



ICSS IV

4th International Conference on Social Sciences

Proceedings Book

Volume I

27 February 2015

Bucharest

ISBN 978-88-909162-8-1



9 788890 916281

REVISTIA
PUBLISHING AND RESEARCH

4th International Conference on Social Sciences

27 February 2015

Volume I

ISBN 9788890916281

Every reasonable effort has been made to ensure that the material in this book is true, correct, complete, and appropriate at the time of writing. Nevertheless, the publishers, the editors and the authors do not accept responsibility for any omission or error, or for any injury, damage, loss, or financial consequences arising from the use of the book. The views expressed by contributors do not necessarily reflect those of Revistia.

Typeset by Revistia

Printed in Bucharest, Romania

Copyright © Revistia. All rights reserved. No part of this book may be reproduced in any form or by any electronic or mechanical means, including information storage and retrieval systems, without written permission from the publisher or author, except in the case of a reviewer, who may quote brief passages embodied in critical articles or in a review.

Address: 11, Portland Road, London, SE25 4UF, United Kingdom

Tel: +44 2080680407

E-Mail: office@revistia.com

Web: <https://books.revistia.com>

TABLE OF CONTENTS

COPYRIGHT PROTECTION IN ALBANIA – A BRIEF HISTORICAL OVERVIEW	11
ENEIDA OSMANAJ (SHYTI), PHD. CAND.	11
TRANSITION ECONOMY IN KOSOVO AFTER THE WAR	21
NEVRUZ ZOGU, PHD	21
ARTAN NIMANI, PHD	21
SHPETIM REZNIQI, PHD	21
THE INSTITUTIONAL ROLE OF THE ALBANIAN FINANCIAL SUPERVISOR AUTHORITY	25
DR. ARBER GJETA	25
VALBONA BALLKOÇI	25
AGGRESSION AND ANTISOCIAL BEHAVIORS OF TEENAGERS	36
IDA KRUTI.....	36
ITALIAN LANGUAGE IN THE ADULT CLASS - DIDACTIC UNIT FOR ADULTS	45
DR. AIDA GJINALI	45
THE BENEFITS OF MANDATORY HEALTH INSURANCE. THE INSTITUTIONAL APPROACH IN ALBANIA	58
FJORALBA MEMIA, PHD. CAND.	58
THE IMPACT OF ALBANIAN SCHOOLS IN THE NATION-BUILDING PROCESS.....	64
LULZIM HOXHA	64
THE INTEGRATION IN EDUCATIONAL SYSTEM OF CHILDREN WITH DISABILITY - A PHILOSOPHY AND A LEGAL OBLIGATION.....	69
ENTEHA HOXHAI	69
IRMA BARAKU	69
THE PROTECTION OF THE RIGHTS OF ROMA COMMUNITY, SOCIAL POLICIES AND ALBANIAN LEGAL AND INSTITUTIONAL FRAMEWORK FOR THEIR IMPLEMENTATION.....	75
IRMA BARAKU	75
ENTEHA HOXHAI	75
DEVELOPMENT OF MICROFINANCE INSTITUTIONS (MFIS) IN KOSOVO	82
QEFSERE KUPINA	82
PROF. DR. DRINI SALKO	82
ENTERPRISES DEALING WITH CORRUPTION: A MICROECONOMIC ANALYSIS.	90
ERMIRA HOXHA KALAJ, PH.D.....	90
REFERENCES	95
GLOBAL CRISIS FINANCIAL POLICIES	97
ARTAN NIMANI	97
SHPETIM REZNIQI	97
VALBONA ZEQRAR	97
NEVRUZ ZOGU	97
LEARNING THE SPANISH LANGUAGE FOR IDEOLOGICAL, POLITICAL, AND OTHER CURIOUS REASONS.....	102
PRODANI ANASTASI.....	102
GJINALI AIDA	102
GJOKA SANDRA	102

NEW SOCIAL PHENOMENA IN THE OPTICS OF VALUES IN POST-COMMUNIST ALBANIA.....	109
INA K. ZHUPA.....	109
STRUCTURE OF PERSONALITY VARIABLES OF SPECIAL OLYMPICS ATHLETES AND UNIFIED PARTNERS IN FOOTBALL.....	115
DRAGAN POPOVIĆ.....	115
MILOŠ POPOVIĆ.....	115
EVAGELIA BOLI.....	115
HAMIDOVOĆ MENSUR.....	115
MARINA JOVANOVIĆ.....	115
DIVORCE; ALBANIAN REALITY.....	124
ALKETA MOLLA.....	124
THE MAIN ROLES OF BANKRUPTCY ADMINISTRATOR IN ALBANIAN BANKRUPTCY LAW.....	130
ERJOLA ALIAJ, MSc, PhD CANDIDATE.....	130
U.S. EMPIRE: DIVERGENT VIEWS.....	135
ALIDA TOMJA.....	135
DANIEL BORAKAJ.....	135
“DISCONTINUITY” AS A CONCEPT THAT AFFECTS TODAY’S ART PRACTICE.....	141
NURI YAVUZ, ASST. PROF.....	141
ASSOC. PROF. DR. AYHAN HELVACI.....	141
FRUSTACIONIT AND CRIME IN CONTEMPORARY SOCIETY - CASE STUDY THE WESTERN BALKAN.....	145
FATMIR QOLLKAJ, PHD.C.....	145
A STUDY OF THE EFFECTS OF TOTAL QUALITY MANAGEMENT ON OCCUPATIONAL SAFETY REGULATIONS.....	148
SELMAN AKSOY.....	148
MEHMET KAHRAMAN.....	148
COMMONALITIES AND DIFFERENCES OF TAX SYSTEMS IN WEST BALKAN COUNTRIES COMPARATIVE ANALYSIS.....	157
TEUTA BALLIU, PHD CAND.....	157
AIDA GAÇELLOZANA, PHD CAND.....	157
THE ANTITOTALITARIAN ALLEGORIES OF GEORGE ORWELL AND ISMAIL KADARE – A COMPARATIVE ANALYSIS OF THE FORMS OF THEIR EXPRESSION.....	165
ERVIN XHINAKU.....	165
DR. OLSA PEMA.....	165
ENERGY SECURITY IN BALKAN AND MAIN ACTORS IN THE ENERGETIC SECTOR IN THE REGION.....	173
FATRI MORINA, PHD. CAND.....	173
FOREIGN LANGUAGE TEACHING IN THE NET GENERATION – AN ANALYTICAL EXAMINATION OF CONTEMPORARY STUDIES AND ATTITUDES.....	177
DR. OLSA PEMA.....	177
THEORETICAL CONSIDERATIONS OF POST COMMUNIST POLITICAL ELITE; ON FOCUS ALBANIA.....	184
MERLINDA ANDONI, MA.....	184
UNIFIED ORTHOGRAPHY RULES OF THE ALBANIAN LANGUAGE.....	192
AFERDITA NIMANI, MSc PhD CAND.....	192
EUROPEAN UNION ENERGY POLICIES AND ALBANIA: A PATH TOWARD A MAJOR ENERGY SECURITY.....	196
ARBER OSMAN QYSTRI.....	196

THE PENETRATION OF FOREIGNS IN THE TERMINOLOGY OF SOME VITAL AREAS IN ALBANIA AND KOSOVO	200
MA. SC. SHPRESA DORDA	200
DR. SC. SINDORELA DOLI - KRYEZIU	200
MA. SC. GENTIAN MUHAXHIRI	200
A DISCUSSION ON SOVEREIGNTY THROUGH WORLD SOCIETY CONCEPT	209
DORINA NDOJ, PHD. CAND.	209
SPIRITUALISM IN RAYMOND CARVER'S WORK	216
VIOLA KITA, PHD CAND.	216
CORPORATION – ITS WAY OF PERFORMANCE AND ITS PRESENCE IN SOME TRANSITION COUNTRIES - WITH SPECIFIC FOCUS IN SOUTH EASTERN EUROPEAN COUNTRIES	221
MIRJETA DOMNIKU	221
THE ADAPTATION OF THE ALBANIAN LEGISLATION ON ENTRY AND RESIDENCE OF FOREIGN CITIZENS WITHIN THE INTEGRATION PROCESS	227
ERVIS MOÇKA	227
THE ROLE OF CENTRAL AND REGIONAL GOVERNMENT IN THE REGIONAL DEVELOPMENT OF ALBANIA	236
ALMA MARKU.....	236
HOW THE KARABAKH KHANATE JOINED TO THE RUSSIAN EMPIRE: HISTORICAL MYTHS AND REALITIES ..	242
TARANA AMIRAGA SHIRVANOVA.....	242
THE IMPACT OF ECONOMICAL TRANSITION IN HUMAN RESOURCES DEVELOPMENT IN KOSOVO ENTERPRISES	246
ARIANA XHEMAJLI, PHD.....	246
ALMA SHEHU LOKAJ, PHD	246
"PROGRAMMING" AN ENTREPRENEUR	250
ELONA GARO, PHD CAND.	250
VASILIKA KUME, PROF.	250
SUADA BASHO	250
CHOICE OF EMPLOYMENT AS A CATEGORY DIFFERENTIATING PERIPHERAL EMPLOYEES	259
MAŁGORZATA DOBROWOLSKA	259
ENVIRONMENTAL INJUSTICE: EXPLOITATION OF SINDH'S NATURAL RESOURCES IN PAKISTAN	262
ABDUL HADI, PH.D CAND.	262
HASHMANI, K. (2009). POOR PEOPLE IN RESOURCE RICH SINDH! INDUS ASIA ONLINE JOURNAL (IAOJ)	265
THE MANAGEMENT OF OPERATIONAL RISK IN THE MICROFINANCE SECTOR LOOKED THROUGH ALBANIAN REALITY	266
ALMA DELIJA, PHD CAND.....	266
CHARACTERISTICS OF VALUE ADDED TAX IN BOSNIA AND HERZEGOVINA	280
BRANKA TOPIĆ-PAVKOVIĆ, MSc.....	280
RESERVATIONS TO TREATIES, PROHIBITED RESERVATIONS AND SOME UNSOLVED ISSUED RELATED TO THEM	287
FJORDA SHQARRI	287
THE EQUATION OF EQUILIBRIUM AND MONETARY POLICY OF CENTRAL BANK IN PRESENT	292
RICHARD POSPÍŠIL, ASSOC. PROF. ING., PH.D.	292
JOSEF ABRHÁM, ASSOC. PROF. ING., PH.D.....	292
STATE AND CITIZENSHIP IN FORMER COMMUNIST COUNTRIES, THE ALBANIAN CASE	299
ORINDA MALLTEZI	299

THE ROLE OF ALBANIAN PERSONALITIES IN THE OTTOMAN EMPIRE	307
PROF.AS.DR. RUDINA MITA	307
MSC. BESNIK BAJRAMI.....	307
BUSINESS ETHICS PERCEPTIONS IN THE CZECH REPUBLIC DURING GLOBAL ECONOMIC CRISIS.....	314
MARTINA ŠÍPKOVÁ, ING. MBA, PH.D.	314
TAE-HEE, CHOI, PH.D.	314
LEGAL ELABORATION, PRINCIPLES AND THE PROCESS OF INTEGRATED BORDER MANAGEMENT. OBSERVATION OF THE LEGAL FRAMEWORK OF KOSOVO	324
ARMEND PODVORICA, M.Sc., PHD CAND.....	324
FEMINISM IN CARVER'S WORKS.....	330
VIOLA KITA	330
MANAGING AND TRAINING OF HUMAN RESOURCES IN HOTEL MICRO BUSINESS CASE STUDY: PEJA CITY	341
MERITA BEGOLLI DAUTI, PHD).....	341
RESERVATIONS TO TREATIES, PROHIBITED RESERVATIONS AND SOME UNSOLVED ISSUED RELATED TO THEM	350
FJORDA SHQARRI, PHD CAND.....	350
FINANCIAL REPORTING - THE PRIVATE - PUBLIC PARTNERSHIP PROSPECTIVE - THE CASE OF ALBANIA ...	355
KLEDIAN KODRA, Ms.C.....	355
THE PLEDGE AS A LEGAL INSTRUMENT FOR REINFORCEMENT OF THE CONTRACT	360
SKENDER GOJANI, <i>PHD</i>	360
TERMINOLOGY OF THE PENAL CODE PROCEDURE - OPTIONS OF TRANSLATION IN ALBANIAN AND GERMAN	364
DR. ERGYS PRIFTI.....	364
DR. MIHALLAQ ZILEXHIU	364
LEGAL ELABORATION, PRINCIPLES AND THE PROCESS OF INTEGRATED BORDER MANAGEMENT. OBSERVATION OF THE LEGAL FRAMEWORK OF KOSOVO	369
ARMEND PODVORICA, M.Sc., PHD CAND.....	369
ROLE AND IMPACT OF BUDGET AS INSTRUMENT OF FINANCIAL POLICY AND DEVELOPMENTAL IN KOSOVO	375
ENKELEDA LULAJ, PHD. CAND.	375
IMPACT OF THE TEACHING TECHNIQUES ON THE DISRUPTIVE BEHAVIOUR.....	382
DR. ALMA MUHARREMI.....	382
THE REPUBLIC OF KOSOVO: CONSTITUTIONAL POLITICS	389
ADEM SHALA	389
SUSTAINABLE REGIONAL DEVELOPMENT IN ALBANIA AND THE CHALLENGES TO EUROPEAN INTEGRATION	399
ALMA MARKU, PHD CAND.	399
JUDICIAL CONTROL OF THE ADMINISTRATION IN THE REPUBLIC OF KOSOVO	404
HYSNI BAJRAMI.....	404
THE INFLUENCE OF TEACHING METHODS IN THE LEARNING PROCESS	411
XHEVDET ZEKAJ.....	411
CONNECTIVISM AND CONNECTIVE LEARNING	415
SHQIPE HUSAJ, PHD CAND.	415
ACCORDING TO SIEMENS (2008), "CONNECTIVISM IS THE INTEGRATION OF PRINCIPLES EXPLORED BY CHAOS, NETWORK, AND COMPLEXITY AND SELF-ORGANIZATION THEORIES. LEARNING IS A PROCESS THAT OCCURS WITHIN NEBULOUS ENVIRONMENTS OF SHIFTING CORE ELEMENTS – NOT ENTIRELY UNDER THE	

CONTROL OF THE INDIVIDUAL. LEARNING (DEFINED AS ACTIONABLE KNOWLEDGE) CAN RESIDE OUTSIDE OF OURSELVES (WITHIN AN ORGANIZATION OR A DATABASE), IS FOCUSED ON CONNECTING SPECIALIZED INFORMATION SETS, AND THE CONNECTIONS THAT ENABLE US TO LEARN MORE ARE MORE IMPORTANT THAN OUR CURRENT STATE OF KNOWING.416

Copyright Protection in Albania – A Brief Historical Overview

Enejda Osmanaj (Shyti), Phd. Cand.

Commissioner for Protection from Discrimination, Tirana, Albania.

enejdaosmanaj@yahoo.com

Abstract

Human creativity flourishes in a suitable environment, which is provided by the existence of an efficient legal system of copyright protection. In general, copyright is protected on national basis therefore the scope of protection and the requirements that must be met to ensure the protection of works and creations, differ from one country to another. Albania has its own legislation for copyright protection, as most of European countries. This paper is a historical overview of copyright legislation development in Albania. History has undeniable impact in a country's legislation. So, Albanian copyright legislation has been changed and improved from stages to stages. Copyright has found protection in Albania's legislation, initially during the time of King Zog's^{1st} (1925-1939) Reign. The Civil Code (1929) marks the first strands of copyright protection in Albania. This Code is referred to the best European legislations of the time. During the communist regime private intellectual creations and works could not be privately owned. The copyright belonged to the state. The government and the totalitarian Albanian state of that time decided to reproduce the work, or allow translation into foreign languages as well as the creation of derivative works. The Civil Code of the Republic of Albania (1981) came into force with new provisions that provided recognition and protection of copyright. After the collapse of the communism the recognition of private property was re-appeared. The authors and creators became owners of their works/performances. Firstly, Albanian Parliament adopted the law no. 7564, dated 19.05.1992 "On copyright". Thirteen years later, the parliament enacted the Law no. 9380, dated 28.04.2005 "On copyright and other rights related to" that incorporated the provisions of the European Union Directives on Copyright Protection. Currently, the protection of copyright is provided even through some provisions of other legal acts, such as: Constitution of the Republic of Albania (1998), law no.7961/1995 "On the Labor Code of the Republic of Albania" (amended), Law no. 7895 /1995 "Criminal Code of the Republic of Albania" (amended), Law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended) etc. In addition to the national legislation, Albania has ratified a number of international acts, which intend to protect copyright etc.

Keywords – copyright, legislation, protection, work, history.

Introduction

What is the general definition of copyright?

Copyright is the legal protection given to published and unpublished works, forbidding anyone but the author from publishing or selling them. An author can transfer the copyright to another person or corporation. So, copyright is a form of protection provided by the law to the creators of "original works" including literary works, movies, musical works, sound recordings, paintings, photographs, software, live performances, and television or sound broadcasts. This protection is available to both published and unpublished works. Copyright automatically protects written and recorded works. It may help protect the work by displaying the © symbol, owner name, and the year in which it was created. Buying a copyright protected work doesn't give the right to broadcast or copy it - even for private use (e.g. making copies of CDs). Using copyright protected works usually requires contacting the owner or a collecting society who may agree a license. Copyright law only covers the particular form or manner in which ideas or information have been manifested, the "form of material expression". It does not cover the actual idea, concepts, facts, or techniques contained in the copyright work.

Copyright, in its real legal meaning, is a new concept in Albania. Historical development of the copyright has gone through several years of changes and improvements which are in coherence with the historical changes in Albania.

¹ Zog^{1st}, King of the Albanians was the leader of Albania from 1925 to 1939, first as President (1925–1928) and then as King (1928–1939).

