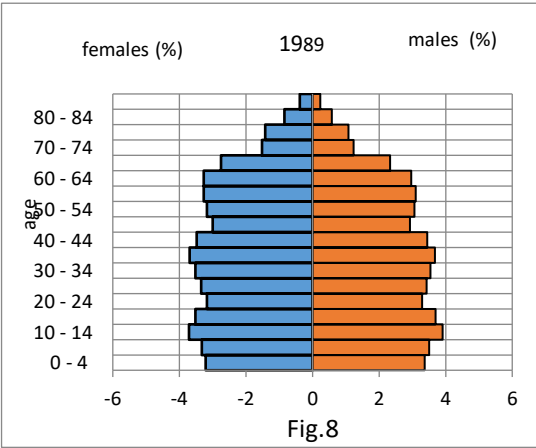
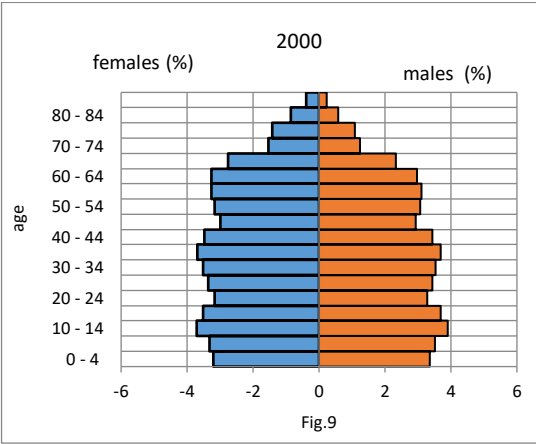
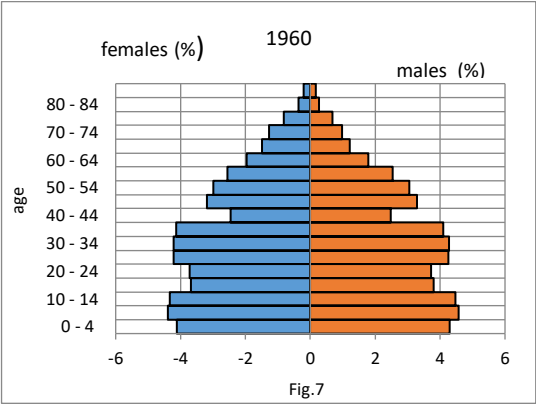
It measures the "dependency" of the youngest and the oldest population on the working age population. From 1960 to 2014 the dependency ratio has decreased by at least 1 %. The observed trends in the male and female groups are opposite to one another – while for men the dependency ratio decreases by 5. 42%, for women it increases by 4. 2%. The main reason for the decrease in the dependency ratio is the decreased birth rate and consequently the decreased share of children in the 0-15 age group as well as the external migration; the decrease in the dependency ratio for men in comparison with women is due to the higher death rate of the 65-plus age group.

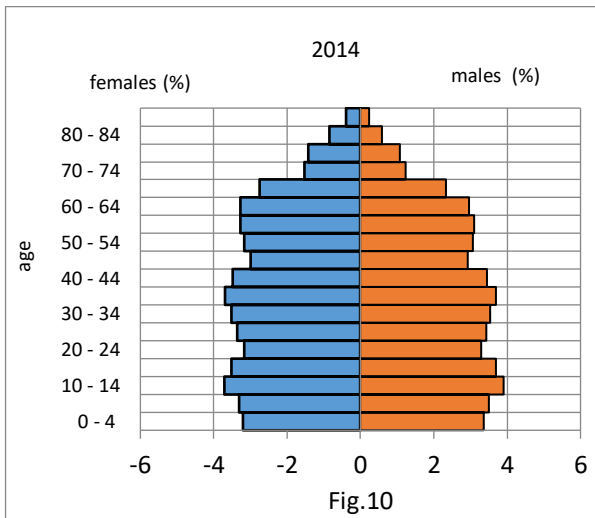
The old age dependency ratio expresses the relationship of the number of population at the aged 65 and over to the working age population. From 1960 to 2014 this ratio has increased more than two and a half times. An increase can be observed for males and females and it is higher for women in comparison to men due to the higher death rate in the male group.

3. 4. Population age pyramids¹

Population age pyramids are a graphical illustration that shows the age structure of the population by age and gender as well as the shifts in this structure in time. On figures 7, 8, 9 and 10 are presented the age pyramids for 1960, 1989, 2000 and 2014. Figure 7 shows the typical structure of the "young" population which is presented in the shape of a pyramid with a larger bottom and a narrowing top. Such age structure is typical of high birth rate and high death rate. The next three figures show the gradual shift in the age structure of the population in time. As a result of the changes in the death and birth rates leading to population ageing, the age pyramid also changes and its bottom becomes narrower and the middle of the pyramid, representing the middle ages or the working age, grows larger together with the top of the pyramid. This tendency can be clearly observed from 1989 to 2014. Figures 8, 9 and 10 also show the shift in the age structure by gender and the proportion of women aged 60 and over marks a considerable increase in comparison to men.

¹ The population age pyramids have been developed by the author





3. 5. Comparison between the median age, the dependency ratio and the old age dependency ratio in Bulgaria and in some other European countries

The median age in Bulgaria in 2014 is higher than the median age in the EU (table 2 and only the median age in Germany, Greece and Italy is higher). The other compared indicator – dependency ratio, is lower in Bulgaria in comparison with the average for the member states of the EU. With the exception of the Czech Republic, Poland, and Romania the rest of the EU member states have a higher dependency ratio. In contrast to the dependency ratio, the old age dependency ratio in Bulgaria is higher than the average for the EU. In the countries with markedly ageing population (Germany, Greece and Italy) this indicator is higher in comparison with Bulgaria.

Table 2. Median age, the dependency ratio and the old age dependency ratio in some European Union countries in 2014

Country	Median age	Dependency ratio	Old age dependency ratio
European Union	42. 14	51. 84	28. 15
Belgium	41. 19	52. 19	26. 10
Bulgaria	43. 16	49. 96	29. 34
Czech Republic	40. 88	47. 21	25. 02
Denmark	41. 27	53. 80	27. 13
Germany	45. 60	58. 21	30. 32
Greece	42. 94	53. 04	30. 44
Spain	41. 86	48. 65	25. 86
France	40. 79	56. 01	26. 75
Italy	44. 67	52. 99	31. 50
Hungary	41. 35	46. 23	25. 01
Poland	39. 22	42. 07	20. 60
Romania	40. 73	46. 60	23. 77
Great Britain	39. 92	52. 89	25. 71

Source: Eurostat

Conclusion

As a result of the decrease in birth rate, increased life expectancy and external migration, the age structure of the population of Bulgaria is changing and the proportion of the older people becomes higher while the proportion of the younger people decreases. Respectively, in the last 55 years, all main indicators of population ageing, like median age, dependency ratio and old age dependency ratio have increased. The comparison with the other European countries shows that Bulgaria has one of the highest median ages in Europe and one of the lowest dependency ratios which are mainly due to the decrease in the birth rate.

The demographic ageing of the population in the contemporary societies is an irreversible process. Its consequences have a considerable impact on different aspects of social, economical, political and personal life. The publication of the European Committee "Active ageing and solidarity between generations: A statistical portrait of the European Union 2012" points out that population ageing has an impact on labour and product markets, families and individuals and some of the main challenges that arise for society are:

- Pressure on pension and social security systems with a direct impact on the working age population;
- Possible labour market shortages as the number of working age persons decreases;
- Adjusting the economy and in particular workplaces to an ageing labour force;
- Potential conflict between generations over the distribution of public resources.

The increase in the number and life expectancy of older people leads to a demand for increasing the healthcare system budgets in order to meet adequately the changes that have occurred.

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Personal Data Protection and the Empowerment of Civil Liberty, Justice and Security: Universal Value of Globalization

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Abstract

Protection of personal data and the privacy, at the time of final approval of the New Regulation on the protection of personal data, for the subjects of personal data brings hope; however, it is to believe that "in a world with protected privacy." Despite the challenge of protection of personal data in the era of colossal development of communication technology, the Internet and the major inventions of smart portable mobile devices, some new legal provisions are put in the Regulation of the EC, EU and the Parliament, in the future strengthens the protection of personal data; Freedom, justice and security, as notions that are spread in our country Kosovo, are the constitutional and legal obligations to provide stability to the country. However, the institutional strengthening of the law in this regard, with compact action (interaction) between the competent authorities within the country, our region and the competent authorities of the segment of rights and freedoms, justice and security of the EU, the EC and the European Parliament will undoubtedly bring success in the overcoming of challenges, through which the personal protection of data is going through. Strengthening of the National Authorities of personal data protection and freedom of information, is, and remains, the main input of justice, freedoms and security, now as standard globalist values.

Keywords: Protection of personal data, human rights, civil liberties and security

Introduction

In the conception of thinking and in today's living, the circumstances have completely changed in every country of the globe. This is because the speed of the individual, speed of penetration of information and speed of movement of capital. These developments are much larger in quantity and quality, compared with the time before the computers are found in the seventies. Also "discovery of the airplane in 1903, the discovery of TV 1925, discovery of computers and the Internet from 1970 to 1980", taken from <http://old.zeri.info/artikulli/8836/disa-nga-zbulimet-me-te-medha-ne-bote> (December 24, 2015); are considered epochal discoveries to humanity. Those discoveries along with the phone discovery of 1860s, and mobile phones and internet in 2000s, taken from <https://sq.wikipedia.org/wiki/Telefoni> (December 24, 2015), has given a new opportunity to the humanity and new approaches of development

We freely conclude that; man of this century is under the complete digitized world and his behavior now resembles the world in which he lives. In everyday's life, in an effort to achieve high standards for the man of the (XXI) century, obviously, it is very interesting, so he can control the digitized technology in order to overcome the challenges of times which he lives in. This development for the individual, in terms of violation of privacy, has two sides: that of improving of the quality of life, in terms of reaching of a quickest way of profiting, and of capital development; and that of intervention on daily basis and violation of freedoms and rights of his private life.

But what does this mean? Is there a violation of human rights in this regard? Is it jeopardized the security of the individual and the collective one? Why is it important to protect citizens' personal data? Why are important rules and knowledge on the protection of personal data? In verse of many other questions, they are almost the most frequent questions that may arise in everyday life tonnes, to be overcome-d.

We will try in continuance of this work, somehow bring to the reader: new developments, challenges that must be overcome, in times already the new Rules for the Protection of Personal Data of EU is moving towards approval of its final and when in many countries on all continents have approved laws and new institutions that have begun the work of the management and supervision of the implementation of these laws.

Of course, from this view, at the end will come also the results, of an interest to all of us that can be satisfied by access of points of view other of various experts, but success will undoubtedly be our common goal of all of us the ruling of law, human rights and fundamental freedoms, protection of personal data and security in general. For the best times, we should work together in the field of data protection. Anyways, marking the International Privacy Day, 28th of January 2016, will mark the positive curves and the best day for the protection of personal data.

Methods

We oriented work of this thesis are used methods: Empirical, Analytical and Inductive

Challenges in the field of protection of personal data

Discoveries in the field of digital technology continue in unstoppable ways of filling of our markets. Functionalization of new computer equipments of different sizes to those of the pocket portable ones, with possible connection to the internet search of huge engine capacity, our world has become an integral part of all areas of work and of human life's. Therefore, the challenge for the protection of data is growing, so it requires our attention and preoccupation to set priority objectives in this area, at the international level. To understand how and how much we are endangered due to interference and possible misuse? In the following we give a brief overview of concerns in the data privacy and protection of personal data in various fields of life and work in different countries:

In an article posted on December 19, 2013, over 46 recommendations for changing the US surveillance practices of article "The White House publishes a report on interception", to bring release from Day newspaper; it is a clear harassment and preoccupation of the US, which says: "The Obama administration has said it is considering how to best use its ability to gather information in the national security interest of the United States, without unnecessarily encroaching on civil liberties and personal privacy." Taken from the: <http://www.gazetadita.al/shtepia-e-bardhe-publikon-raportin-mbi-pergjimet> (seen on 29.12.2015).

Meanwhile, the function of safety when we are all witnesses of the terrorist attacks in November 2015 in Paris, France, where the ISIS terrorists have killed 130 innocent civilians, protection of individual and collective and public property is and remains a main concern. But, namely personal data and their violation, was and is the main focus of the evildoers.

Working across in processing of their rights also legal rights, will narrow the possibility of misuse, by groups of individual hacking into personal information for terrorist purposes called as "Terrorist Cyber Crimes" ("Cyber terrorism").

In this regard for the first time we have seen the case, that by use of computer equipments the terrorist organizations were supported. So, in October 2015 has happened the arrest of Ardit Ferizi in Malaysia, a young man originally from Kosovo, due to abuse of cyber theft of personal data of US service members, most had that data transferred to a hacker in the Islamic State, where according to the Washington Post, as reported by Telegraph, this is the first time that US prosecutors have charged a suspected cyber terrorism in plains of hacker, taken from the <http://www.telegrafi.com/lajme/ardit-ferizi-personi-i-pare-qe-akuzohet-per-terrorizem-kibernetik-ne-shba-2-77775.html> (December 26, 2015)

Cyber attacks and various interventions in the official websites of banking systems have also become, almost, an everyday occurrence. Cyber attacks on the banking system are causing losses of hundreds of millions of euros. Improvement of digital bank services and their advance has made progress, where the services of hundreds - millions of clients are performed through mobile phones as so called the "online services". Therefore, this service at this time is greatly challenged and remains the target of cyber attacks, hackers and abusers of informational technology. Thus, according to the news, "Hurriyet Daily News" the newspaper Express, brings an information about the biweekly cyber attack, by a group of hackers which has culminated on December 24, 2015, causing serious problems in digital banking services of Turkey, resulting in the blocking of access to online banking services to some of the financial institutions with a large number of clients, taken

from *Follow @gazetaexpress* (December 26, 2015:18.00h). Digital banking services in Turkey reaches their transactions around 2 millions of Turkish lira, where 85 percent of them are made from mobile phone services.

According to the daily information and reports to the institutions of the rule of law, interference and infringements of privacy of banking system, we have in many different countries of the globe. In this regard do not stand any better neither countries within the EU and OECD.

Use of search engines in the so-called "the mine the data" is a global electronic market, where has globalized the world in this direction and there are no differences, on age, sex, social, nor such as education and science, racial, language or religion, regardless of geographic distance.

Above were superficially affected only two sectors, with specific examples, but the access to personal data is now possible, and done in different systems that are also very important as the health system, education, trade, manufacturing, media, public administration, political electoral systems, tourism, internet of things, marketing etc., to the use and receipt of personal data through the maritime traffic communications, terrestrial and aquatic (i.e. may be noted as a phenomenon of new use of drones for surveillance purposes other than study, research etc.).

By the way, forms of processing and types of personal data depend on the height of the possibility of jeopardizing their access to the outlawed in our records. But even to this day, it remains as a serious threat to the processing of personal data in social networks. In reference to the article "Russian Hackers steal half of data of the Internet users in the world", published on the official Deutsche Welle website in section, *Focus/ Science and Education*; It's states that: A group of hackers from Russia has stolen more than 1.2 billion records of various online profiles. According to the accounts, affected were half of Internet users in the world, taken out of <http://www.dw.de/hakerat-rusë-vjedhin-të-dhënat-e-gjysmës-së-përdoruesve-të-internetit>, page 1. (July 8, 2014, 18:00h).

As we see the man's life is put in danger, where through the computer virus can cause death of the patient, where his condition, or the condition after surgery is followed by the internet sites ". Or even by a computer virus, hackers can cause a car accident. This is evidenced by the researchers. Taken from the Deutsche Welle official site, <http://www.dw.de>, *Focus /Science and education* (July 8, 2014, page 3)

In processing of personal data, its collection, transfer, disposal and storing them; we know that we already have in continuous use automated technology, mobile technology (smart mobile equipment) servers / hardware device; combined with video surveillance equipment, laser remote control and search engines (Internet) and telecommunications; We understand that the challenge for the protection of personal data undoubtedly becomes one of the serious concerns in each country; ranging from our country (Kosovo), our region (the Balkans), the European continent and internationally.

Protection of Personal Data in Block of Justice, Freedom and Security

Subject of personal data in terms of the realization of its rights, when considers that they are violated or misused by controllers (institutions, associations of various organs) of public or private sector, in all the states of the EU already the justice system has legal frameworks that guarantees legal protection and supervision of its rights to personal data. Above all, with the filed legislations in all countries, institutions that oversee the implementation of the legislations.

Now there is an evidence's almost in every country, there are administrative measures against violators of law institutions. Even the justice system (courts) in Kosovo, the lawful processing of personal data, in 2015, the first has pronounced the administrative measures to KEDS (Power Distribution System in Kosovo); *AMDP- State Agency for Protection of Personal Data*, taken from [http // www.amdp-rks.net](http://www.amdp-rks.net) (December 31 2015,15.30h). Administrative measures, the justice system (courts) in the year of 2015 have decided also towards the other controllers, to the mobile phone operators, to ascertain as violators of personal data, during an unauthorized marketing, with the distributing of SMS-s, during the election campaign of political parties (held in 2014).

Even the European Court of Justice in respect of the European Convention on Human Rights, particularly in Article (8) guarantees privacy rights of the individual and other legislation relevant to the legal framework of the European Union and the EC, and has issued a significant number of decisions and opinions in favor of the complainants.

Development of major cyber technology and information's, has set in motion the need to develop other rights as constituents of legal rules, such as: Establishment of legal rules during the Internet use, the right to be forgotten, the establishment of legal rules during use of portals to different legal rules to various other websites. Otherwise, the rule of law through the justice system for citizens meant a relaxation and increase confidence in state institutions, on the one hand, while on the other hand exercise the powers and duties received institutions and society human, in welfare of citizens including, personal dignity and its privacy.

In an effort to concretize the universal principles of safety, we find different approaches, different concepts and principles that directly affect the collective local security, regional, continental and the global one. Even poverty, contagious diseases, financial stability, extreme nationalists, assimilating actions and repressive dictatorship, efforts of movements of the ethnic groups for liberation in different regions of the world, efforts for domination of various powers are considered as key factors of security in a country which in a form of a coil brings to the regional instability with the impact of even global security violation.

The advancement of human rights and freedoms implies a very broad range in many areas of life and work, in all categories of society, regardless of nationality, age and social group; rights which are guaranteed from birth of the individual, such as: employment, education, children's rights, political organization, syndicalism, religion, property rights, health care, free movement, the right to know, to the rights, such as those for further information, the right to transparency, access to public documents, the protection of privacy, etc., which together give a value to the value system of democracy. These rights are in progress, every day, on the basis of technological development, to meet the obligations arising from the principal documents on the universal rights of human freedoms.

The expansion of the legal framework in this regard is a requirement of the time. Humanity globally goes with the secured steps towards the modern theory of a otherwise so called "Globalization". By the fact of the efforts of all nations for the unique platforms: the protection of privacy, the right to information, cyber security, the security of citizens, etc., these are the unifying aspirations to freely give us the right of a conclusion that; We are dealing with the development of the general welfare of citizens and are of unique "global" value of modern society in the era of the Internet.

Justice, security and human rights in Kosovo have a special connotation in regards to the fact that within the Kosovo Progress Report in 2012-2015, for visa liberalization, drafted by the European Commission, Protection of personal data has been placed in block of "Justice, Liberty and Security" of the required standards, to be met, and that institution for the protection of personal data has always shown responsibility and has reflected positively in the fulfillment of all recommendations in this area.

Justice, security and the rights and freedoms in the world today are universal values that give credibility, cultural progress, economic development, peace and stability, confidence in the institutions of justice and in general; are the values of the modern world in the New World Order, in terms of the development of the free global market.

At the international level, the main attribute of generating these legal values, obviously belongs to the West, respectively to the European institutions: the European Council, European Commission and European Parliament.

January 28th 1981, is the day of the approval of the 108 Convent, *EC- European Council, Strasbourg, (Convent 108:28 january 1981)*. This day of adoption of this Convention, originally was celebrated as a day of European privacy, but now has received the title of the International Day of privacy, which manifests marking of the first Convention in a global level, approved for the protection of personal data during the automatic processing of data.

Marking of this day now is remembered by the messages already in the institutions of international significance, which is not specifically linked with professional competence, but undoubtedly touches the actual signal to the global challenges for humans. At the World Economic Forum in Davos on 27 January 2012, the Vice-President of the European Commission; Viviane Reding and Secretary General of the European Council, Thorbjørn Jagland in their speech, among others had declared "Communication on the Internet should work hand to hand, with the protection of privacy on the Internet. The protection of personal data is a fundamental right. Technology of Information offers enormous economic and social potential, which will be fully realized if citizens trust that their personal data on the Internet are protected. "WEF - World Economic Forum, taken from

http://europa.eu/rapid/press-release_MEMO-12-50_en.htm Data Protection Day: safeguarding privacy rights, (January 22nd, 2016, 18:30h)

Advancements in the field of protection of personal data in the EU

Compared with other countries in the overall international level, in terms of specific regulatory aspects, observation is freely standing; that Europe is a leader in the field of protection of personal data. In support of the Universal Declaration of Human Rights, initially in Europe will enter into force the European Convention of Human Rights and Fundamental Freedoms (1953), which for the signatory state members specifically requires, an acceptance of the obligations with the constitutional and legal frameworks, to clearly specify rights and freedoms, thus clearly guaranteeing the right to respect the private life, housing and privacy of correspondence during communication's (Article 8) ECHR (KEDLNJ) - European Convention of Human Rights and Freedoms, *approved in Rome, (November 4th, 1950)*.

While several decades later such obligations we will also see in the International Covenant on Civil and Political Rights of the United Nations (approved in 1966 entered into power in 1976), Gruda, Z. (2013), *THE INTERNATIONAL PUBLIC RIGHT, Pristine*, p. 426. Later such advancement where the human dignity and protection of his privacy will also be seen in the American Convention on Human Rights: "Pact of San José", - November 22nd, 1969, Gruda, Z. (2001). *International Protection of Human Rights, Documents II, University of Prishtina, Pristine*, p.102-127; Then, the Cairo Declaration on Human Rights in Islam, adopted in Cairo on August 5, 1990, Gruda, Z. (2001) *International Protection of Human Rights, Documents II, University of Prishtina, Pristine*, p.138-144 etc. Besides the last year's initiative to African countries for the processing of a convention on the protection of privacy, in no other continent nor in the international level, has not occurred to have a specific Convention as the one of the Council of Europe, 1981, which is specifically in step with the great development of technological information, automation and telecommunications, gives a specific legally binding in the protection of personal data, during the automatic processing, while watching the convention to the publication: CPDP (KMDP) - *Commissioner for Personal Data Protection (2012)*

LEGAL SUMMARY OF THE COMMISSIONER FOR PROTECTION OF PERSONAL DATA, Tirana, p.50. This obligation for state members of the EU becomes an obligation, while to accede in this Convention are also the member countries from other continents (Africa, Latin America). European leadership goes on, so in terms of practical regulatory, the year of 1985, marks the radical curves in terms of transposition of the Convention 108, the legislation of EU member states on the occasion of the issuance of the European Directive 95/46 on the protection of personal data and privacy. *EC Directive of the EP and the Council of Europe, Strasbourg: (October 24, 1995).*

The United States of America due to the protection of tax evasion, in the state of financial system respectively the banking system, have initiated and signed the bilateral agreements with several countries in Europe, the EU and abroad, to ensure acquisition of information regarding flows in accounts of its citizens. Such agreements made the subject of discussion for the authorities and the experts of personal data protection, where the issue will go to the ECJ (GJED).

According to the reports from Out-Law.com ECJ (GJED) has decided that "a framework which allowed companies to move personal data across the Atlantic, in a way that was in accordance with the laws of data protection to EU" under the "safe harbor" EU-USA, it was invalid ". Court raised concerns about the transfer of data from the EU, under the question of whether there are sufficient guarantees of privacy in this regard, taken from <http://www.out-law.com/en/articles/2015/october/german-data-protection-authorities-limit-companies-options-for-us-data-transfers/> (seen 29.12.2015; 22.00h)

While under Article 29 working groups, of Directive 95/46, had recommended that the issue of safe protection of personal data across the Atlantic for the European citizens should be in accordance with the framework of European legislations for the protection of personal data and by article "Protecting Authorities", German authorities of data protection, set the limits on possibilities to the companies to transfer data to US", brought (written by) from posts Out-Law.com authorities contracting Parties to the agreements to transfer personal data, respectively agreement "safe harbor" to be reviewed by the end of January 2016 in accordance with European law of protection of personal data, taken from <http://www.out-law.com/en/articles/2015/october/german-data-protection-authorities-limit-companies-options-for-us-data-transfers/>

law.com/en/articles/2015/october/german-data-protection-authorities-limit-companies-options-for-us-data-transfers/ (seen 29:12:2015; 22.00 h)

Undoubtedly, these highlights in any ways are advancing on the path towards aims of protection of personal data, in lights of increased pressure from public opinion and the great pressure the same one in terms of technological development of telecommunication equipments and information. However, the current legal framework (Convention 108), supplemented by the additional protocol, year 2001, Directives 95/46 of 1995, the 2008 Framework Decision on the protection of personal data during transfer and cross-border flow of personal data, a large number of recommendations in various sectors issued by the European Commission and the Council, at this stage of developments requires rules and frames much more empowered to ensure the adequate protection in fulfillment of rights and freedoms, values that are proclaimed by the western democracies.

Therefore; in the above mentioned context, the new Rules of the European Union and the European Commission has collected the recommendations, received warnings during the organizing of numerous debating tables, discussions, organized in a time of four years, has already passed the voting procedures of the instances, before the decision-making bodies of the three institutions: The Committee of Civil Liberties, the Standing Committee and the Council with an absolute majority. "On December 15, the three European institutions agreed on a historic reform of the rules on data protection, creating a modern and harmonized framework for data protection across the EU", *EU-European Commission, taken from <http://ec.europa.eu/justice/newsroom/data-protection/news/> (20th January 2016, 22.20:h)*. So, 2016 will give final approval of the regulation, which undoubtedly will bring benefits in the interest of big controllers, in the interest of the business world and in particular will have more tight provisions of austerity in the interests of data protection and privacy of citizens, demands of rights and fundamental human freedoms.

Mechanisms operating in protection of personal data

In relation to the developments and demands of the time, since 2012 in the bodies of the Council of Europe, European Parliament and EU is proceeded New Regulation of the European Union for the Protection of Personal Data. While in the European area, are operating large numbers of bodies and organizations, such as: Spring Conference of Protection of Personal Data, attended by authorities of protection of personal data of European Union and Council of Europe, usually gathering every two years and address various topics on PPD (MDHP) and privacy issues, decision making, recommendations, resolutions, tips etc., for the bodies of the Council of Europe and the EU.

Authorities of Francophone Conference, which brings together the mdhp (PPD) authorities of francophone countries even beyond the EU. Also issues recommendations, treating the aspects of the protection of personal data, treating aspects of professional and legal developments of mdhp (PPD) etc.

The GPEN- Networking authorities of protection of personal data, which aims to have a mutual approaches for solution of various problems, joint inspections to big controllers etc., It has an international character. This mechanism is lead by the British authority of Protection of Personal Data.

AMDHPEQL (PAPDCEE)-protection authorities of personal data of Central and Eastern Europe. This mechanism is lead by Polish mdhp (PPD) authority-that deals with topics in the field of personal data and privacy, makes recommendations, proposals, raises issues of concern for the authorities to gather and the same one, in terms of this does; recommendations for instances of the EC and the EU in their respective field.

In addition, on the basis of Convention 108 and Directive 95/46, specified are the mechanisms arising from these documents as are the 108 Consulting Committee and Working Group 29.As acting mechanisms specifically deal with the protection of personal data and privacy, and institutionally report through Secretary of the Council of Europe to the European Commission.

It is worth mentioning that every January (26 -January) in Brussels, the bodies of the Council of Europe in co-organization with Scientific Institutions, Universities and Academic Authorities, organize its specific annual scientific conference, *CPDP – Computers Privacy Data Protection*, taken from <http://www.cpdpcconferences.org/>, (January 20, 2016, 21.00h), Whereby in the scientific point of view, from different points of view, derived are works and the alternatives and provided are new knowledge's in this field, by different researchers.