1. COPYRIGHT PROTECTION IN ALBANIA THROUGH THE YEARS.

1.1. Copyright protection during King Zog Ist Reign.

During 1920s, Albania was experiencing extended periods of political turmoil and instability. The parliament decided to take under consideration the proposal made by the deputies of Skrapar, the issue of constitutional change. Immediately after the early elections on August 25, 1928, it was proposed to change the governing structure. The Statute Commission was held, which proposed the regime change, from Republic into Monarchy. King Zog¹ Ist was the founder of the modern Albanian State² and first King of the Albanians, creating the first stable governmental institutions and consolidation of governance after decades of political turbulence. The period of the Monarchy (1928-39) is seen as the golden era of the Albanian renaissance, and the start of National awakening for the Albanian region, including Kosova. Zog Ist enacted several major reforms. His principal ally during this period was Italy, which lent his government funds in exchange for a greater role in Albania's fiscal policy. Under the constitution, Zog Ist was vested with sweeping executive and legislative powers, including the right to appoint one-third of the upper house. For all intents and purposes, he held all governing power in the nation³. During the reign of King Zog Ist the entire enacted albanian legislation was similar with italian and french legislation of that time.

Civil Code of the Albanian Kingdom was drafted under the influence of the French legislative model and was approved on April 1st, 1929. It was not coincidentally called Zog's Civil Code. In reality, this Code represented an innovation in Albanian state and society of that time. Undoubtedly, foreign legislations, especially French, Italian as well as German and Swiss inspired Albanian legislator of the time, to incorporate their best legal provisions such as: equality of all citizens, emancipation of land ownership and freedom to engage in economic activities.

Italian and French legislations belonged to the spiritual impact of modern civilization as well as to the impact of "Italian Renaissance" and the "French Revolution". The approval of the Civil Code (1929) was a big step for Albania, because finally Albanian legislation was disconnected from ottoman law and Albanian civil law belonged to Roman-Germanic family.

In this period of time there was not any special law that provided copyright protection. The Civil Code (1929) covered some important aspects of copyright. This Code marked the first strands⁴ of copyright protection in Albania. The Civil Code (1929) referred to the most advanced Western legislations time, mostly to Italian legislation. Copyright protection was foreseen by Article 95 of the Civil Code. Copyright was treated as one of the objects of ownership's right. This right sanctioned as copyright of the inventors protecting their works and inventions. This provision determined which were the objects of the ownership right, referring mainly to material items. In addition to this concept, the provision provided special protection for literary mastery, artistic and industrial works and stating that intellectual products were owned by their authors. The object of these rights was summarized under the term "intangible items", while the "author" was the person who had created the work or performance.

1.1. Copyright protection during 1945-1991 in Albania.

Although the Civil Code (1929), which was drafted and based on the most modern legislations of the time, embodied historical positive values, the changes that occurred in Albania after World War II, accompanied with the establishment of the so-called "popular power" brought its repeal and simultaneously legislative, social and economic regression.

After the rise of the communism in 1945, the totalitarian Albanian state initiated a reform process of eliminating private ownership. This affected undoubtedly the Albanian legislation and changed entirely the idea of the copyright protection.

¹ Albanian Royal Family — Official Website - <http://www.albanianroyalcourt.al/>

² Pearson, O.S. Albania and King Zog I.B. Tauris. 2005 (ISBN 1-84511-013-7).

³ Charles Sudetic. "Interwar Albania, 1918–41". Albania: A country study (Raymond Zickel and Walter R. Iwaskiw, eds.). Library of Congress Federal Research Division (April 1992).

⁴ Prof. Paul Torremans, Prof. Assoc.Dr. Mariana Tutulani, M. Dedi (2005) "Pronësia intelektuale",

The Law no. 2022, dated 02.04.1955 "Civil Code of the Republic of Albania" enacted by the Albanian Parliament of that time provided copyright¹ protection to the authors, but it was considered as a personal nonproprietary right. More specifically, Article 58 of the Civil Code (1955) provided protection to the moral rights of the author, but not to his exclusive/economic rights.

The absence of "the real" copyright under the communist state resulted in some unusual cases. For example some well-known Albanian writers had a lot of difficulties regarding to their exclusive rights, because ceding of rights to their works was handled by the state with no provisions for the payment of royalties to the author. Payment to authors was usually done on a lump sum basis and the figure generally was very low. As far as school text books were concerned, the authors were paid by the Government, based on a varying and decreasing percentage: 5% for the first edition, 4% for the second one and so on. This system prevented the development of genuine professional personalities, especially in the field of translation. It should be noted that about 50% of the annual publications consisted in translations of foreign authors' books. In 1981 the above mentioned law was abolished and the Albanian parliament enacted the Civil Code of the Republic of Albania (1981) that had more legal provisions about copyright protection. Articles 315-335² of the Civil Code of the Republic of Albania (1981) provided the recognition and the protection of copyright in Albania. Among the most important personal nonproprietary right were copyright and the right of invention and rationalization. Article 316 of the Code stipulated that the author was the person who has created a work/performance. According to this Article, subject of copyright were even minors under 14 years old. While all individuals over 14 as well as adults could freely exercise it. According to the Civil Code (1981), copyright was granted to the author from the moment that the work or performance was expressed orally or had taken the form of handwriting, sketching or graphing an image, picture or in any other concrete form. In contrast to all other works, for photographic performances, copyright was granted only in cases when in the work or performance was shown author's name, year and place of its publication. Analyzing the content of this legal arrangement turns out that copyright was granted to intellectual creativity that was materialized in a concrete form that could be perceived by others, without need for its publication and distribution. The Civil Code (1981) had provisions not only for original, but also for derivative works, such as adaptations, translations, screenings, as well as any transformation of literary and musical works. The Code provided protections even to co-authors³ when a work was the result of intellectual creativity of two or more persons. Article 318 of the Civil Code provided copyright protection even to institutions dealing with mechanical sound recording like public television or radio. The Civil Code (1981) extended copyright protection also to creative subjects who had not Albanian citizenship. But this was limited and was applied only in cases when Republic of Albania had signed an Agreement for mutual protection with the authors' country.

2. COPYRIGHT LEGISLATION FROM 2005 TILL NOWADAYS.

With the establishment of democracy in Albania and re-recognition of private property, authors and creators became owners of their works. Albanian Parliament enacted the first law on copyright protection, respectively Law no. 7564, dated 19.05.1992 "On copyright". This law had undergone some changes, suiting the needs for copyright protection, in a reality that was still in transition, especially considering new technologies that have begun to penetrate into Albania, in early 90-s.

Law no. 7564, dated 19.05.1992 "On copyright" provided a modern concept of the institute of authorship and adapted it to the European concept of copyright. Referred on the above mentioned law, the scope of the copyright included a wider range of previously unknown works, such as computer programs.

In terms of this law, copyright protects the literary, artistic, public and other works, including any original intellectual creation of this nature, regardless of their form of expression as: written works including computer programs, lectures, addresses, sermons and other orally expressed works; musical works with or without accompanying text, dramatic or dramatic musical works, audiovisual works, choreographic works and pantomimes, works of fine arts: drawings, paintings, sculptures, engravings and lithography, architectonic works, photographic works, works of applied art, illustrations, maps, plans,

¹ See Article 58 of The Law no. 2022, dated 02.04.1955 "Civil Code of the Republic of Albania";

² See Chapter VII of the Civil Code (1981).

³ See Article 317 of the Civil Code of the Republic of Albania.

sketches and three dimensional works related to geography, topography, architecture and science. Protection of the works is applied without prejudice to the copyright of the original works, which are used then for the protection of the derived works. So, the same protection as to the works is applied to: translations, adaptations, arrangements, and other alterations of works and folkloric materials; collections of works, popular sayings or data and facts as encyclopedias, anthologies and other sources of data which, by reason of the selection and arrangement of their contents constitute original creations.

The protection does not depend in the manner and form of expression, quality or aim of the work and it shall not extend to ideas, procedures, processes, systems, and ways of action, concepts, expressed principles or discoveries, which are foreseen and explained in the work.

The law protected the exclusive¹ rights, as well as moral rights of the author. Exclusive rights included the reproduction of the work, the import of the work within the country with the purpose of its distribution (selling, leasing renting, loaning) for/to the public, the translation of the work, the preparation of adaptations, alterations or other alterations of the work, the public recitation of the work, the communication of the work to the public by broadcasting and rebroadcasting and the communication of the work to the public by wire or other means. The author of an audiovisual work, or any other work like phonograms, computer programs, data base, and of any other work readable in machine, has the exclusive right to authorize giving on lease of his work. The author of the work in addition to the economic rights has even moral rights² to claim authorship of the work, especially the right to write his name on the copies of the work. When allowed by practice and in conformity with the tradition, his name may accompany his work mentioned in public, to remain anonymous or use a pseudonym, to object to any distortion, mutilation or modification and to other derogatory action in relation to his work, which would be prejudicial to his honor or reputation, to object the joint authorship put in an arbitrary way from other persons because of different reasons.

According to this law, it is permitted the free usage of a work for teaching, without the author's approval and without payment or remuneration, upon the condition that in the citation must be included the source and author's name, if it is in the original work. So, it is permitted to use a published work, according to the law, for illustrations in publications, broadcasts or sound or visual recordings for teaching as well as to reproduce, by means of reprography, special articles published according to the law in a newspaper or magazine; to reproduce written pieces taken out of a published work according to the law, or a short full work published according to the law, for the purpose of teaching or for the period of the exams in educational institutions. The activity of these institutions must not bear any direct or indirect profit purpose and the use of the work must be always honest.

According to the Article 17 of the Law no. 7564, dated 19.05.1992 "On copyright" the moral rights of a work are protected forever and the economic rights of a work are protected during the whole author's life and 70 years after his/her death. The moral and economic rights of an anonymous or pseudonymous work are protected for 70 years from the first day of the first legal publication of the work. The moral and economic rights of a photographic or audiovisual work of joint authorship are protected for 70 years from the day this work is legally offered to the public or in a contrary case, for 70 years from the day of the production of the work, i.e. 70 years after its creation. The moral and economic rights of works of applied art are protected for 25 years from the day of its production.

In April 2005, the Parliament approved the *Law no. 9380*, dated 28.04.2005 "*On Copyright and other related rights to it*" which abolished all previous parliament and government acts dating since 1992. The new Law incorporated the provisions³ of the European Union Directives on Copyright Protection and offered better specifications on authors' rights for collective

¹ See Article 5 of Law no. 7564, dated 19.05.1992 "On copyright".

² See Article 4 of Law no. 7564, dated 19.05.1992 "On copyright".

³Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs;

Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;

Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights;

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases;

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society;

Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art;

Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on measures and procedures to ensure the enforcement of intellectual property rights;

works and required all parties to certify their contracts with the Albanian Copyright Office (ACO), which has gained authority for conflict resolution.

The Law¹ no. 9380, dated 28.04.2005 "On Copyright and other related rights to it" governs the rights and obligations of participants in the creative, productive and commercial activities and any other evaluation, utilization, exercise, literature, art or science activity. This law is applicable to local and foreign natural persons and legal entities performing commercial, creative, productive or estimating works, exercise or a variation of artistic or scientific functions on Albanian territory. Subject to this law are original works and derivative works and collections. The law includes the specific cases when its provisions are applicable to works, entertainment or performances of artists' players, sounds registration, radio or television programs.

According to the law, these areas² are covered by Copyright: Written works including computer programs; lectures, addresses, sermons and other orally expressed works; musical works with or without accompanying text; dramatic or dramatic-musical works; audiovisual works; choreographic works and pantomimes; works of fine arts: drawings, paintings, sculptures, engravings and lithography; architectonic works; photographic works; works of applied art; illustrations, maps, plans, sketches and three-dimensional works related to geography, topography, architecture and science. Use³ of Copyright that does not require fees and payment, include some, but not all of applications in the following areas: Free Reproduction for Personal Use; Free Reproduction in the Form of Citation; Free Usage for Teaching; Free Reproduction from Libraries and Archives; Free Reproduction for Legal and Administrative Purposes; Free Use for the Purpose of Giving Information; Free Use of Pictures of Publicly Exposed Works; Free Reproduction and Adaptation for Computer Programs; Free Use of Computer Programs; Free Temporary Recording by Broadcasting Organizations; The Free Public Performance.

The author is the owner of the moral and economic/exclusive rights⁴ to his work. The moral rights are not subject to waiver. Further, these rights cannot be assigned and prescribed. According to the Albanian Civil Code, the moral rights may be assigned through inheritance after the author has passed away. Economic rights can be assigned according to the provisions of this law and other legislative acts in force. In such a case, the related copyright rights do not affect the author's rights. The economic rights may be assigned exclusively or non-exclusively. The law provides that every agreement for the exclusive assignment of economic rights must be registered and certified by the Albanian Copyright Office (ACO).

Copyright on literary or artistic works is prolonged throughout the authors' lifetime and 70 years after they have passed away, regardless of the date when the work was legally published. In case of co-authors⁵, the copyright duration as described above starts from the date of the last co-author's death. Copyright for anonymous works or names of artworks extend for 70 years starting from the date of legal publication. When a work is published in parts, episodes or volumes, the copyright extends from the day of legal publication and to this term added is the calculated time for each part of work published separately. The copyright cannot be protected when the works are not published within 70 years from their creation date or when their duration is not calculated from an author's or authors' death(s). The copyright authors exercise individually or collectively the rights under this law may be protected by the title-holders themselves, their representatives or by a Collective Administration Agency selected by their free will.

Collective Administration Agencies (CAAs) are legal entities, established as not-for-profit organizations and licensed by the Ministry of Culture, Youth and Sports, of the Republic of Albania upon the proposal of the Albanian Copyright Office. These entities operate within the right given by the authors or title-holders in accordance with this law and other legislative acts in force. The object of their activity is the collection of income from the utilization of the works and their distribution to the title-holders of copyright and related rights who have assigned the administration of these rights to an agency. These agencies report to the Albanian Copyright Office in relation to the applicable tariffs within the first quarter of the following year. The Albanian Copyright Office is a central institution, a public legal entity depending on the Ministry of Culture, Youth and Sports established in compliance with the law within Albanian territory.

An author who believes his copyright⁵ is being breached may challenge in court and claim his property rights are being hindered, or that someone else is using them unjustly. The court will decide based on norms defined in the Albanian

¹E. Llambi, Protection of intellectual property rights in Albania (2010) Trademark in Albania.

²Chapter I of Law No. 9380, Date 28.04.2005 "On Copyright and other rights related to it".

³Chapter III of Law No. 9380, Date 28.04.2005 "On Copyright and other rights related to it".

⁴Chapter IV of Law No. 9380, dated 28.04.2005 "On Copyright and other rights related to it".

⁵Chapter IX of Law No. 9380, dated 28.04.2005 "On Copyright and other rights related to it".

Copyright law, regarding moral and economic rights of the work. After this challenge by the owners against the accused copyright violator, the case will follow according to the rules found in the Albanian Criminal Code. The case stops upon conclusion or request of the author/owner.

The Law no. 9380, dated 28.04.2005 "On Copyright and other related rights to it" is supported by two other supplemental acts, which are the Decision of Council of Ministers (DCM) No. 232 dated 19.04 2006, "On creation and functioning of Albanian Copyright Office" and the Decision of Council of Ministers (DCM) No. 461, dated 16.04.2008, "For some amendments on the Decision no. 343 dated 06.06.2007 "Tariffs for the Services offered by Albanian Copyright Office".

3. OTHER LAWS THAT PROTECT COPYRIGHT AND INDUSTRIAL PROPERTY IN ALBANIA.

Except the above mentioned law, the Albanian legislator has drafted specific provisions for copyright protection, even at some other laws.

- 3.1. **The law no.7961/1995 "On the Albanian Labor Code of the Republic of Albania" (amended).** In Chapter XII "The rights of the inventor and author employee", Articles 135¹ & 136² treat such issues regarding inventions, designs, industrial models as well as literary and artistic works that are created by the employee during his activity in the service of the employer, in accordance with the obligations of the contract.

- 3.2. **The law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended).** Some of the provisions³ of the law include even copyright protection regarding to the compensatory damages of busyness torts (material or not). In practise everybody may encounter cases when the violation of moral or exclusive rights of an author, entails the civil liability for indemnity, for example: As a result of the illegal use of an work or performance without the author's permission, the offender has profited comercial benefits.

¹ Article 135, of the law no. 7961 no.7961/1995 "On the Albanian Labor Code of the Republic of Albania" (amended) has foreseen: "(1) The inventions, be them patented or not, which the employee has made or been involved in during the exercise of his/her activity to the benefit of the employer and in compliance with his/her contractual obligations, belong to the employer. (2) By means of a written agreement, the employer may exercise the copyright related to the inventions that the employee has made during the exercise of his/her activity to the benefit of the employer; however, this is excluded from the fulfillment of his/her contractual obligations. (3) The employee, who has made an invention, as defined by the above-mentioned paragraph, informs the employer about this in writing; the latter, within 6 months, will notify the employee in writing whether he/she wants to gain the invention copyright or leave it to him/her. (4) If the invention is not left to the employee the employer will pay him/her a fair reward, taking full consideration of all circumstances, of the economic value of the invention, of the collaboration of the employer and his/her assistants, of the use of his/her equipment, of the expenses related to the employee and of his/her job in the enterprise".

² Article 136, of the law no. 7961 no.7961/1995 "On the Albanian Labor Code of the Republic of Albania" (amended) has foreseen: "(1) When the employee creates a work during the exercise of his/her activity to the benefit of the employer and in compliance with his/her contractual obligations, be it protected or not, the employer may use it to the extent that the goal of the contract allows for. (2) The same rules are applied even to the industrial drawings and models as well as to the computer programs that the employee creates during the exercise of his/her activity to the benefit of the employer and in compliance with his/her contractual obligations".

³ See Articles 608-627 of the law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended).

Articles 635¹, 636² and 637³ of the Law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended) have some important provisions regarding to the nonproprietary damage against good name, personality and the work or performance of an author as well as fraudulent publications, committed by subjects in the publications sector.

3.3. The Law no. 7895 /1995 "Criminal Code of the Republic of Albania" (amended).

Articles 148⁴ and 149⁵ of the Law no. 7895 /1995 "Criminal Code of the Republic of Albania" (amended) have foreseen two criminal delinquencies regarding to publication of another person's work with own name and unlawful reproduction of someone's work. Provisions of criminal penalties as a result of violations of copyright, increase significantly and substantially the protection's level and constitutional guarantees' enforcement in favor of the author of works or performances.

It should be emphasized that it is a case where the Criminal Code provides specific protection for the right of ownership of a particular type, dividing the authorship of traditional property rights protected in the provisions of an economic nature, which are related to damage or destruction intentionally or negligently of the citizens' property.

Article 148 "Publication of another person's work with own name" foresees that publication or the partial or total use with his own name, of a work of literature, music, art or science which belongs to another, constitutes criminal contravention and is punishable by a fine or up to two year of imprisonment. This provision protects and guarantees the moral rights of the author of a work or a performance.

Article 149 "Unlawful reproduction of someone's work" foresees that total or partial reproduction of a work of literature, music, art or science which belongs to another, or if their use is conducted without the author's consent, when his personal and property rights are violated, constitutes criminal contravention and is punishable by a fine or by imprisonment up to two

¹ Article 635 of the law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended) has foreseen: *"The person who publishes or makes public a notice concerning the products or services, he himself offers within a professional activity, or of an enterprise, or of a person for whom he works, commits an illegal action if the notice is fraudulent in one of the following respects:*

- a) *Nature, content, quantity, quality, possible characteristics or use.*
- b) *origin, way or date of production;*
- c) *the quantity of its stock production;*
- c) *price or its method of calculation;*
- d) *the reason or the purpose of special offer;*
- dh) *attributed qualities, other evaluations or certifications done by third persons, declarations they have delivered, used scientific or professional terminology, statistical and technical data;*
- e) *conditions of product's delivery, performance of services or payment;*
- f) *extent, content and time limit of guarantee;*
- g) *identity, quality, competencies or obligations of the person who produces or has produced the products, who offers them or of the person who provides the service, who directs, supervise or helps in these activities.*
- gj) *compares with other products and services".*

²Article 636 of the law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended) has foreseen: *"The person who has acted illegally according the above mentioned provision, is liable for the damage caused, except when he proves that he is not guilty for the damage".*

³ Article 637 of the law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended) has foreseen: *"When the fraudulent publication, foreseen by article 635 of this Code, has caused or may cause damage to another person, the court, at that person's request, orders its immediate cessation and the obligates the person who is liable to publicly correct the publication in a way that the court finds appropriate".*

⁴ Article 148 of the Law no. 7895 /1995 "Criminal Code of the Republic of Albania" (amended) has foreseen: *"Publication or the partial or total use with his own name, of a work of literature, music, art or science which belongs to another, constitutes criminal contravention and is punishable by a fine or up to two year of imprisonment".*

⁵ Article 149 of the Law no. 7895 /1995 "Criminal Code of the Republic of Albania" (amended) has foreseen: *"Total or partial reproduction of a work of literature, music, art or science which belongs to another, or if their use is conducted without the author's consent, when his personal and property rights are violated, constitutes criminal contravention and is punishable by a fine or by imprisonment up to two years".*

years. In contrast to Article 148, this provision refers to the exclusive rights of the author of a work or performance. It deals with work's reproduction or use without author's permission.

4. INTERNATIONAL CONVENTIONS AND AGREEMENTS ON COPYRIGHT PROTECTION.

It is quite understandable that national copyright laws in various countries differ in many aspects from each other. A global unification of the main principles on copyright protection is created by means of a series of treaties and international agreements which have as their main aim copyright protection in international levels. In addition to the national legislation, as many other European countries, Albania has signed and ratified a number of International Conventions and Treaties on Copyright and Related Rights, which provide protection to copyright.

Some of these international instruments are listed below:

- **Berne Convention on the Protection of Literary and Artistic Works (1886).**

Berne Convention (1886) is recognized as the first and one of the most important international treaties on copyright protection. It was signed in 1886 and it has been amended several times since then. The last amendment was done in 1979. Berne Convention (1886) represents the first international Convention which treats the issue of copyright. Republic of Albania is part of Berne Convention, was ratified by the Decree no. 487, dated 09.03.1993, of the President of the Republic of Albania.

- **Universal Copyright Convention (1952).**

Republic of Albania has ratified the Universal Copyright Convention, by the law no. 9129, dated 28.09.2003;

- **Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961).**

Republic of Albania has ratified the Rome Convention, by the Law no. 8740, dated 15.02.2001;

- **WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights (1994).**

Republic of Albania has ratified TRIPS Agreement, by the Law no. 8838, dated 22.11.2001;

- **WIPO Copyright Treaty (WCT) (1996).**

Republic of Albania is part of WCT, since 2005.

- **WIPO Performances and Phonograms Treaty (WPPT) (1996).**

Republic of Albania has ratified WPPT, by the law no. 8740, dated 15.02.2001.

-
- **Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms (1971).**

Republic of Albania is part of the Convention, since 2001.

CONCLUSIONS

The legal concept of copyright is new in Albania. Copyright was legally applicable since 1929 and was developed for approximately less than a century. This concept is in coherence with the historical developments and processes, in which Albania has gone through. Nowadays, the legislation for the protection of copyright is considered as approximated with European Union's legislation. It has incorporated the EU Directives on the protection of copyright. However, it should be noted that there is always need for improvement, both in terms of updating of this legislation as well as its implementation in practice.

BIBLIOGRAPHY

Albanian Royal Family — Official Website - <http://www.albanianroyalcourt.al/>

Berne Convention on the Protection of Literary and Artistic Works (1886).

Charles Sudetic. "Interwar Albania, 1918–41". *Albania: A country study* (Raymond Zickel and Walter R. Iwaskiw, eds.). Library of Congress Federal Research Division (April 1992).

Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms

Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs;

Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;

Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights;

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society;

Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art;

Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on measures and procedures to ensure the enforcement of intellectual property rights;

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases;

E. Llambi, *Protection of intellectual property rights in Albania* (2010) *Trademark in Albania*

Pearson, O.S. *Albania and King Zog I.B.* Tauris. 2005 (ISBN 1-84511-013-7).

Prof. Paul Torremans, Prof. Asoc.Dr. Mariana Tutulani, M. Dedi (2005) "Pronësia intelektuale",

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

The Law no. 2022, dated 02.04.1955 "Civil Code of the Republic of Albania";

The Law no. 7564, dated 19.05.1992 "On copyright".

The law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended).

The Law no. 7895 /1995 "Criminal Code of the Republic of Albania" (amended).

The Law No. 9380, Date 28.04.2005 "On Copyright and other rights related to it".

The law no.7961/1995 "On the Albanian Labor Code of the Republic of Albania" (amended).

Universal Copyright Convention

WIPO Copyright Treaty (WCT);

WIPO Performances and Phonograms Treaty (WPPT);

WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights

Transition Economy in Kosovo after the War

Nevruz Zogu, PhD

Artan Nimani, PhD

Shpetim Rezniqi, PhD

Abstract

This article analyses the development and consolidation of an illiberal (or shadow), economy and its connection to political projects in Serbia and Kosovo. Here, some comparative remarks are made over the form of economy and its political connections and implications. In spite of methodological problems with sources being scarce or of varying quality, the phenomenon of illiberal economy and its coupling with political projects is too important to be neglected by researchers. To some extent 'soft sources' have been accepted here, where hard evidence is lacking. The article argues that the considerable consolidation of illiberal economies in Serbia and Kosovo (as elsewhere in the post-Yugoslav space) have been intimately connected to politics, political violence and conflict in the region, and produced a transformation of wealth and resources. In this manner the conflicts in the region can be analysed from the perspective of social transformation. The latter concept emphasises that the trajectory of social and political change is not necessarily linear, towards liberal democracy and market economy, which is implied in the concepts transition (where the end stage is assumed to be liberal democracy and market economy) or social breakdown (which assumes a possible reconstruction to the norm of a harmonious state).

Keywords: Shadow economy, Illiberal economy, black economy, political economy of war, conflict, war-economy, parallel economy, war and state-building, drug-trade, Albanian mafia, organised crime, social transformation, Serbian-Albanian relations, Balkans, Yugoslavia, Serbia, Kosovo, ethnic conflict, terrorism

Introduction

The process of post-communist change in Eastern Europe has been approached from a variety of theoretical frameworks and assumptions. The most dominant and persistent is the so-called 'transition view', which construes post-communist change as a struggle with the heritage of authoritarian political systems and a planned economy towards the norm of democracy and market liberalism, along the path of which various states are successful to varying degrees. The term transition implies that one knows the direction or end state, and a problem here is that since democracy and a market economy are seen as the normative goal, it also sets the direction and frame for interpreting the actual political, economic, and social process, thus mixing the normative and the empirical.

The Re-stratification of Serbian Society

In a period of some 15 years or so, under sanctions and war, Serbian society was transformed dramatically. The typical socialist structure gave way to class distinction and the formation of a narrow stratum of very rich, while a great portion of society was Shadow Economy, War and State Building.

A large number of people were pushed into the grey or black sectors of the economy, or emigrated. Serbia also received an influx of between 600,000 and 1,000,000 refugees from Bosnia, Croatia and Kosovo, which due to their uncertain situation provided a further recruiting base for cheap labour in the black market sector. The deterioration in social standards and material life for the wider sections of society damaged all ethnic groups, including the (more than one-third) population which is not ethnic Serb (i.e. Kosovo excluded, the larger minorities include Albanians in south Serbia, Muslims or Bosnjaks in Sandzak, Hungarians in Vojvodina, Croats in parts of Vojvodina, Roma throughout, and others).

Concluding Remarks

The empirical picture provided in this article suggests a considerable expansion and consolidation of illiberal forms of economy in Serbia and Kosovo through the 1990s, as integral to political projects. As an empirical note, rather than conclusion, it is estimated that the grey economy in Serbia has been reduced from some 80% to around 30% (in terms of GDP) after the overthrow of Slobodan Milošević, with a probable reduced black economy as well, while it has expanded and consolidated its position in Kosovo. The concept of a political economy here suggests that the economic sphere cannot be isolated from its social and political context. The illiberal forms of economy, and the political and social projects they are part of, represent forms of adaptation to a marginalization and exclusion from the global political economy, where the formal economy has no place.

Although we cannot reduce causes of conflict to economic resource struggle or greed, the political economy (liberal or illiberal) is integral to political projects and social relations and must, as such, be analysed as a crucial component in conflict. We should not necessarily see illiberal economies as generators of conflict, but rather acknowledge that they have a central role in their dynamic, in funding agents with political agendas, and that they constitute the central factor and driving force in a process of social transformation. War itself is a process of social transformation, as well as of state transformation, and it is essential to acknowledge and analyse the character of the transformation and the political economy and project that emerges in the actual context of foreign intervention and aid. This is in contrast to the ideologically burdened concept of transition, where we assume to know the direction and end state of change, and the concept of breakdown, which suggests that reconstruction can be approached from purely technical aspects.

BIBLIOGRAPHY

J. S. Sorensen

- Ahmeti, S. (1994) *Forms of apartheid*, in: D. Janjić & S. Maliqi (Eds) *Conflict or Dialogue* (Subotica, Serbia: Open University, European Civic Centre for Conflict Resolution).
- Baldwin, D.A. (1985) *Economic Statecraft* (Princeton, NJ: Princeton University Press).
- Ballentine, K. (2003) *Beyond greed and grievance: reconsidering the economic dynamics of armed conflict*, in: K. Ballentine & J. Sherman (Eds) *Political Economy of Armed Conflict: Beyond Greed and Grievance*, pp. 259–283 (Boulder, CO: Lynne Rienner Publishers).
- Bela Knjižica (2000) *Milošević-eve Vladavine, G 17 Plus* (Belgrade, Serbia: G17).
- Berdal, M. & Keen, D. (1997) *Violence and economic agendas in civil wars: some policy implications*, *Millennium*, 26(3), pp. 795–818.
- Bogosavljević, S. (1994) *A statistical picture of Serbian–Albanian relations*, in: D. Janjić & S. Maliqi (Eds) *Conflict or Dialogue* (Subotica, Serbia: Open University, European Civic Centre for Conflict Resolution).
- Bolzić, S. (2005) *Blocked Transition and Post-socialist Transformation: Serbia in the 1990s*, unpublished manuscript, University of Belgrade.
- Boutin, C. (2003) *Organised Crime, Drug and Human Trafficking in Europe. Report to the Sub-Committee on Democratic Governance for the NATO Parliamentary Assembly*.
- Bregović, B. & Mijatović, B. (Eds) (2002) *Corruption in Serbia* (Belgrade, Serbia: Centre for Liberal Democratic Studies).
- Ciluffo, F. & Salmoiraghi, G. (1999) *And the Winner is . . . the Albanian Mafia* (Cambridge, MA: Center for Strategic International Studies, MIT).
- Clark, H. (2000) *Civil Resistance in Kosovo* (London: Pluto Press).
- Collier, P. (2000) *Doing well out of war: an economic perspective*, in: M. Berdal & D. M. Malone (Eds) *Greed and Grievance: Economic Agendas in Civil Wars*, pp. 91–112 (Boulder, CO: Lynne Rienner Publishers).
- Dimitrijević, V. & Pejić, V. (1994) *The Effects UN Sanctions against Yugoslavia (Serbia and Montenegro)* (Belgrade: Centre for Human Rights).
- Dinkić, M. (2000) *Ekonomija Destrukcije* (Belgrade, Serbia: Stubovi Kulture).

- Duffield, M. (1998) *Post-modern conflict: warlords, post-adjustment states and private protection*, *Civil Wars*, 1(1), pp. 65–102.
- Raufe, X. (2002) *At the Heart of the Balkan Chaos: The Albanian Mafia*. Available at http://www.xavieraufe.com/english_5.php (accessed 2 February 2005).
- Salih, A., Hajrullahu, M. & Xharra, J. (2004) *Radicals Test the Ground in Drenica Balkan Crisis Report no. 498*, 20 May 2004 (London: Institute for War & Peace Reporting).
- Seper, J. (1999a) *KLA finances war with heroin sales*. *Washington Times*, 3 May. Available online at: http://members.tripod.com/~sarant_2/ks18kla.html (accessed 22 February 2005).
- Seper, J. (1999b) *Bin-Laden and the KLA*. *Washington Times*, 4 May. Retrieved February 22, 2005, from www.diaspora-net.org/food4thought/binladen__kla.htm.
- Southeast European Legal Development Initiative (SELDI) (2003) *Anti-corruption in Southeast Europe: First Steps and Policies* (Sofia: Center for the Study of Democracy).
- Stanojević, M. (1992) *Regulation of industrial relations in post-selfmanagement society*, in: T. Kuzmanić & A. Truger (Eds) *Yugoslavia War* (Ljubljana: Slovenia: Peace Institute).
- Stojić, D. (1999) *How the history of Serbian culture came to life*, in: R. Mrlijević & M. Kragović (Eds) *The History of Serbian Culture*, pp. 343–345 (Belgrade, Serbia: Mrlijević Publishing).
- Thaqi, H. (2000) *The KLA brought NATO to Kosovo*, in: J.W. Buckley (Ed.) *Kosovo: Contending Voices on Balkan Interventions*, pp. 282–290 (Grand Rapids, MI/Cambridge, UK: Eerdmans Publishing).
- Tomc, G. (1988) *Classes, party elites, and ethnic groups*, in: D. Rusinow (Ed.) *Yugoslavia: A Fractured Federalism*, pp. 58–77 (Washington, DC: The Wilson Center Press).
- Troebst, M. (1998) *Conflict in Kosovo: Failure of Prevention? Working Paper no. 1* (Flensburg, Germany: European Centre for Minority Issues).
- Uzeleć, A. (2005) *Witness Disputes Račak Findings Tribunal Update no. 391*, 28 January 2005 (London: Institute for War & Peace Reporting).
- Vickers, M. (1998) *Between Serb and Albanian: A History of Kosovo* (London: Hurst & Co).
- Vickers, M. & Pettifer, J. (1997) *Albania: From Anarchy to a Balkan Identity* (London: Hurst & Co).
- Vujović, S. (1995) *Changes in living standards and way of life among social strata*, in: M. Lazović (Ed.) *Society in Crisis: Yugoslavia in the Early 1990s*, pp. 85–126 (Belgrade, Serbia: Filip Višnjić).
- Wallensteen, P. (1974) *Ekonomiska Sanktioner* (Uppsala: Prisma).
- Xhudo, G. (1996) *Men of purpose: the growth of Albanian criminal activity*, *Transnational Organised Crime*, 2(1), pp. 1–20.
- Yannis, A. (2003) *Kosovo: the political economy of conflict and peacebuilding*, in: K. Ballentine & J. Sherman (Eds) *Political Economy of Armed*
- Duffield, M. (2000) *Globalization, transborder trade, and war economies*, in: M. Berdal & D. M. Malone (Eds) *Greed and Grievance: Economic Agendas in Civil Wars*, pp. 69–90 (Boulder, CO: Lynne Rienner Publishers).
- Duffield, M. (2001) *Global Governance and the New Wars: The Merging of Development and Security* (London: Zed Books).
- Farquhar, M. (2004) *Structure of KLA Explored*, *Tribunal Update no. 383*, 26 November (London: Institute for War & Peace Reporting).
- Farquhar, M. (2005) *Trial Hears of KLA Tactics*, *Tribunal Update no 389*, 14 January (London: Institute for War & Peace Reporting).
- Galeotti, M. (1995) *The drug threat from Eastern Europe*, *Jane's Intelligence Review*, 1995(November), pp. 486–488.
- Griffiths, H. (1999) *A political economy of ethnic conflict, ethno-nationalism and organised crime*, *Civil Wars*, 2(2), pp. 56–73.
- Hedges, C. (1999) *Kosovo's next masters*, in: *Foreign Affairs*, 78(3), pp. 24–42.