Initiatives do not end, so in June 5, 2014 in Strasbourg is organized the Specific Conference, in support of these institutions of justice and human rights of the EU, European Commission, Group of Labor 29 and French authorities to PPD (MDHP), which brought together all PPD (MDHP) authorities of the European Union, with the only topic to find a common platform of an action to overcome the great challenge of breach of privacy by digital technology of big processors of personal data called "BIG DATA".

Violation of privacy is already an international and challenging problem in this regard every year, for decades has begun with the KNMDHP organization, which gathers authorities of mdhp (PPD) of member countries global. The conference addresses the topic of privacy, issues resolution, designs strategies, take's recommendations, issue statements and decisions in the interest of protecting personal data in the mdhp (PPD) global. Mdhp (PPD) mechanisms of the European Commission as well as participating as an observer, by having a European experience in this field, and give their valuable contribution in the context of these conferences.

The State Agency for the Protection of Personal Data of the Republic of Kosovo, has successfully joined n these mechanisms and shall move to get work experience and to give its contribution in this regard, NAPDP (SAPPD) State Agency for the Protection of Personal Data, taken from [http:// www.Amdp - rks.org](http://www.Amdp - rks.org), (18 january 2016, 18.30:h

What needs to be done for the protection of personal data?

As is mentioned above, towards successful protection and advanced personal data, must meet certain actions ranging from:

- Continuous increase of civic awareness and awarding of systematic knowledge unified with harmonized standards within the legal area of the European Union, the education system, building curricula specific to the education of the younger generation in all states of the European Union and wide.
- The unifying actions of the authorities to protect the personal data in the field of inspection, with the possibility of joint inspections of powerful controllers, and that their work headquarters and actions that have outside of countries, which have committed abuse of personal data. Moreover, in this case we are dealing with powerful companies of the Internet, where the radius of operation extends to many continents globally and invasion of privacy is possible at all levels of society, regardless of age and invades billions of people.
- In the spirit of the recommendations of the Resolution of the International Conference held in Amsterdam, the Netherlands in October 2015, which requires the reporting inclusion on the state of privacy in reporting its annual human rights by the Special Representative of the General Assembly of the United Nations; (KNKMDhP) ICCPPD- International Commissioners Conference on the Protection of Personal Data, Amsterdam, taken from [http // secure.edps.europa.eu /EDPSWEB/edps/site](http://secure.edps.europa.eu/EDPSWEB/edps/site), (janary 21, 2016,23.00 h), such a practice to be transferred to all ombudsmen, who in their reporting on human rights bring specific reports on the state of privacy and derive their recommendations regarding the raised issues.
- As soon as possible, all computer automated equipment related to the websites that process personal data, to install tools that evidence all traces of approaches and interventions in databases.
- Software equipment should be certified to safety standards in the field of protection of personal data.
- The sooner to occur the unification of the laws and structures of authorities on the European soil and wider, with the unified standards and mandates of acting.

There are many other aspects of recommendations, but accordingly to this study and basic elementary action needs, think that these action criteria, give its own effects in relation to the developmental requirements of society in our time with positive effects in terms of the future.

While to give oxygen to democracy and to advance in security, justice and universal human freedoms, today, everywhere must work in professional grow of supervisory authorities, that at the same time to manage and oversee *Freedom of Information and Protection of Personal Data*,

which at the same time is considered as a global challenge of this century. To determine the boundary, between of that where public interest ends, and where and when can access their privacy because the line is very thin in between these two rights.

Abbreviations

AMDHP/APPD- Authority for the Protection of Personal Data
 AShMDHP/SAPPD- State Agency for the Protection of Personal Data,
 AFDP/AFPPD-The Francophone Authorities for Protection of Personal Data
 AMDHPEQL/APPDCEE-Authority for the Protection of Personal Data of Central and Eastern Europe
 BE/EC-European Community
 BN /IC- The international community
 "BIG DATA"- The so called big data
 CE- European Commission
 CPDP- Computer's Privacy Data Protection
 EU- European Union
 FBE/WEF- World's foremost Economic Forum
 GIPEN- The International Network Group of Authorities for Protection of Personal Data
 KEDLNJ/ECHRF- European Convention of Human Rights and Freedoms,
 KNKMDhP/ICCDP- International Conference of Commissioners of Data Protection
 KE/EC- European Council
 MDHP/PPD-Protection of Personal Data
 OKB/UNO-United Nations Organization
 PE- European Parliament
 PDP-Privacy Data Protection
 SHBA/USA-United States of America
 GJED /ECJ- The European Court of Justice
 mdhp /PPD- protection of personal data
 lmdh / LPPD- Law on protection of personal data

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17. Follow @gazetaexpress 18.// [http: //www.telegafi.com/lajme/ardit-ferizi-personi-i-pare-qe-akuzohet-per-terrorizem-kibernetik-ne-shba-2-7775.html](http://www.telegafi.com/lajme/ardit-ferizi-personi-i-pare-qe-akuzohet-per-terrorizem-kibernetik-ne-shba-2-7775.html)//
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Comparative Perception Among Minority Communities on the Knowledge of UN Convention of the Rights of Child, Institutional Responsibilities and Child Participation in Decision Making Processes

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Executive summary

The survey document is mandated to address two issues in Republic of Kosova as following:

- I. Knowledge, Attitude and Practices of children and communities in relation to children rights and child protection in 5 Kosovo regions: Peja Gjakova, Ferizaj, Prizren and Fushe Kosovo
- II. Evaluation of the communities knowledge on existing services in case of violations of the children rights in 5 Kosovo regions: Peja Gjakova, Ferizaj, Prizren and Fushe Kosovo

Specifically we attempt to answer the following questions by the Roma, Ashkali and Egyptians Children, parents and team leaders from the communities:

Questionnaire for the children of RAE communities is as following:

1. What rights do you think people should have?
2. What rights do you think Children should have?
3. What rights are most important for you?
4. What rights do you think you do not get?
5. Which people do not respect your rights? Can you give me an example?
6. Have you been told what your rights are and told them to you?
7. Have you told someone if your rights have not been respected? Whom did you tell in that situation? Which person you told? Whom would you tell in the future?
8. What more information would you like to know about your rights are?
9. What people do you know of that can help you in case your rights are violated?
10. What worries or issues do you have today?
11. What do you think should be done about this?
12. If you or your friends are/is abused / beaten, what would you do?
13. Is there anything else you would like to say?

Questionnaire for the Team Leaders of RAE communities are as following:

1. What do you understand with human rights?
2. What do you understand with children rights?
3. What is the basic human rights (how do you understand them) ?
4. What do you think your responsibility is in the community?
5. Do you think that your rights are violated and by whom? (Please give an example when do you think your right is violated and by whom)?
6. Do you think as a Team Leader in the community has violated the right of you citizens (if yes please give an example)?
7. Have you ever heard about the rights of the Roma, Ashkali and Egyptians Communities? If yes, what legal documents you know that protects the rights of community and human rights in general?
8. Do you know what are your rights and responsibilities towards citizens? (Please list them with examples)?

9. If your right is ever violated from the community or the institutions do you know where you should ask for the support?
10. What are your rights in decision-making aspect in your community?
11. Did ever happened that your rights are violated, in health, education, court, social welfare issues etc, (Please give an example)?
12. Do you know the institutions that protect human rights?
13. Did you ever heard about the UN Convention for the Rights of the Child?
14. If yes, do you know what it is?
15. If yes, do you know what the rights of child are? Can you list them some of the rights)?
16. What are your responsibilities as _____?
17. Do you think that protection of the rights of the child at your community is at the satisfactory level?
18. What can be done do get improved/ change the situation?
19. Do the children know how to contact you in case they need your help?
20. What methods you apply when you work with children?
21. Do you have anything else that you might like to add?

Questionnaire for the parents of RAE communities are as following:

1. What do you understand with human rights?
2. What do you understand with children rights?
3. What is the basic human rights (how do you understand them) ?
4. Do you think that your rights are violated and by whom? (Please give an example when do you think your right is violated and by whom)?
5. Do you think as a parent in the community has violated the right of you citizens (if yes please give an example)?
6. Have you ever heard about the rights of the Roma, Ashkali and Egyptians Communities? If yes, what legal documents you know that protects the rights of community and human rights in general?
7. Do you know what are the rights and responsibilities of your child? (List them with examples)
8. If your right is ever violated from any institutions, do you know where you should ask for the support?
9. What are your rights in decision-making aspect and what are the rights of your child in decision making?
10. Did ever happened that your rights are violated, in health, education, court, social welfare issues etc, (Please give an example)?
11. Do you know the institutions that protect human rights?
12. Do you think that children should have their rights?
13. Did you ever hear about the UN Convention for the Rights of the Child
14. If yes, do you know what it is?
15. If yes, do you know what the rights of child are? Can you list them some of the rights)?
16. What are your responsibilities towards your child?
17. Do you think that you are doing your best for your child?
18. What do you think is the most successful to discipline your child?
19. Do you know why your child is worried now?
20. Do you know what their wishes are?
21. If your child is abused/ beaten from an adult, how would you act?
22. Do you think that education is important? Why?
23. Do you have anything else you would like to say?

Our methodology included the following:

- a. Analysis of written resources: Laws and regulations, communications, published articles, policy papers from official and unofficial sources.

b. Interviews with children, parents and team leaders from the RAE communities in 5 Kosovo regions: Peja, Gjakova, Ferizaj, Prizren and Fushe Kosovo

The first chapter of the this report discusses the political and legal context of the RAE communities in Kosovo, engagement of the international and national organizations central and local government of Kosova in the implementation of legal policies that protects and promotes the Roma, Ashkali and Egyptian communities , their education and social inclusion.

Second chapter contains evaluation of the three target groups of children, parents and team leaders of Roma, Ashkali and Egyptians communities parents and leaders and children with specific focus on the knowledge of the UN Convention for the Rights of the child, knowledge of the children on basic human rights, institutions that protect their rights and service delivery including child participation and decision making, whilst from the children is asked to know the mindset and knowledge on their rights, their practical approach to the institutions in charge . Also it is required by the team leaders and the youth to see their engagement in the community, their support towards community and the children rights protection from the ground.

Introduction

Whatever you aspire, whatever you may do –

First feed the face and then talk right and wrong.

For even saintly folk may act like sinners

Unless they've had their customary dinners.

Berthold Brecht, Die Dreigroschenoper



Fig 1. Kosovo map¹

¹ Map of Kosovo <https://www.cia.gov/library/publications/the-world-factbook/graphics/maps/kv-map.gif>

I Chapter

The context of the minority rights and the engagement of government of Kosovo to implement the human rights legal framework and policies for the communities are considered quite necessary, and responsibilities of the local government are one of the key factors towards its implementation on the ground. Whilst the need for social integration of RAE communities was a political requirement of the EU to create the needed legal documents in power and designed in order to support proper implementation of the National and International legal policies and strategies for RAE inclusion in Kosovo, to be able to start the process of EU accession.

European Union, apart from dealing with economic issues, trade and prosperity it is also dealing with human rights in general. The concept of the human rights entered in the tractate of the establishment of EU. Therefore, human rights were elaborated in the tractate of the convention on the human rights and the basic rights which entered in to force in 1953.

In the all mentioned human rights forms, the most risked community in Kosovo society are (RAE) communities' 35,000-40,000 members of Roma, Ashkali and Egyptians. Historical injustice deeply were applied while the damages of the infrastructure resulted from the war conflict 1999, created uncertain support for the communities, in health and social life. From the statistics of the year 2004 it showed that RAE communities of age 15-24 years old about 75 % of men and 90% of woman were unemployed. Illiteracy was evaluated to be at 16%. And one in 2 children lived with only 2 euros per day. EU Commission and Foundation for the Open Society has implemented a project on the integration of RAE communities in education, social and cultural society.¹

Political and legal context

The Strategy for the Integration of RAE Roma Ashkali and Egyptians Communities, 2009-2015, was approved by the government of Kosova in December 24, 2008. The Kosovo Action Plan² for the implementation of the Strategy was presented in March 2010. In the introduction the Strategy is considered by the government as important instrument to achieve the fundamental goals, central to the realization of minority rights- participation, inclusion and fulfilling obligation.

In the context of the legal and policy developments for RAE communities, the Constitution of Kosovo was drafted, including specific measures of the Ahtisaari package. In addition to incorporating the international human rights documents within the Constitution, the Government of Kosova is pledged to use the affirmative measures in order to quickly improve the situation of the three communities. From the position of the European Union, implementation of the Strategy is the key element of the EU criteria for Kosovo to be able to start the process of EU accession. The REA Strategy was seen as important document for the implementation of the community rights in all related fields, education, child protection, cultural and social inclusion, as a feedback from the ministries in line with mandatory obligations to improve the social inclusion of the RAE communities.

Responsibilities

As the government of Kosova has taken on the overall responsibility to integrate Roma, Ashkali and Egyptian communities it follows that specific agencies of the government would be tasked with seeing to the realization of this objective. In fact there are a number of agencies tasked³. The specifics are divided between the ministries and municipalities. At the central level the responsibilities are divided between the local levels that directly are mandatory to work in line with the central level under responsibility of the Prime Minister's office, Office for Good Governance, Equal Opportunities, Human Rights and Gender Issues OGG, leading the Strategy technical Working group with the role to coordinate, share information's, formulate and prioritize the policies. Including in these goals are harmonizing government and donor investments, solving budget issues and preparing the biannual report on strategy implementation. This group includes senior civil servants and several agencies as European Commission liaison office, KFOS. From the local level- municipality level there are human rights units responsible to work with communities in the ground and try to solve the concerns of the communities from

1 Assistance of the EU for Kosovo, (Assistance to the people in need)-www.delprn.ec.europa.eu

2 [http:// www.aktion302.de/fileadmin/aktion302/kosovo-integration-RAE-2009-2015.pdf](http://www.aktion302.de/fileadmin/aktion302/kosovo-integration-RAE-2009-2015.pdf)

3 http://www.ecmi-map.com/map/index.php?option=com_content&view=category&layout=blog&id=35&itemid=62@lang=en

bottom level, in cooperation with Office for communities at the municipality level and other municipality level departments as education, health and social department.

In the year 2010 EU has given the effort and proper support to ensure the education for all children of the communities in Kosovo and from the survey only 20% of the RAE communities do not have a single year of education. Only 4% finished obligatory elementary school of 9 nine years of schooling and 33% of RAE woman do not attend schooling at all.¹

Even the Ministries from government of Kosova are committed to protect and promote the rights of the RAE communities, however obstacles and the concerns are presented among the children of the communities as the rights and the obligations by the government institutions itself are not applied to the community children. The institutions itself and Human Rights Units existing at the level of the municipalities and the main central level ones at the central level of ministries are obligated to monitor the communities in the regions and perform their obligations through the informative sessions either collaborate with the community Units at the municipality level and close collaboration should be applied also with the parents of the children from RAE communities and youth and the community leaders in general.

Finally, the Article 42 of the UN Convention for the Rights of the Child states that every individual should know for his rights according to this Convention, child or adult and the government should inform people about this Convention, whilst the articles 43-54 of the Convention state that governments and international institutions are obliged to work closely in order to implement the rights of the child.

Key community issues

- I. Knowledge, Attitude and Practices of children and communities in relation to children rights and child protection
- II. Evaluation of the communities knowledge on existing services in case of violation of the children rights

II Chapter

Evaluation of the questionnaire of Children communities regarding the knowledge and attitude on children rights, child participation and their knowledge on existing services in case of violations of the children rights.

During the Survey with RAE- Roma, Ashkali and Egyptian children, it resulted that Convention for Children Rights is not known by the children from communities except some articles that will be described below. The survey shows that Convention for Rights of the Child is not implemented in terms of the knowledge, rising awareness, children participation and information's, by the institutional responsibility that protects and promotes their rights.

With the children from RAE communities of the age 8-14 the survey has been done starting with questions on the children rights, their importance in general asking from the children to describe through examples, what are the rights they don't have, whilst we got an answer from the child respondents that in 89% of the answers they consider that the rights of the child are only „*learning process and playing*“, whilst from 11% of the child respondents answers are that they „*do not know what are their rights*“. In the questions for what do they think about the rights they do not have, in 78% the child respondents answered that, their economy's situation as food, clothing, housing, etc. is something that they do not have whilst 22% of them don't know. In the question about the people whom they think they did violate their rights, in 53% of the child respondents answered that, „*parents, friends or the others from the community did violate their rights*“, whilst 10% responded that, „*this did not happened to them that the rights are violated*“ and 37% among them say „*they don't know who has violated their rights*“. In the question who informed children about their rights and what are their rights, the response was that 90% of the children are informed about their rights from their teachers, whilst 8% among them are informed from their parents, whilst 2% of them have been informed from the „*others in the community, as leaders, neighborhoods etc.*“ regarding the question about what are the children rights and can they list them any, 89 % among them answered that „*the child rights are schooling and play*“ and 11% of them „*they don't know at all*“. In the question whom they told in case they rights are violated 74% of the respondents answered that they told to their „*friends, and parents*“, 3% they say their „*teachers, directors*“ and 23% of them they „*don't know*“. In the question what they want to know about their rights, in 82 %

¹ Assistance of the EU for Kosovo, (Assistance to the people in need)-www.delpn.ec.europa.eu

the answer was *"to have good and improved economic life, including food, house, toys etc."*, whilst 16% they did not answered to this question and 2% among them wanted *"to know more about their rights"*. In the question about what people do they know to tell them in case their rights are violated, 89% of them they tell to their *"parents"*, 3% to their *"friends"* and 8% they *"don't know"*. In the question that what are the issues that occupy the children at the day they were interviewed, they answered in 96% they *"want to play with their friends and other relatives"* but they don't explain anything more whilst, 3% of them they don't know and 1% among children declare that their *"rights are violated"*. In the question if they have been abused or beaten ever or any of their friends is, how they will act, the response among the child respondents was that in 78% they *"tried to stop the friends from the conflict"*, whilst 20% answered they *"were not beaten or been in the conflict ever"* and 2% among them they say that they *"have invited the parents to solve the conflict"*. In the final question regarding their any wish they want to add at the end of questionnaires' they expressed their wishes as they wanted to have economic life improvements as: proper food, house, toys, dress and creative centers for children.

Questions for the children	Answers with %
What are the rights they don't have?	89% <i>learning process and playing</i> 11% <i>do not know what are their rights</i>
What do you think about the rights you don't have?	78% <i>economy's situation as food, clothing, housing</i> 22% <i>they don't know</i>
Whom they think they did violated their rights?	53% <i>parents, friends or the others from the community did violated their rights</i> 10% <i>this did not happened to them that the rights are violated</i> 37% <i>they don't know who has violated their rights</i>
who informed children about their rights and what are their rights	90% <i>teachers</i> 8% <i>parents</i> 2% <i>others in the community, as leaders, neighborhoods etc</i>
what are the children rights and can they list them any	89% <i>the child rights are schooling and play</i> 11% <i>they don't know at all</i>
whom they told in case they rights are violated	74% <i>friends, and parents</i> 3% <i>their teachers, directors</i> 23% <i>don't know</i>
what they want to know about their rights	82% <i>to have good and improved economic life, including food, house, toys</i> 16% <i>not answered</i> 2% <i>wants to know more about their rights</i>
what people do they know to tell them in case their rights are violated	89% <i>parents</i> 3% <i>friends</i> 8% <i>don't know</i>
what are the issues that occupy the children at the day they were interviewed	96% <i>want to play with their friends and other relatives</i> 3% <i>don't know</i> 1% <i>declare that their rights are violated</i>
if they have been abused or beaten ever or any of their friends is, how they will act	78% <i>tried to stop the friends from the conflict</i> 20% <i>were not beaten or been in the conflict ever</i> 2% <i>have invited the parents to solve the conflict</i>
any wish they want to add at the end of questionnaires	<i>they expressed their wishes as they wanted to have economic life improvements as: proper food, house, toys, dress and creative centers for children</i>

Table 1. Questions for the children and answers in %

Final conclusions

From the evaluation perspective of the child questionnaire from Roma, Ashkali and Egyptian communities, we come up to the conclusions that Children Rights in the communities of Roma, Ashkali and Egyptians are not known in accordance to the UN Convention of the Rights of the Child. Children from these communities represent the issues as the important one, the needs for the improvement of the social economy, the proper food, housing and clothing, including the needs for play and toys.

After the rights for playing, children's focus was in the importance of education process as a very important one for their development. Requesting adequate services for their development was one the major approach of the RAE children. During the presentation of their knowledge usually children presented the human rights incorrectly and mostly mixing up with responsibilities. So they were not clear what a right is and what responsibility is, so mostly these were not clearly defined concepts in their minds. During the evaluation among the RAE children is noticed that children are not aware about the institutions at the local municipality level, considering all the time that parents are the ones who should know in terms of following and protecting their rights.

According to the UN Convention for the Rights of the Child, by the children respondents from the communities, the article 27 of the Convention is known. This article states the rights for creating sufficient living conditions for the satisfactory child development. Children from the communities have knowledge for the article 28 and 29 of the Convention as well, speaking for the education and their development through education, whilst the Convention states that the rights to education tries to develop the child identity and his capabilities as much as possible and to encourage children in respecting the rights and values of the other people. Children mention in the questionnaire that education is most important and everything related to the performance and questions brings up that the education is very important for them and their development. Children from the mostly known article of the convention have practically talked about the article 31 of the UN Convention for the Rights of Child. They mostly like playing and having creative centers in the communities and having desirable toys they always liked. This is relevant to the article 31 as it states that children have the right for fun, play and creative activities and free time. Apart from three articles mentioned above which are known by the children from the communities, other articles from 1-42 are completely unknown to children and they are not aware of them.

Children are also not aware about the responsibilities of government and international organizations that are bounded to closely work, in order to offer those rights to the children as is stated in the UN Convention for the Rights of the Child. Children are not aware about any central governmental level and responsibilities or local municipality level, whilst they have never had chance to meet people in charge to human rights protection and promotion, except in some cases at the Office for communities at the municipality level and international organization that closely works with communities.

In conclusion, children need to get educated accordingly and become familiar with all articles of the UN Convention on the Rights of the Child. This is a mandatory obligation for international organizations in collaboration with central and local levels of government to offer these children, proper education, knowledge on human rights and responsibilities through systematic and interactive education from pre-primary education and elementary schooling. The human rights education should be offered through pedagogical context in consultation with the authors who designed the materials for pre-primary and elementary education to include articles of the UN Convention for the Rights of the Child. It would be excellent approach to apply mandatory subject in children rights education in schools through the subject of choice. Materials for children rights education should be evaluated by experts and are suitable for the age of the children that they're dedicated to. Children should also be taught and get familiarized about the institutions that protect their rights in case of their endangerment, give children access and include child participation accordingly.

Evaluation of the questionnaire of parents in the communities regarding the knowledge and attitude on children rights, child participation and their knowledge on existing services in case of violations of the children rights.

Parents of the children in the Roma, Ashkali and Egyptian (RAE) communities have been surveyed through the questionnaire that target's two above mentioned objectives of the survey. Due to evaluation parents are questioned about their knowledge on human rights and the answer among questioned parents in 92% responded that are *"economic conditions as stated and mentioned food, clothing, home and employment"* whilst in 6% they respond that the human rights are *"education and schooling"* and in 2% they think that *"life without violence and problems"* is basic rights of all human beings. Among parent respondents on the question that what are the rights of the child 98% responded that the children rights are: *"education"* and 2% responded that the rights of the child are *"life without problems and violence"*. In the question regarding that *"what are the basic human rights"* the answer was in 92% saying that it is *"food, clothing and housing (good economic conditions)"* whilst in 8% they responded that are *"schooling and education"*. In the question made to the parents regarding that, if ever they rights are being violated and if yes by whom, mostly the general answer was from schools, teachers, people from the working place, from their family relatives, husbands, mother in law, neighbor's etc. From this perspective we see that as children also the parents are occupied with economic rights and the above mentioned articles

as stated for the children evaluation. Mostly are occupied with living conditions of life asking for improvement and considering that all of the rights are included in the above mentioned. In the question to the parents have they ever violated the rights of their child? 96% of parents responded that they *"did not violate the rights of their child"*, whilst 3% considered that *"maybe they violated the rights of their child in the occasions where the economic living conditions were poor"*. In the 1% of respondents of the parents responded that they *"don't know"* if they have ever violated the rights of their child. We do understand that from this point of survey there is a trust in the parent's conscience that mostly they did not violate the right of their child, but being not aware about the other articles of the UN Convention for the Rights of the Child, we cannot consider this tolerance as a truth, when from the parents response we see a poor knowledge for the rights of child. When in the other question about the knowledge for minority rights and the documents in power that protects the rights of minorities, from the parent respondents in 99% of cases they *"never heard"*, whilst 1% *"heard about it, but they have no idea about the documents in power that protects minority rights"*. In the question for parents what are the rights of the child responsibilities the answer were listed as following: 98% of parents think that *"the rights of the child is schooling and they have no ideas about responsibilities"*, whilst in 2% think that *"education is responsibility"*. Here we have a mixing of roles of rights and responsibilities; these two concepts should be divided and elaborated. This can be done through methodology of teaching human rights through the manual for parents and the clear picture can be framed in the way that it will later help parents in conceptualizing the rights and responsibilities and will be able to follow the changes of the attitudes of their child as well. In the question *"where would parents search for support if their rights are violated by any institution"*, the answer was 77% they *"will seek support from the police"*, 14% they *"don't know"*, 5% *"will seek for help from municipality"* and 4% that *"it never happened that any institution violated their right"*. In the question that what are the rights in the decision making aspect, the answer from the parent respondent's was that 87% *is the husband who decides* and 13% *is the whole family where the children have their participatory approach in decision making*. This is a psychosocial question, the rights and responsibilities are not clear to the parents and their role is how they are used for the joint collaboration and participatory approach in the family. But, this does not give precise picture as there is no explanation or listed points either, the knowledge for human rights by the parents in general is limited. In the question where parents are asked for any violation ever happened by the any institution as health, court, education or social welfare (questions supposed to be listed in the row) but the answer was that 97% *never happened*, 2% *has happened in education by the teachers, directors*, and 1% *from the court, social beneficiary application*. In the question about the knowledge for the institutions that protect human rights, the answers were listed as following: 70 % they *don't know* about the institutions, 12 % think *that is police*, 6% think *the office for communities in the municipality* and 2% think *that is ombudsman*. In the question for the parents what do they think, *are they doing the rights and the best thing for their child*, the answer was that 78% think that they *can't do the best for their child because of the poor economic conditions*, whilst 6% they declare, *that they do the best for their children but the economic situation made them dependent in realizing the wishes of their children*. But 16 % among them they *are not aware if they doing the best thing for their children*. In the question for the children in what do they think is the best to discipline their child 98% think that *schooling and education is the best*, whilst 2% think that *communication and conversation with children help them to become more disciplined*. In the questions for the parents in what do they think what for instance their children are worried about, the answer from parent respondents was that 97% think that their *children worried about the proper food, clothing, home (economic situation in general)*, 2% worried about the *nondiscrimination in schools, mentioning still stereotypes and pre judgments etc* and 1% *to avoid problems between their parents*. In the question if the child is beaten or abused from the adult the situation would be solved by the parents through communication between them and abuser in 98% and *if the relations are not established will try to find help with the police* and 2% will be trying to *find support in the office for communities at the municipality level*. In the final questioned opinion by the parents why they think the school is important the answer was that *the school is the only thing that can develop and oversee the brilliant future for their child*. And finally parents added that *improvement of economic situation is one of the important things to change those living conditions and lifestyle in the communities*.