- Hislope, R. (2001) *The Calm Before the Storm*. Paper presented at the Annual Meeting of the American Political Science Association, San Fransisco, CA.
- Islami, H. (1994) *Demographic reality of Kosova*, in: D. Janjic´ & S. Maliqi (Eds) *Conflict or Dialogue*, pp. 30–53 (Subotica, Serbia: Open University).
- Janjic´, D. (1994) *National identity, movement and nationalism of Serbs and Albanians*, in: D. Janjic´ & S. Maliqi (Eds) *Conflict or Dialogue*, pp. 117–176 (Subotica, Serbia: Open University, European Civic Centre for Conflict Resolution).
- Judah, T. (2000a) *War and Revenge* (Princeton, NJ: Yale University Press).
- Judah, T. (2000b) *A history of the Kosovo Liberation Army*, in: W. J. Buckley (Ed.) *Kosovo: Contending Voices on Balkan Interventions* (Cambridge, UK: Eerdmans Publishing).
- Keen, D. (2000) *Incentives and disincentives for violence*, in: M. Berdal & D. M. Malone (Eds) *Greed and Grievance: Economic Agendas in Civil Wars*, pp. 19–42 (Boulder, CO: Lynne Rienner Publishers).
- Kostovic´ova, D. (1997) *Parallel Worlds: Response of Kosovo Albanians to Loss of Autonomy in Serbia 1986–1996* (Keele, UK: European Research Centre).
- Lazic´, M. (1995) *Transformation of the economic elite*, in: M. Lazic´ (Ed.) *Society in Crisis: Yugoslavia in the Early 1990s*, pp. 127–160 (Belgrade, Serbia: FilipVisnjic´).
- Lazic´, M. (2000) *Rac´ijHod* (Belgrade, Serbia: FilipVisnjic´).
- Lazic´, M. & Cvejjic´, S. (2005) *Stratification changes in Serbian society: a case of blocked post-socialist transformation*, in: A. Milic´ (Ed.) *Transformation and Strategies: Everyday Life in Serbia at the Beginning of the 3rd Millennium*, pp. 35–59 (Belgrade, Serbia: Institute for Social Research).
- Loquai, H. (2000) *Der Kosovo-Konflikt: Wege in einenvermeidbaren Krieg* (Baden-Baden, Germany: NomosVerlag).
- Magnusson, K. (1999) *Rambouilletavtalet: Texten, Fo´rhandlingarna, Bakgrunden*, *Current Issues* 1, pp. 69–70 (Uppsala, Sweden: Centre for Multiethnic Research).
- Maliqi, S. (1994) *Self-understanding of the Albanians in non-violence*, in: D. Janjic´ & S. Maliqi (Eds) *Conflict or Dialogue*, pp. 237–247 (Subotica, Serbia: Open University, European Civic Centre for Conflict Resolution).
- Maliqi, S. (1998) *Separate Worlds* (Peja, Kosovo: Dukagjini Publishing).
- Mrks´ic´, D. (1995) *The dual economy and social stratification*, in: M. Lazic´ (Ed.) *Society in Crisis*, pp. 23–84 (Belgrade, Serbia: FilipVisnjic´).
- Nazi, F. (2000) *Balkan diaspora 1: the American-Albanian community*, in: W. J. Buckley (Ed.) *Kosovo: Contending Voices on Balkan Interventions*, pp. 149–152 (Cambridge, UK: Eerdmans Publishing).
- NGO Policy Group (2001) *Third Sector in Serbia—Status and Prospects* (Belgrade: Center for Development of the Non-Profit Sector).
- Pellna´s, B. (2004) *Naivtro pa° USA-mytomfolkmoed* [Naive belief in USA myth of genocide].
- DagensNyheter, February. Petkovic´, M. (1998) *Albanian Terrorists* (Belgrade, Serbia: Kalekom).
- Polanyi, K. (1957) *The Great Transformation* (Boston: Beacon Press).
- Puhovski, Z. (1995) *origins of the post-Yugoslav situation and the bleak prospects for civil society*, in: P. Akhawan & R. Howse (Eds) *Yugoslavia—the Former and the Future* (Geneva: UNRISD).
- Pumphrey, D. & Pumphrey, G. (n.d.) *The Racak Massacre: Casus Belli for NATO*. Available online at: www.aikor.de/Artikel/gp-rac-e.htm (accessed 1 March 2005).

The institutional role of the Albanian Financial Supervisor Authority

Dr. Arber Gjeta

*Department of Law,
Faculty of Economy,
University of Elbasan
Arber.gjeta@uniel.edu.al*

Valbona Ballkoçi

*Department of Finance and Accounting
Faculty of Economy,
University of Elbasan
Valbona.ballkoçi@uniel.edu.al*

Abstract

This paper aims to examine, describe and rise critical issues on the role of the Albanian Financial Supervisor Authority within the Albanian financial system. The independence of this institution is examined under the provisions of the Law and secondary legislation as the main authority which guarantee the safeguard of the system and an effective control. The relationship of the Authority with the operators of insurance, financial market and pension funding schemes is driven by the fulfillment of its institutional role: the supervision of a new and unestablished market. The banking market, on the other side, moves from monopoly to competition and there are findings that suggest an oligopoly created in Albania. Thus, the important role of the Authority to foster competition is one of the most important, due to its obligations in the EU integration process. Its institutional role and its prerogatives are examined in order to determine if there is a complete and adequate regulation of the system.

Keywords. Financial market; supervision; Authorities; independence; institutional role; operators.

1. L'istituzione dell'Autorità di vigilanza Finanziaria e la sua missione

L'Autorità di Vigilanza Finanziaria è stato istituito nel 2006 dall'unificazione degli altri organismi di diritto pubblico, i quali vigilavano i singoli mercati. Queste erano: a) la Commissione dei Titoli di Credito, un organo collegiale, che vigilava il mercato e gli operatori, mediatori e consiglieri che scambiano titoli di credito, etc.; b) l'Autorità di Vigilanza delle Assicurazioni che operava nel campo assicurativo; c) l'Ispettorato delle Istituti Pensioni Supplementari.

La nascita di un organo indipendente era una necessità vista lo sviluppo del mercato, ma non solo. Era una necessità anche per gli impegni presi nell'ottica d'integrazione con i mercati europei, che sono parte importante di un lungo processo verso la definitiva adesione nell'Unione Europea. Un unico organismo indipendente, quindi, che vigila le diverse parti del sistema finanziario. Scelta che si uniforma con gli ordinamenti più sviluppati e con una lunga esperienza nel campo della vigilanza dei mercati. Tale scelta fu dettata dalla sempre più spesse interferenza degli operatori in mercati diversi.

La diversificazione dell'offerta di strumenti finanziari da parte degli intermediari verso il pubblico rende necessario una simile scelta. Infatti, sempre di più, le diverse categorie degli operatori si trovano a competere negli stessi mercati.

Si sono elaborati e applicati negli anni diversi modelli di vigilanza. Si è passati dalla regolamentazione e vigilanza per soggetti (istituzionale) a quella per finalità (per funzioni) fino ad arrivare al modello dell'agenzia con funzioni di regolatore

unico¹. Le autorità di vigilanza in generale, sia del settore bancario sia degli altri mercati, stanno tentando di modificare lo stile della vigilanza. Oggi si sta ponendo l'attenzione sul collegamento tra vigilanza e norme di *corporate governance* (Vella, 2008, p. 171). In un'ottica di vigilanza attuata tramite la validazione preventiva di codici di autodisciplina è importante che si mantenga il giusto rapporto tra vigilanza pubblica rispettosa dell'autonomia imprenditoriale e queste forme di *selfregulation* (Vella, 2008, p. 172).

La legge 9572 del 2006, che istituisce l'AVF, lo definisce come *"una persona giuridica di diritto pubblico, indipendente, con sede a Tirana, specializzato per la regolamentazione e la vigilanza dell'attività dei soggetti ..."*². L'AVF è nata con il preciso scopo di vigilare tutti i mercati dei capitali in Albania che non appartengono al settore bancario, quindi una divisione per soggetti vigilati. Il campo della sua attività è il regolamento e la vigilanza sui mercati dei titoli di credito, quello delle assicurazioni e delle riassicurazioni e alle operazioni a esse connesse, il mercato delle pensioni supplementari offerte da soggetti privati e di tutte le altre attività finanziarie non bancarie.

La teoria dei mercati che si regolano da se è stata da tempo superata. Già Adam Smith nella sua *Wealth of Nations* scriveva che *"è difficile che delle persone dello stesso mestiere si incontrino, anche per festa o per divertirsi, senza che la conversazione finisca in una cospirazione contro lo Stato o in qualche espediente per sollevare i prezzi"* (Smith, p. 155).

In un mercato così giovane, questo è un obiettivo importante da raggiungere, specialmente in questi tempi di crisi mondiale dei mercati e della finanza in cui le autorità regolamentari stanno cercando di frenare gli effetti della crisi e di darsi delle regole per il futuro immediato per una vigilanza più effettiva in ottica internazionale. Gli organismi internazionali, quindi, devono armonizzare le regole della vigilanza ai principi generalmente condivisi, come per esempio i principi IOSCO³.

Se i mercati vanno sempre di più integrandosi e unificarsi, anche le autorità di vigilanza non devono rimanere indietro ma collaborare in maniera effettiva tra di loro. Si fa fatica oggi a vigilare i mercati e gli strumenti finanziari in essi negoziati. Le innovazioni finanziarie hanno bisogno di un aggiornamento continuo dei modelli di vigilanza. Dobbiamo dire allora che una tale Autorità con ampi poteri è necessaria in ogni sistema finanziario. Si può dire che è impensabile parlare di mercato senza un organismo indipendente che lo vigila adeguatamente.

In più, la legge albanese gli riconosce anche il preciso dovere programmatico di promuovere la creazione di un mercato sano, stabile, trasparente e affidabile⁴. Questo è uno dei suoi principali compiti insieme alla vigilanza e alla regolamentazione del mercato. Compito che la stessa Autorità definisce come missione insieme alla protezione dei consumatori e degli investitori che in questo mercato opereranno (AMF, 2007, p. 2). In un paese dove le azioni si scambiano ancora al mercato informale e le società registrate presso il Centro di Registrazione delle Azioni sono solo cinquanta, dove nell'unica borsa esistente si comprano e si vendono solo Buoni del Tesoro (Gazeta Standard, 2008) questo obiettivo diventa primario e di fondamentale importanza. Dobbiamo auspicare allora di vedere un'Autorità molto attiva anche nella direzione della promozione di questi mercati e renderlo appetibile per i investitori esteri. In questo momento nei mercati albanesi si sono inseriti a un buon livello gli investitori stranieri, specialmente nel campo delle assicurazioni⁵.

Il lavoro dell'Autorità deve consistere nel vivacizzare il resto del mercato. Compito che può essere raggiunto tramite una completa e dettagliata informazione verso il pubblico e verso i possibili investitori esteri. Per raggiungere questi obiettivi e per adempiere la sua missione, la strada maestra è la trasparenza delle politiche seguite, delle decisioni prese e della prassi cui si deve conformare l'Autorità. Attività, queste che vanno sempre motivate analiticamente. Infatti, una tale disposizione è prevista nella legge sull'Autorità. L'articolo 11 sotto la rubrica "La trasparenza nell'attività dell'Autorità" prevede l'obbligo per l'Autorità di emanare il regolamento sulle procedure mediante le quali sarà messo a disposizione del pubblico l'informazione elaborata dall'AVF.

¹ Il caso inglese dove nel 1998 si istituì la Financial Services Authority che è responsabile sulla vigilanza di tutti i mercati.

² Art. 3 della l. 9572 del 03.07.2006 "Sull'Autorità della Vigilanza Finanziaria"

³ Per dare un esempio si veda un parere della Banca Centrale Europea verso una proposta di direttiva in ambito dei mercati finanziari, in specifico sul prospetto da pubblicare per l'offerta al pubblico o nella negoziazione di valori mobiliari che citiamo "8. ... la BCE accoglie con favore l'obiettivo di allineare la legislazione europea sui valori mobiliari ai principi elaborati dalla IOSCO. L'adozione di principi accettati a livello internazionale, come quelli promulgati dalla IOSCO, dovrebbe far convergere i sistemi finanziari internazionali verso un regime delle informazioni relative ai valori mobiliari meglio armonizzato..." GUCE C344/4 del 06.12.2001

⁴ Art. 12 della l. 9572 del 03.07.2006 "Sull'Autorità della Vigilanza Finanziaria"

⁵ Nel campo delle assicurazioni nel 2007 si conta un capitale estero pari al 35% del capitale investito nelle società di assicurazione (AMF, 2007, p. 14).

L'AVF fa parte dell'ordinamento albanese ed si può sostenere che almeno formalmente completa il quadro normativo e regolamentare dei mercati finanziari. Essa possiede le qualità necessarie di poter dare uno stimolo al mercato e di ritagliarsi così un ruolo effettivo ed efficiente in esso. Resta da vedere se questo succederà o se il mercato albanese continuerà anche in questi anni a svilupparsi in mercati sommersi o peggio illegali. Dati alla mano, adesso è ancora presto per dare un giudizio sull'effettivo impatto dell'Autorità nel mercato albanese.

2. Struttura, compiti e organizzazione dell'Autorità

Come ogni organismo che deve funzionare correttamente anche l'Autorità ha bisogno di una struttura efficiente. Non si possono conferire delle competenze a un ente se egli non gode della possibilità di adempiere ad esse. La legge d'istituzione dell'Autorità di Vigilanza Finanziaria prevede una struttura abbastanza complessa dell'ente ma con compiti importanti riservati al suo organo apicale che è la Commissione. Divisa in quattro dipartimenti, di cui i due sono più importanti¹ e sono diretti dai due vice presidenti, essa ha un personale di 45 impiegati. A questi dipartimenti fanno capo diversi uffici, ciascuna con compiti precisi².

Essendo costituito solo di recente non possiamo escludere che nell'immediato futuro la sua struttura organizzativa possa subire dei cambiamenti. Cambiamenti che possano rispecchiare l'esperienza di questi primi due anni e le esigenze di organizzazione. Perché è vero che la normativa che regola l'Autorità è frutto di un lavoro coordinato a livello internazionale con i vari partner come FMI o BM³, ma è anche vero che per svolgere con efficienza i propri compiti l'Autorità deve adattarsi alle esigenze del mercato e del suo sviluppo. Non si può pretendere di applicare il miglior modello legale se questo non si adatta alle esigenze del mercato e non rispecchia le peculiarità dell'ordinamento.

L'AVF, abbiamo detto, è un'autorità giovane, la quale è stata istituita solo di recente con la legge 9572. In questa legge l'Autorità trova il fondamento delle sue funzioni. Enuncia gli obiettivi dell'Autorità l'art.12, nel quale si sancisce che *"nel suo operato l'Autorità s'indirizza da questi obiettivi: 1. tutelare gli investitori e le persone assicurate. 2. promuovere la stabilità, trasparenza e affidabilità dei mercati finanziari non bancari. 3. assicurare il rispetto della legge"*. Nel perseguire questi obiettivi l'Autorità svolge una vasta attività che consiste sia nella vigilanza regolamentare, sia in quella ispettiva e informativa. L'art. 13 individua come mezzi necessari per raggiungere gli obiettivi la possibilità di emanare atti regolamentari previsti dalla legge, circolari e materiali informativi vari. Nel suo secondo punto nella legge si usa la locuzione "vigilanza statale". Secondo me bisogna intenderla come vigilanza pubblica perché l'Autorità non è più parte dell'apparato statale⁴ e non e non svolge i propri doveri per assicurare una vigilanza statale al mercato ma per garantire come arbitro il suo normale funzionamento. La verità è che a quest'organo sono delegati poteri propri di diritto amministrativo ma l'Autorità funziona come un organismo indipendente e autonomo.

La vigilanza, per essere effettiva, non si sente il bisogno che sia pubblica. Vediamo, per esempio, il caso inglese, dove la vigilanza è stata affidata a una società privata, la FSA, con una chiara funzione pubblica che è la vigilanza su tutti i mercati di capitale. Così, dobbiamo intendere vigilanza pubblica invece che statale, perché la legge possa trasmetterci i principi internazionali generalmente condivisi in materia di vigilanza.

Attualmente, il lavoro dell'Autorità è concentrato sulla emanazione dei vari regolamenti che completeranno il quadro legale e operativo nel mercato (AMF, 2008, p. 55). Tra i regolamenti più importanti approvati possiamo menzionare: Reg. 4 del 08.02.2007 "Sui limiti per l'investimento del capitale delle società di assicurazione", reg. 120 del 02.10.2008 "Sull'autorizzazione e vigilanza delle borse valori", reg. 115 del 11.09.2008 "Sul contenuto e sulla tenuta del libro dei ordini e del libro delle transazioni", reg. 11 del 22.02.2008 "Sulla vigilanza e il controllo dei istituti privati di pensioni supplementari", etc.

La vigilanza regolamentare è svolta dalla Commissione, la quale emana i regolamenti, rilascia le autorizzazioni,

¹ Sono il Dipartimento della Vigilanza e Regolamentazione e il Dipartimento Autorizzazioni e Monitoraggio. Sempre sotto la direzione dei vicepresidenti poi sono anche gli altri due dipartimenti che sono quello delle Questioni Giuridiche e il Dipartimento della Statistica e Ricerca.

² Gli uffici sono costituiti in base alla legge. Fra i più importanti possiamo menzionare quello della Rapporti e Analisi, Ispezione, Amministrazione del rischio, Autorizzazioni e Monitoraggio, etc. (AMF, 2008, p. 52)

³ La Banca Mondiale è uno dei principali partner dell'Autorità dalla creazione. Collaborazione che si estende in diversi campi: miglioramento quadro normativo, metodologie di vigilanza, etc. Questi sono progetti hanno portato un'adattamento più veloce del personale ai compiti da svolgere e un migliore funzionamento dell'Autorità. (AMF, 2008, p. 37)

⁴ Come lo erano le sue precedenti le quali vigilavano nei diversi settori. Vedi *supra* p. 13

etc. mentre la vigilanza sul campo è svolta dagli ispettori dell'Autorità su ordine del Presidente della Commissione o di chi ne fa le sue funzioni. L'ispezione è disposta dalla Commissione e firmata dal Presidente ma è il personale che attua l'ordine ispettivo secondo le procedure previste dalla legge. L'art. 19 dispone che "gli impiegati ordinati, in ..., ispezionano per: 1. Vedere se sono stati rispettati le disposizioni legali e gli atti subordinati in vigore che regolano l'attività dei mercati finanziari non bancari; 2. Prevenire e identificare le violazioni ..."

Mentre per quanto riguarda la vigilanza informativa possiamo dire che siamo abbastanza indietro nell'attuare i compiti di invio dati verso l'Autorità e nel vigilare costantemente gli operatori tramite il loro dati inviati. Comunque, sono vari gli obblighi informativi che sorgono in capo ai soggetti vigilati. Per esempio art. 15 della l. 9879 del 21.02.2008 "Sui titoli" dispone che "emittente e il registratore informano l'Autorità, in ogni caso, quando durante un periodo di 12 mesi, i diritti sulle azioni con diritto di voto e che costituiscono almeno il 5% del capitale societario sono stati trasferiti più di una volta ...". Possiamo menzionare anche gli obblighi informativi che gli emittenti dei titoli hanno nei confronti dell'Autorità sia prima del collocamento nel mercato, con la pubblicazione del prospetto informativo, sia dopo, quando sono obbligati a informare l'Autorità sulla percentuale dei titoli sottoscritti. Vediamo allora che l'obbligo informativo è previsto in numerosi casi che riguardano sia l'intermediario, sia le operazioni che egli compie. La sanzione per il venir meno agli obblighi informativi è drastica. Il soggetto autorizzato perde il diritto di negoziare qualsiasi titolo nel mercato¹.

Infine, la vigilanza ispettiva è il completamento dei poteri dati all'Autorità. Essa è esercitata sia sul luogo (*on site*), tramite le ispezioni disposte dalla Commissione, sia a distanza (*off site*), tramite il controllo dei documenti inviati dai soggetti vigilati. La vigilanza effettuata secondo questo schema dovrebbe essere effettiva ma adesso non possiamo esprimere un giudizio sull'operato dell'Autorità visto che in questi due anni si è lavorato più per formare l'AVF che per vigilare il mercato. I due rapporti annuali (AMF, 2007; AMF 2008) pubblicati illustrano un lavoro diretto all'individuazione dei compiti che l'AVF deve svolgere in pratica per raggiungere i propri obiettivi e del consolidamento della sua autorità verso gli operatori. Accanto alle statistiche di vigilanza esiste anche una cospicua parte informativa sui compiti dell'Autorità nell'immediato futuro e sugli obiettivi che essa si propone di raggiungere.

2.1. La Commissione come il più alto organo decisionale

L'organo deliberativo dell'Autorità di Vigilanza è la Commissione. Come la maggior parte delle autorità, anche quella albanese ha scelto come organo decisionale un organo collegiale, composto di 7 membri composta dal Presidente, due Vicepresidenti e 4 altri membri i quali vengono approvati direttamente dal organo legislativo.

Le proposte sottoposte al vaglio parlamentare sono fatte da diversi soggetti. Cinque dei candidati sono proposti al Parlamento da parte del Consiglio dei Ministri mentre la Commissione Parlamentare dell'Economia e Finanza e la Commissione delle Questioni Legali, Pubblica Amministrazione e i Diritti dell'Uomo propongono ciascuna i loro candidati. A loro volta, delle cinque candidature che il Consiglio dei Ministri può proporre, solo due sono esclusivamente di propria scelta. Gli altri tre nomi sono sottoposti al Consiglio dei Ministri rispettivamente dal Ministro delle Finanze, Consiglio di Vigilanza della Banca D'Albania e dal Consiglio Nazionale Contabilità. Si può dire, quindi, che il processo per la nomina dei membri della Commissione è un processo lungo e complesso, il quale rende partecipi quasi tutti i soggetti pubblici che operano nel mercato. Si deve dire, però, che l'approvazione definitiva passa anche qui, come per la Banca D'Albania, per mano del Parlamento. È un processo politico dove le negoziazioni sono molto estenuanti e la conclusione è una risultante di tutti gli attori e interessi pubblici in campo. Si vede chiaramente che il legislatore si è riservato la facoltà di nominare i membri della Commissione. Un indice d'indipendenza dell'Autorità che ancora una volta ci mostra lo stretto legame Autorità-legislatore. Legame diretto che più chiaramente si vede nell'obbligo dell'Autorità di rendere conto del suo operato solo al Parlamento almeno una volta all'anno secondo l'art.28. Entro aprile dell'anno successivo sono presentati al Parlamento 3 documenti contemporaneamente: 1.un conto sullo stato finanziario annuale; 2. Il rapporto sulla chiusura del bilancio; 3. Il rapporto annuale sulla sua attività. Il rapporto annuale deve racchiudere ogni informazione richiesta dal legislatore e obbligatoriamente anche i dati sull'adeguatezza della struttura legale del mercato regolamentato, tutte le autorizzazioni approvate, quelle negate e gli altri atti amministrativi, le decisioni dell'Autorità contro cui è stato presentato ricorso e dettagliatamente quelle dove il ricorso è stato accettato e le iscrizioni ai registri dei operatori. In più, il rapporto deve contenere il risultato delle ispezioni effettuate, le politiche d'informazione verso il pubblico e quelle di collaborazione interna e internazionale, il modo in cui sono state effettuate le scelte del personale e ogni altra informazione che la

¹ Art. 57, pt. 1, nr. 11 della l. 9879 del 21.02.2008 "Sui titoli"

Commissione pensa di includerli.

Una volta nominati dal Parlamento loro restano in carica per 5 anni con la possibilità di un altro mandato solamente. Durante il loro mandato il Presidente e i suoi vice non possono svolgere nessun altro incarico salvo quelli inerenti ai loro impegni accademici, mentre gli altri 4 membri possono lavorare anche a tempo pieno. L'unico vincolo imposto a loro consiste nella preclusione di essere membri di più di un consiglio direttivo di un'altra autorità di vigilanza. I candidati per la Commissione devono godere di certi requisiti per poter essere scelti. Loro devono essere cittadini albanesi laureati in scienze economiche, giuridiche o lauree affini a esse. Devono possedere, inoltre, "un'esperienza di almeno tre anni in uno dei seguenti campi: finanze e contabilità, amministrazione società, consulenza legale verso le società, legal drafting, assicurazioni e pensioni o attività universitaria a queste connesse ..."¹. In più devono godere di certi requisiti morali, non essere mai stati condannati e non possono avere cariche dirigenziali in partiti politici. L'art. 5 menziona anche il conflitto di interessi come uno delle condizioni di ineleggibilità e decadenza.

I membri della Commissione e il personale si devono conformare durante lo svolgimento del loro lavoro al codice etico e gli parametri professionali approvati dalla Commissione secondo la proposta fatta dal Presidente. Le sanzioni vengono irrogate dalla Commissione e vano fino all'esonero dalla carica o licenziamento dal lavoro. Per ogni condizione sopravvenuta il membro deve riferire al Parlamento. Si vede così, che si istaura anche un rapporto diretto del Parlamento con ogni membro della Commissione e non soltanto con l'Autorità in generale.

Il conflitto d'interessi è regolato dall'art. 22 della l. 9572 del 03.07.2006, il quale dispone che i membri della Commissione e le persone che lavorano per l'Autorità devono rendere pubblica la loro dichiarazione dei redditi. I membri della Commissione non partecipano alle riunioni nelle quali si discutono casi dove loro hanno un interesse diretto o indiretto e il personale non deve partecipare nelle ispezioni verso i soggetti vigilati se esiste una questione nella quale lui ha un interesse diretto o indiretto. La situazione del conflitto d'interessi va dichiarata per iscritto dal soggetto interessato, il quale si deve astenere dal esercitare i suoi compiti nel caso concreto pena l'immediato esonero dalla carica. Si vede che la sanzione è drastica. La lettera della legge è chiara. La figura del membro o del personale dell'Autorità deve essere pulita oltre ogni dubbio. Mentre poco chiara sembra nel disporre che "la misura dell'esonero o dell'allontanamento dalla carica non incide nelle decisioni prese fino a quel momento"². Quindi l'esonero del membro non invalida le decisioni nelle quali egli ha votato come parte della Commissione. Normalmente questa è una norma che da stabilità e certezza agli operatori dei mercati che senz'altro hanno un interesse in tale scelta. Infatti, sarebbe impensabile che un operatore si vedesse revocata la propria licenza, la propria richiesta per operare fuori dai confini o altro solo perché in quella seduta ha preso parte un membro della Commissione non legittimato a farlo.

Cosa si può dire della decisione viziata dal suo interesse personale nel caso? Come dobbiamo capire questa norma riguardo alla questione posta? La decisione sopravvive per salvaguardare l'affidamento dei terzi o è annullata dalla Commissione?

In attesa che a questi quesiti sia data risposta dalla futura prassi della nuova autorità noi auspichiamo un veloce intervento anche di natura regolamentare dell'AVF sul quesito allineandosi e applicando i principi del diritto comune sull'annullabilità e sulla nullità prendendo spunto magari anche dalla soluzione applicata dalla legge sulla Banca D'Albania.

Fin adesso abbiamo visto cosa fa la Commissione, i suoi obiettivi e come vengono scelti i soggetti che lo compongono mentre nel prossimo paragrafo vediamo come lo fa e quali sono i suoi poteri.

(segue) 2.2- Le competenze della Commissione

Abbiamo visto che la Commissione è composta dal Presidente, due Vicepresidenti e 4 membri, i quali non hanno compiti esecutivi. Si deve dire che non solo il Presidente della Commissione ma anche gli altri due membri con funzioni esecutive, i Vicepresidenti, nel momento poiché sono proposti, sono determinate le loro cariche e i dipartimenti che andranno a dirigere.

Una volta formatosi la Commissione, essa comincia a svolgere le sue funzioni come organo collegiale. Le sue riunioni si convocano su richiesta di ciascuno dei membri e sono presiedute dal Presidente o da uno dei suoi Vicepresidenti

¹ Art.5, pt. 3 della l.9572 del 03.07.2006

² Art. 22, pt. 5 della l. 9572 del 03.07.2006 "Sull'Autorità della Vigilanza Finanziaria"

delegati. Le decisioni si prendono a maggioranza dei membri della Commissione. Non è ammessa l'astensione dal voto.

Le competenze della Commissione sono elencate nell'art. 14 della legge sull'Autorità. Essa ha queste competenze:

1. Redige le regole che descrivono e illustrano lo scopo del lavoro di ogni dipartimento;
2. Emanava i principi base che la sua attività deve conformarsi;
3. Emanava i regolamenti e le direttive previste dalla legge;
4. Distribuisce materiale informativo e circolari sulla corretta interpretazione e applicazione delle leggi e gli atti di secondo grado;

5. Approva il format delle autorizzazioni che si rilasciano per l'esercizio di una delle attività vigilate dall'Autorità;

6. Rilascia, rifiuta, sospende o ritira le autorizzazioni per l'esercizio dell'attività in uno dei mercati vigilati;

L'Autorità svolge questo compito vigilando sistematicamente sull'applicazione delle due decisioni, rilasciando le autorizzazioni per gli operatori che operano in tutti i tre i mercati, approvando i prospetti informativi delle operazioni sul mercato.

In più, è lei che, come il più alto organo di controllo, che deve approvare ogni trasferimento di proprietà delle società vigilate, ogni loro cambiamento dello statuto, cessione di attività, scissione o fusione, vigila l'applicazione delle decisioni prese sulle offerte pubbliche sui titoli, *etc.*¹

7. Limita o interrompe l'attività delle società di assicurazione o riassicurazione quando gli investimenti sono in contrasto con i rapporti regolatori stabiliti con regolamento dell'Autorità² o quando ce un rischio per la posizione finanziaria della società;

La domanda che si pone su questa norma è se il rischio per la posizione finanziaria della società sia una valutazione d'opportunità fatta dall'Autorità secondo la sua discrezionalità oppure se, come pare opportuno, l'Autorità si debba uniformare alle esperienze e ai principi che ispirano le altre sue simili nel vigilare i mercati ma non solo.

L'Autorità si deve conformare, nelle sue decisioni, anche agli impegni presi in sede di associazione all'International Association of Insurance Supervisors (IAIS), nella quale è associata. Essa così condivide e applica nella sua attività regolamentare i principi generali (IAIS, 2002) approvati in questa sede. Prendendo spunto da queste riflessioni vediamo la percentuale del rischio che effettivamente una società di assicurazione può assumere per legge. In Albania nessuna società di assicurazione non può accollarsi un rischio maggiore del 10% del suo capitale netto. Allineandosi alla normativa europea, con la finalità di crescere la stabilità finanziaria delle società delle assicurazioni (Minxhozi, 2009, p. 41), nel 2008 si è stabilito il minimo del capitale nella somma di 3 milioni di euro.

8. Entro un mese dalla richiesta, deve prendere visione delle condizioni del contratto che una società vuole lanciare nel mercato;

9. Approva le situazioni finanziarie delle società d'assicurazione e riassicurazione;

10. Approva e distribuisce degli standard di contabilità e i format di redazione dei dati finanziari obbligatori per gli operatori;

11. Approva una lista dei revisori (esperti contabili) che possono essere scelti dalle società che operano nei mercati regolamentati;

12. Decide, nei casi previsti dalla legge, per l'apertura del fallimento dei soggetti vigilati e quanto è previsto dalla legge nomina il curatore fallimentare (liquidatore);

13. Stabilisce sui compensi e sugli stipendi percepiti dal personale;

14. Decide in merito agli accordi di collaborazione internazionale e sulla possibilità di scambiare informazioni su

¹ Art. 14, pt. 1, n. 6, a)-n) della l. 9572 dello 03.07.2006 "Sull'Autorità della Vigilanza Finanziaria"

² Sono stabilite con regolamento i limiti di partecipazione delle società di assicurazione nelle società bancarie (solo per il 25% del loro capitale), i limiti di investimento nei mercati esteri di capitale (investimenti solo in titoli di stato dei stati UE o dell'America del Nord dopo aver preso il nulla-osta da parte dell'AVF), i limiti di partecipazione nelle persone giuridiche non bancarie (i limiti sono di 10% del capitale della società d'assicurazione), *etc.* Reg. Nr. 4 del 08.02.2007 "*Per kufjite e investimit te kapitalit te shoqerive te sigurimit*"

basi di reciprocità con le autorità interne o estere;

15. Dibatte periodicamente sui rapporti dell'operato dei due dipartimenti;

16. Approva il bilancio di previsione e il rapporto annuale dell'Autorità;

17. Approva il rapporto sull'industria (economia reale) e il collegamento con i mercati regolamentati e le sue prospettive;

18. Approva, nei regolamenti sulle procedure interne, gli termini nei quali l'Autorità provvede sulle questioni a lei sottoposte;

19. Approva i manuali dell'ispezione secondo i quali saranno attuati i controlli verso gli operatori;

20. Determina le politiche di vigilanza, del controllo dei soggetti vigilati e dello sviluppo del mercato finanziario non bancario;

21. Decide sulle consulenze esterne e sul compenso dei consulenti;

22. Approva delle regole sul reclutamento o licenziamento dei dipendenti dell'Autorità;

23. Altre competenze previste da questa legge o da altre leggi sulla materia.

Vediamo allora in quest'art. 14 una elencazione abbastanza esaustiva delle competenze, ma comunque non tassativa. Il punto 23 non esclude competenze della Commissione previste in altre leggi. Sarebbe stata invece auspicabile una norma di chiusura che stabilisse la funzionalità delle competenze al raggiungimento del fine e degli obiettivi dell'Autorità. Gli compiti così elencati della Commissione, possono essere raggruppati in tre diversi gruppi. Ci sono compiti primari per il raggiungimento degli obiettivi, compiti a questi secondari o strumentali e compiti di servizio. L'apparato dell'Autorità deve essere sufficiente per il momento a svolgere i compiti previsti nella legge. Il problema, se mai, può crearsi nel futuro con lo sviluppo dei titoli negoziati e la crescita del numero dei operatori che operano nei mercati. Il lavoro della Commissione si deve indirizzare in quei compiti che sono primari al raggiungimento degli obiettivi dell'Autorità ma senza tralasciare quelli a essi strumentali.

2.2.a. Le competenze dei membri della Commissione come singoli. Il ruolo del Presidente

I singoli membri accanto alle loro funzioni come parte della Commissione hanno anche dei poteri propri che esercitano sia al interno dell'Autorità sia verso i soggetti vigilati. Esercitando questi poteri loro si tengono informati adempiendo meglio anche il loro compito deliberativo.

Il Presidente della Commissione, il quale nel collegio deliberativo ha un ruolo parificato agli altri membri, vediamo che ha una serie di competenze importanti elencate nell'art.15. Egli è il direttore esecutivo generale e amministratore principale dell'Autorità. È sotto la sua competenza tutta l'organizzazione amministrativa dell'Autorità salvo quella devoluta espressamente alla competenza dei vicepresidenti. Il Presidente è anche il rappresentante dell'Autorità nelle sue relazioni verso l'esterno, convoca e dirige le riunioni della Commissione, indirizza il lavoro dei vicepresidenti, dirige il lavoro della stesura e presenta davanti alla Commissione il bilancio di previsione, può sollevare comitati consultivi per l'esercizio delle sue funzioni, *etc.* In più, e sempre il Presidente che sottoscrive le denunce penali per le azioni o omissioni dei dipendenti che costituiscono reato. È egli che deve sottoscrivere la notizia di reato da spedire alla procura. Normalmente poi, è la Procura che si deve attivare per esercitare l'azione penale. I compiti devoluti al Presidente sono i naturali compiti di un organo dirigente. Per esercitare i suoi poteri esso dispone del suo Gabinetto e della possibilità di poter commissionare consulenze esterne. Importante è soffermarsi nel dovere che la legge gli riconosce di tenere i rapporti istituzionali di collaborazione con la Banca D'Albania e le altre autorità albanesi. Collaborazione che va dalla reciproca informazione tra le istituzioni fino all'ispezione congiunta verso i soggetti vigilati. L'art. 15, infatti, prevede che il Presidente "9. *scambia informazioni con la Banca D'Albania, con altre istituzioni e agenzie governative, con autorità e amministrazioni locali, con enti non-profit, le quali esercitano attività legate con i mercati finanziari non bancari, vigilate dall'Autorità e con i soggetti vigilati*" e che "11. *chiede alla Banca D'Albania di intraprendere ispezioni con oggetto definito nelle banche di secondo livello, in conformità anche con la legge "Sulle banche" e di informarla dei risultati del controllo*".