Questions for the parents	Answers in %
Knowledge on human rights?	92% responded that are economic conditions as stated and mentioned food, clothing, home and employment 6% education and schooling 2% life without violence and problems
What are the rights of the child?	98% education 2% life without problems and violence
What are the basic human rights?	92% food, clothing and housing (good economic conditions)

	8% schooling and education
Have they ever have violated the rights of their child?	96% did not violate the rights of their child 3% maybe they violated the rights of their child in the occasions were the economic living conditions were poor 1% do not know
Knowledge for minority rights and the documents in power that protects the rights of minorities	99% never heard 1% heard about it, but they have no idea about the documents in power that protects minority rights
What are the rights of the child responsibilities	98% think that the rights of the child is schooling and they have no ideas about responsibilities 2% education is responsibility
Where the parents would search for the support if they rights is violated by any institution	77% will seek support from the police 14% don't know 5% will seek for help from municipality 4% it never happened that any institution violated their right
what are the rights in the decision making aspect	87% it's the husband who decides 13% whole family were the children have their participatory approach in decision making
any violation aver happened by the any institution as health, court, education or social welfare	97% never happened 2% has happened in education by the teachers, directors 1% from the court, social beneficiary application
knowledge for the institutions that protect human rights	70% don't know about the institutions 12% it's the police 6% the office for communities in the municipality 2% ombudsman
are they doing the rights and the best thing for their child	78% can't do the best for their child because of the poor economic conditions 6% that they do the best for their children but the economic situation made them dependent in realizing the wishes of their children 16% are not aware if they doing the best thing for their children
what do they think is the best to discipline their child	98% schooling and education is the best 2% communication and conversation with children help them to become more disciplined
what for instance their children are worried about	97% children worried about the proper food, clothing, home (economic situation in general) 2% nondiscrimination in schools, mentioning still stereotypes and pre judgments 1% avoid problems between their parents
if the child is beaten or abused from the adult the situation would be solved by the parents through communication between them and abuser	98% if the relations are not established will try to find help with the police 2% find support in the office for communities at the municipality level
why they think the school is important the answer	the school is the only thing that can develop and oversee the brilliant future for their child improvement of economic situation is one of the important things to change those living conditions and lifestyle in the communities

Table 2. Question for the parents and their answers in %

Evaluation of the questionnaire of Team leaders in the communities regarding the knowledge and attitude on children rights, child participation and their knowledge on existing services in case of violations of the children rights.

In the evaluation of the questionnaire by the Team leaders in the communities, we brought opinions of the team leaders knowledge on UN Convention for the Rights of the Child, their collaboration with institution, child engagement and participation in decision making processes as well as their access to communities', exploratory ideas for the networking skills and mediation and other cross activities that could be applied by the Team leader work support in the communities.

In the questions made to the Team leaders about what are human and children rights in general and what are the rights of the child the answer is in 86% answered that it's *the democratic element of the equal opportunity of all human beings*, whilst 14% responded that human and children rights are *the freedom of thought, freedom of movement, freedom of expression, gender equality, right to religion*, etc. In the question to the Team leader for what are their responsibilities toward Roma, Ashkali and Egyptian (RAE) communities all of them in 100% of the respondents responded *it's their responsibility in promoting the rights of community is respecting equal opportunities in the community, and the promotion and protection of the right of community through the human rights legislation in power*. In the question if the Team leader right is violated ever and by whom, the response was mostly that *now while there are documents and legislation on human and minority rights in power the discrimination facts are less and less, but till the legislation was not well established especially before and after the war of 1999 have had discrimination in the community*. In the question if ever happened that team leaders have ever violated the right of citizen's, the response was that by the matter of awareness, they never violated the rights of their citizen's and among all respondents responded equally in 100% saying that they *did not violated the right of their citizen's*. In the questions asking Team leader about their knowledge of the human rights policies for the rights of minorities they declared that they *heard about RAE Strategy and Action Plan 2009-2015*. They heard about the Constitution of Kosovo and Ahtisari package that protects rights of minorities. In the question if the rights of the people from communities are violated, do the Team Leaders know where they can direct the issue to support the communities in terms of minority rights, the answer is that they all know to *direct issue to the community office at the municipality level, if issues are not solved they continue with other institutions as police, courts, ombudsperson*. Whilst in the questions if it happened if the right is violated in health, education, court, social wellbeing and the answer among Team Leaders is that it usually did not happen but if it happens in some occasions such as the rights of children on education, the rights of minorities in the court or social beneficiary income, the Team leaders supported the communities when ever asked. When the Team leaders are asked about their knowledge on the UN Convention for the Rights of the Child the response was that in 100 % *they heard about this convention but they are not aware about the knowledge of the articles for the rights of the child* either about any specific information regarding this convention except mentioning that this Convention protects all the rights of the child without precision in specifics and also consider that they were not been yet familiar about what the convention document contains. About their rights as Leader in the community they declared in 100% of respondent's that *their role in the community is to protect the rights of the child rights of communities in general and toward education, equal opportunities for all, better life, social integration of communities*. Regarding the question are they satisfied about the protection of the rights of the child in the community the answer was that *partially are satisfied but it can be better*, but they did not specified the obstacles and gaps. In the question for the Team leader about the knowledge of the children for their role in the community and do they call them for support in any asked situation, the answer was that, *they all know about them and about they supportive role in the community*. About the question in what methodology of action they apply to support children the answer among all leaders was that *it depends on the situation or the problem they have but always bearing in mind that with children we apply pedagogical methodology from the level they belong* but not being able to specify what are the methods they apply while working with children. The finally what the leaders would add for the end of the survey they committed themselves as moral obligation to support, promote and improve the community rights.

Questions for the Team leaders	Answers in %
what are human and children rights in general and what are the rights of the child	86% democratic element of the equal opportunity of all human beings 14% the freedom of thought, freedom of movement, freedom of expression, gender equality, right to religion
what are their responsibilities toward Roma, Ashkali and Egyptian (RAE) communities	100% it's their responsibility in promoting the rights of community is respecting equal opportunities in the community, and the promotion and protection of the right of community through the human rights legislation in power
question if the Team leader right is violated ever and by whom	now while there are documents and legislation on human and minority rights in power the discrimination facts are less and less, but till the legislation was not well established especially before and after the war of 1999 have had discrimination in the community
if ever happened that team leaders have ever violated the right of citizen's	100% did not violated the right of their citizen's

knowledge of the human rights policies for the rights of minorities	heard about RAE Strategy and Action Plan 2009-2015, heard about the Constitution of Kosova and Ahtisari package that protects rights of minorities
if the rights of the people from communities are violated, do the Team leaders know where they can direct the issue to support the communities in terms of minority rights	direct issue to the community office at the municipality level, if issues are not solved they continue with other institutions as police, courts, ombudsperson
if the right is violated in health, education, court, social wellbeing	it usually did not happen
knowledge on the UN Convention for the Rights of the Child	100 % they heard about this convention but they are not aware about the knowledge of the articles for the rights of the child
Rights as Leader in the community	100% their role in the community is to protect the rights of the child rights of communities in general and toward education, equal opportunities for all, better life, social integration of communities
satisfied about the protection of the rights of the child in the community	partially are satisfied but it can be better
knowledge of the children for their role in the community and do they call them for support in any asked situation	they all know about them and about they supportive role in the community
what methodology of action they apply to support children	it depends on the situation or the problem they have but always bearing in mind that with children we apply pedagogical methodology from the level they belong
what the leaders would add for the end of the survey	

Table 3. Question for the Team leaders and their answers in %

Final conclusions

From the point of the survey for the Team leaders and their role in the community, we came to the conclusion that leaders are willing to support the community in any given occasion, mostly whenever asked. We cannot say that the self-conscience is not built, but the responsibilities toward children and communities in general should be brought and expanded in all related fields, starting from education, child protection, decision making processes and child participation. The limited knowledge for the UN convention for the Rights of the Child is an obstacle knowing that they heard about them but they don't know the articles and responsibilities of the children. Increasing the limited knowledge about the collaboration with networking activities, with human rights units at the municipality level, unit for communities and directorates for all related fields at the municipalities and government is needed and these are mandatory mechanisms established to integrate and protect the rights of communities.

Besides, the chain of links between children, parents and team leaders and youth it is the education process that needs to be explored and rights through education can be promoted smoothly.

Comparative perception among children, parents and team leaders in the Roma, Ashkali and Egyptian communities for the knowledge about the UN Convention of the rights of child and, knowledge on the institutional responsibilities and cooperation between the communities and child participation in decision making processes.

Key community issues overall evaluation

- III. Knowledge, Attitude and Practices of children and communities in relation to children rights and child protection
- IV. Evaluation of the communities' knowledge on existing services in case of violations of the children rights

Comparative evaluation of the children, parents and team leaders in the communities referring to the Chapter I and II key issues: - Their knowledge about the UN convention for the rights of the child and its articles.

- Their knowledge about an institution and services that protects and promotes community rights.

Knowledge about the UN Convention of Rights of the Child and its articles



Fig 2. Knowledge about the UN convention for the rights of the child and its articles

In detail the figure above shows that all participants: children, parents and community have the same knowledge about the UN convention on the Rights of the Child and its articles and that knowledge is just hearing about it. They lack the knowledge of its articles, duties and responsibilities at the same level. They have no knowledge about the responsibilities that the international organizations and government have to protect their rights.

When children rights are violated who do they turn to

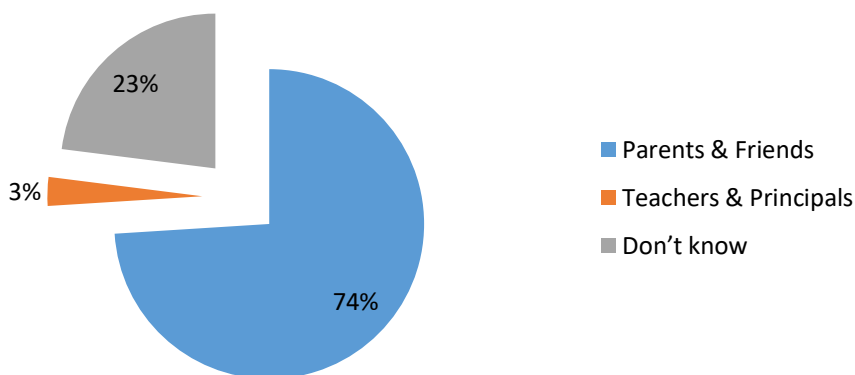


Fig 3. When children rights are violated they turn to ?

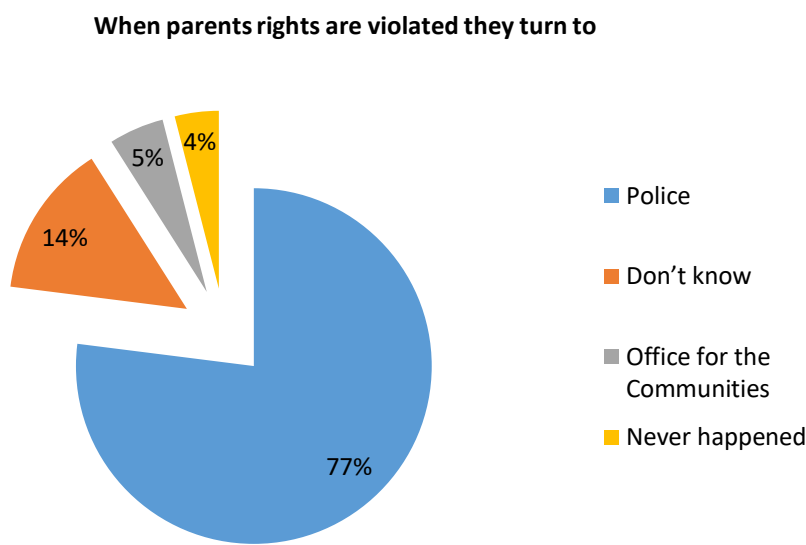


Fig 4. When parents rights are violated they turn to ?

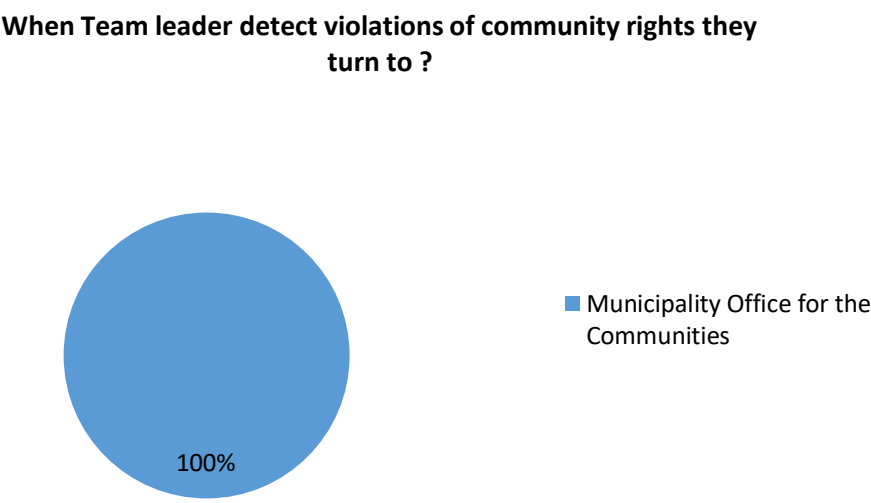


Fig 5. When Team leaders detect violations of community rights they turn to ?

Children's knowledge about the institution that protects and promotes the human, children and minority rights.

Children's knowledge about the institution that protects their rights



Fig 6. Children's knowledge about the institution that protects their rights

Children believe that only their parents know about their rights, and parents only know the Office for the Communities at the municipal level.

Final recommendations

The survey of the three targeted groups, the RAE children, parents and Team Leaders from the communities, brought a clear picture regarding the knowledge and attitude on children rights, child participation and their knowledge on existing services in case of violations of the children rights. During the survey all perspectives on the UN Convention of Children rights, are being evaluated in the quantitative manner bringing out there analyses on how children make a perception of parents and Team leaders in the communities. From the tables we could measure the exact approach of all three targeted groups in daily life. We could see their attitudes, their participation in decision-making and also their knowledge about the institutions that protect and promote children rights. From the evaluation we brought out the final conclusions that are required, measured that should be applied in order to change the way of thinking for all three targeted groups in terms of children rights and minority rights.

The gaps and obstacles presented in the survey brought in the clear picture of the situation and presented needs for the change will empower communities to work closely with institutions and respect the rights of the child in participation and decision-making processes. The UN convention for the Rights of the Child and its articles should be taught to all involved targeted groups, children, parents and team leaders and their engagement will bring positive climate in the minority integration in general. A number of recommendations has been requested in order to make positive changes in communities in above mentioned regions. The actions and activities will reach direct impact on changes and this will be easy measured by the end of activities that will be delivered by the national institutions, local ngo's and International organization's through different projects.

1. Provide basic trainings for the RAE children community on children rights and responsibilities through the materials designed for the children rights, while the articles of the UN Convention for the rights of the child are treated and developed through at the level of child's age. What is important in this context is that the books should be designed on behalf of the course- subject of choice that is free to be chosen from the regular schooling and this depends on the will of children and teachers. But considering the need for education on children rights and responsibilities the materials and the course can be recommended as well as a general course in accordance to the plan-programs and strategies for pre and primary education developed by the Ministry of Education.

2. Engage a professional teacher expert on children rights and responsibilities for the ages 6-12 who will lecture to the children in the communities after school sessions in the community centers in regular basis. The authors of the books should be teachers also, who can provide training courses for children and parents of RAE communities.
3. Deliver basic trainings for the teachers and parents of the REA community on the human rights community rights in general and children rights and responsibilities in specific.
4. Design of 2 manuals, one for the teachers and one for the parents on the legislation package that protects the rights of the RAE communities. Considering the importance of the child education on children rights perspective, the knowledge on the rights and responsibilities cannot be taught only by teachers in the pedagogical way through the lecturing process but the whole education should be delivered also at home in order to create the sustained change in children's attitude towards knowing the rights and their responsibilities. Whilst, the manual for teachers is quite different as the professional capacities in delivering the human rights course needs considerable professional and pedagogical preparation in advance of the subject as currently we do not correspond with a such materials as they exist in other European countries. Since the books for education of children rights and responsibilities are in place and applicable only in some schools and preschool education in different regions of Kosova, applying it in the entire school system would be highly beneficial because it is a subject of choice in regular schools. The manuals can be designed by the same experts who already have applied for children rights education and responsibilities in line with the UN Convention for the Rights of the Child in these book materials. Considering that manual for teachers for teaching process is quite different from the one for the children, two manuals with different methodical approach should be designed in order to reach the overall goal for the community in awareness rising for the children rights and responsibilities. The one for lecturing process is quite different from the one for the parents.
5. Rising awareness activities with children from REA community through games, different artistic activities, etc, on the children rights and responsibilities.
6. Provide rising awareness campaigns about the legislation that protects RAE communities.
7. After the designed manuals, a voice recorded manuals should be provided on community rights on the legislation package that protects the rights of the RAE community to the parents of REA community that are illiterate in order to deliver the information among all RAE communities.
8. Basic trainings for the community leaders on human rights and the minority rights in specific. The importance of delivering those trainings are to empower the community leaders and the youth working closely with community, protecting their rights and being more closer to community in the support to their concerns on human rights violations. The importance of their closer collaboration and support to the community in any accrued situation is quite important as the lessons learned practices will be a greater support for the community at the advisory purpose. Knowledge on the human rights policies and minority rights in specific will increase the awareness for the community as well. Mediation activities are also of great importance between the community leaders, youth and the institutions and will establish closer networking for example with human rights units that are operational at the municipality level.
9. Cross line activities for the RAE children on the hygienic and sanitary principles and reproductive health care and health aid that can be delivered through the games on children rights and responsibilities.
10. Provide networking sessions between the human rights units at the municipality departments, community units at the local level and REA community NGO level with the course on the human rights in general and in specific about the rights for the communities.
11. Trainings for the task forces on human rights monitoring tools in support to REA communities.

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Relationship in Between FDI Inflow and Economic Growth in Kosovo

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Abstract

This study treats the relationship of foreign direct investment (FDI) and economic development in Kosovo. FDI is considered as an important factor of economic growth of places in development, so rightly the question is asked: "Which is the impact of FDI inflow on economic growth of Kosovo?" This study shows the relationship in between FDI inflow and five macroeconomic indicators that have an important role in economic development of Kosovo such as: GDP, GDP per capita, GNI, Exports, and Balance Trade. The data were taken from World Bank and the statistic agency of Kosovo for 2005 to 2014 period. Pearson Correlation technique was used for empirical analysis that is realized with SPSS v. 21.0 statistical program, the results showed that there is a positive relationship in between FDI inflow and GDP growth, whereas there is a negative relationship of FDI inflow and trade balance of Kosovo. This study arguments what is necessary to be done in leading policies to attract foreign direct investment in Kosovo.

Keywords: FDI inflow, GDP, economic growth, GNI, Balance trade, Kosovo.

1. Introduction

FDI influence on macroeconomic indicators has been dealt by a lot of researchers. FDI role is of a specific importance for places with low economic development that are passing through transition period. The importance of FDI has been noticed in 1980 when borrow-giving loans from commercial banks of places in development failed. As a response to this, most of places changed the access they had on foreign direct investment and created a suitable environment to attract foreign direct investment such as lowering taxes and other facilities through supporting structures in business making (Aitken and Harrison, 1999).

FDI influence on host places is double in technological development also in knowledge advance, through importing new technology such as knowledgeable people and different experiences. FDI is an important tool that facilitates technology transformation from developed places for places in development phase. Also, FDI stimulates inside investment and helps in human capital improvement in host places through know-how transformation (Makki, S. S., & Somwaru, A. 2004, Romer, P., 1993). According to a study made from (Borensztein, E., et al 1998) realized in 69 undeveloped states, it was confirmed that FDI contributes in economic growth only when host place has enough abilities to absorb the advanced technology. Furtheron, they claimed that their model brings the role of two requests: advanced technology and the ability to gain

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knowledge from host places. Starting from these findings foreign direct investment are a good chance for economic development in Kosovo, as it has population with youth advantage of age average that offers quick adaptation with technological changes and improvement of knowledge brought from foreign human capital.

In Kosovo during ten years period have been different variation of foreign direct investment , in 2007 FDI inflow was increased, special merits are given to the investment of releasing the second telephone operation in Kosovo. On the other hand, starting from global crisis in 2008 year FDI started to decrease in Kosovo. Beside the global economic crisis, some other factors impacted on foreign investment failure such as: political crisis in the place, lack of investment security, low infrastructure of business making (roads, energy, water), legal structure non-suitable for business beginning, lack of fighting bureaucracy and corruption which discourages FDI, high level of non-formal economy, non-liberalization of outside trade, low requirement of native trade because of high rate of unemployment and poverty, these factors as well as other factors resulted with a drastic lowering where FDI in 2014 touched almost the floor.

In comparison with 2007 year where FDI reached the amount of about 603 million in 2014 FDI decreased in about 200 million (for at least 202%). The same trajectory during these years created even the variance of GDP rate, which means that in general view is noticed a positive long-term relationship in between FDI and GDP. Why a huge importance is payed in relation of FDI with GDP indicator? One of the main indicators of this study is GDP which consists in self-consumption, investments, governmental expenses and net export ($GDP = C + I + G + Exn$), so is considered as the main variable that reflects economic growth of a place.

This study gives a ten year period review of the impact of FDI on macroeconomic factors of Kosovo, and helps in problem identification with the purpose of supporting policies orientation in certain economic sectors.

Study objectives:

To Express empirically the impact of FDI inflow on GDP growth rate, GDP per capit, GNI growth rate, Exports/GDP, and Balance Trade, for 2005-2014 period.

To show the long-term relationship in between FDI inflow and macroeconomic indicators (for 10 year period).

To suggest policies to attract foreign investment in Kosovo.

2. Literature review

Before literature review discussion is started, a FDI definition should be given with the purpose that the audience to have a clear picture of its concept. "Foreign direct investment (FDI) refers to long term participation by country A into country B. It usually involves participation in management, joint-venture, transfer of technology and expertise" (Agrawal, G., & Khan, M. A. 2011).

For FDI relation with macroeconomic indicators, studies of different authors have been divided into two groups: in one side a lot of researchers analyzed the impact of FDI on economic growth of a place, or of a block of places, whereas other authors analyzed the influence of economical and political factors and geography in attracting foreign direct investments. This study will contribute in literature enrichment of the first group the impact of FDI inflow on economic researchers, such as: economic growth factor for places in development (De Mello, 1999; Campos, N. F., & Kinoshita, Y. 2002; Khan, 2007; Neto et al., 2008; Nosheen, M. 2013; Ali, S., et al 2015; Salim, N. J., et al 2015). Amit Saini et al., (2015) made an analysis for FDI impact on macroeconomic indicators, their results were that FDI inflow has positive and strong relationship with Real GDP, GNI and Export growth while FDI has negative and weak relationship with financial position and Trade openness in SAARC member countries. Also Agrawal, G., & Khan, M. A. (2011) analysed FDI impact on GDP for 1993-2009 period in China and India, where it was concluded that for each 1% FDI growth, there is an increase on GDP for 0.07% in China and 0.02% in India. So it is clear that a lot of researcher that analyzed these found a positive relationship in between FDI and economic growth. A lot of researchers agreed with the fact that FDI has an important and positive effect in economic development of the host places through different channels such as creating capital, transferring technology, sharing efficacy, transferring human capital and abilities of advancing knowledge from people of host places, and so on (Adolfo Maza, et al. 2013). Even Robert, B., (1991), pointed out that FDI has an important role in industrialization process and

economic growth of places in development, that explains corporation transactional contribution (CTC) in host places development.

But it is worth mentioning that not all places of FDI have a positive relationship with economic growth, some places have shown that FDI has a negative role in economic growth (Saltz, 1992; Akinlo 2004; Alaya, M. 2006; Marc, A. 2011), whereas Carkovic, M. V., & Levine, R. (2002), showed that IHD does not rapid the economic growth of a place. According to existing literature there is a split in understanding the impact of FDI on economic growth of host places. From OECD (2002) report can be seen that not all places in development are able to win from IHD. Host places must assure a minimal eve of capacities such as human capital quality and development of financial sector for FDI absorbing and profitability.

3. Methodological approach

The aim of this research is to analyze the empirical relationship in between FDI inflow and some macroeconomic indicators in Kosovo. The relationship is analyzed with correlation method, the general purpose of correlation is to evaluate the relationship in between variables. Our model for the impact of FDI inflow on economic development of Kosovo has been analyzed from six variables: Foreign direct investment, net inflows (% of GDP) = GDP at market prices (current US\$) / Foreign direct investment, net inflows (BoP, current US\$)¹; Inside bruto product (GDP) at market prices current in dollar US²; GDP per capita current in dollar US³; GNI current in US dollar⁴; Export growth/GDP⁵; and bilanc trade of Kosovo⁶. The technique used to evaluate econometric is Pearson Correlation realized with SPSS 21.0 statistical program.

Data – All data were gathered from World Bank with the exception of data about trade balance which were gathered from Statistical agency of Kosovo. The data are taken from database of World Bank, because it is a trustful source, and majority of the same analysis are based on this database, which allows taking an amount of data and allows preciseness through downloading data in excel. Analysed data are in frequence of one year to ten years (2005-2014).

Table 1. is a reading- guide for coefficient correlation "r" in between variables.

Table 1.

Description of Matrix correlation

Value of r	Strength of relationship
---------------	--------------------------

1 Foreign direct investment refers to direct investment equity flows in the reporting economy. It is the sum of equity capital, reinvestment of earnings, and other capital. Direct investment is a category of cross-border investment associated with a resident in one economy having control or a significant degree of influence on the management of an enterprise that is resident in another economy. Ownership of 10 percent or more of the ordinary shares of voting stock is the criterion for determining the existence of a direct investment relationship. Data are in current U.S. dollars. <http://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD>

2 GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD>

3 GDP per capita is gross domestic product divided by midyear population. GDP is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. Data are in current U.S. dollars. <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>

4 GNI (formerly GNP) is the sum of value added by all resident producers plus any product taxes (less subsidies) not included in the valuation of output plus net receipts of primary income (compensation of employees and property income) from abroad. Data are in current U.S. dollars. <http://data.worldbank.org/indicator/NY.GNP.ATLS.CD>

5 Exports of goods and services represent the value of all goods and other market services provided to the rest of the world. They include the value of merchandise, freight, insurance, transport, travel, royalties, license fees, and other services, such as communication, construction, financial, information, business, personal, and government services. They exclude compensation of employees and investment income (formerly called factor services) and transfer payments.

<http://data.worldbank.org/indicator/NE.EXP.GNFS.ZS/countries>

6 https://ask.rks-qov.net/tregtia-e-jashtme/publikimet/doc_view/1324--statistikat-e-tregtisaeuml-saeuml-jashtme-naeumlntor-2015?tmpl=component&format=raw

1.00	r is one	It is a perfect relationship between the two variable
0.50	r is greater than 0.00 but less than 1.00	It is a positive relationship between the two Variables
0.00	r is zero	There is no relationship between the two variables
-0.50	r is between 0.00 and -1.00	It is a negative relationship between two variables.
-1.00	r is negative one	It is a perfect negative relationship between the two variables.

Source: Amit Saini et al (2015)

4. Empirical findings

In all studies made until now have been found as literature for FDI inflow in economic indicator, it is showed that FDI inflow has a positive or negative influence in economic growth of places. Our research presents positive impact. Even our research presents positive impact of FDI inflow on economic growth in Kosovo.

In table 2. Is presented the relationship in between variables of these study through Correlation Matrix.

Table 2. **Correlation Matrix**

Parameters	Correlations	FDI	GDP growth rate	GDP per capita	GNI growth rate	Exports/GDP	Balance Trade
FDI	Pearson Correlation Sig. (2-tailed)	1	.687* .028	.654 .056	.681 .063	-.524 .147	-.668* .035
GDP growth rate	Pearson Correlation Sig. (2-tailed)	.687* .028	1	1.000** 0	.988** 0	-.363 .337	-.771** .009
GDP per capita	Pearson Correlation Sig. (2-tailed)	.654 .056	1.000** 0	1	.987** 0	-.357 .346	-.796* .010
GNI growth rate	Pearson Correlation Sig. (2-tailed)	.681 .063	.988** 0	.987** 0	1	-.433 .284	-.800* .017
Exports/GDP	Pearson Correlation Sig. (2-tailed)	-.524 .147	-.363 .337	-.357 .346	-.433 .284	1	.291 .448
Balance Trade	Pearson Correlation Sig. (2-tailed)	-.668* .035	-.771** .009	-.796* .010	-.800* .017	.291 .448	1

*. Correlation is significant at the 0.05 level (2-tailed).

** . Correlation is significant at the 0.01 level (2-tailed).

In table 2. Is seen that FDI inflow variables, have an important positive relation statistically with GDP growth rate and negative with balance trade, for significance level (0.05). See table.3.

Table 3. *Description according to significance*

Parameters	Sig. $p < 0.01$	Sig. $p < 0.05$	Sig. $p < 0.10$
FDI and GDP growth rate		.687*	
FDI and GDP per capita			.654
FDI and GNI growth rate			.681
FDI and Balance Trade		-.668*	

- FDI and GDP growth rate have positive relationship in between that means that with FDI growth will be grown even GDP growth rate and the contrary.

- FDI and balance trade have negative relationship in between. So with FDI growth is lowered the balance trade. Even this relation has positive impact on economic growth in Kosovo, as the Kosovo has balance trade negative which means that import is bigger than export, so this negative relation in between these variables lowers the difference in between export and import, a condition like that of economic growth can be explained into three methods (place can export more through not raising import, can reduce import through not raising export, it can raise export and lower import).

Table 4. *From table 2 also can be seen the relationship in between other variables.*

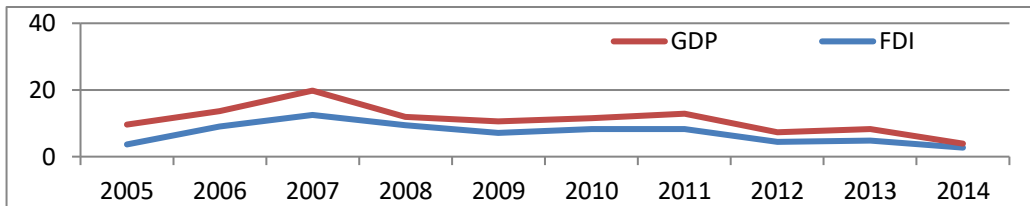
Parameters	Sig. $p < 0.01$	Sig. $p < 0.05$
GDP growth rate and GDP per capita	1.000**	
GDP growth rate and GNI growth rate	.988**	
GDP growth rate and Balance Trade	-.771**	
GDP per capita and GNI growth rate	.987**	
GDP per capita and Balance Trade		-.796*
GNI growth rate and Balance Trade		-.800*

5. Discussion

The evaluated coefficient for FDI impact on GDP growth rate is positive and statistically important meaning that it influences the economic development of the place. Also FDI impact has a positive relation with GDP per capita and GNI growth rate but is not statistically important for significance level (0.05). Whereas, negative relation and statistically important FDI has shown the balance trade as well as negative relation but significantly dealing with export /GDP. Singh and June, (1995) found that orientation from export is powerful variable for IHD attraction. Therefore economic policies in Kosovo in order to make the place more attractive and profit-bringing for foreign companies that can invest should be oriented in export. The

reason of investment of foreign companies is not the power of buying that our place has in disposition, as it is a place in poverty and high unemployment, for foreign companies invest in Kosovo for the reason of free employees, as a result of lowering the cost of work they realize high profitability or with low costs of their products if it has as objective to win the advantage of completion in host places.

Also, Kosovo integration in trade organizations has a huge role in investment's attraction because for companies that invest their capital in Kosovo, has been facilitated the free conveyance of their products in different places of the world. Now with the signature of Stabilisation and association agreement (SAA) in between BE and Kosovo, which is expected to enter on application in 2016 facilitates the product conveyance in between Kosovo and places of European Union.



So, a huge importance in foreign direct investment has integration of host place because the main purpose of the companies is the profit, therefore if a company has low cost to trade its products in host place and in neighborhood places it is going to invest in that place. Foreign company investment has positive impact on investing company and for host places because beside the profit of the company that is invested profits the host place, their profit comes mainly from employees movement from foreign company (investor) in native company, whereas it has negative impact when foreign companies increase the competition of native companies, this competition can not be equal as a result of facilities that foreign companies have from their place. Kosovo has a young population and high rate of unemployment can be turned in technologic development in the region and beyond.

Eventhough in Kosovo continuesly is attempted to liberalize the economic policies with the purpose of following foreign investment still there have not been positive results to raise the investors investments. The host place in our case Kosovo in order to attract more FDI should made facilitation for foreign investitiors, where foreign investitiors should be treated equally with native investors, to assure free transferring of machines of production as well as to be guaranteed non-ownership. So it should leave asides the overwhelmed bureaucratic procedures, to implement a transparent strategy of invesments and to adapt suitable legal insfrastructure to attract high level of FDI and in the same time even economic development of the place.

With the purpose of altering policies in leading the attraction of FDI should be made some changes in tax structure, enterprises should be allowed release from taxes for a certain period of time (grace period in taxes), should be allowed to import equipment producing without customs, to give grants for research in Kosovar trade in order that the investment to have a clear objective and to know the priorities that are offered from the place in case of investment through not causing costs in trade research, to implement guides for credits and value exchange, to be allowed unlimited number of employees with knowledge. So, to implement projects that motivate foreign investment and do not allow them to leave and to invest in another country in the region.

In table 3, are shown the relationship in between other: GDP growth rate and GDP per capita, GDP growth rate and GNI growth rate, GDP per capita and GNI growth rate are positively related in between and are statistically important whereas, GDP growth rate and Balance Trade, GDP per capita and Balance Trade, GNI growth rate and Balance Trade have negative relationship statistically important. These results bring to conclusion that export continues to be a black point for Kosovo, and economic policies for investment attraction must be focused especially on export growth and facilitation of product conveyance outside the country. Kosovo is a suitable place to invest but lack of diplomatic relation with other countries, especially with countries that have not recognized Kosovo as an independent country, this is bringing difficulties in investment realization and is creating barriers on foreign investment in Kosovo.

5.1 . The relationship between IHD inflow and GDP real (2005-2014)

The relationship in between FDI inflow and GDP real is presented graphically in the graphic 1. Where can be seen in the curve almost parallelly in between the trajectory of FDI inflows and GDP real. So, it can be seen an increase in both of the curves in 2007. Whereas, in the last period the curve has marked a decrease. From this figure can be seen visually the long-term positive relationship in between these variables.

The relationship between IHD inflow and GDP real (2005-2014)

Graphic 1.

6. Conclusion

The aim of this study is to measure the relationship in between FDI inflow and economic size of Kosovo. Findings showed that there is a positive long-term relationship in between FDI inflow and economic development. This analysis has been found by measuring the correlation between FDI inflow of five macroeconomic indicators that have an important role in economic development of Kosovo such as (GDP, GDP per capita, GNI, Exports, Balance Trade), for 2005 to 2014 period. Results showed that statistically there is a positive and important relationship in between FDI inflow and GDP growth rate, whereas statistically there is a negative and important relationship with trade balance of Kosovo. Furthermore, correlation in between FDI and GDP per capita, FDI and GNI growth rate is positively related but it has not got a statistical importance for significance level (0.05), whereas, correlation in between FDI and Exports/GDP is negative but without statistical importance. It is worth mentioning that even correlation results of other variables such as: GDP growth rate and GDP per capita, GDP growth rate and GNI growth rate, GDP per capita and GNI growth rate are positively related in between and have statistical importance. On the other hand, GDP growth rate and Balance Trade, GDP per capita and Balance Trade, GNI growth rate and Balance Trade have negative relation which is statistically important. This study makes a significant contribution to the scientific and academic value, to the FDI inflow impact on economic development of Kosovo, in the region and beyond.

7. Study limitations

This study contributes to literature enrichment regarding FDI inflow impact on economic growth, but there are some limitations.

- The size of indicators selection, not all the indicators that impact on economic growth of Kosovo are included. For this reason, a huge attention must be payed on the attempt on generalization of data in this study because there are other economic indicators that influence on economic development of the place.

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Supervision and Control of Local Governance in the Republic of Kosovo

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Abstract

In this paper we have treated supervision and control of local governance in context of fair governance in Republic of Kosovo. Analyse of law framework and European standards of governance autonomy of local self-governance and administrative supervision of local governance. Treating of supervision of local authority governance and the main mechanism of government for legal administrative review of local authority governance and legality as well as the rights of the supervising authority for administrative review of legality of general acts of municipalities. The purpose of this paper is to analyse and tackle the challenges of supervision and control of local government institutions in Kosovo. The mandate and powers of the central government to review the legality of local authorities in the field of enhanced competencies and the legality and appropriateness of their scope of activities of in the field of delegated powers. The challenges of preserving the autonomy of local self-government and local government supervision by the central authorities. One of the challenges of the supervisor in the future will be to supervise and control of municipalities with extended competences (municipalities with Serb majority), shall these municipalities consider requirements to be review the unlawful acts and harmonize them with the applicable legislation in Kosovo. The methodology of the paper will be mixed, such as: as comparative methods, descriptive, requesting explanatory, predictive.

Keywords: local governance, autonomy, supervision, control, good governance

1. Introduction

Kosovo after war in year 1999 was ruled under the Administration of the United Nations.

Resolution 1244 (1999) adopted by the Security Council at its 4011th meeting, on 10 June 1999 decides that the main responsibilities of the international civil presence will include: organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections. Transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo's local provisional institutions and other peace-building activities. In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement (Resolution 1244 (1999) article 11). All legislative and executive authority with respect to Kosovo, including the administration of the judiciary, is vested in UNMIK and is exercised by the Special Representative of the Secretary-General. The Special Representative of the Secretary-General may appoint any person

to perform functions in the civil administration in Kosovo, including the judiciary, or remove such person. (Regulation No. 1999/1 UNMIK Section 1). The Special Representative of the Secretary-General shall appoint, and may transfer or replace, a Regional Administrator for each of the five regions of Kosovo (Pristina, Pec, Mitrovica, Prizren and Gnjilane) to act on his behalf. The Regional Administrators shall report to the Deputy Special Representative of the Secretary-General for Civil

Administration. The Regional Administrators shall control, discharge or otherwise supervise the functions entrusted to public services and local government bodies in the

respective regions and may require that those services or bodies seek his or her prior approval for specific decisions or initiatives. (Regulation No. 1999/14 UNMIK Sections 1 and 2). Authority to administer public, state and socially-owned property in accordance with the relevant UNMIK legislation in force, in cooperation with the Provisional Institutions of Self Government. (Regulation No. 2001/9 Chapter 8 drops q). The activity of local self-government bodies is based on this Constitution and the laws of the Republic of Kosovo and respects the European Charter of Local Self-Government. (Constitution Article 123). In the Republic of Kosovo the basic unit of local government is the municipality. Municipalities enjoy a high degree of local self-governance and encourage and ensure the active participation of all citizens in the decision-making process of the municipal bodies. Municipalities have their own, extended and delegated competencies in accordance with the law. The state authority which delegates competencies shall cover the expenditures incurred for the exercise of delegation. Municipalities have the right to decide, collect and spend municipal revenues and receive appropriate funding from the central government in accordance with the law. Municipalities are bound to respect the Constitution and laws and to apply court decisions. The administrative review of acts of municipalities by the central authorities in the area of their own competencies shall be limited to ensuring compatibility with the Constitution of the Republic of Kosovo and the law. (Constitution Article 124).

The main purpose of this paper is to examine the role and influence of the supervision and control of local government to ensure professional, effective, efficient, accountable, transparent and accountability of local government in local level, which shall be at the service of municipal citizens.

The structure of the paper includes the supervision, control and types of supervision and control of municipalities, including the supervision and internal control. Also, legal supervisory authority of municipalities and review of the legality of acts of Municipalities of Kosovo and in the end we have presented the conclusions.

We have supported the methodology of research based on primary and secondary sources, analysis of all legal frameworks on which relies the supervision and control of local government in Kosovo and the literature of various authors and reports of the Ministry of Local Administration

2. Meaning of the Supervision and Control of local government

Related to control of administration says H. Fayoll said that the control is the verification, if the works are carried out with the approved plan, given command and certain principles (Sokoli, 2009, p.11). The purpose of the control exercising and undertaking of measures to ensure the legality, in the first place to make the violated law function properly and secondly to specify the accuracy of the authorities or employees of public apparatus that have violated or have allowed violation of the law. (Dobajni, 2004, p.19). The purpose of control is to make impossible the determination, namely the application of that general normative legal act that would oppose the constitution or the law. As a result, even with sanctions, as stipulated with special legal systems, tends to avoid from the legal system those general bylaws normative legislation acts that are not in accordance with provisions with the principles expressed in the Constitution, respectively, laws. (Polozhani, Dobjani, Stavileci, & Salihu, 2010, p. 49). Since 1999, when Kosovo was placed under international protectorate, it was confronted and was challenged by multiple transitions, three of which were main for the socio economic development and good governance in the country, as: the transformation from the authoritarian political system into that democratic; the transition from a state planned economy to the market economy and the transfer of powers from the UNMIK temporary structures to the independent institutions of Kosovo. (MLGA Organization and functioning of Local Self-Government in Kosovo, 2013, p. 5)

The activity of local self-government bodies is based on this Constitution and the laws of the Republic of Kosovo and respects the European Charter of Local Self-Government. The Republic of Kosovo shall observe and implement the European Charter on Local Self Government to the same extent as that required of a signatory state. Local self-government is based upon the principles of fair governance transparency, efficiency and effectiveness in providing public services having due regard for the specific needs and interests of the Communities not in the majority and their members. (Constitution of the Republic of Kosovo article 132). Also, article 124 of Constitution of the Republic of Kosovo provides that Municipalities enjoy a high degree of local self-governance and encourage and ensure the active

participation of all citizens in the decision-making process of the municipal bodies.(Constitution of Kosovo article 124). Our control system is oriented more in supervision than in control. In the Republic of Kosova, the monitoring system of local government is regulated by the Constitution, Law on local self-government as well as other sectorial laws. This system is more limited in the possibility of the consulting intervention and recommendation, in case of exercising the competencies of the bodies of local self-government and is built as part of relationship between the central and that local level.(MLGA Organization and functioning of Local Self-Government in Kosova,2013,p.51).The the European Charter of Local Self-Government commits the ratifying member states to guaranteeing the political, administrative and financial independence of local authorities.(Council of Europe Charte européenne de l'autonomie locale et rapport explicative, 1986).

The administrative and territorial organisation of the Republic of Kosovo is currently comprised of 38 municipalities, respectively 27 Albanian-majority municipalities, 1 Turkish-majority municipality and 10 Serb- majority municipalities.(MLGA Municipal performance Report 2014 p.11).Local self-government is an autonomous system of governance, through which, their political governance, legal, financial and administrative, were attributed to them. This system promotes democratic behaviour, transparency and accountability as well as ensures a mutual system of control at the municipal level to prevent illegal actions. Thus, municipalities are obliged to exercise the activity under the Constitution, laws, norms issued by them, the norms which can have the same impact as the state norms, although dependent on these latter.(MLGA Organization and functioning of Local Self-Government in Kosovo, 2013, p 52). Municipalities are subject to supervision of the legality of their activities with regard to performance of own and extended responsibilities. Insofar supervision is carried out according to the Law on Local Self Government. Municipalities carrying out tasks delegated by the state administration are subject to supervision of the legality and of the expediency including effectiveness and efficiency of their delegated activities. (Law No.03/L –189 articles 65).

2.1. Types of supervision and control of Municipalities

Constitution of the Republic of Kosovo article 124 provide that Municipalities have their own, extended and delegated competencies in accordance with the law. The state authority which delegates competencies shall cover the expenditures incurred for the exercise of delegation. Municipalities have the right of inter-municipal cooperation and cross-border cooperation in accordance with the law. Municipalities have the right to decide, collect and spend municipal revenues and receive appropriate funding from the central government in accordance with the law. Referring to article 124 paragraph 6 to the Constitution provides that Municipalities are bound to respect the Constitution and laws and to apply court decisions. The administrative review of acts of municipalities by the central authorities in the area of their own competencies shall be limited to ensuring compatibility with the Constitution of the Republic of Kosovo and the law.(The Constitution of Kosovo article 124).

Monitoring and supervision of municipalities is the right of the Ministry of Local Government to monitor and supervise the implementation of the responsibilities of municipal bodies ensuring that municipal acts are in full compliance with applicable legislation, the municipality framework of Kosovo competencies.(Administrative Instruction No. 2008/4 article 2).Kosovo has strengthened its cooperation between the central and local level. Ministry of Local Government has made an advancement with monitoring system and assistance to municipal authorities.(MLGA Organization and functioning of Local Self-Government in Kosovo, 2013,p.4). However, despite the individuality of the municipalities in carrying out of their activities, legislation has established a degree of dependence in relation to the central authorities. In this context, determination by law of the supervisory nature function of Ministry of Local Government Administration and other line Ministries towards municipalities is particularly important as it enables partial restriction of the municipality activities. This coincides with control of law respecting as determined by law and established only for relevant public reasons.(MLGA Monitoring report of the Republic of Kosovo Municipalities January-December 2012,p.3).

Comprehension of supervision and control of the municipalities in Kosovo is determined in two fields:

- Internal control; and
- External control

Within the supervision, should be mentioned also the social supervision, which is realized through various forms of the direct democracy.

2.2. Supervision and the Internal Control

Supervision and Internal Control in the municipality means the right of municipality bodies legally authorized, for provision of respect of the legality and constitutionality by the lowest level bodies within the municipality. Taking into account the structural separation the Assembly / Executive within the municipality, there also exist responsibilities for controlling the work of these bodies, taking into consideration their field of activity. The legal framework has set possibilities of municipal bodies control in two ways:

- control that the Municipal Assembly performs towards the Executive and
- control made by mayor of municipality in relation to municipal directorates

2.2.1. Control of the Assembly on the Executive of the municipality

Although in terms of control, are not foreseen specific provisions which regulate the manner of control (Assembly-Executive), this issue can be understood on the basis of the hierarchy established by law according to the Law on Local Self-Government, the Assembly of municipality is defined to be the highest body in the municipality and at the same time the supervisory organ at the local level, competent for ensuring the provision of services by the executive in accordance with the legislation in force. (MLGA Organization and functioning of Local Self-Government in Kosovo, 2013 pp 52 and ,53). Law No on Local Self Government article 35 Municipal Assembly is the highest representative body of the municipality and shall be directly elected by the citizens in accordance with the Law on Local Elections. (Law No. 03/L-040 article 35). Municipal Assembly, hold meeting regular, Extraordinary Meetings how and Open Meetings to the public. (Law No. 03/L-040 Arts 43, 44, and article 45). The Municipal Assembly is the highest body of the Municipality which exercises the function of local government, as defined by the Law on Local Self-Government and the Statute of the Municipality. Responsibilities and Municipal powers have to be exercised by the Municipal Assembly and the Mayor, unless otherwise provided by the Law on Local Self-Government and other laws and Municipal Statute. (Municipal Statute of Pristina Article 29). The Municipal Assembly is the highest representative body of local government and at the same time legally authorized supervisory body for provision of services by the municipal executive in accordance with the legislation in force. To exercise its function, the Municipal Assembly should meet regularly in order to carry out responsibilities within the municipal powers, to adopt the necessary the normative acts for functioning of the municipality, the acts explicitly required by the applicable legislation or which laws are those that are left open to to activate them depending on the needs of municipalities and to discuss and decide upon the matters of interest for the municipality. (MLGA Report on Functioning of the Municipal Assemblies of the Republic of Kosovo, 2013, p.10)

The Mayor represents and acts on behalf of the Municipality, leads the municipal government and its administration and conducts the financial administration of the municipality. The Mayor exercises all competencies not explicitly assigned to the Municipal Assembly or its committees. Mayor has for dutie to executes the Municipal Assembly acts, appoints and dismisses his deputies, appoints and dismiss his advisors who assist him in discharging his duties organizes the work and directs the policy of the municipality. The Mayor proposes municipal regulations and other acts for the approval of Municipal Assembly, proposes municipal development, regulatory and investments plans; proposes the annual budget for the approval of the Municipal Assembly and executes the budget adopted. The Mayor reports before the Municipal Assembly on the economic-financial situation and the implementation of the investment plans of the Municipality at least once every six months or as often as required by the Municipal Assembly, and may request the Municipal Assembly only once to review a municipal act when he deems the act to violate the applicable legislation and/or the interests of communities. The Mayor shall consult the Deputy Mayor for Communities about the matters related to non-majority communities; and other activities assigned to him/her by the statute. (Law No. 03/L-04 article 58). Municipal acts approved by the Municipal Assemblies of the Republic of Kosovo have regulated many fields, but the most important ones that we can mention are: adoption of urban regulation plans, acts in the environment field, adoption of the decisions regarding the use of municipal immovable property, decisions for the names of streets, adoption of the acts in the area of public services, regulation of the internal organization of the administration, acts that regulate generation of the municipal revenues, municipal safety mechanisms, etc. (MLGA Monitoring Report of the Republic of Kosovo Municipalities January-December 2012, p.7). With the strengthening of Mayor's role, local self-government in Kosovo has remained without control mechanisms, since municipal assemblies in most of the cases are composed of a majority which comes from the party and coalitions that have won the elections, but even in case of the contrary it is impossible to exercise any control over the Mayor. The lack of institutional

tradition has left room for party mechanisms to interfere in the work of municipalities. Mayor of municipality in most of the cases has two addresses of accountability, one to the entity that has nominated him and the other to the citizens as stipulated in the law. However, one of the accountability addresses, i.e., to citizens, is very weak because most of the ideas expressed by citizens in public debates have never been followed up, which means that Mayors organize such public meetings just to meet a formal requirement. The real address of accountability in practice is the party which he or she represents and which is turned into an address of obligations that Mayor has to fulfil during his/her mandate. This is explained by the fact that in many municipalities Mayors are usually presidents of party branches. (Tahiri,B.,2012, p.10).

2.2.2. Control carried out by the Mayor of municipality in relation to municipal directorates

Mayor, pursuant with the provisions of the Rules and the Statute of the Municipality, is responsible for: call the meetings of the Assembly, their presiding and the progress of the Assembly activity; perform the function of Chairman of the Policy and Finance Committee and has a casting vote in case of vote equality pro and against; presiding the meeting of the Board of Directors; appoint of the directors to assist the President in performing his/her duties, except the Head of the Directorate of Administration and Personnel; appoint the member of the Board of Directors, which shall exercise the responsibilities of the President in his absence; take care to implement the provisions of the Regulation on self-government of municipalities in Kosovo and other legal provisions dealing with the responsibilities of municipalities; monitor the overall financial management of the municipality and the implementation of decisions taken by the Municipal Assembly; determine the establishment, organization and activity of the municipal administration, and the constituting of institutions and enterprises; make the assignment or temporary separation and coordination of duties and responsibilities between departments, as appropriate, taking into account the particular project area or etc.(Municipal Statute of Pristina article 51).

The municipal administration shall be organized into directorates. Each municipal directorate shall be managed by a director who is employed and dismissed by the Mayor. The directors shall manage their directorates in accordance with the strategic and political strategies of Mayor and in accordance with Laws and municipal applicable regulations. Directors shall regularly report to the Mayor for the matters that are under their responsibility and shall provide him/her all necessary information and reports for the decision-making process. (Law No. 03/L-040 article 62). The municipal administration shall have a Head of Personnel. The Mayor shall announce the post, recruitment and dismissal of the Head of Personnel in accordance with the applicable law on civil service. If the position of the Head of Personnel becomes vacant, the Mayor shall appoint in an acting capacity a senior member of the municipal civil service.(Law No. 03/L-040 article 66). As mentioned above, Board of Directors consists of Directors appointed by the Mayor, the Head of the Directorate of Administration and Personnel and the Director of the Office of Communities. each member of the Board of Directors: a) regularly reports to the President on matters that are their responsibility; b) assists the President, the Municipal Assembly and its Committees by providing all the necessary information and reports for the decision-making process; c) implement all regulations and decisions of the Municipal Assembly and the laws passed by the Assembly of Kosovo; d) prepare the activity program and presents periodic reports of the activity to his department; f) is responsible for the daily management and control of directorate; d) prepares and presents periodic development plans in their area of responsibility and monitoring of these plans; e) responds effectively to any complaint relating to its sphere of responsibility; f) participates and contributes to the activity of the Municipal Assembly, its Committees and the activity of the Board of Directors; g) ensures that it shall provide fair and equitable access o for those public services that are in its responsibility; j) it has met all the tasks and orders assigned in appropriate way.(Municipal Statute of Pristina Article 59).

2.3. Reporting of the Mayor in the Municipal Assembly

The Mayor has responsibility to report before the Municipal Assembly on the economic-financial situation and the implementation of the investment plans of the Municipality at least once every six months or as often as required by the Municipal Assembly. ((Law No. 03/L-040 article 58 drops J). However, this law does not clarify whether the reports presented will undergo a voting process, and the consequences of their disapproval. In practice, it is has been noted that the mayors present written reports to the municipal assemblies, the approval of which is an internal issue of municipalities and has no legal consequences. Other forms of reporting are verbal ones, where the assembly membership ask direct questions or in writing, depending on the nature of the case. Such practices have been noted as a good opportunity of

executive accountability before the Assembly and provision of answers to many questions. Some municipal assemblies prioritize direct questioning of the municipal executive by regulating this segment with a priority on the agenda. In order to successfully implement this type of control, is needed the presence of mayors, municipal deputy-mayors and municipal directors in the assembly meetings. It is noted that the mayors did not always pay attention to their presence at the meetings of the Municipal Assembly, as this obligation, to most cases bear the deputy mayors and directors of departments. During this period, the presence of mayors is not observed to three municipalities. Municipalities four, mayors have not always been present to assembly meetings, while in other municipalities their attendance has been present. (MLGA Report on functioning of the Municipal Assemblies of the Republic of Kosovo January -June 2013, p.12). For example, during the six-month period of 2014 from the collected data for the reporting of Mayors in Municipal Assemblies, it appears that in 38 municipalities there are 37 reports, but there are 6 municipalities in which their Mayors have not reported to the Municipal Assembly.(MLGA Six-moth report of functioning of the Municipal Assemblies of Republic of Kosovo 2014, p.10). From the collected data for the reporting of Mayors in municipal Assemblies during 2014, it appears that in 38 municipalities there have been 88 rapors. Mayors 6 municipalities have not fulfilled the obligation to report to the Municipal Assembly at least twice year.(MLGA report of functioning of the Municipal Assemblies of Republic of Kosovo, January-December 2014, p.13).

Although, regarding the obligation of mayors to submit quarterly budget report, this is done in all municipalities. Although Law No. 03/L-048 on Public Financial Management and Accountability has not called for the voting (approval) of financial reports from the Municipal Assemblies, the adoption of these reports is the practice of most municipalities. While municipalities that do not practice voting of the executive financial reports are: Kaçanik, Partesh, Deçan, Graçanica, Gjakova, Mitrovica, Rahovec and Suhareka.(MLGA Report on Functioning of the Municipal Assemblies of the Republic of Kosovo January – June 2013, p.13).

2.4. Supervisory Authorities for the local government

The ministry responsible for the local government is the supervisory authority unless; the responsibility for the review of municipalities is assigned by law to the responsible ministry or institution with respect to a specific field. The review of the delegated competencies is exercised by the body of central government which has delegated them. Referring law on Local Self-Government article 77 provides that Municipal and supervisory authorities are obliged to cooperate with each other in the process of administrative review. All measures of review shall be taken by review authorities through the relevant legal acts. Such acts shall state the legal basis and explain the reasons for the application of a certain review measure.(Law No. 03/L-040 articles 76 and 77).The supervisory authority has the right to receive and obtain full information on all matters concerned, including the right to visit the municipal offices and municipal facilities and to request access to municipal documents. The Mayor shall be responsible for making this information available to the supervisory body. During such visits, the representatives of the supervisory body shall not give direct instructions to the staff of the local self-government bodies. The ministry responsible for the local government has the right to be regularly informed by the municipalities on the areas of which the ministry it is not the supervisory authority.(Law No. 03/L-040 article 78). In order to facilitate the supervision and create a more efficient system in carrying out the review of legality of municipal acts, ministerial committees were established according to specific fields.(MLGA Report on functioning of municipalities of the Republic of Kosovo 2013, p. 24). The possibility of supervision of local self-government bodies by the supervisory authority is the raised issue on constitutional level. Although municipalities have a high degree of local self-government, the central authorities have the jurisdiction and control of their supervision in order to ensure the legality of municipal acts. In compliance with the legal framework applied in Kosovo are defined the mechanisms of administrative review and oversight of the law enforcement from central level. Supervision of municipal authority activities should be in accordance with the law and the European Charter of Local Self-Government which doesn't allow to violate the autonomy of local government in exercising its supervision.(MLGA Administration Monitoring report of the Republic of Kosovo Municipalities January-December 2012, p.57). Monitoring of the activities and supervision has be in proportion with the legal purpose to be achieved. The monitoring activity and supervision should have as little impact as possible on the interests of municipalities and to minimize the time commitment of the officials of the municipality in this process. (MLGA Administrative Instruction No.2008/4 article 4) Monitoring and supervision of municipalities in e exercising of their own competencies shall be limited only with monitoring and supervision of legality, it means (Ibid article 6). The review conducted by the supervisory authority to ensure that municipal acts have been issued in conformity with applicable legal provisions and that the issuing body has not acted in excess of its legally recognized mandate.(Law No. 03/L-040 article 3).