In più, collaborando con la Banca D'Albania e con ordine d'ispezione congiunta chiede l'ispezione delle banche di secondo livello "che sono depositarie dei soggetti autorizzati dall'Autorità di esercitare l'attività in uno dei mercati

*finanziari non bancari, vigilate dall'Autorità*¹.

Vediamo così una possibilità di collaborazione effettiva tra le due autorità di vigilanza. Questo porterà a una copertura totale del mercato e a una vigilanza efficiente. In questo momento, tale collaborazione, possiamo affermare che esiste. Nell'affermare questo fatto dobbiamo menzionare anche il ruolo preminente che la Banca D'Albania gode *de facto*.

In più, esiste anche una collaborazione al rango di vertice tra i due soggetti e anche il Governo nel Gruppo di Consiglio sulla Stabilità Finanziaria. Questa collaborazione si manifesta per di più nell'informarsi a vicenda sulle questioni attinenti vigilanza dei rispettivi mercati. Le competenze dei vicepresidenti, come abbiamo già visto in precedenza², sono quelle di dirigere i dipartimenti dell'Autorità e per quelle sono pienamente responsabili mentre le altre competenze amministrative vengono definite dalla Commissione stessa. Accanto agli amministratori, abbiamo detto che ci sono anche i 4 membri senza funzioni esecutive. Loro possono fungere da comitato di controllo per specifiche questioni sottoposte alla Commissione legate a violazioni durante l'attività dell'Autorità. Uno di essi, nella funzione del relatore, stende, infine, una relazione per la Commissione con eventuali raccomandazioni per rimuovere la violazione. In un secondo momento, se risulta opportuno, è il Parlamento a decidere per il auditing esterno sull'operato dell'Autorità³. Si nota allora che i membri della Commissione non agiscono solo come parte di essa ma hanno anche dei compiti propri all'interno dell'Autorità.

3. Il Gruppo di Consiglio sulla Stabilità Finanziaria (GCSF)

Nella legge istitutiva dell'Autorità di Vigilanza Finanziaria si prevede anche la costituzione del GCSF che è un'unità di consulenza.

I membri del Gruppo sono: il Ministro delle Finanze; il Presidente della Commissione dell'Autorità di Vigilanza Finanziaria; il Governatore della Banca D'Albania. Vediamo allora che quest'organismo è un superconsiglio dove si discutono i problemi più importanti del sistema finanziario in generale.

La collaborazione tra i vertici degli attori principali del campo finanziario porta a un migliore coordinamento nell'adempimento dei loro compiti. La sua funzione è di assistere nello sviluppo delle politiche congiunte, collaborazione e coordinamento delle decisioni dei membri di questo consiglio nel campo dell'ispezione dei soggetti vigilati nei diversi mercati. In più, assiste nel miglioramento e l'aumento dell'efficacia dei controlli sugli operatori nei mercati finanziari. Il Gruppo ha come obiettivo anche il miglioramento del quadro legale per la vigilanza. Nelle sue riunioni, su invito del Gruppo, possono partecipare anche il Capo della Commissione Parlamentare dell'Economia e delle Finanze o altre persone.

In pratica, dalle prime osservazioni, emerge che questa collaborazione si è vista in maniera costante nel campo dell'attività regolamentare dove, nel 2008 per esempio si è sviluppato il progetto di legge "Sull'assicurazione obbligatoria nel settore del trasporto" (AMF, 2008, p. 35), redatto insieme al Ministero delle Finanze oppure ai diversi regolamenti emanati con l'aiuto della Banca D'Albania. Fino adesso la collaborazione tra queste autorità e governo è stata soddisfacente e ha portato a una leale interazione tra i soggetti. Tutto questo ha portato una copertura notevole del mercato, sia finanziario, che bancario. Resta da vedere se nel futuro, quando sarà consolidata la posizione dell'Autorità come istituzione vigilante, questo consiglio continuerà a svolgere efficacemente i propri compiti o se ci sarà un allontanamento tra le istituzioni.

Fino adesso questo quadro complessivo che abbiamo fotografato ci fa ben sperare per una più stretta collaborazione, dettata anche dalla necessità nel caso albanese, vista la predominanza del settore bancario in tutto il mercato e il movimento delle banche verso i nuovi mercati regolamentati. Inutile non accorgersene del fatto che le banche, specialmente le filiali d'importanti gruppi europei⁴, saranno gli attori principali anche nel nuovo mercato dei titoli di credito. Questa dimensione trasversale di sviluppo e di crescita imprenditoriale deve per forza accompagnarsi anche con una vigilanza trasversale verso i mercati, di concerto tra le due autorità.

4. Il ruolo dell'Autorità nell'integrazione europea e la sua collaborazione con autorità estere di vigilanza

¹ Art. 15, pt. 2, n.10 della l. 9572 del 03.07.2006 "Sull'Autorità di Vigilanza Finanziaria"

² Vedi supra p. 72

³ Art. 17 della l. 9572 del 03.07.2006 "Sull'Autorità di Vigilanza Finanziaria"

⁴ Portiamo, come esempio, una delle realtà più importanti italiane in Europa come la Intesa-San Paolo che ha deciso di entrare con le sue filiali nel mercato albanese incorporando la Banca Italo-Albanese, già di sua proprietà.

Dobbiamo dire che l'Autorità di Vigilanza Finanziaria ha anche una dimensione internazionale. Accanto alla sua funzione di vigilanza interna essa ha anche il compito di avvicinarsi alle pratiche delle istituzioni estere di vigilanza, specialmente quelle che operano in condizioni simili al mercato albanese¹, e apprendere dalle loro esperienze.

Un altro compito della nuova Autorità consiste anche nel diventare parte delle associazioni internazionali delle autorità di vigilanza dei mercati. Dalla sua costituzione fino adesso l'Autorità è entrata a far parte dell'associazione delle autorità che agiscono nel campo delle assicurazioni (International Association of Insurance Supervisors), nel campo dei titoli di credito (International Organisation of Securities Commissions) e nel campo delle pensioni private (International Organisation of Pension Supervisors).

Attualmente, l'Autorità ha sottoscritto un memorandum d'intesa con l'International Organisation of Securities Commissions². L'Autorità, quindi, si è impegnata a conformarsi ai principi della IOSCO e a colmare le lacune legislative e il quadro regolamentare della sua attività.

La collaborazione con le altre autorità nazionali e con gli organismi internazionali, governati e non, è una necessità in questi tempi dove i mercati si stanno integrando sempre di più e il capitale investito è di differenti provenienze. In Albania, come abbiamo detto, in questi anni è entrato in maniera preponderante nei mercati il capitale estero (Minxhozi, 2009, p. 41), sia di partecipazione, che di controllo. Fatto questo che ha reso necessario la collaborazione con i paesi d'origine di questi investitori per avere le informazioni necessarie al fine di poter esercitare una vigilanza effettiva³.

La ragione della collaborazione non si ferma qua. A loro volta anche le autorità di vigilanza estere hanno un serio interesse a collaborare con un'AVF forte e che vigila il mercato in maniera efficiente. Un interesse che è vivo perché così sono certi che i soggetti da loro vigilati, lo saranno anche nei mercati albanesi, non si possono avventurare in situazioni pericolose. Così, vista la "giovane età" dell'Autorità, i partner esteri lo assistono nello svolgimento dei propri compiti e le prestano assistenza tecnica.

Negli adempimenti dell'Autorità verso un'affermazione e riconoscimento nel campo internazionale si possono menzionare gli stretti rapporti tra l'AVF e vari organismi internazionali che sono coronati in progetti di leggi o regolamenti compilati in collaborazione, nella formazione del personale, etc. Più in dettaglio possiamo menzionare la collaborazione con la Banca Mondiale e il Fondo Monetario Internazionale nei progetti di legge come "Sui Fondi delle Pensioni Volontarie" e vari regolamenti nel campo della metodologia di vigilanza e per il rafforzamento del quadro regolamentare. Esiste anche una collaborazione con organismi internazionali governativi, come United States Agency for International Development (USAID), o non-profit come il Financial Services Volunteer Corps (FSVC). Collaborazione che si attua sempre preminentemente nel campo del *legal drafting*.

Un altro partner dell'AVF è stato anche la Banca Europea per Ricostruzione e Sviluppo (BERS) con il quale, a parte l'assistenza nel preparare i disegni di legge⁴, si sta portando avanti un progetto importante sulla costruzione di una piattaforma per la gestione delle informazioni periodiche inviate dai soggetti vigilati (AMF, 2008, p. 37).

Un'osservazione a parte merita la collaborazione con le istituzioni comunitarie. Come ogni altra istituzione albanese anche l'Autorità di Vigilanza Finanziaria è coinvolta nel processo d'integrazione europea del paese. Nell'ambito del Piano Nazionale per l'attuazione dell'Accordo sulla Stabilizzazione e Associazione l'Autorità ha collaborato intensamente con il Ministero dell'Integrazione per adempiere il suo compito, che è quello di armonizzare la legislazione albanese a quella comunitaria anche nel campo dei mercati regolamentati. Tutti i cambiamenti nell'ordinamento intrapresi nel 2008 sono lo specchio di un assiduo lavoro per il recepimento delle direttive comunitarie nel campo delle assicurazioni, pensioni⁵ e titoli di credito (AMF, 2008, p. 35-36). I nuovi progetti di legge di cui abbiamo parlato vanno in questa direzione.

¹ Per esempio, esiste un'intesa per lo scambio di informazioni e di esperienza con l'autorità slovena di vigilanza. (AMF, 2008, p. 37)

² Final update of 34-th Annual Conference of the International Organization of Securities Commissions, Tel Aviv, 11 giugno 2009.

Documento reperito nel sito della IOSCO: www.iosco.org

³ Importante menzionare la stretta collaborazione con l'autorità austriaca, visto anche gli interessi del capitale austriaco nel mercato albanese delle banche e delle assicurazioni (AMF, 2008, p. 36-37)

⁴ Un progetto di legge importante che si presenterà in parlamento durante la nuova legislatura nel 2009 è "Sulle obbligazioni delle società per azioni e delle autonomie locali". In: www.amf.gov.al

⁵ Manca tuttora una normativa in linea con la direttiva 2003/41/EC "On the activities and supervisions of institutions for occupational retirement provision" per quanto riguarda la normativa delle pensioni private. La legge di riferimento rimane, anche se ammendato nel

Già la legge sull'Autorità è espressione della normativa comunitaria sui mercati regolamentati, sulle assicurazioni e sulle pensioni. La più importante direttiva, senz'altro è la MiFID per i mercati di capitale. La dir. 2004/44/EC (dir. MiFID) sostituisce la dir.92/22/EEC che precedentemente disponeva sulla materia dei mercati finanziari. Essa fa parte di un più ampio disegno di riforma che è il Piano d'azione degli strumenti finanziari (*Financial Services Action Plan*). Questo piano d'azioni è composto da 42 direttive, tra le quali senz'altro la direttiva MiFID è la più importante. Lo scopo della Commissione Europea è che tramite queste direttive si possa creare un mercato unico europeo che possa rivaleggiare con il mercato statunitense. In quest'ottica, anche l'Albania sta accogliendo la nuova normativa europea e continuerà a lavorare in questa direzione.

5. I soggetti sottoposti alla vigilanza dell'Autorità di Vigilanza Finanziaria

In Albania da poco si è costituita una nuova autorità per la vigilanza dei mercati finanziari, delle pensioni e delle assicurazioni. La parte dei mercati dei titoli di credito di nostro interesse, quello finanziario, è vigilata dall'AVF tramite un sistema d'informazione. Il mercato primario dei titoli di stato è gestito direttamente dalla Banca D'Albania che colloca i titoli nel mercato tramite aste pubbliche. Questi costituiscono la maggior parte dei titoli negoziabili nei mercati secondari. In Albania i mercati secondari sono pochi. Possiamo menzionare solo la Borsa di Tirana s.p.a, il mercato interbancario dei titoli di Stato e il mercato al dettaglio dei titoli di Stato (monitorate tramite il GSRM¹). Le operazioni si svolgono da intermediari autorizzati dall'Autorità di Vigilanza Finanziaria. Il GSRM è un sistema informativo ideato dall'AVF con lo scopo di dare una chiara informazione agli investitori sulle transazioni nel mercato secondario. Ogni operatore ha l'obbligo di inviare alla GSRM l'informazione sulle operazioni giornaliere effettuate² ma tali trasmissioni in questo sistema hanno solo carattere informativo e non obbligano l'operatore a vendere a tale prezzo. Gli ultimi dati raccolti sul GSRM mostrano che la geografia delle transazioni non è cambiata molto dal 2008 al 2009. La compravendita nel mercato primario che nel 2008 costituiva il 33,93% delle transazioni nel 2009 costituisce solo il 29,20% ma con una crescita delle transazioni effettuate da persone giuridiche. Le operazioni effettuate dai portafogli degli intermediari finanziari invece hanno subito una diminuzione (dal 39,52% nel 2008 al 34% nel 2009) ma comunque anche in queste operazioni si conferma il *trend* di crescita del numero di operazioni effettuate da persone giuridiche. Basso è il numero delle transazioni con i titoli di credito come collaterali (garanzia). Queste transazioni erano e rimangono solo il 0,50% (AMF, 2009, p. 1). Altri dati che l'Autorità ci offre per il biennio 2008-2009 sono abbastanza chiari per quando riguarda la percentuale degli intermediari coinvolti nelle transazioni. Le vendite dai portafogli degli intermediari finanziari sono state effettuate per il 96,32% dalla banca Raiffaisen-RZB mentre solo il 3,32% dalla Intesa-San Paolo. I titoli comprati prima della maturazione della scadenza passano da più banche, come RZB, Intesa-San Paolo, Banca Credins e BKT ma Raiffaisen è la banca che opera più transazioni (AMF, 2009, p. 5). Sono le divisioni finanziarie delle istituzioni di credito quelle che svolgono la maggior parte delle transazioni sui titoli di stato, i quali sono gli unici titoli nel mercato. Le banche stesse preferiscono gli immobili o terreni come garanzia per i crediti erogati e marginalmente titoli di credito.

6. Conclusioni

A prescindere dallo sviluppo del mercato dei titoli di stato i problemi dei mercati dei capitali rimangono. Durante il 2012 non ce stato nulla di nuovo nell'attività della Borsa di Tirana s.p.a nonostante i tentativi di avvicinare le aziende a quotarsi. L'inattività delle aziende è dovuta da fattori come la natura delle imprese, la gestione prevalentemente familiare, crisi, la mentalità nel paese (AMF, 2008, p. 48-49) ma comunque rimane vivo l'interesse dei soggetti esteri verso la Borsa. Tale fatto è incoraggiante e dipende dalle privatizzazioni in atto di imprese statali in settori strategici rendendo appetibili i pacchetti azionari di controllo. Nonostante il lavoro fatto per lanciare le sedi regolamentate in Albania, continua la compravendita delle azioni nel mercato non regolamentato o in quello informale avendo come conseguenza l'aumento dei costi della transazione, l'incertezza sulla proprietà delle azioni e la funzione di barriera all'entrata per investitori esteri che sono abituati a diverse "regole del gioco". Dall'attività del Centro Registrazione delle Azioni notiamo che il numero delle transazioni aventi come oggetto le azioni delle società statali privatizzate si è abbassato di anno in anno perché dopo il

2006, la l. 7943 dello 01.06.1995 "Per pensionet suplementare dhe institutet private te pensioneve". Come abbiamo detto, ci si aspetta una veloce approvazione del progetto di legge "Sui fondi delle pensioni private", progetto che recepisce le direttive 2003/41/EC, 85/611/EEC e 2004/89/EEC.

¹ *Government securities retail market*.

² Reg. 8, del 28.09.2005 "Mbi tregun me pakice te bonove te thesarit ne RSH"

consolidamento dei assetti proprietari non esiste un interesse agli altri pacchetti azionari delle compagnie (AMF, 2008, p. 49). I dati offerti ci dicono che nel 2008 presso la CRA si sono registrate 494 transazioni, quasi il doppio di quelle registrate nel 2007 (AMF, 2008, p. 50).

Speriamo che in Albania sia dato un input al mercato e che l'imminente integrazione europea possa essere uno dei principali fattori. Comunque, esiste la possibilità che il mercato albanese per le sue dimensioni sia un annesso marginale al mercato europeo. Questa convinzione si forza sempre di più dalla nazionalità dei gruppi bancari e assicurativi che sono attivi nel mercato. Dopo la nuova privatizzazione degli anni 2005-06 le più importanti società ex-statali bancarie e assicurative sono finite in mano ai maggiori gruppi europei e nonostante sia considerato fattore di crescita indiscutibile non deve fungere da limite per altri che vogliono accedere al mercato.

Bibliografia

F.VELLA (2008) *Le autorità di vigilanza: non è solo questione delle architetture in Imprese e investitori: Crescita, tutele, interessi*, a cura di G.D.MOSCO, F.VELLA, Milano: Giuffrè Ed.