Monitoring and supervision of municipalities in exercising of delegated authority should include, supervision of lawfulness and supervision of suitable actions,(MLGA Administrative Instruction No.2008/4 article 6), but also effectiveness and efficiency of activities,which also extends to the capabilities of officials who carry out these affairs.

In short, this type of supervision is similar to the hierarchical control that exists within the government administration.(Ivanisevic',Kopric',Omejec & Simovic,p.190).

Review of expediency shall mean the review conducted by the supervisory authority to ensure that delegated competencies have been executed in compliance with the rules, criteria and standards determined by the central government and if the measures taken by municipality were appropriate to achieve the results determined by the Government of Republic of Kosovo.(Law No. 03/L-040 article 3). Also, article 8 of The European Charter of Local Self-Government (KEVL) provides that Administrative supervision of local authorities' activities. Referring to article 8 Paragraph 2 provides that any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.(The European Charter of Local Self-Government art.8 paragraph 2). However, it is important that the local government body, when possible, to be allowed to take into account local circumstances in exercising delegated powers, providing that return to this delegation does not excessively violate the sphere of authority of the independence of local authority From the other side, it is recognized that in respect of certain functions, such as issuing of identity documents, the need for uniform regulations may leave no scope for local discretion.(European Charter of Local Self-Government and explanatory report article 4 paragraph 5). Also, KEVL provides that Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interest which it is intended to protect.(The European Charter of Local Self-Government article 8 paragraph 3). As mentioned above, State bodies shall supervise the lawfulness of the work of municipal bodies. In matters vested in municipalities by the state, state bodies shall also supervise the appropriateness and expertise of their work. The state supervision of the work of a local community body shall be exercised by the government and ministries.(Republic of Slovenia The law on Local Self-Government article 88). Ministry of Local Government Administration (MLGA) has developed an advanced system of monitoring supported in two main ways: through monitoring with direct participation in municipalities and through electronical monitoring realized in several different forms. Having into consideration the advantages of the information technology and for the purpose of decreasing the financial cost, MLGA has installed a special program to enable the supervision from distance through telepresence.(MLGA Organization and functioning of Local Self-Government in Kosovo, 2013, p.58).

2.4.1. Review of the Legality of Municipal Acts

The Municipal Assembly may adopt acts within their areas of its competences. Acts of the Municipal Assembly shall be effective in the territory of the Municipality enacting the act. These acts shall include: Statute of the Municipality; rules of Procedure; Municipal regulations; and any other acts necessary or proper for efficient operation of the Municipality. (Law No. 03/L-040 article 12). In the context of state supervision, a distinction is made between two kinds of supervision: legal supervision and functional supervision. As far as the municipalities act within their own sphere of activity, they are subject to legal supervision. (Jürgen Harbich, 4/2009, p.56). Supervision over the legality of general self-government acts of local representative bodies is carried out by all central government administration bodies, each within its scope of activities.(Ivanisevic',Kopric', Omejec & Simovic, p. 189) .

For example, in the Republic of Slovenia Supervision of the legal implementation of general acts and individual municipal acts relating to matters that fall under their jurisdiction shall be carried out by the ministries, each in the area of their competence. For the purpose of supervising the legal operation of municipal bodies, the ministries must ensure suitable cooperation, the mutual supply of information and professional assistance for municipal bodies. Ministries must warn the municipal body which they believe has issued an act which does not comply with the Constitution and the law, and shall propose suitable solutions. In addition, ministries must warn competent municipal bodies if they determine that the municipal administration is not acting in accordance with the law or other regulations, and shall propose suitable measures. At the proposal of a ministry, the Government shall propose that the Constitutional Court withhold the execution of a municipal general act which the ministry or the Government believes may cause major disturbances in the implementation of municipal tasks, have harmful effects on the health or life of people, or cause major economic damage, or whose

implementation would represent a violation of the Constitution or other legally guaranteed rights and freedoms of citizens. (Republic of Slovenia The law on local self-government Article 88a).

In Republic of Kosovo the government's main mechanism for the supervision of the constitutionality and lawfulness is the right of the supervisory authority for the administrative review for lawfulness of the municipalities' bylaws. (MLGA Report on functioning of the Municipal Assemblies of the Republic of Kosovo January – June 2013, p.27).

The ministry responsible for the local government is the supervisory authority unless; the responsibility for the review of municipalities is assigned by law to the responsible ministry or institution with respect to a specific field. The review of the delegated competencies is exercised by the body of central government which has delegated them. (Law No. 03/L-040 article 76).

Monitoring and supervising authority must be careful when monitoring and supervising activities that should have as little impact as possible on the interests of municipalities and to minimize the time commitment of municipal officials this process.(MLGA Administrative Instruction No.2008/4 article 4).

The administrative review of acts of municipalities by the central authorities in the area of their own competencies shall be limited to ensuring compatibility with the Constitution of the Republic of Kosovo and the law.(The Constitution of Kosovo article 124). Administrative review of municipal functioning in delegated competences is subject to legality review and suitability of actions. (MLGA Progress report on implementation of decentralization, 2012, p. 15) .The Mayor of a municipality shall forward to the supervisory authority by the 10th of each month, a list of all acts adopted by the Mayor and the Assembly in the previous month. Law No. 03/L-040 article 80). According to LLSG the following acts are subject to procedure of mandatory legality review of legality: General acts adopted by municipal assemblies; Decisions related to joint activities of partnership and cooperation; Acts adopted within implementation framework of delegated competences. (MLGA Progress Report on implementation of decentralization 2012, p. 15). For every registered act in protocol office, the Ministry of Local Government Administration (MLGA) must declare within 15 days from the date of registration the legality of the act.In case undeclared by the Ministry of Local Government Administration (MLGA), the act is considered to be in accordance with the law in force.(MLGA Administrative Instruction No.2008/4 article 11).

The administrative review of the municipalities has the following objectives: to strengthen the ability of the local self-government bodies to meet their responsibilities through advice, support, and assistance; to ensure the lawfulness of the activities of local self-government bodies; and to ensure that the rights and interest of citizens are respected. (Law No. 03/L-040 article 74). MLGA has identified the MA acts through monitoring of meetings. Moreover, MLGA has evaluated the acts which were not under the competence of other authorities of the central level from the legal perspective. The acts for which MLGA was not competent were submitted to the responsible ministries, respectively ministerial committees. In this regard, a number of legal violations were identified during the issuance of acts from the MAs. (MLGA Report on functioning of municipalities of the Republic of Kosovo 2013, p.24)The data on the process of review of the legality of municipal acts are presented below for three years: Ministry of Local Government Administration, from years 2012 to 2014 has identified violations of the law based on the assessment of the legality of acts of municipalities, MLGA has found this situation regarding the legality of acts of municipalities: In year 2012 the acts that Ministry of Local Government Administration received for reviewing of legality and according to the estimations given by inter-ministerial commissions established especially for this purpose have been reviewed a total of 42 acts of unlawful content. Municipal review level of the acts is 50% respectively 20 acts have gone back for review while 22 remain unexamined. (MLGA Monitoring report of the Republic of Kosovo Municipalities January-December 2012, p. 8.). Also, in the year 2013 Municipalities have been active in issuing sub-legal acts, with 1107 decisions and 142 regulations were adopted in the period from January to December 2013. (MLGA Report on functioning of municipalities of the Republic of Kosovo 2013, p.15). The total number of unlawful acts issued by Municipal Assemblies is 59. Out of this number, municipalities have revised 39 acts (or 66%). 27 acts (or 69%) were harmonized in accordance with the recommendations of the supervisory organ. 12 acts (or 30%) were not harmonized in accordance with the demands of the supervisory body. 20 acts (or 33%) were not reviewed at all. (MLGA Report on functioning of municipalities of the Republic of Kosovo 2013, p.8. Similar to this, the Municipal Assemblies of the Republic of Kosovo in the first six months of 2014 held 25 meetings in total. From them 216 meetings were monitored, or 96% in percentage of held meetings. Regarding the acts 1,081, are approved in total, of which 64 confirmations are given legality by the Ministry of Local Government Administration, and are recorded 29 violations of the bylaws of the municipalities, of which 18 were reviewed and 1 is still non-harmonized with the applicable legislation. In total they addressed 253 acts of municipalities for review and evaluation of legality to Ministries and Cectoral Committees for

Assessment of the legality of acts of municipalities as required by the decision of the Government of the Republic of Kosovo. (Report for the work the Ministry of Local Government Administration) In January-December 2014, the municipal assemblies have approved a total of 2,030 acts, of which 6 municipal Statutes, regulations 148 and 1876 decisions. It is apparent that municipalities have been very active in issuing of legal bylaw regulations. (Report on functioning of municipalities of the Republic of Kosovo January-December 2014, p. 14). Ministry of Local Government, in assessing the legality of acts has found that violations have made a total of 28 municipalities. Number of illegal acts is 52, of which 35 acts are revised and harmonized with the law, 12 acts were not reviewed by the request for reconsideration, and 5 are not harmonized acts upon reconsideration in the Assembly. (Ibid, p.20).

2.5 Inspection

Some public services are offered from the central authorities while some are offered by the local level. Municipality inspects provision of services for some services, such as: market inspection, inspection of construction, sanitary inspection etc. for the purpose of the protection of legality. Together with some competences the inspection services were also centralized. The central institutions also organize the services of inspection, such as: inspection of work, environment, education, health etc. The own competences of the municipalities, such as: water supply and canalization, fire extinguishing, regional waste landfills are offered by the publicly owned enterprises, agencies or units that are under management of the central level. (MLGA Organization and functioning of Local Self-Government in Kosovo, 2013 p.56).

2.6. Audit and Internal control in municipalities

Procedures of good governance are intended to confirm that management implemented a range of internal controls to ensure that financial systems operate as intended. It is important that they include the proper reporting to Management enabling an effective and timely response to the operating and financial identified challenges. Review made to higher management controls implemented in the main municipal financial system highlight a good or a poor control over expenditures and revenues. (Audit Report of the Municipality of Peja, 2014,p.15).

Every public institution is obliged to audit the public money. (MLGA Organization and functioning of Local Self-Government in Kosovo, 2013, p. 56). It helps an organization to accomplish its objectives by providing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. (Law No. 03/L-128 article 3). The audit of public finances is another very important process for ensuring transparency in the spending of public funds in accordance with the budget and procurement plans. Municipalities in Kosovo have established specific structures of auditing to make independent control and internal audit of the finances, but still some municipalities are not stable in this segment. (MLGA Report on capacity assessment of municipalities 2012,p.42).

Law No. 03/L-040 on Local self Government provides that the Municipal Assemblies shall establish and maintain the Committee on Policy and Finance and the Committee on Communities as permanent committees. The Policy and Finance Committee shall be responsible to review all the policy, fiscal and financial documents, plans, and initiatives including strategic planning documents, the annual Medium Term Budget Framework, the annual procurement plan, the annual regulation on taxes, fees and charges, the annual internal audit work plan, the annual medium term budget and any changes to the budget during a fiscal year as well as reports from the Mayor and submit recommendations for action to the Municipal Assembly. (Law No. 03/L-040 articles 51 and 52). Their role is expressed in the preliminary discussion of all issues that are foreseen to be discussed in the Municipal Assembly, and for this reason it is considered as a prevention mechanism. (MLGA Organization and functioning of Local Self-Government in Kosovo, 2013, p.57). Apart from internal control, each municipality is also undergoing external financial audit by the Office of the External Auditor. The principle of accountability, efficiency and transparency in public money spending derives from the Constitution and Laws of the Republic of Kosovo. The public institutions, both local and central are obliged to respect these principles whenever spending public money. Audit financial reports of the financial statement of municipalities prepared by the Office of the Auditor General are one of the supervisory and measuring mechanisms of the public money spent by the local government institutions. In addition to auditing, each year OAG provides concrete recommendations to the municipalities to ensure that recommendations given by audit are properly addressed. According to the applicable law, the Auditor General shall annually conduct a Regularity Audit of the Kosovo Consolidated Budget, as well as the municipalities of the Republic of Kosovo. OAG currently plays two

roles: monitoring and giving recommendations regarding better management of public finances. (MLGA Progress report on implementation of decentralization, 2012, p.45). Poor accountability requirements and poor quality financial reporting reduced the efficiency of financial and operational management in the Municipality and may result in poor value for money and/or possible financial loss. Lack of effective Audit Committee reduces the focus and impact of internal audit activity and reduces the assurance that the internal audit provides to the Management. The Mayor should review current governance arrangements and related reporting requirements. The Mayor should strengthen controls on procurement planning and implementation securing that open procedures are used for expenditures of the same nature to achieve the highest value for money paid. (Audit Report of the Municipality of Peja, 2014, p.16).

3. Conclusion

Local governance in Kosovo after the war in 1999 faced many challenges since the efforts for constituting of local administration by international institutions, the transfer of responsibilities from international to local, local government reforms, constituting of new municipalities and decentralization. One of the challenges in the past was the three northern municipalities of Kosovo community with Serb majority about their not readiness for cooperation with the Central Institutions of Kosovo, a challenge that will continue for a certain period, which requires more activity and commitment from the central level as well as from International and local political structures. Local governance in Kosovo as other transition countries, which claim to integrate in the EU, are facing the challenge to achieve the provision of services under the highest standards of citizens.

The effort of municipalities to meet the needs and expectations of citizens and local organizations and to attract more investment as indoor and outdoor in their municipalities. However, the staff of the municipality to provide the best in service by providing the highest standards and to satisfy the expectations of citizens may only be successful, if the staff has been given autonomy and responsibility at work. Central Government of Kosovo should be committed to have local government with positive performance, have the ability to manage the high costs and provide services with the highest standards and be close to the citizen of their municipality.

Ministry of Local Government, is the responsible authority for the supervision of municipalities of Kosovo and assessment of the legality of municipal acts. This ministry has constantly had a surveillance about the identified legal violations of municipal bylaws.

- In the future all municipalities shall require to approve the municipality acts in accordance with the applicable legislation in Kosovo.
- Obligate the municipalities in case of unlawful adoption of the act to review the same and all municipal acts to harmonize with the applicable legislation in Kosovo in case of lack of compliance to address them to the Constitutional Court.
- All Mayors should report to the Municipal Assembly and meet their legal obligations and be transparent to the Municipal Assembly and the citizens.
- Supervision and control of local government has an impact in increasing of accountability, efficiency, and accountability transparencies local government and providing of high quality services for the citizens.

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The Role of the Investigative Prosecutor and Judge in the Pre-Trial Proceedings in Kosovo (1999-2013)

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Abstract

The journey of the human society has gone through many challenges, the organization of which was based on written and unwritten rules that were used to preserve the kind. Later on these rules are replaced with written codes and laws. The separation in between criminal law and criminal procedure has its genesis with the appearance of the Austrian Criminal Code (1803). As it is historically known, after the Balkan Wars (1912), Kosovo was invaded by Serbia and Montenegro. On the Paris Conference (1919-1944) it was appended to the Yugoslavian Kingdom, Tito's Yugoslavia (1945-1989 constitutive element of Yugoslavia). On March 23rd 1989 Milosevic destroyed its Autonomy with violence. On 1998-99 the war with Serbia breaks out, which on 10th of June 1999 ended (after NATO's intervention), therefore installing the UNMIK Mission and administration that even after the Declaration of Independence of Kosovo (17th February 2008). After UNMIK's administration in Kosovo, the Law of the Criminal Procedure of ex-Yugoslavia was an applicable law. Its application was extended until the drafting and application of the Temporary Criminal Procedure Code of Kosovo (2004). The comparative methodology, written sources and different official reports are used to write this paper. The comparative data shows that with new Code, the authority of the Prosecution is empowered therefore weakening the role of the Court in the pretrial procedure, the number of the prescribed cases has risen and the discontent of the citizens also, towards the judicial system.

Keywords: Justice System, State Prosecutor, the Defendant, Kosovo, Criminal Procedure Code

1. Introduction

1.1. The differences in different social areas in the world have affected largely in the changes of the recent times, including the changes in the Criminal Procedure area. These changes have incorporated in itself sanctioned universal values of Convents, Protocols and different international Treaties. In this aspect, such changes in the justice area have seen advancements and as such are constitutional categories, on the foundation of which lays the protection of the human and citizen life as one of the main categories of the Human Rights and Freedom Corpus.

The advancement of the Human Rights is incorporated in Kosovo's Criminal Procedure also. Particularly this advancement has marked a positive development in the area of the criminal law, criminal procedure, the execution of criminal sanctions, mediation procedure etc., although it is not pretended that there will not be any violation of the human rights in the future of our country.

With the purpose to minimize these violations of the human rights from different state institutions there should be operational control organs of the accusatory body (including the judicial police) and not only of it.

Firstly, a law should be approved, which should be clear, adaptable and available to the public. (Hering, 2013, page 12)

Secondly, law enforcement institutions (judicial police, prosecutors, judges and officials part of the investigative actions) should act responsibly and conform to their legal authorizations. (Islami, Hoxha, Panda, 2012, page 41)

Thirdly, the independence of the Courts must be operational and so its control through all of the investigative phases, especially including the phase of pre-trial procedure.

Fourthly, the public opinion must be operational (civil society, different organizations for the protection of the human rights, protection of women, children and nature etc.)

1.2. Based on the premises that the rights are legally recognized by the state, that does not mean that the same rights are and cannot be violated by different state institutions. With the purpose to preserve this balance "right-violation", the state has created control mechanisms to reduce them to the minimum, if as such cannot be completely eradicated. These legal mechanisms are created with the purpose of clearly determining the legal authorizations of each institutions in general and the rights of each subject taking part especially in the legal procedure. During different historic developments of the justice system the accusatory body and judiciary are in two different positions. In the Inquisitorial Procedure the accusatory body had to submit every information and data in possession against the defendant and the Court had solely to decide the guiltiness or the innocence of the defendant. In the Adversarial Procedure, the roles of the parties included changed in favor of the defendant, although the accusatory body still had to submit evidence to support and prove the guiltiness of the defendant, but the court was no more indifferent but reflected its authority throughout the entire judicial process. This procedure of control of the accusatory body by the courts was legislated by the Criminal Procedure Law of the former SFRY, which was applicable in the entire Yugoslavia, including the Socialist Autonomous Province of Kosovo as a constitutive part of it. (Salihi, 2012 page 113-117) Within a 10 year period from 1990 to 1999, Serbia had classically occupied (invaded) Kosovo therefore violating the Yugoslavian Constitution. For these violations of the human rights and national rights of the Kosovan Albanian the international opinion was notified for 10 years continually, from credible international institutions such as Humans Rights Watch and Amnesty International etc. As a result of these violations the war with Serbia broke out (1998/1999). After the war, on 10th of June 1999, a temporary UN Interim Administration was installed in Kosovo's territory, who with a regulation listed as an applicable law within the territory of Kosovo the Law of Criminal Procedure of the former SFRY. It should be noted that this law was the only law applicable in the whole Yugoslavian Federation until its desolation, meanwhile in Kosovo this law was applied until it was replaced by the Provisional Criminal Procedure Code of Kosovo on March of 2004.

Methodology

This paper is a result of a quantitative and qualitative research where the comparison in between the Criminal Procedure Law of ex-Yugoslavia (1977) that was applicable in Kosovo until March of 2004, the Provisional Criminal Procedure Code (2004-2012), the Criminal Procedure Code of Kosovo (2013) and other juridical acts, are the case of study. The analysis of this study using the comparative method has shown and brought to light the similarities and differences in between each law, in the pretrial procedure respectively the relationship between the investigative judge and public prosecution (according to the 1977 law), the pretrial procedure judge and the state prosecutor (after 2004). The similarities, changes and differences that are present in the solutions presented in these laws (codes) are also a result of the time, ideological and historic context. After the analysis of the role of the pretrial procedure judge and the state prosecutor according to the new code, it results that the judge of the pretrial procedure is only involved upon the prosecution request. Through the analysis of the facts, it shows that not always do we have a satisfactory solution. This is argued and evidenced using quality methods, based on secondary sources from year 2012 and forward. According to these reports, that refer to the judicial field, in Kosovo there is an enormous number of presubscribed cases that affect directly to the politics of the rule of law, security and the protection of the rights and freedom of citizens.

2. The competences of the accusatory body according to the CPL of ex-Yugoslavia

2.1. According to article 45 of the CPL (1977), the prosecution of the offender was the right and duty of the Public Prosecutor. He was competent to investigate and reveal the offender, to direct the investigations in the pre-trial procedure, to require the execution of the investigation, to indict and represent the indictment, respectively the charges in front of the competent court, to exercise the right to appeal against Court decisions and exercise the extraordinary legal remedies against final judgement.

According to this law, the Criminal Procedure had two phases of development: a) pretrial proceedings and b) criminal procedure.

2.2. The pretrial proceedings was initiated from the competent Public Prosecution after different physical and juridical subject had submitted in a written form or verbal form (article 148). The Public Prosecutor had the right to dismiss a criminal report when convinced that there were no conditions for criminal prosecution and of this he had to notify the injured party within eight days of the dismissal (article 60, CPL) who had the right of private prosecution within eight days (article 60, point 2, CPL – subsidiary prosecution). In the conditions set by the law, the Public Prosecutor could dismiss a criminal report in the latter phases of the criminal procedures, also. This dismissal from criminal prosecution could also turn into the main hearing. In this case, the injured party had to declare, in written form, whether the criminal prosecution should continue or not (article 61, point 1).

When the Public Prosecutor concluded that there were conditions for criminal prosecution against a suspect, the criminal report with his written request was sent to the investigating judge, of the court competent for the execution of investigations. When the investigating judge agreed with the evidence submitted by the Public Prosecutor, he would draw a Verdict to initiate the investigation and this Verdict was sent to the defendant and the Public Prosecutor (article 159). When the investigating judge did not agree with the evidence submitted by the Public Prosecutor for the initiation of investigations, after consulting with the Public Prosecutor, the case was transferred to the three judge panel who then had to decide within a 48 hours (article 159, point 7 and 8). In cases of criminal acts, which the Criminal Law had foreseen a conviction of 1 to 5 years of imprisonment, the Public Prosecutor could write the indictment without the investigation, but this only in agreement with the investigating judge (article 160, point 2, 5 and 6)

2.3. The Criminal Proceedings began only with the ruling of the investigative judge and as such was executed by him (article 161, point 1 and 3). The Public Prosecutor was given the possibility of assisting during the investigation procedure (article 162, point 2), whereas the orders issued by him were executed by an internal affair's organ (article 162, point 3). In accordance with the authorizations by the investigative judge, police investigators could undertake other investigative actions such as the investigation of criminal acts against the juridical constitutional order, photographing of the defendant, take fingerprints (article 162, point 4 and 5). The investigative judge was the one who decided to expand the investigation (article 165, point 2), to accept the proposals from the injured parties (article 167, point 1 and 2), to accept the assisting of the claimant during the interrogation of witnesses (article 168, point 4), to deny the presence of the defendant and his defender during the execution of specific investigative actions (article 168, point 5), responsible for notifying the parties included in the proceedings (article 168, point 6), to accept the clarification (explanation) of the specific cases related to the defendant, witnesses and experts (article 168, point 8, and 9).

The investigative judge had legal authorization to terminate the investigation when the defendant presented temporary mental disorder or disability during the criminal proceedings (article 169, point 1), when the defendant had no known address or when he was on the run, a fugitive. In this case the termination came with the proposal from the Public Prosecutor (article 169, point 2), whereas when these obstacles seized to be, the investigation would continue (article 169). The investigative judge would terminate the investigation with a ruling even when the Public Prosecutor dismissed the prosecution, but was obligated to notify the injured party who had the right for subsidiary prosecution within eight days (article 170). The three judge panel with a ruling could suspend the investigation when the offence charged to the defendant was subject to the exclusion of criminal responsibility, because of the period of statutory limitation for criminal prosecution or because the criminal offence is covered by an amnesty or pardon, or when there were no conclusive evidence to support that the defendant had committed the criminal offence. During the criminal proceedings the investigative judge was obligated to investigate into details not only the criminal act but also the circumstance that led to commit the offence, he had legal obligation to investigate and research the past of the defendant, health history and criminal record (article 172, point 1) information that would serve in the imposed sentence. The investigative judge had legal obligation to notify the defendant and his defender with the evidence and testimonies gathered against him would allow their proposals to collect new evidence on his account by prescribing the period of time when to answer (article, 173, point 1).

According to this Law, the investigation conducted by the investigative judge should end when he concludes that sufficient grounds were provided to file the indictment (article 174, point 1). After the investigation has been completed, case files would pass to the Public Prosecutor who after reviewing, within fifteen (15) days had the right to propose for and expansion of investigations or to file the indictment (article 261). The Public Prosecutor had the possibility of withdrawal from prosecution (article 174, point 2).

If the file for indictment is not completed within a period of six (6) months, the public prosecutor had to submit to the investigative judge a written application supported by reasoning of the delays and reasoning for an extension of the investigation. If the delays of this prescribed period of time were to reasonable or if the prescribed period of time has

passed, the investigative judge would notify the president of the court for the causes of incompleteness and if he would not authorize another extension then the investigative proceedings would terminate and the investigation concluded (article 175, point 1 and 2).

3. Competences of the accusatory body according to the Criminal Procedure Code of the Republic of Kosovo (2013)

3.1. After the Interim Administration Mission of the UN was established in Kosovo, the law of Criminal Procedure of the former SFRY was an applicable law until the year of 2004 when the Provisional Criminal Procedure Code of Kosovo entered into force. (UNMIK/REG/2003/26, 2003). According to Article 46 (1) of this Code, the public prosecutor is an independent body, responsible for investigating criminal offences, prosecuting persons charged with committing criminal offences which are prosecuted *ex officio*, or on the motion of an injured party, supervising the work of the judicial police in investigating persons suspected of committing criminal offences and collecting evidence and information for initiating criminal proceedings, to prosecute criminal offences on the motion of the injured party (article 47, point 2, of CPCRK). Thus with this Code the competences of the Public Prosecutor are larger, while the role of the pretrial judge (replacing the investigative judge) is paler. With this Code the investigations are initiated with the Public Prosecutor ruling.

3.2. After the Declaration of the Independence, the Republic of Kosovo has issued a new Code that has entered into force after the date of signature on 1st January 2013 (Code Nr. 04/L-123)

According to the Criminal Procedure Code of the Republic of Kosovo, the investigation of the criminal proceedings is initiated only with the decision of the State Prosecutor when there is reasonable doubt that a criminal offence is committed. In the investigative matters the role of the police is depended from the State Prosecutor who has the right to authorize specific actions, but always under its administration and supervision (Latifi & Beka, 2013 page 160). The police, as any other public body, such as citizens and other institutions, are obligated to submit criminal offences in the Office of State Prosecutor at the competent Prosecution through criminal reports (Code, 2013, article 78, Latifi, 2004, page 45). Upon receipt of the Criminal Report, the State Prosecutor may require further evidence from the submitter of the Criminal Report (Halili, 2011, page 185 - 191). If the State Prosecutor accepts the Criminal Report after being ascertained that there is evidence of committing criminal offence, he issues a ruling to initiate the investigations, otherwise, he dismisses it. With this Code the subsidiary prosecution is not allowed, a prosecution that was allowed to the injured party from whom the Public Prosecutor withdrew from criminal prosecution.

The Public Prosecutor has a duty to consider the inculpatory as well as exculpatory evidence and facts during the investigation of criminal offences and to ensure that the investigation is carried out with full respect for the rights of the defendant (Code 2013, article 48) and the defendant and the State Prosecutor shall have the status of equal parties (Code 2013, article 9)

In addition new to this Code is the power given to the State Prosecutor to negotiate and accept voluntary agreement with the defendant to cooperate or plead guilty (Code 2013, article 49), to request from the court for temporary freezing of assets of the defendant (Code 2013, article 104, par. 8)

In this Code we have another balance of "forces" in between the Pretrial Proceedings Judge and the State Prosecutor. It is a competence of the State Prosecutor to detect, investigate the criminal offence and the perpetrator of the criminal offence. To complete this task he can order the use of covert measures against the suspects for the criminal offence foreseen in this Code (Code 2013, article 91, point 1).