A.SMITH, *Wealth of Nations*, libro I, cap. X, parte II, p.155

AMF, (2007) *Raporti i mbikqyrjes 2007*, Tirane

Gazeta Standard, *Tregu financiar: AMF nuk mund te shmange detyren e gjallerimit*, 30.06.2008

AMF. (2008). *Raporti vjetor 2008*, Tirane

B.MINXHOZI, (2009) *Tendenca ne industrine e sigurimeve ne Shqiperi in Economicus*, Tirane: UET Press, nr.2

IAIS (2002) *Principles on capital adequacy and solvency*. nr.5

AMF. (2009) *Statistics-Government securities retail market January-June*, Tirane,

Aggression and antisocial behaviors of Teenagers

Ida Kruti

European University of Tirana
Faculty of Social Sciences and Communication
PhD Programs
Tel.00355(0)69 25 22 984
e-mail:ida_t2002@yahoo.de

Abstract

Adolescence, is a period of life that is knowing and studying by many researchers for many years, has always been and remain the subject for many sciences. The adolescence is recognized as one of the most rapid moments of life, full of strong emotions and it is considered as the process of individuals maturing regard to the individual development. In this period of life teenagers will be accompany of the main phenomena as Aggressive and Antisocial behavior, that moment is a disturbing phenomena that is shacked and troubled Albanian family and society, which can appear in the form of verbal or physical. The object of my research is based on literature review of the adolescent aggression and antisocial behavior during development, including theoretical and empirical data in the Albanian society. During valuation is important to identify the functions and forms of aggression and Antisocial Behavior. At the time of dictatorship was talk very little about adolescence, about their desires and emotions. This kind of state cared to grow up the new man, worthy and the service of communist society. While teens studies today are getting more and more spread in our country. The methodology used in this analysis focus on articles, dissertations and current scientific studies of known as well as can the reality and trends of adolescent aggressive behavior in Albanian. Selection criteria include 1. Topics 2. Type of paper (books, magazine, dissertation) 3. Papers methodology 4. Year of publication. Were included in this study 10 books, 30 articles, 30 work degree. Eventually were selected from all of them 5 books, 5 articles and 10 Bachelor and Master degree to be included in this summary. Conclusions: This study is sheds light clearly on the lack of empirical scientific studies on understanding this phenomenon of adolescence Aggression and Antisocial in Albanian society, while these studies are very detailed in the world. The selected current studies have methodological problems and may not be comprehensive for whole Albania areas, where many lifestyle aspects are different. This summary allows raising questions that in the future research may guide right studies in this field.

Keywords: Teens, aggression, antisocial behavior, selection criteria, empirical study

Aggression and antisocial behaviors of Teenagers

The phenomenon of aggression and antisocial behaviors had been studied since the 18th century. If we base to the analyses of the factors, which cause this phenomenon we get to the conclusion that aggression is caused by internal factors (Instincts Theory S.Freud and K.Lorenz), such us nervous, genetic, biological or chemical, or external, when it is showed like an answer of the frustrating moment(Frustration-Aggression Theory, John Dollar), or like a consequence of a learned behavior(Learning Theory, Bandura). The antisocial behaviors are divided in stable and episodically (Taxonomy Moffitt).

All of the human societies, one less and one more based on the historical or social improvements have been faced with these occurrences. Some societies have accepted these occurrences and they have justified them like culture or religion behaviors. For example in the North India a criminal group in 1550-1850 killed more than two thousand people for their empire(Myers, G.D. "Socialpsychologie" 1999). The decade of 90' in USA, Europe and basically in UK and German is famous for the terrible increase of these antisocial behaviors and aggression, general in society and specially at teenagers.

In the USA in 1990 was mentioned that this phenomenon was being decreased, but since that year the number of the teenagers, who were arrested for delinquent behavior was a million per year, a number five times higher than in 1960 (Myers G.D "Socialpsychologie", 1999).

During 1968, 1981, 1995 Berkowitz made experiments with children and students of the Uiscon University, in which he gave to children a toy gun to play, and to students a real gun. The results were almost the same: the children were happy to destroy the other's children toy, and the angry students were more explosively to their "victims", what made him understood that guns creates aggressiveness thoughts (Myers, G.D. "Socialpsikologija", 1999).

During the years and in different social and culture conditions, empirical studies started to be more specific. In 2002 studies conducted in USA for the physical, verbal and indirect aggressiveness of teenagers, showed that one in five children tease the others, more than one in three high school students have showed physical attack. About 30-40% of male teenagers and 16-32% of female had performed violent offenses in the age of 17. (National Youth Violence Prevention Ressource Center, 2002).

According to the empirical studies in USA, in 2008, in which were included 73.498 teenagers that was referred to gender differences, showed that the difference of physical aggression in males was more powerful than the verbal one in females ($r = .29$, $r = .03$) and the opposite happened in to verbal aggressiveness, in which 54% were females. The similar result shows and the last studies of the Uiversity of California in december of 2012 (Card, A.N. & Sawalani, M. G. & Stucky, D. B. & Little, D. T. "Direct and Indirect Aggression During Childhood and Adolescence: A Meta-Analytic Review of Gender Differences, Intercorrelations and Relations to Maladjustment Direct" 2008, Vol 79, pg. 1185-1225 / Juvonen, J. & Wang, Y. & Espinoza, G." Physical Agresion, Spreading of Rumors and Social Prominence in Eary Adolescence", 2012).

The empirical studies of american teenagers 15-18 years old in 2011 showed that 32.8% of them had physical aggression out of school, 40.7% of them were males and 24.4% females. While at school had 12% physical aggresiveness, in which 16% of them were males and 7.8% were females (National Center for Injury Prevention and Control. Division of Violence Prevention 2012).

In Canada had also studies for these occurrences. In one of the studies, very interesting, the one of 2007 for the physical and emotional aggression of the heterosexual teenage couples, showed that 20-50% of these couples were included in aggressive relations.

The results were based in reports of the girls and the boys, who were aggressive and those who were victims(Conolly, J. & Josephson, W. "Aggression in Adolescent Dating Relationships. Predictors and Prevention, Integrated Research Services, 2007).

Similar studies were made also in UK. For the period 1985-1995 the results showed a raise of violent crimes in 84% compared with the past decades(Myers, G.D. "Socialpsychology", 1999). During 2005-2012 based in the datas of killed teenagers in UK showed that 40% of them were attacked from knives and 6-7% of them from guns ("Mapping the Location and Victim Profile of Teenage Murders in London 2005 to 2013").

In German up to decade of 90' had absence of the empirical research, although formerly this country had experienced some powerful social movements(respectively the student movements in 1950-1960, or those in 1970-1980) that had affected to the history of this nation, they had not committed empirical research. Genuine empirical research were committed during 1990-1998 from the Institution of the Research Centre of Social and Psychological Sciences in the University of Nuremberg, with teenagers of 14-21 age, who showed a high level of antisocial behaviors and specially of aggressiveness.

This made the government to take some programmes which lasted two years for the reduction of aggressiveness in schools. From the studies committed in 2000, after the completion of the programme, was resulted that the level of aggression in these teenagers was reduced in 15-30%.

The studies committed from the Criminal Research Institute in cooperation with some universities and university research centers in 2003, as is again in cooperation with the Research Centre of Social and Psychological Sciences in the University of Nuremberg and Kiel, committed with teenagers of 14-18 age, showed that 43.9% of them had made physical and verbal aggression in the internal of school.

This result was based to what students had reported, while 13% of them were victims of thefts and 8% were threatened from their peers with knives and guns. While the report of teachers showed that aggressiveness out of school was higher

than those which were declared. So, from the studies resulted that 61.8% of teenagers from these schools were part of violent groups out of school. Most of them were males, but the number of females included was also not so low .

(Lösel, F. & Bliesener, Th. "Aggression und Delinquenz unter Jugendlichen. Untersuchungen von kognitiven und sozialen Bedingungen, May, German, 2003).

A study committed recently from two professors of Faculty of Social Sciences and Psychology in physical and verbal aggressiveness of teenagers in Spain, showed that the physical and verbal aggression was higher at males. Verbal aggression resulted to be almost similar, with a very small difference with the females (Pena, R. L. & Pacheco, E. N. "Physical-Verbal Aggression and Depression in Adolescents: The Role of Cognitive, Emotion Regulation Strategies", Universidad de Málaga, España, May, 2012).

It's very hard to talk about such comprehensive studies and empirical research extended in time and individualized according to adolescent gender in our contry, hier in Albania.

Theoretical framework

Antisocial behavior is the ability to cause damages or concerns to another person, which is showed to the person at the start of early childhood.

Antisocial behaviors conclude all the vandalists acts, drugs use or another substances such us: inebriety, abusive behavior in public facilities, threatens, racial or gender harassments.

Antisocial behavior is a behavior way against norms of a society.

Parke and Sloby(1983) determines aggression a way or a form of reaction within unsocial behavior, which is directed to a person with a purpose to damage him. This definition is similar to this that Loeber(specialist of criminal behaviors-1985 pg. 6) had made for the antisocial behaviors, according to which this physical or mental attack has as purpose to cause damage to another person breaking or not the law of criminality.

Antisocial behaviors are studied more than aggressive ones, because aggressive behavior is seen in context of the antisocial one, including here frauds or typical antisocial behaviors such us: use of substances ect. Usually aggressiveness and unsocial behavior are considered similar, but in fact has differences between them.

According to some multiyear studies of Blumstein, antisocial behavior is showed with neglect and cause damages to the society and is accompanied with aggressiveness to other people. If in little children is showed evidently nervousness and impulsively, in elderly age they will be prone to make these behaviors to criminal ones. Violent in this age in 15 recently years is raised very much.

According to Moffitt we have two types of unsocial behaviors:

a. Stable

Episodically, these are depended from the conditions and the development of the teenage. (Moffitt T.E "Adolescence-Limited and Life-Course-Persistent Antisocial Behavior: A Developmental Taxonomy", Psychological Review (1993). 100 , 674-701)

"Aggression" comes from the word lat. *aggredi*→ attack, by which is understood an organism which has the ability to make an aggressive behavior to other people.

"Aggressiveness" is determined as an emotion, which is accompaied with a wish to attack other people, which is maybe caused as a consequence of hormonal changes or genetic anomaly.(Webster ninth New Collegiate Dictionary).

Aggression can be showed in different moments of our life situations. When the organism manifests this like a protection way, this occurrence would be positive, but when aggressiveness is showed with aggression or using different kinds of tools to destroy the others or ourselves, then it is negative.

According to the psychoanalist of Sigmund Freud and ethologist Konrad Lorenz, supporters of the theory of insticts, all humans have the aggression since they are born, which accompaied with sexuality are important elements for a human development, showed at the behaviors that an individual do. While there are some researchers, who aggression is for them

a primary force in which aggression may come as a reaction or frustration of primary needs. This kind of aggression comes as a result of an irritation, or may be a way to answer against an unplanned attack.

So according to John Dollard in 1930, which is known as a hypothesis developer of Frustration-Aggression.

Aggression or frustration conditions bring as an inevitable response, aggression. This aggression may be: physical, psychological or social.

While about the way of realization is divided in: Affective, instrumental (which has no relation with the emotional one), learned, imitative, biogenetic and territorial. (Conner, D. F., "Aggression and Antisocial Behavior in Children and Adolescents". Research and Treatment. The Guilford Press; 1 edition pg. 15, 2004).

Albert Bandura, a famous Canadian psychologist focused his researches about the aggression in teenagers at the learning theory. Bandura insists on the fact that aggression is a learned behavior. Researching a group of children, he showed that a sight of a person during his violent action makes to the child a desire to turn this to a personal experience. According to him, aggression can be learned, here he talks about the aggressiveness performed on television and media.

The scheme according to Albert Bandura by which aggression is encouraged is:

Model- survey- memorizing- reinforcement-behavior.

According to Leonard Berkowitz, all humans learn the types of effective responses, one of which is the aggressiveness showed in special situations. Aggression may be also:

- Reactive/ theory of Frustration-Aggression, in which promoter may be social problems, family instability, violent or neuropsychiatric problems which may cause this kind of aggression.
- Proactive/ theory of learning, has a special role to their later life when starts to be adopted since the primary school.

The combination of these above kinds, there can be eluted that the researchers Hubbard and Simons brought with their studies. (Conner, D.F., "Aggression and Antisocial Behavior in Children and Adolescents". Research and Treatment. The Guilford Press; 1 edition pg. 15, 2004).

In 1970 a group of researchers thought that all those who were born with a more chromosome "Y" are prone to make aggressive behaviors, but today is thought that the testosterone hormone at males and estrogen at females are promoters of aggression.

So when we talk about aggression, his curve fluctuates from the influence of internal factors and also from life experiences. People with high aggressiveness react easily even from a simple teasing.

It is very important that the words aggressiveness and aggression (which means an action of an aggressive behavior in a responsible way with a purpose to cause to another person damage or to destroy animals) to not be used as synonyms of each other.

Aggressiveness and specially the physical one is normal in early childhood, but it is considered untypical if it continues in the later childhood and when becomes a teenager. Born aggressiveness which is typical until 2-3 age, if it will not be educated and not treated in the right way from family and relatives or from the educators, the situation becomes more aggressive and can be accompanied by violent actions as a teenager and later as an adult.

In early childhood, aggressiveness is showed in a verbal form. This situation is almost similar to males and females. This are divided as presentive forms of aggression, but later aggressiveness becomes as a hidden form. During the development, it is very important to understand the common and the differences between males and females in the nature of aggressiveness. The aggressive showed behaviors are promoted from personal and social relations.

In the psychological arguments is still object of conversations, if this aggressiveness is borned, learned or is showed as a response or frustration of primary needs.

Actual context of the researches of this occurrence in Albania

"Adolescence" (comes from lat. "adolescere", which means to grow up, is known as the period of growing, starts with pubertation and continues to an elderly age). Adolescence has its characteristics depended to culture and can be identified as period of becoming independent (Bertelsmann "Jugendalters", 1995, pg. 12).

In American literature the term "adolescence" is identified since the start of puberty from 13-14 age (Arnold 1980, pg. 22). In Germany, adolescence is known as a development period from 15-24 age.

This period is different to different countries and continents, but in general is similar in life years having only difference from 2-3 years. In the XXI century in an important part of literature "adolescence" is determined as a development period for the individual, from a child to an adult, where is projected biological at a teenager an adult, but still not with a responsibility and emotional and social stability.

The World Organisation of Health determines adolescence as a period age of 10-20 age. Adolescence, this important life period of development, when from a child becomes an adult, has its first researches since Platon and Aristotle.

According to research Muuss is pretended that "adolescence" term is used for the first time in XVII century. But the researchers of XIX century treated this period only in biologic and social aspect.

The real theories which started to study adolescence are in the recent years of XIX century and in the early years of XX century, in which adolescence was the only moment when an individual can be determined as "Bio-Psycho-Social". To treat the individual in this period is important to be analysed his function in family and society in three dimensions: biological, social and psychological. (Ausubel P. David, 2002 Theory and Problems of Adolescent Development, 3 Edition, pg. xxi).

The researches of this special period of life was in high levels during XX century. This happened because of the human evolution in science, technology, environment, geography and of course in all developments.

For many sciences, not only for psychology adolescence was an object of their researches, determining her as "Pubertation", "Young" and "Adolescence".

For biologists and doctors, in the center of the researchers in which are the physical and organic differences, the determine which use is "Pubertation".

For social researchers, this period of development is known as "Young". This because in their researches they present that the individual experience three levels of life development, childhood, being young and being adult.

For psychologists, this period is determined as "Adolescence", in which in the center of their research they analyse the development and psycho experiences, which are showed during this important period, which is considered as a process of individual growing.

Adolescence, one of the most explosive moments of life is full of powerful emotions. This period itself is a suffering process, because the teenager is leaving behind the childhood and goes forward to a way to create a new identity in family and society. These differences are related to with knowledge abilities, with special characteristics, in the emotional aspect and in verbal ability of speaking. The desires and the problems that they have are almost similar, which are influenced more from biological, culture and social factors. This period is accompanied with problems such as: unsocial behaviors and aggressiveness.

Some of the typical symptoms that teenagers have are:

- Humor fluctuate, related in general with the emotional aspect.
- Being closed to themselves
- Changes in hunger and hours of sleeping.

As a result of above symptoms and specially the neglect of these behaviors during this period of adolescence can be accompanied with problematical behaviors such as: alcohol consuming, increased aggressiveness, included in vandalism actions, smoking, use of drugs, conflicts in family, school and society.

A teenage individual lives between his desire for being identified and independent and to be accepted.

During the years of dictatorship in our country was spoken very little for adolescence, for their desires and emotions. During the dictatorship years in our country took care more for the knowledge development of youngs, with a format accepted by the communism society.

This phenomenon was not typically only for our society, because is a characteristic of dictatorial societies, in which was accepted the value: "Kill one, scare 10" (Myers G.D. "Socialpsychology", 1999).

Actually the researches for adolescence are trying to be wider and wider, with a tendency to know more for this life period.

One of the basic directions is the study of the occurrence of unsocial behaviors and aggression in adolescence, which is showed problematic and terrifies more and more family and albanian society.

Some big happenings the recently years were enough to catch many times the attention of researchers, psychologists and all albanian society forward this huge problematic phenomenon. Empirical researchers committed in Albania are very partly, focused only in one school, or in only one city. These not only shows methodological problems, but researches in whole country, almost not exist.

To understand more about the level and the intensity of aggression in adolescence, in the below research is presented a retell of literature. From the analyse of country researches we can understand even in indirect form the reality and the situation that teenagers are nowadays.

Methodology

The selection of research was made from us in base of these below.

Firstly as a key word was used "Aggression" and "Antisocial behaviors", but because of a very low number of articles, books and projects was used the term "Adolescence".

Were also used the terms "Violent" and "Criminality of youngs". These books, articles, magazines, projects were selected according to the public year(since 2002) and methodology which was used.