The control role of the pretrial proceedings judge is especially obvious when it comes to the execution of covert measures of the investigation, but not listed. For the execution of the cover measures of the investigation the Judicial Police is authorized by the State Prosecutor and should be allowed with an Order issues by the Pretrial Proceedings Judge of the competent court (Code 2013, article 91). The covert measures of the investigation must be initiated within a fifteen (15) day time period from when the Order has been issues by the court. The pretrial proceedings judge who allowed the measures should be immediately notified. The name of the official to execute, conduct these measures should be cited, which in most cases these measures have a prescribed period of time of sixty (60) days with the possibility of repeat within 360 days. For the investigation of the criminal offences categorized by the Code, the possibility of applying covert measures is foreseen even when the identity of the subject to whom these measures are applied is unknown, i.e. interception of

telecommunication. In such cases it is sufficient to have a known telecommunication number to arise suspicion if used to commit criminal offence, although the user (owner) is unknown (Code 2013, article 84, point 1 and 2).

According to Article 91 of this Code, there is a large number of criminal offences that require the execution of covert measures of investigation to detect, for which measures the State Prosecutor must submit a request in written form and allowed by an Order issued by the pretrial proceedings judge of the competent court. The set procedures in this Code that refer to cover technical surveillance measures and investigations are strict and subject to the judicial procedure of admissibility. The admissibility of the collected materials, upon the request of the defendant, is the right of the judge or the president of the three-judge panel, who rule as to whether it is admissible before the indictment. This admissibility is subject to the procedure of admissibility even before the indictment is final. If found that there has been violation of the procedure while obtaining the evidence upon the implementation of the covert measures, the court issues a ruling and when this ruling is of final form, the judge or the president of the three-judge panel that conducts the procedure declares all the evidence inadmissible, thus sending all the evidence with a report to the Surveillance and Investigation Review Panel who through the president of the basic court issues a ruling to compensate the injured party. The Criminal Procedure Code in Article 97, point 4 obligates the judging authority to review the admissibility of evidence throughout the entire judicial process in account to the defendant.

3.3. Based on the solutions offered by the CPL of former Yugoslavia (article 14), the role of the Criminal Proceedings Court was active and had a control over the accusatory body respectively the prosecution and had a duty to care of :

- The Criminal Proceedings
- The respect of the rights of the defendant and other persons part of the proceedings
- Ascertaining the true facts, with a special role of control over the prosecution and other bodies part of the pretrial investigative proceedings
- Ascertaining of all the facts that are inculpatory or exculpatory to the defendant (article 15)

3.4. Besides the positive changes that the Criminal Procedure Code of Kosovo brings in the enforcement of the supervising role of the Court towards the accusatory body (article 64, 91 and 97), we see:

- The empowerment of the prosecutor's role and his authority, which in most cases conflicts the solutions offered by this Code in protecting the human rights and freedom.
- Transfer of the authorizations to the judicial police, a "transfer" (considering their qualifications) might result in unlawful arrests, 48 hour custodies in police stations with no legal grounds, indictment with no juridical grounds (not even with a declaration), the unreasonable extension of the investigative procedure to the dismissal of the investigations
- A wrong overview of crime representation in state level, which for many reasons represents an artificial growth not a real one (the offences are recorded as criminal offences when instead they are not)
- Violation of the economization principle during the pretrial proceedings and as a result considerable damages are caused to the state budget
- Deviation from the predetermined objective by the security organs in the fight of serious crimes organized crime, money laundry, human trafficking, terrorism and corruption etc.)
- A "imbalance" in between the prosecution and court position in exercising the functions in the pretrial phases of investigation, that as a result have brought the prescription of many criminal cases in the police, prosecution and courts (ODAD – Monitoring Report, 2012)

Conclusion

With the social and economic developments in Europe, especially after the Bourgeois French Revolution of the year 1789, we have a profound reform in the criminal procedure as well. This reform started in 1808 with the French Code of Criminal Instruction, an era that belongs to the ruling of Napoleon Bonaparte. With this Code the separations from the old and clean accusatory system start, to a mixed inquisitor system, where the defendant had the right for legal protection and the role of the court was active. The court had no more the role as the "Libra protector" where justice was "measured", but it took care to respect the rights of all the parties included in the criminal procedure. Thus, with the new solutions the rights of the parties advanced and with this Code we have elements of a mixed system, which came to improve and finally was crowned

in the Continental Europe as one of the most advanced Codes of the time, in the French Criminal Code of 1958 (Sahiti, 2013, page 50). It is obvious, the impact that these Code had in composition and development of different Codes of different countries, respectively the solutions given by this Code were constituted in the Criminal Procedure Law of the former SFRY (Overview, IKSH, 1979). The Criminal Procedure Law was the only law into force in the Socialist Federative Republic of Yugoslavia, including the Autonomous Socialist Province of Kosovo, as and equal eighth unit. This law was into force until 2004 although in Kosovo (after the war with Serbia 1998-1999, respectively with the former SFRY) the Interim Administration Mission of the UN (UNMIK) was established conform to the 1244 Resolution of the SC of the UN. In 2004 we have the new Provisional Criminal Procedure Code of Kosovo that was into force until the date of 31st December 2012, when it was replaced with the CPCRK on 01st January 2013.

Besides the novelties and the advancements that are regulated within the Criminal Procedure Code of Kosovo, the position of the defendant and the human rights are at a crossroad were the law and the human rights barge. Article 9 of this Code, says that the State Prosecutor and the defendant have the status of equal parties. Referring to this article we should assume that the parties have equal positions but are they in equal positions?

According to article 49 of the Criminal Procedure Code, the State Prosecutor has a duty to consider the inculpatory as well as the exculpatory evidence and facts and fully respect the rights of the defendant. Having in mind the period of our society's development, its position and the difficulties faced during the exercise of the prosecutor's duty, could he be impartial? Could he present inculpatory as well as exculpatory evidence and facts towards a defendant, against whom he issued a "guilty" ruling for the initiation of the investigation based on reasonable doubt that the suspect had committed criminal offence?

Despite that article 23 of this Code provides that the court in on the "side" of the defendant, who administers the criminal investigation through the pretrial proceedings judge until and indictment is issued, by reviews the requests submitted by the competent prosecutor. Issue of rulings and orders based on those requests, reviewing the lawfulness of freedom deprive of the defendant, who in the last instance could order his release in procedure violation grounds, either way the procedure conducted by the judicial police or the prosecutor leaves room for abuse that leads to the violation of the Human Rights and Freedoms during the investigation phase of the pretrial proceedings.

By comparing these two laws that refer to the criminal procedure and with the purpose to improve and to a more efficient work of the State Prosecution and the protection of the parties included in the criminal procedure, I think these are the steps to be taken:

- To empower the position of the pretrial proceedings judge and his inclusion starting with the initiation of the investigation
- The coordination in between the pretrial proceedings judge and the state prosecutor in all of the criminal procedure phases
- To strengthen the control of the cases proceedings starting from there initiations in the police, state prosecution and the court, with the purpose to not let them be prescribed
- A professional audit of the judged cases should take place, with the purpose to verify the appeal procedures in all the levels (verification of the use of regular measures or extraordinary measures in the appeal procedure)
- The amendment of the Criminal Procedure Code should take place, particularly emphasizing the empowerment of the role of the criminal procedure judge starting from the first phases of the investigation
- The Law of the Judicial Police should be issued
- The legal, criminal and administrative measured should tightened towards all of those that deliberately or by negligence have allowed the prescription of the criminal prosecution, the prescription of the criminal offence after the indictment or the prescription of the execution of the criminal judgments and cases

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Theories of Money Supply: The Relationship of Money Supply in a Period of Time T₁ and Inflation in Period T- Empirical Evidence from Albania

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Abstract

The aim of this paper is to present different approaches and theories, which are linked with money and inflation. Many studies are made to provide a high relationship of money and inflation. The changes in money supply always have affected the macroeconomic indicators such as inflation, unemployment, economic growth, trades and have let the governments to conduct the necessary fiscal and monetary policies, in order to react in an efficient way to reduce uncertainty and to build a sustainable economy. The paper analyses the theoretical links of money supply with unemployment, trade and exchange rate, taxes and wages. The regression analysis is conducted based on the theories of money. The analysis and the empirical results for Albania showed that money supply has strong relationship with economic growth, interest rate and inflation, but money supply has a negative sign toward inflation, by arguing that the case of Albania is specific, because of lack of money supply from banking system and money in circulation outside banks. From the results, we found that all money supplied by the financial system is fully absorbed by the private sector and individuals, without causing an increase on the inflation level. This may be argued from the financial crisis that affected Albania and the reduction of production, consumption, unemployment and delayed payments from the government toward business sector. Furthermore, there are suggested monetary policies for increasing the supply of money, and fiscal policies for increasing the demand for goods and services. The supply increases by the demand side, which need to be stimulated by production sector through fiscal policies and government development programs.

Keywords: money supply, inflation, interest rate, gdp, trade

1. Introduction

"Lenin is said to have declared that the best way to destroy the capitalist system was to debauch the currency. By a continuing process of inflation, governments can confiscate, secretly and unobserved, an important part of the wealth of their citizens". (J. M. Keynes)

The effects of money in an economy are crucial points. The literature review that is presented in this paper gives the chronology of the theories and approaches in different periods of time from several economists. The studies have begun under the Classical frameworks, where it is said that money has no relationship with inflation. Then Fischer came with its Quantity Theory, where velocity is a constant element. To continue with the Cambridge Approach (Marshall and Pigou) and The Keynes theory, as a latest Cambridge Approach, gave a different view from the previous. They stated that interest rate influenced the money supply and Velocity is not constant. The research continuous with the post Keynesians (Moore and Kaldor, Ricardo, Marx and Eltis), where the important theory was The Labor Theory of value, where the economy works under a full employment resources. Finally, the paper concluded with the Modern Quantity of Money and New-Classical economists (Friedman, Laidler, etc).

The paper continuous with the effects of inflation in relation to unemployment, wages, taxes and exchange rates. From the studies is found out that changes in Inflation creates changes in the above factors. Furthermore, the paper is followed by the empirical study, taking the Albanian's data from the year 1994-2015 for Money supply, GDP growth rate, Interest rate

and Inflation. From the survey, the paper found that there is a strong relation between Inflation and the other variables. According to the money theories, money supply has a positive sign related to inflation, while in contradiction to the theory; the empirical results showed that money in Albania has a negative relationship with inflation, because of the lack of other financial markets. Albania has only the banking system and money is strongly linked to the interest rate and the macro development of the country. Without other financial and capital markets, the supplier of the money is done only by the banking system. Since the beginning of the financial crisis in 2008, Albania has been attached to crisis because of the strong connection of trade with European countries, especially Greece and Italy. During these difficult years, Albania has been accompanied by an increase of unemployment, reduction of production, consumption, trade and increase of budget deficit and public debt. The business and consumer transactions are shrunk only to the basic ones. Consumers do not spend more than the necessary products and businesses do not invest in new projects. All the supplied money is fully absorbed by the market and there is no free circulation of money, in order to cause inflation. Inflation is reduced year by year, by reaching the lowest level during these 25 years of transition. Albania is in a critical point of development and recession has caused a worse financial and economical situation. Consumption, trade and investments have been significantly reduced, by not giving a hint to the economic growth. The conclusion summarizes all the theoretical and empirical part of the paper with suggestions for better policies in the future.

2. Theories of Money

The classical theory of money developed the most important feature that interest rate has no effect on the demand for money. Fischer found from the examination of the relationship of the total quantity of money supply with the spending on goods, the equation of exchange *Quantity Theory of Money* $MV=PY$, which relates the nominal income with the quantity of money and velocity. According to the theory, velocity is a measure of what people use to buy their goods. Hence, if people use charge accounts than Money supply will decrease and velocity will increase, in contrast if people purchase with cash then money supply will increase. Fischer took in consideration the technology and he stated that velocity will be affected slowly in the short run. (Mishkin, 1998)

The classical Quantity of Money assumed that V and Y were constant and prices were flexible and in the long run the economy is predisposed to full employment, so this implies that if M doubles than P doubles too. The theory provided that changes in the quantity of money effect the changes in the price level. Also Fischer argued that the theory shows how much money is held for a given amount of money. In the same time, the *Cambridge Approach* appears with the same equation as the Fischer's equation, but differently argued. The economists, Marshall and Pigou, set the equation asking people how much they were able to hold without being bound by technology and institutions. The Cambridge economists suggested that the level of money is affected by wealth of people; as wealth increases then people tend to hold more money. They concluded that the demand for money is in proportion with income and k is the coefficient. $M=k \times PY$. The classical ruled out the role of interest rate on the demand for money, whereas the Cambridge approach proved the contrary. (Mishkin, 1998)

According to Cottrell (1997), there are two important points in the Quantity theory: 1) if the *ceteris paribus* (proportionality of M and P) has any force, major deviation of V and Y must stem from basis independent of the quantity of money, any reliance must be slight and temporary. 2) Significant changes in the quantity of money led that money have to be exogenous. So, two independence ways were the sources of difference between M in one side and V and Y on the other side. The problem of the Quantity Theory has taken the structure of contradiction of one type of independence or the other. Keynes framework was born in that time. (Cottrell, 1997)

Keynes brought the *Liquidity Preference Theory*, which related the interest rate with the income. He affirmed that exogenous variation in money leans steadily to stimulate changes in both V and Y . Consequently, he argued that an increase in money tends to lower the interest rate by stimulating investments to grow. Also, the velocity will decrease. He rejected the idea that velocity is constant. Keynes stated that a normal state under employment, will increase the spending and the previous effects will be not temporary. So, inflation will be the case. (Batiz and Batiz, 1985)

According to Cottrell (1997), the modern *Post-Keynesian* approach was focused on the second point of the independence of the Quantity Theory. Kaldor and Moore rejected the argument that quantity of money has any independent fundamental role. The endogenous theory stated that the Central Bank has indirect power and private sectors can increase the quantity

of money by their transactions and velocity is fixed. Rogers stated: "In particular the role of money as cause or effect should be seen in terms of the distinction between commodity and bank money. Commodity money is clearly compatible with the classical quantity theory of money in which the quantity of money has a causal influence on the price level". (Rogers, 1989, p.175 as cited in Cottrell 1997).

The inapplicability of the Quantity Theory is given by Marx and Ricardo in their *Labor Theory of value*. Based on the Labor Theory of value, the value of each commodity depends on the quantity labor time required directly or indirectly to produce that commodity. Marx says: "The total quantity of money functioning during a given period as the circulating medium is determined by on the one hand the sum of prices of the commodities in circulation, and on the other hand by rapidity of alternation of the antithetical process of circulation". (Marx, 1976, pp 217-8 as cited in Cottrell 1997). This means that the commodities enter with a price and with a money value, so the speed of circulation brings the occurrence of inflation. Another post-Keynesian economist, Eltis, said that: "Monetary exogeneity is essential to Quantity Theory. A larger money supply must produce a higher price level: causation must run from money to prices, and not the other way round". (Eltis 1995, p.23 as cited in Cottrell 1997).

From the previous theories and arguments, it is promoted that Quantity theory is accepted as a short-run theory, where the classics argued that commodities go into without a price and money without a value, but the critics said that changes in money drive the prices, because they are alteration in the connection between "the unit of account and the money commodity". According to Marx and Ricardo money is endogenous and changes in money play an important role in price levels, under some conditions, so inflation is the result from the supply of money. (Cottrell 1997)

According to Laidler (2003), the *Modern Approaches* for money come from Friedman and other modern economists. Friedman was closer to the Keynes and Cambridge framework, and he applied the Portfolio Choice to Money. The theory indicates that the demand for money is based on people's wealth (permanent income). He based his research in more than one interest, and he argued that changes in interest rate will have not a great effect on the demand for money, because of any raise in return from the raise of interest rate will increase the return on money. The demand for money and velocity can be predicted. Inflation is seen as a result of cost-push and demand-pull influence. Friedman put more attention to monetary policies in the longer run, for money growth targeting and for "the imposition of quasi-constitutional rule for money supply growth". The rule was proposed to maintain low inflation, but different countries have to be aware of the benefits from inflation, developing countries need investments, more money in circulation (Rowe (2003, as cited in Laidler 2003).

According to Cantillon and Hume (as cited in Laidler 2003), inflation is about the value of money and the value of money is linked with the demand for it, and this relationship inform the monetary policies. However, the changes of money supply are not always matter of inflation, but it is to say that inflation is a matter of variations in demand and supply of money. Then, from monetarism approaches, the new-classical economics was born.

The New-Classical economics predicted that: "the price level would respond to changes in the money supply, and that the amount of that shift would be determined by the extent to which those changes had been anticipated in the first place, but it accounted for the fact of the price level's change with the simple observation that this was necessary to keep markets cleared". This means that any unexpected rate of inflation will affect negatively the money supply and the outputs in the market will not have a real value. They followed the "transmission mechanism" from Fischer effect that interest rates are related with money supply, and more money in circulation will cause inflation. (Laidler 2003)

Reviewing the monetary theories, we can state that the Classical theories have not given a clear vision of the relationship of money with inflation. The Quantity of Money and the Cambridge Approach suggested that Money supply is related with Inflation, taking into account the wealth of people, the level of income, and ruling out the interest rate effect. The Keynes theory put emphasize on the interest rate, saying that the Central Bank has the power to control the money supply through monetary policies. The Post-Keynesian said that velocity is fixed and Central Bank can not affect the money, but private sector can control it through transactions. Marx was the critter with his theory on Labor value. The Modern and New-Classics economics put attention to the monetary policies that inflation is caused by an increase of money supply and prices will determine this change. Almost all the theories that are treated in this paper have shown that is a relationship between money and inflation, taking in consideration other elements of macroeconomics as unemployment, income level etc.

3. Effects of Inflation

3.1 Inflation and Unemployment

It is said that inflation and unemployment are two crucial points of the monetary policies. According to Mankiw (2005), "the inflation-unemployment tradeoff is inexorable, because it is impossible to make sense of the business cycle and in particular the short-run effects of monetary policy". This is the claim, that changes in monetary policies push these two variables in opposite directions". According to the business cycle theorist, a supply of money increases employment and then decreases the prices. They include the "price stickiness". According to sticky-wage theory, the nominal wages were difficult to be adjusted, so when the bank decreases the money supply, prices fell, real wages rose and unemployment rose too. This happens not because the wages per labor were high, but because the firms can not sell the amount of production that they wanted. Therefore, the relation between unemployment and inflation is a short-run tradeoff, because the government intervenes by increasing the money supply, and the cycle goes on (cost push effect). (Mankiw, 2005)

3.2 Inflation and wages

Many economists argued that, if wages are high then the level of employment is high, this brings an upward of inflation (demand pull effect). However, according to Johnsson and Palmqvist (2004), changes in wage in the short-run can not help the economists to predict the level of inflation. The first reason is that monetary can stabilize inflation and the effect of wages is small, while the second reason is that labor unions collaborate with businesses for setting the wages. Consequently, different unions and different business sectors can charge different wages, so the effect on inflation will be reduced. To conclude, as the wage-markup is exogenous, the changes on wages can cause inflation and not the other way. (Johnsson and Palmqvist, 2004)

3.3 Inflation and Taxes

The government put taxes in order to collect revenues for filling the budget deficit. If the taxes are high then investment will decrease. According to Ueda (2001), "inflation affects the resource allocation, because the government levies taxes proportionally or progressively on nominal income". The income is nominal so the effective tax changes according to the inflation rate. If inflation rises than the tax increases, this brings a decrease in revenue. Inflation affects the: 1) corporate depreciation; 2) corporate interest payments; 3) household interest receipts and 4) household holding stock. (Appendix A). (Ueda, 2001)

3.4 Inflation and Exchange rates

According to McKinnon (2005), sustained exchange rates reflect the monetary policies that a government takes: tight money brings an appreciation of the currency, which leads to deflation; easy money brings depreciation and inflation in the economy. Based on Ito and Sasaki and Sato (2005), a country with deflation (appreciation of the currency), its exports become expensive, whereas imports increase because they become cheaper. In contrast, a country with inflation (depreciation of the currency), loses competitiveness and financial crisis occur. In order to be flexible to this problem "the exchange rate can be crawling peg, namely the exchange rate depreciate by the rate approximately equal to the inflation differential".

4. Empirical study- Case of Albania

Albania is a Western Balkan Country that is facing macro economical problems, but the governments are working hard for implementing policies and development programs to stimulate growth and promote stability. In order to achieve the EU requirements, Albania needs to stabilize the political and economic situation, through negotiations, preparing draft proposals according to the interest groups needs and to strongly implement the rule of law. After the completion of the requirements, then Albania will have a date for opening the negotiations for becoming an EU member, which it is still a long journey with hard work on the road to high fiscal consolidation and political discipline.

Albania is one the countries that even the financial crisis was present, its growth was still positive and slow. The main sectors that were affected were construction, exports and the inward processing industry. The government and private investments were strongly reduced, by creating an economic impasse. The level of unemployment was increased by causing a reduction in consumption spending. The positive growth came only from the exports of energy, minerals and

from the public investments done until the year 2013. After the year 2013, Albania is on a steady recession period, which needs fiscal policies and development programs to overpass this stagnation phase.

The aim of the study is to analyze the empirical findings for Albania and to discuss whether the theories of money are readily ascertainable or not. The study takes in analysis a range of years from 1994 to 2015, because historical data are not available before the transition years. Based on the Inflation function, the regression analysis studies the relationship of Inflation with Money Supply, GDP growth rate and Interest Rate. The study runs a Multiple Regression with three Independent Variables and one Dependent Variable.

The regression equation for the Multiple Regression is $Y = \alpha + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \varepsilon$

From the equation we find this information:

a – constant number (intercept)

b_1 – coefficient of Money supply

b_2 – coefficient of the interest rate

X_1 – Money supply variable

X_2 – Interest rate variable

b_3 – coefficient of GDP

X_3 – GDP growth rate variable.

We stated the null hypothesis and the alternate hypothesis.

The null hypothesis is: $H_0: \beta_1 = \beta_2 = \beta_3 = 0$ (insignificant relationship)

The alternate hypothesis is:

H_1 : Not all the β s are 0 (significant relationship)

After the statement of the regression equation, data were collected from the World Bank database and Ministry of Finance of Albania. The results from the test will show the Significance F of the model from the Regression Statistics. We will test the hypothesis at the 0, 05 level. If $F < 0, 05$ we don't accept the H_0 (null hypothesis). Also we test all the coefficients in terms of t-statistics or p-value. The confidence Level is 95%, so if $t > 1.96$ we reject the Null Hypothesis. If p-value is < 0.05 then we reject the Null Hypothesis. After the test we see which of the independent variables has relationship with the dependent variable (inflation). The table below shows the results from running the regression analysis.

Table 1: The summary of the regression analysis

SUMMARY OUTPUT

<i>Regression Statistics</i>	
Multiple R	0.94794257
R Square	0.898595115
Adjusted R Square	0.881694301
Standard Error	3.204044359
Observations	22

ANOVA

	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	3	1637.475168	545.825056	53.16874725	3.80866E-09
Residual	18	184.7862046	10.26590026		
Total	21	1822.261373			

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>	<i>Upper 95%</i>
Intercept	28.43597083	7.29482039	3.898104314	0.001053859	13.11012192	43.76181974
gdp	0.635189177	0.285887607	2.221814308	0.039356837	0.034561602	1.235816751
real i	0.991317348	0.136155262	7.280786179	9.12492E-07	1.277368938	0.705265758
money1	0.254551165	0.097957439	2.598589407	0.018153122	0.460352108	0.048750221

Source: Authors

According to the F-value, which is $3.81E-09 < 0.05$, we reject the null hypothesis and accepting the alternative one, which means that there is a significant relationship between the dependent variable with the independent ones. Also, our model has a $F=53$, which shows a very significant model.

R^2 is an important coefficient. The coefficient of correlation measure the goodness of fit of the dependent variable (inflation) with the independent variables. It takes value from $-1, 00$ to $+1, 00$. If R^2 is $-1, 00$ or $+1, 00$ indicates a perfect correlation. In our study, R^2 is equal to 0.89 and Adjusted R square is 0.88 . This means that Inflation has a high correlation with Money supply, Interest Rate and GDP.

Based on the p-value and t-value, we will see if the dependent variables are significant or not related to dependent variable.

P-value (Money) = $0.01 < 0, 05$ (significant)

P-value (Interest rate) = $9.12E-079 < 05$ (significant)

P-value (GDP) = $0.03 < 0, 05$ (significant)

t-value (Money) = $2.5 > 1.96$ (significance)

t-value (Interest rate) = $7.2 > 1.96$ (significance)

t-value (GDP) = $2.22 > 1.96$ (significance)

then, we can re-write the equation as:

$$\pi = 28.43 - 0.25 \text{ Money supply} - 0.99 \text{ Interest Rate} + 0.63 \text{ GDP} + \varepsilon$$

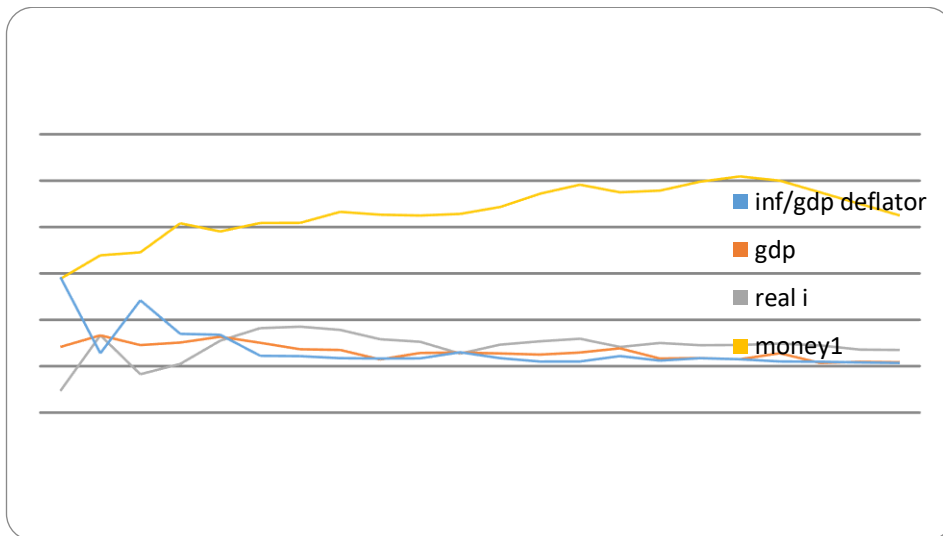
If 1% increase in growth rate of Money will cause a decrease of 0.25% growth rate of inflation.

If 1% increase in growth rate of Interest rate will cause a decrease of 0.99% growth rate of inflation.

If 1% increase in growth rate of GDP will cause an increase of 0.63% growth rate of inflation.

Hence, these results could be linked to the negative impacts that have *i* and *money supply* toward inflation. During recession and economic crisis periods, if the financial system increases the interest rate for deposits or loans, then more money will be deposited and fewer loans will be taken from the private sectors. Then, less supply of money will be in the market by causing a reduction of inflation. If, we see the graph below, Albania has passed an economic crisis caused from global crisis and especially the European one. The private sector reduced the demand for loans by reducing further the private investments, because of the reduction of the demand for goods and services. On the other side, individuals and small enterprises decided to increase savings, by reducing the level of money in circulations. The uncertainty of future government policies is high and businesses are afraid to start financing their projects.

Graph 1: The relationship of inflation with M^s , GDP, and interest rate



In the Albanian case, the interest rate and the money supply are linked to each other, because the only supplier of money is the financial system. Albania has no active financial market and stock exchange institution. Furthermore, the increase of economical growth causes an increase of inflation, but during the last 5-6 years, the economic growth of Albania has been reduced steadily even with positive signs. Hence, with the reduction of economic growth, inflation has been reduced too, because the rhythm of development has been reduced through the reduction of demand from private sector and consumers.

From the empirical results, we can say that the Keynesian theory of money and the Modern Approach (Friedman framework) have been confirmed, where the demand and supply of money are based on the income of people. According to Keynes, since Albania is not in a full employment situation, there are no private and public investments, no consumption spending and then inflation is not the case. Furthermore, the Fischer effect is supported that interest rate is related to money supply. Moreover, the relationship of inflation and unemployment is short-run and not very strong, because of the interventions of the government. Here, we can say that since money supply has been reduced, then unemployment has been increased. That is the case of Albania, where changes in money supply do not play a very important role in price levels, by saying that the most important factors in the determination of prices are the demand and spending on goods and

services, by giving the income level and the wealth of people the most important role. Albania is the country with the lowest level of GDP/capita in the region and Europe.

Moreover, Albania has changed the tax system from proportional to progressive one at year 2014. This change was not positive towards businesses' investments and the reduced level of loans and money supplied came from the low possibilities of businesses to produce and to invest. Hence, governments should apply expansionary fiscal policies, by reducing the taxes and increasing the public investments. If the bureaucratic procedures will be reduced, corruption and fiscal evasion will be monitored and strongly controlled, then the government will extend the tax base. This extension will bring more money to the budget, by creating more possibilities for the government to pay the unpaid bills to the private sector. Furthermore, if the tax rates will be lower, then businesses will have more earnings, by stimulating investment and employment.

Conclusion

The paper summarizes the Theories of Money and the effects of Inflation. It was proven theoretically and empirically that money supply is related with inflation. The initials were the classical that developed the aspect that interest rate has no effect on the demand for money. Fischer with the Quantity of Money assumed that V and Y were constant and prices were flexible and in the long run the economy is predisposed to full employment. The Cambridge economists suggest that the level of money is affected by wealth. Keynes brought the Liquidity Preference Theory, which was related the interest rate with the income. Keynes stated that a normal state under employment, will increase the spending and the previous effects will be not temporary. The modern post-Keynesian rejected that quantity of money has any independent fundamental role. The endogenous theory states that the Central Bank has indirect power and private sectors can increase the quantity of money by their transactions and velocity is fixed. Friedman argued that changes in interest rate will have not a great effect on the demand for money, because of any raise in return from the raise of interest rate will increase the return on money. New-Classical followed the "transmission mechanism" from Fischer effect that interest rates are related with money supply, and more money in circulation will cause inflation.

These theories are the base of further studies on money in different countries. The Effects of Inflation show the relation of Inflation with unemployment, wages, taxes and exchange. Countries with high inflation lose their competitiveness and suffer from instability.

The empirical part analyzed the theories of money and the relationship with inflation in Albania. The economic growth and interest rate have the correct signs based on the theory, while the money supply has the opposite one. This is the case, when the economic crisis has been reflected in the demand for money and investments. Furthermore, may be the case when the money supply is focused on investment and it is fully absorbed by the market, no free money is in circulation. Moreover, we can say that, there is a few supply of money, because the demand is low (from the private sector and consumers). Sometimes, the supply of money is less than demand, because of uncertainty and asymmetric information. In this situation, all the supplied money by banks is used for other purposes (payments of unpaid bills or accounts payables). From these results, the study shows that Albania has not enough money to stimulate growth, by causing a reduction in spending from the private sector and individuals. Financial crisis has brought a reduction of demand for goods and services, by consuming less and saving more. But, since Albania has the lowest GDP per capita, then even savings are very low. All the earned money are spent and absorbed by the system. To conclude, the model was significant and there is a correlation between Inflation and other variables (money supply, GDP and Interest Rates), by confirming the Modern framework of Friedman.

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APPENDIX A

The passage is given as is cited in Ueda (2001). The inflation changes the effective tax rate in the nominal value of: 1) corporate depreciation; 2) corporate interest payments; 3) household interest receipts; 4) house holding stock.

- 1) To calculate the corporate tax, the depreciation is deducted from the taxable income. Because a rise (fall) in the inflation rate does not affect the nominal values of depreciation allowances, their real values become smaller (larger) and taxable income increases (decreases). When the inflation rate rises (falls), the effective tax rate rises (fall) and the post-tax real rate of return falls (rises).
- 2) On the assumption that a) the future inflation rate is perfectly foreseeable and b) both the nominal rate of return and the nominal interest rate change by the same amount as changes in the inflation rate (Fischer effect), corporate interest payments increase (decrease) and the taxable income decreases (increases), reflecting a rise (fall) in the inflation rate. Then the effective tax rate falls (rises) and the post-tax real rate of return rises (falls).
- 3) The rise (fall) in the inflation rate causes the nominal values of household interest receipts to increase (decrease). The effective tax rate on interest income rises (falls) and the post-tax rate of return falls (rises).
- 4) The rise (fall) in the inflation rate raises (reduces) stock prices. Even if the real values of households holding stock do not change, the nominal capital gains increase (decrease). The effective tax rate on capital gains rises (falls) and the post-tax real rate of return falls (rises). (Ueda, 2001)

Mass Media and Their Relationship with Criminal Law in Albania

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Abstract

Information is the currency of democracy. (Thomas Jefferson), Freedom of expression is part of the so-called "negative liberty" that imply their guarantee by the Constitution as inviolable and for their realization require non-interference by the state or by private entities. Media uses this freedom, to achieve its objectives where not rarely goes beyond violating the other rights and freedoms prescribed in the Constitution. The power that people gave to media has made it a powerful pressure weapon, but often also a victim of its "sacred" mission, that of informing public about everything that happens. The aim of this paper is to present media reports with criminal law, which are dualistic reports: approaching and contradictory. It will also be presented an overview of the situation in Albania, where the media and its influence play a significant role in people's opinion and in the progress of criminal proceedings. In the first part of the paper I have mentioned the central role of the media in democracy and the benefits that community and society receives from media's freedom. Furthermore, in the second part I have been focusing on the other side of the coin addressing key points in which the media is presented as violating the human rights and interfering in criminal proceedings. In the third and last part I have submitted the role of investigative journalism as an important link in the media but in Albania is still unconsolidated.

Keywords: media, prevention of criminality, exceeding of powers, personal integrity violation, intrusion in the criminal process.

Introduction

Today we live in the modern era of digitization where the information industry is one of the most powerful and influential in the world. Media is a powerful tool for strengthening and consolidation of democracy in a country and its independence is indicative of the emancipation of society itself. Its role is constructive and multidimensional and consists in: information, education, entertainment, prevention and monitoring. As such, it finds expression in many areas of everyday life: in politics, arts, culture, economy and justice, and is seen as an open encyclopedia where all have access.

From one side, the media through monitoring, information and mass coverage, gives people an image of reality in which they live, it reports in real-time political, social, cultural and criminal events. Furthermore, comparison of opinions and research of truth, often makes media an ally of justice in preventing crime through the denunciations of violations of officials, their power abuse in the various institutions.

The press and other mass media, often and particularly in societies in transition, exceed its authority by violating the progress of the criminal process, risking the investigation, infringing privacy, or publishing sensitive data. These violations contain in their self criminal elements, but their consequences are not only criminal, but also social and moral since the publication of these elements involve the personal and social integrity of the person.

1. Media as a powerful tool in fighting against crime.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (Universal Declaration of Human Rights, Article 19, 1948). The freedom of a particular society can be determined by the freedom of the press and media. The first step, that usually take authoritarian or dictatorial governments, is to curtail or abolish the freedom of expression and media.

Media have a central role in democracy to inform the public and to review management of the public affairs without fear that can be pursued, indicted or pressured (Boyle, 2000). It can rightly be said that knowledge and information are necessary conditions for enabling citizens, state bodies, and institutions to perform their social works.

The influence of the media has greatly increased in the recent years in regional range as well as in global range. In terms of social activation factor to fight against crime and anti-criminal social development, a special role belongs to the citizen's right to be informed about the phenomena of delinquent and criminal behavior in the environment.

Media exposure of crime and crime-related events can be an effective strategy for crime prevention, and useful tool for raising the awareness and educating the public about the social problems that are understated or overlooked. The role of crime prevention can be a source of information on the causes and trends of crime (Capobianco, 2008).

Various media campaigns on human trafficking, victim support, mobilization for the safety of women and children in cases of sexual abuse, etc., have contributed to the successful initiatives for crime prevention, for informing and raising public awareness about these negative phenomena (Capobianco, 2008). Especially social media is playing a key role in reporting the crime in connection with sex offenses where victims may be ashamed or afraid to talk face to face with the authorities (The Australian, 2012).

Media usually participates in the distribution of public information on the strategies of self-defense and security against crime. Websites of police departments and social media sites often provide excellent platforms to post advises on crime prevention and security against it. Through the establishment of blogs which are interactive, stimulate dialogue among public and police departments by providing an important feedback for the community (Dennis P. Rosenbaum; Amie M. Schuck; Lisa M. Graziano; Cody D. Stephens, 2007). Due to the impressive number of individuals who rely on the media for information about crime, media can be very effective for reporting certain types of crime as well as their strategies for prevention. Media campaigns for preventing theft of flats, road accidents and information on the dangers of illegal drug and alcohol usage, illustrate the ways in which the media can have an important role in crime prevention.

And finally, the media can play a democratic role when it comes to the question of crime prevention (Pekelsma, 2010). For more information that is made public, the media educates the population on certain issues, encouraging critical thinking of the population and promotes the responsibility of institutions, agencies, organizations and government. Media can enhance supervision or monitoring system for cases of police abuse and corruption, the judicial system in cases of arbitrary treatment and discrimination, as well as the education system.

2. Coverage of the criminal phenomenon and violation of principles of criminal law, a dualistic conflict.

Media are considered to have a dual character. On one side, the media reports about violation of human rights, however, on the other side, they make violations of human rights by spreading untrue allegations or instigating hatred. At the same time, freedom of expression can be conflicting with other rights such as: the right to a fair trial, to respect the private life, of conscience and religion etc. which are guaranteed by the International Covenant on Human Rights, the Constitution or other laws.

Some of the offenses that the media makes frequently in everyday life and which contradict the principles of criminal law are:

a) Violation of the principle of presumption of innocence

The Constitution of Albania, in article 30, determines that: "Everyone is innocent until his guiltiness is not proven by a court's final decision." (Constitution of the Republic of Albania, 1998). The right to be presumed innocent is used against the suspects before the appearance of the criminal charges, before the trial and is kept in use until the guilt of the accused is confirmed, after the final appeal. Transmission of information from the media on the offense by linking the personal characteristics of the individual who presumed or committed the offense, even when this feature does not determine the qualification of the offense, establishes a practice that indirectly discriminates against individuals or communities because of these characteristics.

The presumption of innocence is not only a procedural guarantee in criminal trials, but its role is much wider. It is about the protection of anyone of the treatment of the bodies and state officials as guilty in committing a criminal offense before such a thing is verified by the court. Official sources of the Prosecutor General's Office show that in 5 years, 959 people, a large part of them, arrested by the request of police and consent of the prosecution have won acquittal by court. They are people who have appeared in the newspapers and television screens as different perpetrators, people who are "punished" by the media, in the "language" of the prosecution bodies (police and prosecutors), who even though win institutional innocence, their public image remains vulnerable. (Bregu, 2012). The pressure of time and negligence to

respect until the end and fully professional standards and the language used by the media in such cases, leads us to the problem of violation of the presumption of innocence of citizens accused for offenses.

b) Freedom of expression and independence of the judiciary

The court must protect the confidentiality, provide information to the media, while the media should convey professionalism and honesty, without getting into the area that could be the courts barrier (Haxhaj, 2013). From the interaction of these two rights, in naturally way the conflict generates (inconsistency in appearance) between the need to protect the judicial activity to an "unnecessary external influence and protection of the right of information" (Kasmi, 2013) . The cases when the court holds the hearing behind closed doors, excluding the media and public participation are provided under Article 340 of the Criminal Procedure Code: "The court decides to hold the court examination or some of its actions in camera: a) when the publicity may damage the social morality or may divulge data to be kept secret for the interest of the state, if this is requested by the competent authority, b) in case of behaviours which impair the normal performance of the hearing, c) when it is necessary to protect the witnesses or the defendant, c) when necessary during the questioning of juveniles (Albania Law No. 7905 , 1995).

Independence in information is- as important as- the independence of the judiciary but not rarely during their reporting, media deviate from their information mission (Haxhaj, 2013). The courts are accepted as independent and impartial to ensure the rights and legal obligations for resolution of the relative differences between subjects, therefore, the public has respect and trust in the capacity of the courts to fulfill this function. For this reason, the consequences of an attack (or an apparent attack) on impartiality can also bring a damage to the authority of the court. What should be avoided are the opinions especially about Judicial Corps issues that are on a trial and without completing issuance of a final decision. There were times that the media has brought opinions of judges on duty, prosecutors on duty, and in media attempt to analyze rightly an event have come to the wrong conclusions. Also, often we notice that a judge, head of a justice, thanks to the good image offered by media, reaches career advancement, or the opposite, the destruction of his career.

c) Publication of sensitive data and confidential aspects of the media

In printed and electronic media often are published pictures of defendants and juvenile witnesses accused or damaged by different criminal offenses. Such publications are prohibited by the law. Concretely, article 103 par. 4 of the Criminal Procedure Code states: "It is prohibited to publish personal details and photographs of minor defendants and witnesses, accused or injured by the criminal offence. The court may allow the publication only when the interest of the minor requires so or when the minor has reached the age of sixteen years" (Albania Law No. 7905 , 1995).

The respect for the provision of the above is very important since disregard this legal requirement may be associated with adverse effects of psychological character, social and familiar and also in special cases may violate the right to privacy.

Not rarely, media has been in the focus of criticism as a result of the publication of detailed data even very sensitive data, such as the contents of messages on mobile and pictures, tools which should be available by the prosecution and occasionally they are under investigation. It is worth noting that, under Article 279 of the Criminal Procedure Code, Investigative actions are generally confidential and only the prosecutor is allowed to publish them with a reasonable decision.

d) (Do not) Care of media coverage of minors in conflict with criminal justice

The media can often cause a "second victimization" on crime victims or survivors by increasing their feelings of violation, disruption, and loss of control. Concerns that victims express about the media include: interviewing survivors in an inadequate time; and their footage and photographs of the crime scene; full typing the name or address of the victim; the past investigation of the victim etc. The issue becomes even more sensitive when children are protagonist. The most recent case was the scandal of Kajtazi sisters, who poisoned their parents and burned the apartment to escape and search for a better life. Although underage, media published their personal data such as name, place of residence and their pictures (Nazarko, 2015).

Journalists should be familiar with specific ethical standards for media reporting on children, such as ethical guidelines of UNICEF, guidelines and principles of the International Federation of Journalists, and Reporting and Information Guidelines for Minors, BBC editorial principles for children (changing the name of the child, visual blurring the identity of the minor, also the identity of the minor should not be published as well as the place where they live etc.).

The interest of a state of physical and psychological well-being of an underage victim is so important that it justifies depriving the press and the public of their constitutional right to attend trials of criminal cases. For this reason, the court makes a decision, as appropriate, the development of closed-door trial is necessary to protect the welfare of minors from media exposure.

Bolivarian Republic of Venezuela, Law on "Protection of Children and Adolescents" said that: "To ensure respect for the best interest of the child, in case of a conflict between the rights and interests of a child or adolescent and the rights and interests of other equally legitimate, the former shall prevail" (Convention on the Rights of the Child, 2007).

United States in a number of decisions have accepted that the interest of a state in physical and psychological welfare of an underage victim is so important that justifies depriving the press and the public of their constitutional right to attend trials of criminal cases, when the court makes a decision, where appropriate, the development of closed-door trial is necessary to protect the welfare of minors (Prince v. Massachusetts, 1944).

3. Investigative journalism, as an analogue of the judiciary

Investigative journalism is a form of journalism in which reporters deeply investigate a single topic of public interest, often including crime, political corruption or abusive acts of large companies or corporations. An investigative journalist may spend months or years investigating and prepare a report and it is a very important source and main thing in detailed information. It requires the implementation of in-depth investigations, on matters that affect the interests of citizens, violated corruption that grounds the state administration followed later in all cells of social organization.

Investigative journalism is characterized by features which differentiate it from any other kind of journalism. It is an expression of the degree of democracy and professionalism. It is not blackmail, pressure in the interests of the moment, also it is not a party, individual or electoral scoop.

Investigative journalism should be careful of manipulation. It should always be suspicious of the facts that are served and which its aim is manipulation. Verification of sources - is a necessity. Journalists should feel protected, but also knows how to convince others in the integrity of the evidence submitted by him, should not be afraid to face the lies, when its instrument is the truth.

When it comes to conducting successful investigations, Albania has its own specific problems. Too often, information that by law should be available are simply inaccessible. This, of course, that discourages investigative journalism (News, 2013). Another difficult hurdle for a successful investigative journalism in Albania is the reluctance of the principal editors to publish or broadcast articles or investigative chronicle. This is partly due to fears that the items or chronicles investigated in detail, especially those related to crime or corruption can lead to negative consequences - political or financial pressure. An important concern are also the working conditions and lack of incentives for investigative journalists (News, 2013).

No matter how hard it is, journalism remains essential for a functioning of a democratic society. If the media is the "gatekeeper" of democracy - investigative journalism is the eyes and ears of this gatekeeper. An ethic of information is always necessary. Information should be accurate, should not be subject to certain interests, individuals, specific groups of economic or political. Before starting the investigation - to verify the complete case for a journalist - the person who becomes the object of his investigation is considered - innocent.

Conclusions

Freedom of expression is considered as a precious legacy, as rightly considered even as a dangerous instrument. It constitutes one of the essential foundations of a democratic society and it is applicable not only for "information" and "ideas" that are favorably received or regarded as inoffensive but also those that offend, shock or disturb. These principles are of particular importance in terms of media. It can be a great source of strength, but, on the other hand, it is open to abuse.

In criminal law aspects is important because the press, radio, television, and other tools of public information and communication, not only that affected to a large number of people, but by their misuse can be done a number of offenses as for example: inciting hatred, incitement to aggressive war, war crimes or sexual crimes, severe forms of insult, defamation, disclosure or dissemination of personal or family data. These and other offenses that may be committed via the press and other means of public information, usually pose social threats. For this reason, the Criminal Code of the

Republic of Albania, some of these offenses committed by means of public information are for example: inciting hatred, discord or national discrimination, racial, religious or ethnic, insult, slander, etc., considers qualified forms of criminal offenses because the consequences that are caused are much more harmful than when they are performed in other tools and circumstances. In modern states, criminal legislation have been devised in various modes of criminal liability for offenses committed by public media. Most states have regulated this issue by special provisions of the criminal code.

Media through monitoring, information and mass coverage, gives the public an image of reality where he lives and beyond, makes an ally of justice through denunciations of officials violations, their abuses and abuses of various institutions, and this is the best part, but on the other hand, sometimes overcoming the limits of information or the inaccurate information leads to catastrophic consequences in the life of an individual or a society. For this reason it would be better to prosperous legal basis which allows the media to operate in Albania, by sanctioning the relevant provisions in criminal legislation and renewing existing ones, always without prejudice to the freedom of expression.

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The Management Process at the Pretrial Stage under Malaysian Rules of Court 2012

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Abstract

The pre-trial stage requires judicial attention as well as attention from solicitors representing the parties to the action to ensure that cases are managed and disposed within strict deadlines. This study recommends the use of management process activities that are commonly used by business organizations to manage civil cases in the Malaysian civil courts at the pre-trial stage. Therefore, the objectives of this study are; first, to examine whether the provisions under the Rules of Court 2012 are capable of delivering quality service in its role as the fortress of justice and how the understanding of management process can assist in the management and disposal of cases efficiently. The findings indicate that the activities of process management (namely planning, organizing, directing and controlling exercises) can be used as a practical guide for the court managers as well as solicitors acting for the parties to the action to understand the importance of abiding by the provisions of the Rules of Court 2012 so that the management and disposal of cases can be done in an efficient manner. Although this study does not analyze the various process management theories, it is expected that the preliminary findings might enrich present literature relating to the conduct of civil litigation and also provide an insight on possible adoption of a framework to be used as a guide in managing cases under the Rules of Court 2012.

Keywords: Management process, pretrial stage, Rules of Court 2012, Malaysia

1. Introduction

Generally, the term 'management process' refers to a combination of activities which involve planning and monitoring the performance of a company from the aspects of business processes. Notably, companies that have obtained the ISO 9001:2000 Quality Management Standards certification process has given plenty of emphasis on their processes and endeavour to increase quality as well as efficiency. In brief, ISO 9000 highlights the importance of managing an organization with the right process, especially in terms of ensuring an effective quality management system apart from improving and meeting customer satisfaction (clause 0.2 of ISO 9001:2000).

Apparently, modern judicial systems generally place great importance of effective management of cases to ensure that cases are processed justly, swiftly and efficiently to meet the public's expectation. For instance, a number of judicial systems depend on the use of the electronic court system (instead of the manual system). The Malaysian civil courts have benefited from the use of technology which comprises of the following systems: Case Management System (CMS); Queue Management System (QMS); and Court Recording Transcription (CRT) (Saman & Haider, 2012; Hassan & Mokhtar, 2011). In the administration of justice, however, the court is neither a business entity nor a profitable organization and rarely refers to business principles in managing the loads of cases that are registered daily. Nevertheless, it is expected to improve its service from time to time especially in the era of advancement of technology. It is observed that the effective use of certain provisions under the Rules of Court 2012 has not been tested as capable of assisting the parties to the action, their

respective solicitors or the court to manage cases effectively. In the light of this circumstance, this study examined whether the management process used in businesses, namely planning, organizing, directing and controlling are principles that are equally applicable in managing cases at the pre-trial stage under the Rules of Court 2012. Therefore, this study is significant in determining the potentials of applying management process principles to manage the pre-trial stage.

Based on the foregoing, the main objective of this study is to examine the relevance of using the principles of process management in managing the pre-trial stage under the Rules of Court 2012. The general objectives of this study are; first, to analyze the related provisions of the Rules of Court 2012 that correspond to the principles of process management; and to understand the importance of management process in the management and disposal of civil cases efficiently.

2. The Pretrial Stage and its relevance to Process Management

The day-to-day management process of a company involves the activities of planning, organizing, directing and controlling. However, "management process" is an unfamiliar term in court management and also in the management of cases by legal firms. Although the term is subject to various definitions by scholars, it can be described as "an interconnected process that involves 'concerted efforts to map, improve and adhere to organizational processes'" (Benner & Tushman, 2007). The term has also been used to describe the various activities that are organized in the making of a product (Wesk, M 2012). According to Griffin and Ebert (2006), business managers usually rely on such activities in their respective organizations. In addition, planning involves 3 key components, namely determining the firm's goals; next the development of a comprehensive strategy for realizing those goals and followed by crafting tactical and operational plans for realizing the strategy. According to the authors, the act of organizing means deciding on the best way to use a business's resources and activities into a coherent structure whilst the act of directing involves the use of power by a manager to direct and motivate employees to meet the firm's objectives; and the act of controlling means the process of monitoring the firm's performance to ensure that the firm is meeting its goals.

In civil litigation, the way a case is managed throughout the litigation track is important in determining whether it is managed efficiently or otherwise. For a case which requires disposal via a trial or is complex in nature, the pre-trial stage is an important stage. In Malaysia, a strict deadline for civil courts has been set by the Malaysian Judiciary. For an ordinary civil case, the disposal time is nine (9) months for the High Court and Sessions' Court, and within six (6) months for the Magistrates' Court. In this connection, the placing of such strict key performance on the court indicated that the management process involved in managing civil litigation under the Rules of Court 2012 must not be taken lightly by all parties concerned - the courts, the solicitors acting for the parties to the action and other stakeholders. To achieve targeted goals (a win or win-win situations), strategies employed in civil litigation must be planned and organized accordingly. And managing the pre-trial stage requires one to achieve a combination of skills and strategies and not purely dependable with the use of the electronic court system alone. Thus, it is essential to draw a link between management process and the pre-trial stage.

For the court, cases that enter the court registry must be managed and disposed within certain timelines. On the other hand, to the solicitors, taking up a case means that they must plan during the pre-trial stage and prepare accordingly for trial. This essentially includes the need to be well-prepared during the pre-trial case management, which conduct is governed under Order 34 of the Rules of Court 2012. In this sense, it is quite similar to the conduct of any business that requires careful planning to ensure that the resources are used efficiently and effectively, to achieve specific goals. The close of pleadings is a stage whereby the parties to the action or their respective solicitors are required to observe a set of pre-trial procedures. Under the Rules of Court 2012, these procedures (in chronological order) are case management, mediation, discovery of documents, discovery by interrogatories, inspection and setting down for trial (Abu Baker, 2012).¹ Failing to act or manage their cases, according to these procedures would end up with possible dismissal of action as evidenced by several court judgments. In *Birkett v James*² [1977] 2 All ER 801, Lord Diplock held that the plaintiff in that case has failed to act cautiously and had caused inordinate and inexcusable delay and as such has caused serious

¹Hamid Sultan Bin Abu Baker, *Janab's Key to Civil Procedure - COMBINED RULES (The Rules of Court 2012 Annexed)*, Janab (M) Sdn. Bhd., Malaysia, 5th Edn, 2nd Reprint, 2012, p 194.

² *Birkett v James* [1977] 2 All ER 801 [1977] 2 All ER 801

prejudice to the defendant. Similarly, in *Syed Mahdzir bin Syed Abdullah v. Ketua Polis Negara &Anor*.¹ [1986] 1 MLJ 196. Mohamed Dzaiddin J. (As he then was) held that the plaintiff's action, intentional and contumelious default and the existence of inordinate and inexcusable delay plaintiff or his solicitor had had caused his action to be struck out for want of prosecution). Based on the above discussion, there is a link between process management and the management of cases in terms of deciding on the activities that are important in ensuring the success of management. This study hopes to fill the existing gaps in the civil procedure literature that discuss a little about the relevance of adopting management activities in the management of cases.

3. Methodology

Studies in procedural law involve examination of the provisions in statutes, case laws, court procedural rules and court practice directions/circulars. The major sources of data include the provisions of the Rules of Court 2012 and case laws. The methods employed in this study were descriptive and aimed at fact finding. To accomplish this task, the relevant provisions in the Rules of Court 2012 were analyzed to find out what are the activities under the Rules of Court 2012 that resemble the basic idea of activities that take place in the process management of an organization.

4. Findings and Discussion

The finding shows that the Rules of Court 2012 contain provisions that promote a robust approach in managing civil cases at the pre-trial stage and in many aspects are quite similar to the approaches used by many business organizations. Although the activities involved in managing cases and business affairs are not necessarily identical, they are interrelated in the sense that both processes provide guidance to organizations to manage their affairs efficiently and orderly.

The study identified relevant provisions of the Rules of Court 2012 that correspond to the principles of process management (namely planning, organizing, directing and controlling exercises) that are commonly referred in managing business organizations. The activities of process management (namely planning, organizing, directing and controlling) may assist the court and the solicitors acting for the parties to the action to understand the importance of abiding by the provisions as set forth under the Rules of Court 2012 to achieve the end of justice in an efficient manner.

a. Planning process

Quite similar to the process of planning undertaken by business managers, legal firm managers and even lead counsel also spend a great deal of time planning for the success or smooth management of a case. To achieve efficiency in the disposal of cases, the Rules of Court 2012 contain provisions that stipulate the importance of planning for the processes involved once a case is filed and thereupon registered by the court. These processes include the use of modern technology, worker skills and materials (cause papers). Performance quality herein refers to the features of ensuring high-quality monitoring by the court.

The three key components of planning (namely, determining the firm's goals; the development of a comprehensive strategy for realizing those goals and followed by designing tactics and plans for implementing the strategy) are equally relevant to the practice of a legal firm manager. Likewise, a lead counsel on a case is professionally required to ensure that their clients' interests are safeguarded throughout the litigation stages. The main goal of accepting a brief (case) from a client is to ensure the success of his case apart from serving the end of justice. Thus, counsels acting for the plaintiff would start collecting and verifying all facts that were revealed to them by their respective clients. This can be done by perusing every document that may seem to be relevant and any person who may have the relevant information. Specific steps would be reasonably taken which include the following: Sending letter, requesting form information; collecting and reviewing witness statements and any such statement made by potential defendants. With such preparation, commencement of action can be done without much doubt and would allow the exchange of pleadings without encountering much problem.

¹*Syed Mahdzir bin Syed Abdullah v. Ketua Polis Negara &Anor* [1986] 1 MLJ 196.

i.Planning process for the plaintiff's solicitors

The Rules of Court 2012 contain provisions that must be abided by both solicitors acting for the parties to the action in their capacity as officers of the court.

4.1.1.1 The planning process for the plaintiff's solicitors would include the following:

1. The Plaintiff's solicitors must plan the process of his client's case carefully in line with the direction under the Rules of Court 2012. They would, firstly, ensure that the writ of summons must be served promptly and within the validity period, namely, 6 months beginning from the date of its issue and a concurrent writ is valid in the first instance for the period of validity of the original writ which is unexpired at the date of issue of the concurrent writ (Rules of Court 2012, Order 6, rule 7). Equally important, is that the statement of claim must also be served within 14 days after the defendant has entered an appearance (Rules of Court 2012, Order 18, rule 1). In an action where the defendant is not represented, the Plaintiff's solicitors would need to ensure that the defendant's solicitors are served according to two methods, namely via personal service or by prepaid A.R. Registered post upon the extraction of the sealed copy of the court (Rules of Court 2012, Order 10, rule 1). If substituted service is required, then they are required by the Rules of Court 2012 to make an application for substituted service, followed by obtaining the court order before attempting to effect service on the defendant and lastly to file an affidavit confirming the service of the writ of summons via substituted service in Court.
2. Similarly, if substituted service is required, the Plaintiff's solicitors must get leave from the court via filing a notice of application and effect service upon getting order-in-terms of the said application. In furtherance of this, if the defendant fails to enter an Appearance, and no extension of time has been applied for, then Plaintiff's counsel should consider applying for default judgment.
3. In terms of planning a strategy, the Plaintiff's solicitors may also consider applying for summary judgment. This is a summary way recommended under the Rules of Court 2012 (Rules of Court 2012, Order 14). Tactical plans to realize this strategy would involve examining the Defence and determine whether the Defendant has no defense to his case.
4. Similarly, the Plaintiff's solicitors can resort to filing an application for striking out if it is found that the defence is not sound in law. Alternatively, other strategies that can be adopted by the Plaintiff's solicitor are such as filing in relevant applications in situations where the defendant has made any admissions or where it is appropriate to amend the pleadings or to add, substitute or remove any party to the action or to file a Reply if the Defence raises new fact.

4.1.1.2 The planning process for the defendant's solicitors would include the following:

1. In safeguarding the Defendant's interest, enter an appearance within specified timeline by filing the Memorandum of appearance (Rules of Court 2012, Order 12, rules 1 and 2) and on the same date on which the Defendant has entered his appearance, send a copy of the same to the plaintiff by post (if he sues in person) or his solicitors (if the plaintiff sues by way of legal representation) (Rules of Court 2012, Order 12, rule 3(2)).
2. In strategizing a possible defense plan, sent a letter to Plaintiff's solicitors informing that they are in the midst of preparing the Defence. Obtain agreement that Judgment in Default of Defence (JID) will not be entered without reasonable notice.
3. Service of defence on the plaintiff before the expiration of 14 days after the time limited for appearance or after the statement of claim is served on him, whichever is the later (Rules of Court 2012, Order 18, rule 2 (1) and (2)).
4. In realizing the strategy, examine the statement of claim and consider whether it discloses a cause of action. If not, apply for striking out.
5. Apply for summary judgment on counterclaim (Rules of Court 2012, Order 14, rule 5)
6. Determine whether sufficient information disclosed in the statement of claim. If not, request for further and better particulars.

7. Whether there are scandalous, vexatious, or embarrassing allegations. If exist, apply for striking all or a portion of the statement of claim.
8. Determine whether any admission is made by the plaintiff
9. Determine what evidence is needed to support the plaintiff's allegations
10. Identify any presumption of law that works for or against the defendant.
11. Prepare and file defence within specified timeline.
12. Prepare brief authorities

4.1.1.3 The planning process which is applicable for both solicitors acting for plaintiffs and solicitors acting for defendants:

- Consider the need to file application for further and better particulars to avoid the element of surprise.
- Generally, case management is aimed at preparing the parties to the action for trial apart from disposing cases early. Thus, solicitors acting for both parties to the action should consider the need to adopt suitable alternative dispute resolution procedures (ADR procedures) for managing potentially difficult or protracted litigation. Against this backdrop, it is imperative to consider the importance of certain ADR mechanisms to ensure that cases are disposed within the aforementioned strict deadlines.
- Apart from mediation and arbitration, consider the use of early neutral evaluation, which has the potential of extending it to case planning, especially if mediation is not an appropriate dispute resolution mechanism to be used in a particular case and fails to convince the parties to reach settlement.

a. Quality organization

There are also provisions in the Rules of Court 2012 that promote the need to organize efficiently to ensure services rendered by the court and the tasks and responsibility of both the solicitors acting for the parties to the action are organized accordingly. This essentially requires the joint effort of all staff on the court as well as solicitors and the parties to the action. The evidences are as follows:

The organization of the courts' business is regulated by the Registry (Rules of Court 2012, Order 60, rule 1). It is divided into several departments and the business of the Registry shall be distributed among the departments according to the direction of the Chief Judge or the Sessions court judge (for the lower courts). The Registry keeps the records or books as prescribed under the Rules of Court 2012 and this includes a Cause Book, an Interlocutory Application Book and a Judgment Book. The Rules of Court 2012 also stipulates that a judge of the high court shall be made available as a vacation judge to ensure the smooth running of the court's business (Rules of Court 2012, Order 61, rule 1).

The filing of a writ of summons (and notice of application) must be done accordingly, namely via electronic-filing or by using the service of a service bureau are done correctly (Rules of Court 2012, Order 63A, rule 7). For electronic filing, the plaintiff's solicitors need to submit legal documents via Electronic Filing System (payment via internet banking). For the registry, the registration clerk would verify the documents and process the documents by stamping, placing a mention date *et cetera* on the PDF documents. Then, such documents would send to the Senior Assistant Registrar (or the Deputy Registrar) in duty who would sign and digitally place a seal on the PDF documents (Rules of Court 2012, Order 63A, rule 8). The court would then notify the status of filing and case number (Rules of Court 2012, Order 63A, rule 9). Processed, then forward to solicitors with digital seal. The Plaintiff's solicitors will print the court document and serve to the defendant (or his solicitors, if he is legally represented) and later validate service of such document via electronic filing. Thereafter the defendant's solicitors will submit the defence (submit payment via internet banking). The court will then notify them about the status of filing and processed the said document with a digital seal.

Similarly, the filing of affidavits using the electronic filing service can be done electronically or manually (by the deponent himself by signing the original paper affidavit) (Rules of Court 2012, Order 63A, rule 13).

The flow of events in the conduct of civil litigation must be organized according to the Rules of Court 2012 and observed by both solicitors acting for the parties to the action. Examples are aplenty:

Example 1: Obtaining judgement-in-default of appearance.

After the defendant has failed to file in his appearance, judgment-in-default of appearance will be entered and recorded by the court. However, if the defendant has entered an appearance within the specified timeline by filing the Memorandum of appearance, the court is required under the Rules of Court 2012 to affix an official stamp acknowledging the date on which such documents have been received. (Rules of Court 2012, Order 12, rule 3). Similarly, if defense is not served within specified timelines, judgment in default of defence will be entered and recorded by the court.

Example 2: The determination of when the pleading is deemed closed (Rules of Court 2012, Order 18, rule 20).

At the expiration of 14 days after service of the reply of, if no reply, but only a defence to a counterclaim, after service of the defence to the counterclaim; or if neither a reply nor a defence to a counterclaim is served, at the expiration of 14 days after service of the defence (Rules of Court 2012, Order 18, rule 20 (1)(a) and (b)).

Example 3: Pre-trial preparation and pre-trial case management

After the close of pleadings, pre-trial case management will be fixed by the court (Rules of Court 2012, Order 34, rule 2). At this stage, solicitors acting for the parties to the action make any interlocutory application (Rules of Court 2012, Order 34, rule 9). For example, any party to the action can file in an application for summary judgment (Rules of Court 2012, Order 14). For example, the plaintiff who has served the statement of claim on the defendant and that the defendant has entered an appearance, the plaintiff may on the ground that the defendant has no defence to a claim, or a particular part of a claim stated in the writ, except as to the amount of damages claimed, apply for summary judgment. At the case management stage, pre-trial preparation will include the carrying out of the following tasks:

- i. Check for new case laws (on court procedures and substantive laws relating to the area)
- ii. Consider any possible change in the position of the parties (e.g. Based on the pleadings and discovered documents)
- iii. Consider what evidence is needed at trial and how evidence will be led
- iv. Confirm availability of witnesses
- v. Consider notice to admit facts
- vi. Disposal of cause on a point of law (Rules of Court 2012, Order 14A)
- vii. Production, inspection and preservation of property
- viii. Interlocutory injunction (prohibitory, mandatory or Mareva) (Rules of Court 2012, Order 29)
- ix. Withdrawal of discontinuance (Rules of Court 2012, Order 21)
- x. Consent order
 - 4 Research the law
 - 5 Organization of documents based on originality
 - 6 Discovery and inspection of documents (Rules of Court 2012, Order 24)
 - 7 Experts of parties (Rules of Court 2012, Order 40A)
 - 8 Admissions (Rules of Court 2012, Order 27)
 - 9 Witnesses – list of prospective witnesses

4.2 Quality direction

There is need to understand the benefits of abiding by the Rules of Court 2012. To achieve this, training and involvement of all parties concerned must not be discounted for. In this respect, the Judicial and Legal Service Training Institute (ILKAP) is a government agency that has received validation of MS ISO 9001:2008 on 19 Mac 2010 by Llyod's Register Quality Assurance (LRQA) with the mission to improve knowledge, competency and professionalism especially among judicial and legal officers and law enforcers. ILKAP is established to achieve important functions such as the organization of training programmes, seminars and courses. It also conducts research relating to the need of training and impact analysis on the organization and officers from the public services, statutory bodies and local authorities who are in the judicial and legal services and the enforcement of laws. ILKAP may train their judicial officers, especially with regards to the importance of encouraging the parties to the action to reach amicable resolution of disputes via the use of dispute resolution mechanisms, wherever possible and the function of certain court procedures such as court connected Mediation (under the Rules of Court 2012, Order 34, rule 2) and the Notice of Attendance of pre-trial case management (under Rules of Court 2012, Order 34, rule 4).

b. Quality control

The Rules of Court 2012 assist the court to monitor the litigation track by enabling the court and even any one of the parties to the action to detect errors in law and facts and make the necessary action as stipulated under the Rules of Court 2012. Evidences are as follows:

- i. The filing of actions throughout the litigation process requires the observance of specific rules under the Rules of Court 2012 and the use of specific standardized forms as specified for commencing certain actions. For instance, writ of summons (Form 2A Rules of Court 2012, Order 6, rule 1), application for substituted service application Form 134 under Order 62, r 5) and memorandum of appearance (Form 11 Rules of Court 2012, Order 12, rule 2). However, the Court shall have regard to the interests of justice and not on technical non-compliance with the Rules of Court 2012 (Rules of Court 2012, Order 1A). Thus, any non-compliance should be treated as an irregularity. Furthermore, the court shall not entertain any preliminary objection to non-compliance of rules (Rules of Court 2012, Order 2, rule 3).
- ii. The court controls the way pleadings are drafted. For instance, the rule of thumb is that there is a need to plead specifically in certain matters (Rules of Court 2012, Order 18, rule 8). However, there may be a situation when points of law in pleading must be pleaded (Rules of Court 2012, Order 18, rule 11), the need to plead facts and not evidence (Rules of Court 2012, Order 18, rule 7), (restriction of raising any new ground or claim inconsistent with a previous pleading of his own (Rules of Court 2012, Order 18, rule 10), and the necessary particulars which must be stated in a pleading (Rules of Court 2012, Order 18, rule 12).
- iii. However, the Rules of Court 2012 warns that any amendment to pleadings must not be treated lightly. It states that any amendment to a writ after its service on the defendant must be done via ex parte application and must be served on the defendant (Rules of Court 2012, Order 20, rule 1 (2)) amendment of memorandum of appearance must be with leave of the court (Rules of Court 2012, Order 20, rule 2). The court requires that amendment must be done within 14 days upon amendment order, failing which such order shall cease to have effect (Rules of Court 2012, Order 20, rule 9)
- iv. Applications must be done with good faith and fair play. For instance, the Rules of Court 2012 prescribe that the court will see that the Plaintiff's application for substituted service is done properly. In this sense, the Plaintiff must show effort to effect service on the defendant within 1 month from the date of the issue of the writ of summons and followed by subsequent efforts thereto to effect service of the same (Rules of Court 2012, Order 6, rule 7 (2A)).
- v. The Rules of Court 2012 also controls the withdrawal and discontinuance of action. The plaintiff may withdraw action within 14 days after service of defence on him by serving a notice in Form 32 Rules of Court 2012, Order 6, rule 7(2A))
- vi. The court will ensure that a judgment shall not be entered against a defendant unless the plaintiff produces a certificate of non-appearance in the prescribed court form (Form 12) and an affidavit is filed by or on behalf of the plaintiff proving due service of the writ on the defendant or in the alternative, the plaintiff produces the writ of summons which has been endorsed by the defendant's solicitor with a statement that confirms the acceptance of the writ on behalf of his client (the defendant) (Rules of Court 2012, Order 13, rule 7 (1)).
- vii. The court is vested with the discretion to set aside or vary any judgment made by it, if it thinks just to do so (Rules of Court 2012, Order 13, rule 8).
- viii. Based on the above explanation, any step taken must be evaluated and reviewed so that the proper or right recourse is sought. The parties to the action or their respective solicitors must comply with any such court order, especially pertaining to case management order, or else face the court's wrath. The Court is vested with the discretion to dismiss the action or strike out the defence or counterclaim or enter judgment or make such other order as deemed fit if any party fails to attend to it accordingly (Rules of Court 2012, Order 34, rule 6).

5. Implications of the Study

It is observed that abiding by the Rules of Court 2012 will benefit the solicitors to develop rational advice in order to cater to the needs of their respective clients as to the next logical course of action in the litigation process, namely either to look forward to a settlement plan or proceed to trial.

6. Conclusion

The study indicates that the provisions of the Rules of Court 2012 support the use of the management process. A number of provisions of the Rules of Court 2012 support the robust approach needed by solicitors acting for the parties to the action as well as the Malaysian civil court in achieving its initiatives in managing cases efficiently to meet the end of justice. It is axiomatic to note the use of the management process activities are relevant in considering the efficient and systematic management of:

- (a) Disposition time for cases
- (b) Amicable resolution of disputes, wherever possible (with or without the assistance of a third-party neutral); and
- (c) Protection of the rights and interests of each party to the action

7. Limitations of the Study

This study has encountered the usual limitations of time and funds commonly faced by a non-funded study. Thus, this study can only be considered as a preliminary study.

8. Recommendations

Active case management is an important aspect in civil litigation in Malaysia and even in most countries in other parts of the world. In this regard, it is recommended that the courts and the Malaysian Bar must initiate consciousness among court managers/administrators and solicitors about the effectiveness of using basic activities in the management process in the management of cases. Equally important is that the subject of Civil Procedure for law students should include the topic of management process and relate it to pre-trial case management under the Rules of Court 2012 so that students may visualize and determine what a solicitor would want to achieve in managing a case.

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Statute/Court Rule

Rules of Court 2012 (Malaysia)

Civil Society from Historical to Contemporary Perspectives

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Abstract

Many scholars think that because of its ambiguous nature the definition of the civil society concept sometimes is meaningless. Civil society belongs to a group of sociological and political theory concepts such as freedom, justice, equality and democracy that are not clearly demarcated. At least two specific dimensions of the civil society concept are distinguishable: the theoretical and the normative role. In the context of theoretical role the concept of civil society analyzes dimensions of social life and social values, with citizens and civil organizations as key actors. The normative role serves to motivate and mobilize citizens and other social actors for the establishment and development of various contents and forms of civil activities. The normative function is mostly manifested during periods of transition from less to more democratic societies. Both dimensions of the civil society concept have played significant roles, especially in countries where the position of civil society has traditionally played a marginal role. Discussing the concept of civil society is quite fashionable today. Civil society is a popular term with politicians, academics and international agencies. We frequently hear politicians talk about the needs of the state and the market for a civil society. As a result, a number of authors and social and political theorists have stressed its critical importance in the processes of democratic change. The concept of civil society has been defended in various ways by a variety of political and social theorists. Today's content of civil society does not result with a commonly accepted definition of the term, but focuses on whether the term should be a normative or non-normative tool of social science, and whether economic, religious and family relations should be considered as part of it. This paper will focus on the various meanings of civil society; a tentative definition on civil society will be introduced as well as various existing discourses of civil society.

Keywords: Civil Society, Theoretical, Normative, Democratic Functions, Democratic Citizenship

1. Introduction

There is no commonly agreed definition of civil society. 'A survey of available literature on this subject makes it clear that civil society as a concept contains elements that are diverse, complex, and above all, contentious' (Spurk, 2010). Some of the literature considers whether it is this very fuzziness that explains the present popularity of civil society in that "it can be all things to all people" (Glasius 2004, 3).

Civil society provides an intermediate layer of governance between the citizens and the state that is capable of resolving problems without public coercion. The idea of civil society within the context of modern history offers perspectives on state-society relations. Within these perspectives, the state should be differentiated from civil society as a binding or organizing principal of political order. In this analysis, individuals and different organizations are part of the political order to the extent that they seek to participate in those processes. The core idea of civil society embodies an ethical ideal of the social order, one that harmonizes the conflicting demands of individual interests and social good (Seligman, 1995).

In this paper I will try to clarify civil society's historical roots and introduce a tentative definition for civil society from both of its theoretical and normative dimensions before we see how the concept came to be understood in different contexts. The idea of civil society from its normative to functional definition will be discussed, as well as the relationship between civil society and democracy and some of the major democratic functions through which it contributes to strengthen democracy.

2. Origins and history of civil society

Although it now relates to societies of different civilizations, civil society roots lie mainly in the West. Romans spoke for the first time of "societas civilis", a term introduced by Cicero. Socrates supported the idea that conflicts within society should be resolved through public debates, and Plato saw the ideal state as a society in which people dedicate themselves to the

common good, while Aristotle saw the 'polis' as an 'association', that enabled citizens to share in the virtuous task of ruling and being ruled (O'Brien, 1999). Nevertheless, neither Greece nor Rome distinguished between state and society. After the Thirty Years' War ended, the Treaty of Westphalia endorsed states as political units having their territory and sovereignty. The monarchs were able to form national armies, which enabled them to control public life. Consequently, before the Enlightenment period absolutism was the hallmark of Europe and civil society was not discussed until the eighteenth-century by liberals attacking absolutism (Edwards, 2004).

The medieval idea of differentiating between state and society was lost in the work of Hobbes, who in religion found only potential for conflicts. He wrote that if a society is to be held together at all, it must be through the power of the sovereign. But Locke, in 'Two Treatises of Government' (1693) provided a distinctively modern form of differentiation by combining the concept with that of voluntary association. Thomas Hobbes and John Locke believed in a peaceful coexistence between human beings through social contracts and pacts (Warren, 1996). Locke and Hobbes did not hold that civil society was a separate realm from the state. It is society that created political institutions to protect it, and so can change them whenever it wishes to do so. In this context, Hobbes refused strict separation of state and society (Thomas Hobbes, 1690).

John Locke was the first one that distinguished between state and society. For him the state was a part of "civil society", but he distinguished the political order from "the community" placing the moral basis of the political order on the consent of the "community", that is, on society. Adam Ferguson developed the concept of civil society as a moral sphere in which human interactions can be protected from the state (O'Brien, 1999). On the other side, Tocqueville presented civil society as a network of non-political social organizations that strengthen democracy. Thus, he introduced the notion of subsidiary, which allows civil society to be involved in governance by limiting the power of the state whilst ensuring that the creative energy of society remains outside of the state and remains within civic activism of associations (Tocqueville 1969).. While Locke, Ferguson, and Tocqueville base their concepts of civil society on a distinction between state and society Adam Smith focused on the difference between society and markets.

In Hegel's analysis of society, the economy is a part of civil society, which is identified with market relations. He understood the distinction between market and state. Marx argued that civil society was strongly shaped by class antagonism and Rousseau thought that of the society where state should be absorbed into civil society. Civil society, as Rousseau describes it, serves two purposes: to provide peace for everyone and to ensure the right to property (Jean-Jacques Rousseau, 1950). On the other hand, Gramsci developed a concept of civil society that differentiated it both from the economy and the state, although he had a difficult time expressing the independent role of civil society without it being an instrument of state politics.

3. Definition and concept of civil society: Theoretical and normative dimensions

Walzer has defined civil society as the space of (politically) un-coerced human association and also the set of relational networks-formed for the sake of family, faith, interest and ideology. Civil society is also seen as a sphere of social interaction between economy and state (Cohen and Arato, 1992). If we refer to these definitions then the question is whether this includes economic interest not organized to pursue public ends.

The Centre for Civil Society at the London School of Economics and Political Sciences uses a working definition that includes four model sectors, adding family as an additional one: 'Civil society refers to the arena of un-coerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, and market, though in practice, the boundaries between state, civil society, and market are often complex, blurred and negotiated.

Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power. Civil societies are often populated by organizations such as registered charities, development non-governmental organizations, community groups, women's organizations, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations, coalitions and advocacy groups' (Centre for Civil Society, 2006). This definition describes civil society as part of the society, but not directly part of the state, consisting of different organizations, which operate in the interest of the common good.

In order to overcome social and economic problems other ideas were suggested, including a partnership involving the public, private and civil sectors working together. Edwards notes that civil society as an associational life should be central

to the workings of this joint project, which will address the effects of too much state intervention and consequences of human over-reliance on the market. This project, as a new way of achieving social progress, became identified as building 'societies that are civil' (Edwards, 2004).

Another significant functional goal of civil society is to act as a force maintaining liberal freedom. This key function is a set of diverse non-governmental institutions, which are strong enough to counterbalance the state. Civil society is: 'a society in which polity and economy are distinct, where polity is instrumental but can and does check extremes of individual interest, but where the state is in turn checked by institutions with an economic base; it relies on economic growth which, by requiring cognitive growth, makes ideological monopoly impossible' (Gellner, 1994).

a. The idea of civil society: From normative to functional definition of civil society

Civil society's existence as independent from the state is a very important aspect. As we saw from the historical perspectives, the concept of civil society was defined differently by a range of German, French and Scottish Enlightenment figures, but common to all attempts was the articulation of the civil society's main problem: the relation between the private and public, the individual and social, and between individual desire and public concerns.

In this context, civil society could be seen as autonomous sphere and independent from the state, but regulated by the state (Shills, 1991). This idea of civil society is not the focus of power balances between the state and civil society, but their inter-independence.

Civil society should be considered as the location of independent thought. As a result, a functional definition of civil society could replace the predominant normative definition: 'that civil society should not be defined negatively as opposition to the state, but positively, in the context of the ideas and practices through which cooperation and trust are established in social life' (Shills, 1991).

4. Civil society and democracy

Citizen participation in processes of public decision-making is an essential part of the democracy. Through its social and political activism, civil society gives voice to groups of citizens that don't feel represented in democracy. Amongst other potentials, civil society organizations have expert knowledge in many areas of concern, and so are able to serve governments as counselors.

Participating in the system can be a good experience for citizens, allowing for a positive identification with their political system. This is how civil society can help strengthen some of the weaknesses in democracy and lower citizen dissatisfaction.

But not always civil society organizations have identical interests. Civil society is not always homogeneous. In essence there are many organizations within civil society that are undemocratic in their platform. Some of them imply violent and in some cases illegal strategies and activities which in essence are non democratic. These aspects can directly threaten the maintenance of democratic regimes. It would therefore be misleading to conclude that all civil society organizations are interested in making democracy a reality.

Civil society in the context of communist regimes had a different meaning compared to the meaning of civil society in the context of contemporary democracies. Because of the limited freedom of expression in communist regimes, civil society existed in someone's living room, in churches or in cafes (Brinton, 1990). Under the communist regimes independent civil society usually took on the form of small groups of citizen activism. Both representatives of independent and of the broad civil society contributed with different means and forms to overthrow communist regimes and the following transition toward democracy (Skovajsa, 2008).

a. Democratic functions of civil society

As outlined above, at its best civil society can make a positive contribution to democracy, but at its worst may undermine democratic regimes. Consequently, there are some major functions through which civil society contributes to strengthening

democracy: 'The Lockean Function: Control of State Power, The Hegelian Function: Interest Mediation, The Pluralist Function: Social Integration, The Non-Profit Function: Service Provision and The Tocquevillian Function: Political Socialization' (Forbrig, 2002).

Other authors see a variety of "democratic functions" of civil society. 'Its first and most basic function is limiting state power, primarily accomplished by two linked efforts. Civil society must monitor the abuse of state power – such as corruption or vote fraud – and also mobilize society to protest such abuses, thereby undermining the legitimacy of undemocratic governments; second, civil society supplements the role of political parties in stimulating political participation. Third, civil society can develop attributes such as tolerance and moderation crucial to democratic development. Fourth, it creates channels other than political parties for 'the articulation, aggregation and representations of interests', not least at the local level. Fifth, voluntary associations can create interests that transcend the fault lines of region, religion, class, or ethnicity and the like. Sixth, voluntary associations recruit and train potential political leaders. Seventh, such organizations may help to build democracy in a variety of other ways, such as monitoring election procedures. Eighth, civil society can widely disseminate information useful to individuals in playing their roles as democratic citizens. Ninth, civil societies can help to achieve the economic reforms without which democracy is unlikely to take root. And tenth, the well-functioning of civil society may strengthen the emerging democratic state by pressuring it into patterns of behavior that enhance its legitimacy' (Diamond, 1994).

It is necessary to examine some of the key functions of civil society in regard to democracy, as they are important for its consolidation and maintenance. One of civil society's key tasks is to build a democratic culture in families, schools and communities. In this context integration of individuals and groups is very important. For instance, in today's world demographic changes within countries are constant. Thousands migrate from rural to urban areas looking for better employment opportunities. Children of these families find themselves relatively alone when they first arrive in their new locations. Social connections, such as family and school are weak in the beginning. Sociologists find that some of these individuals can easily come in contact with groups of organized crimes, narcotic substance abuse, suicide, and membership in violent, religious and ideological extremist groups. Civil society can play a crucial role in preventing some of these pathologies. Membership of individuals in different organizations such as labor unions, student unions, religious organizations, and professional associations gives opportunities for discussion of all levels of public issues. In this context civil society becomes mediator between the individual and the state.

Democratic citizenship is another aspect in which civil society can contribute. If democratic citizenship would be, for instance, only for simple procedures like voting, then democracy rests on shaky foundations. Democratic citizenship is about participation and social cohesion. Civil society can train each new generation in the practices of citizenship. This is possible through participating in meetings, organizing activities and public speaking in order to cultivate the arts of civic membership.

The ability to choose and be a member of different types of organizations is freedom itself. The plural loyalties in a liberal democratic state can liberate the individual, another advantage and benefit to the individual from participating in civil society. Liberty spontaneously gives rise to organized interests. 'The variety of independently organized interests and points of view fostered by fully developed civil society makes it less likely that any one group or interest will dominate society, abusing its power to the detriment of other groups' rights or the public good.' (Madison, 1961). Finally the ability to disperse power is another essential function of civil society.

5. Conclusions

If we exclude the classical period, civil society meant every aspect of society that was not functionally and institutionally included within the State. The seventeenth and eighteenth century separation of state and society was a step of great significance. This later allowed theorists to conceive society as a social space in which the individual, alone or with others, could view the acts of society in order to oppose an oppressive state. While these were only a few of the formulations of civil society (some of them excluded familiar, religious, and economic realms) most of them shared the most common definition of the term: the 'separateness of civil society and the state.' As Shills stated 'civil society should not be defined negatively as opposition to the state, but positively, in the context of the ideas and practices through which cooperation and trust are established in social life'.

Consequently, we underlined that civil society can be viewed as a solution to many challenges in contemporary democracies. But not always the relationship between civil society and democracy is democratic itself. Consequently, not always civil society organizations are homogeneous in their goals and democratic in their structure and platform. Through the employment of disruptive, violent, illegal or socially irresponsible strategies, civil society organizations accustom their members to behavioral patterns, which are diametrically opposed to those necessary for the smooth functioning of democratic regimes. Non-democratic goals and strategies of some civil society organizations may generate openly non-democratic views and forms of conduct at worst (Forbrig, 2002).

As discussed in this paper many authors give different meanings to the notion of civil society. Not everyone means the same thing when they discuss it. In general, civil society is seen more as a multifaceted concept, although it is noticeable that the differentiation between the state and civil society is mostly discussed. As we saw, although it is possible to identify some major functions through which civil society contributes to strengthening democracy, this doesn't necessarily mean that we do have a precise definition agreed from all authors for the concept of civil society.

Referring to the above discourses a tentative definition on civil society describes the concept of civil society as autonomous sphere and independent from the state, but regulated by a legal framework from the state. This is the concept of civil society that is not defined negatively as opposition to the state, but positively, in the context of the ideas and practices through which cooperation and trust is established between the state institutions and civil society thus contributing to the democratization processes.

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