We refered also at projects and publics committed by ISHP(Albania Institute of Public Health), INSTAT (Albania Institute of Statistics) organisations and institutes which takes care for the development of children. Referring to above criterias, were considered 10 books, 30 articles and 30 thema degrees. From these 70 projects were concluded from the sistematic review 5 books, 5 articles and 5 thema degrees, 15 projects.

Analyse

In the biggest part of these projects are only descriptive and very few analysed, in general they start with a description of albanian reality as a transist society. Is determined the term adolescence and its typical characteristics, while focusing in development theories such us:

Physical, psychological, kognitiv and emotional.

The creation of identity is one of the determined factors in the later life of everyone. The role that family and school has in the education and the way we have to bahave with them is very important.

A special place have all the problems that accompanied the develop of a teenage, positive and negative elements and also which are the occurances in which has to focuse society, school and family to reduce them.

An important place have the factors which make the develop of these factors. In the increasement of antisocial behaviors and aggression of teenagers against the provocatives are brought some examples from literature of Myers, G.D "Socialpsikologjia" 1999, by how an element which raise it, is the high level of testosterone and the consume of drugs. In one of the articles selected both in 2012 for "The influence of violent in media at teenagers" we have a try to bring in attention the consequences which can have on children and in early adolescence, the violent in media.

But also here the facts are taken by empirical studies committed in different places, because similar we do not have in Albania and this according to theory model of Bandura for aggressiveness like a learned model.

In this theory we have to add a risk factor in our society, this of having a huge quantity of guns in many families. Having guns is an added reason to promote violent. Examples and researches in different countries exist. So in 1999 in USA happened 10.000 kills in a year, in the same year in UK 10, while UK that period had four times less guns and 16 times less kills than in USA. In our country after 1997, when a high percent of our population had guns, criminality or kill raised drastically.

One of the empirical datas for albanian teenagers was published from ISHP(Albanian Institut of Public Health) 2010. In this research which was done in 12 prefctures of our country, were concluded 4769 children and teenagers. About 20% of teenagers from 11-15 age drink alcohol, while about 5% of them consumed it regularly. In focus were brought the negative consequences which had the consume of alcohol when it is accompanied with consume of drugs and is determined as a

factor for aggressive behavior. Another empirical study comes from fondacioni "Albanian Central for Population" which in indirect way makes us understand better the situation of showed aggressiveness. According to this research developed with specialists from ISHP and psychologists is refereed to criminal actions of teenagers. From 121 teenagers who have done criminal actions, 38 of them 17 years old were prisoned, while 29 of them have done criminal actions against each other.

According to the project central for Democratic Education (CDE), during the period of may 2012- june 2013 on "Menagation of aggressiveness in school as an instrument for the creation of a safe environment education for students and youngs" in Durres and periferic zones of Tirana. The project gives us datas for the impantation of the manage of project for aggressiveness in school of above zones. What does not exist in this project is the methodology of selection of these zones, it has not datas for how is numbered the level and the intensity of aggressiveness, if it was for verbal, physical, instrumental, emotional, showed or latent. It is also omitted the longevity and the empirical results after the implementation of this project if it had reduct of the aggressiveness level.

A fuller sight of the indirect factors for society and family were they live, develop and create their personality teenagers brings some researches. In the research report for "Against violent of children in Albania" in 2006, made in almost whole country, in Korçë, Vlorë, Gjirokastër, Dibër, Tiranë, Shkodër, Mirditë, Berat, Tepelenë dhe Fier nga Pr. Adem Tamo, Dhori Karaj and UNICEF from the forms of violent, people who use violent, its level. A special role has the find of the roads of the level of violent, because these levels of violent would reflect violent of these children in adolescence but also and in adult age.

In a publish of UNICEF in cooperation with European Comunity and the International Sweedish Agency of Development for the "Criminalization of adults in Albania" analyse of the causes and factors of criminalization of adults in Albania in 2007 for ages 14-16 and 16-18, facts showed for a raise of violent acts from teenagers in 2004 we have only 7 teenagers who had made criminal acts.

In 2005 this number went in 31, while in 6 first months of 2006 from 193 authors of criminal acts such us: Kills, or kill in attent, sexual relations or having guns without permission, 23 resulted untill 14 age, while 170 of them were committed from teenagers until 14 age. 225 other acts resulted committed from teenagers from 14-18 age.

Researches and statistic datas exist. In 2008-2009 resulted that 75% of children had experienced minimal a form of physical or psychological violent. What is interesting to be mentioned from this project is the fact that violent at youngs from 15-29 age may be 6.6, a number very high compared with the number in Europe, which resulted to be 1.0.

While according to "National Research for violent in family" committed from INSTAT (Albania Institute of Statistics) in 2009 resulted that 57,7% of children reported to be victim of violent act from a family member, 56.8% were victims from fists etc, 12.8% with different objects and 4% were burn with cigarettes.

The projects in Bachelor, Masterdegree or Phd-works for adolescence and aggression have a tendence to be more concrete with the level of this phenomenon, but because of the difficulty of organisation and colaboration of iniversities with many institutions, these projects usually do not have informations for the research and methodology of their commition. They are usually done at only one school, or at the only one school in a village, some of them concluded only males, what did not show the real situation.

Results

In the selected researches what is common in the biggest part is the theory treatment. Most of the projects talks only about the characteristics of adolescence and how they can be helped based on the problems that they reflect in this important period of life. On some of the projects are focused the researches committed abroad and they take them as referee sources, but not in an analysed level or comparing them with researches in our country. Most of them list the risk factors, but not analysing them. What is interesting in these projects is that most of them are made by females. The similar thing happens on articles on science magayines, while in these few books that were tried to be about the levels of violent, analysing them and about the levels of criminal actions are males. What is also interesting is that this phenomenon has more interest after 2000. In these empirical studies we can learn about the actual situation of albanian reality and this is only a good start.

Conversation

Based on the review of research of literature we do not have to tell what do we have to do to make more and more effective our reality in Albania. The researches have to include a wider number of teenagers, including the grades and schools, including the education in primary schools and high schools in the whole place, but with a clear methodology. We need to have a clear view of how many females and males have, how many from the schools or classes have heterogen or homogen population, how many come from emigration and how many of them have parents no from Albania. How many of them live with both parents and how many with only one parent because of a divorce or something else. How is their economic situation, the work and the education of their parents, if they are the only child, or if they have sisters and brothers. It would be nice to have a clear view for the aggression in and out of school.

Of course the realisation of this project needs time, groups to make collaborations with universities and their specialised staffs. But it has also its limits, because is too difficult in Albania to make the parents to collaborate and to accept and let their children to be part of these tests, a resistance can may be showed and from teenagers themselves. The biggest problem that we have in our country is also the use of a test, because do not have the standarts test in our contry. While we need to know better about aggressiveness and if it is showed or latent, if it is instrumental emotional or evil.

Should be initiated with sensitization of society, family, the schools and the places where the teens grow and educate. Should start immediately with projects and interventions programs to minimize this phenomens, particularly to support and to assistance teenagers spend this period as stormy and vehement in their lives.

References

- Adams G. R. "Adolescent development" The Essential Readings Wiley-Blackwell; 1 edition pg.no.106-133, 21, February, 2000.
- Ausubel D. P "Theory and Problems of Adolescent Development" Third Edition, Universe; 3 edition fq.no.42-54,179 -183, 232 -243,424-432, 15 November, 2002.
- Ayph "Key Data on Adolescence 2013" .The Association for Young People's Health, CAN Mezzanine 32-36 Loman Street London.
- Bandura A. "Principles of Behavior Modification" pg.no. 127-137Holt, Rinehart and Winston, 1969.
- Berk L. E. „Entwicklungspsychologie“,Pearson Studium – Psychologie, Addison-Wesley Verlag; Auflage: 3, pg.12-23, 545-552,565-580 aktualisierte Auflage, 16. Dhjetor 2004.
- Bertelsmann"Jugendalters" pg. 12-18, 1995.
- Berkowitz L (1981): On the difference between internal and external reactions to legitimate and illegitimate frustrations: A demonstration. *Aggressive Behavior* 7/ 83-96.
- Berkowitz L (1988): Frustrations, appraisals, and aversively stimulated aggression. *Aggressive Behavior* 14/ 3-11.
- Berkowitz L (1989): Frustration-aggression hypothesis: Examination and reformulation. *Psychological Bulletin* 106/ 59-73.
- Card, A.N. & Sawalani, M. G. & Stucky, D. B. & Little, D. T. "Direct and Indirect AggressionDuring Childhood and Adolescence: A Meta-Analytic Review of Gender Differences Intercorrelations and Relations to Maladjustment Direct" 2008, Vol 79, pg1185-1225.
- CDE Menaxhimi i agresivitetit në mjediset shkollore si një nga instrumentet për krijimin e një mjedisi të sigurt edukues për nxënësit dhe të rinjtë,Tirane, 2013.
- Conolly, J. & Josephson, W. "Aggression in Adolescent Dating Relationships. Predictors and Prevention", Integrated Research Services, 2007.
- Connor M. D. & Daniel F. "Aggression and Antisocial Behavior in Children and Adolescents" Research and Treatment. The Guilford Press; 1 edition pg.no. 1-25,28-31,339- 390,12 korrik, 2004)
- CRCA –Albania Children's Human Rights Centre of Albania "Kriminaliteti i të miturve në Shqipëri. Analizë tek të miturit në Shqipëri. Juni 2007, Tiranë. Qendra për mbrojtjen e fëmijëve në Shqipëri.
- CRCA " Drejtësia për të miturit në Shqipëri.Një analize e sistemit të administrimit të drejtësisë për të mitur dhe gjendjes së të miturve në konflikt me ligjin në Shqipëri".
- Delfos. Martine F."Children and Behavioural Problems" Anxiety, Aggression, Depression and ADHD – A Biopsychological Model ëith Guidelines for Diagnostics and Treatment. Part I. pg.no.45- 78, Kapitull 4 pg.no.79-92 Kapitull 7 pg.no.158-160 Jessica Kinksley London 2004.
- Gerald A. &Berzonsky, M."Blackwell Handbook of Adolescence", pg.15- 28,31-40,79 –97, 2001

- Gerald, A.&Gullota,P.Th "Handbook of Adolescence Behavioral Problems"Evidence-Based Approaches To Prevention and Treatment", pg. 6-13,19-27,2005,Springer Science + Business Media.
- Gemelli R. J."Normal Child and Adolescent Development". American Psychiatric Pub; 1 Edition, Kap. 1, pg.no. 1-47 (May 1996)
- Fend H."Vom Kind zum Jugendlichen. Der Übergang und seine Risiken "Entwicklungspsychologie der Adoleszenz in der Moderne. Huber vgl.pg.323-330 1990.
- Flexner W. "Adolescence "pg. 1-27,93-111, 145-160 Sarup & Son (24 Jun 2004)
- Heuves W."Pubertät" „Entwicklungen und Probleme“ Hilfen für Erwachsene. pg.no.30-40,110- 120 Brandes und Apsel. (Frankfurt am Main 2010)
- Juvonen, J. & Wang, Y. & Espinoza, G. " Physical Aggression, Spreading of Rumors and Social Prominence in Early Adolescence", Springer Science + Business Media, New York, 2012.
- Kaza N. "Psikologji "–Zhvillimi i personalitetit pg.no. 49-55,Lezhë 2004, Shqipëri.
- Kaza N. "Adoleshenca Stina e Shpërthimeve" pg.no. 30 – 41, Tiranë 2006, Shqipëri.
- Kazdin A. E. "Parent Management Training. Treatment for Oppositional, Aggressive, and Antisocial Behavior in Children and Adolescents"pg.no.3-5,11-13,36-40 Oxford University Press. New York, 2005.
- Kepler, J. "Entwicklung im Jugendalter"1 ,Linz,pg.6-8,13-17, 1997.
- Kepler, J. "Entwicklung im Jugendalter"2 ,Linz,pg.6-8,13-17, 1997.
- Lösel, F & Bliesener, Th"Aggression und Delinquenz unter Jugendlichen",Gjermani, 2003)
- Margraf, J.& Schneider, S. "Lehrbuch der Verhaltenstherapie",Band 3,fq.12-19,17-25 2009, Springer Verlag.
- Mogler, Ch."The physical, cognitive, social, personality, moral, and faith development of adolescence", pg.1-10 Scholarly Research Paper, 2008.
- Muuss R "Adoleszenz. Eine Einführung in die Theorien zur Psychologie des Jugendalters, 1971, Stuttgart: Ernst Klett Verlag.
- Muñoz, C. L & Frick, J. P. *Criminal Justice and Behavior* "Callous – Unemotional Traits and Their Implication for Understanding and Treating Aggressive and Violent Youths" Sagepub., March 2012)
- Mutz D.I.& Scheer J.P."Pubertät und Adoleszenz" fq 1-25,1997,Graz.
- Myers, G.D. "Socialpsychology", 1999. National Youth Violence Prevencion" Facts for Teens: Aggression", 2002.
- National Youth Violence Prevencion" Facts for Teens: Aggression", 2012. Pena, R. L. & Pacheco, E. N. "Physical-Verbal Aggression and Depression in Adolescents: The Role of Cognitive,Emotion Regulation Strategies", Universidad de Málaga, España May, 2012.
- Pepler D.& J. Kirsten C.& Madsen, Christopher W., Kathryn S. L. "The Development and Treatment of Girlhood Aggression" Forward pg.no. xi) Introduction pg. xvii,5, 6,8, 53-60,165-168, 219-221 Psychology Press (2004)
- Putallaz M.&Bierman K. L. "Aggression, Antisocial Behavior, and Violence Among Girls: A Developmental Perspective. pg.no.137-139,141 Guilfort Press (New York 2005)
- Revista Studime Sociale 2007-2012.
- Richardson, D.& Baron, R. A."Human Aggression(1991). The Columbia Encyclopedia, Sixth Edition. pg.no.13-36 Columbia University Press (2004)
- Stoff M. D.& Carins B.R. Aggerssion und Violence.Genetic,Neurobiological and Biosocial Perspectives.pg 3-8,1996.
- Tamo A. & Karaj Th. " Dhuna kundër fëmijëve në Shqipëri. Raport studimor i financiar nga UNICEF",Shqipëri, 2006.
- UNICEF Studim Tematik "Si të Përmirësojmë Reagimin e Ofruesve të Shërbimeve Për të Identifikuar, Raportuar dhe Referuar Rastet e Dhunës Ndaj Fëmijëve ", 2012.
- Vesta R & Haith,M.M "Psikologjia e fëmijës,Shkenca Moderne",fq 32-33, 54-60,491-493, 2007.
- Wolman B. B."Adolescence" Biological and Psychosocial Perspectives.Chapter1pg.no. 3-4, Chap.2, pg. 5-6, fq. 61-70,85-90,115-118 Greenwood Press Westport(1998)

Italian Language in the Adult Class - Didactic Unit for Adults

Dr. Aida Gjinali

University of Tirana

Faculty of Foreign Language

Italian Department

aidagjinali@yahoo.it

Abstract

This paper aims to address foreign language and Italian respectively of the adult classes. Teaching in classes with adults is radically different from teaching in classrooms with children and teenage, this occur because students typology to teach is quite another. Teaching adults is a topic which is not studied enough because the teaching for this age group is often taken for granted. So, while teaching children and adolescents we can find countless of studies that adults age does not enjoy this privilege. The branch that deals with the study of teaching adults is Andragogy. Teaching adults depends on many factors, as an adult that has a formative his own bag round which certainly we cannot overlook. Adults also need to be clarified about the objectives of teaching, because they need to know the values that will have the information that they would take in a certain course. In a language class with adults it has a great importance the role of teacher too. He is not the pedagogical teacher but andragogic hence its formation must be such that it should recognize quite well each method, technique of teaching adults. Our paper aims to provide also a didactic unit in order to provide a practical approach to language teaching, near adult classes taking into account the psychology age their requirements and their needs.

Keywords: adult, Italian language, andragogy, teaching, didactic unit.

Introduction

This study is devoted to a class of students for whom, until a short time ago, almost no one, or just anyone has been talking about, or has worked with them. All this is done in a superficial way and not based on empirical research and results. This actually turns weird when dictate that the formation of adults is the human being's attention for a long time, however, for a long time he is left behind. (Knowles S. M., 1990, the Title),. In contrast, studies about children and adolescents learning are not neglected. The lack of studies in this field is surprising, when you think that in the ancient world, the student should be mature where his education and formation was conducted only when he was mature, while children were not taken into consideration at all, as human beings who need to learn and to be formed.

For this reason, our attention was directed precisely to this category of adult student , with whom we work and where we often encounter difficulties and problems, which we do not know how to give solutions. It often happens that we deal with many different age while teaching and sometimes we face our doubts, even professional, on the way we should face the methods, techniques, and our work with this category of students, how to deal with them, how and from what perspective should look, how to appreciate the knowledge and skills they possess, what we should really offer them and how to offer them that.

1. What Andragogy mean?

Andragogy term is derived from a Greek word ανηρ, Aner namely (man), + ἄγω ago, which means to run. Etymological root of the word is the same pedagogy of παις pais-paidòs = children (Knowles S. M., (1990) p. 74). While Pedagogy is the art and science of teaching children, Adult education is the art and science of teaching adults.

2. When we are called adult

To give a definition of the concept of the term adult is not as easy as it seems at first glance. Let us refer to some fields of science dealing with the study of the species.

- Biological definition: NW adult individual is when he can reproduce (Zatti P. 2011, p 878
- The legal definition: age at which a person can be punished by law, may vote, get license to marry.
- Definition Social: Age at which one begins to behave like an adult, get social roles of adults,
- Definition psychological: when an individual develops a concept for yourself and being responsible for his own life.(Knowles M., 1993, p. 55),

However, Demetrio said(Demetrio D.,1990, p. 27), is difficult to give a definition for the concept "adult" because since this concept dependent on the cultural concept, as well as geographically of a country, it changes constantly. Thus, in different cultures, it appears at different ages. For example in the Gitano culture, marriages performed at age 14-15 years.

While Levinson says: an adult, he is able to determine the suitability of its structure life, about the world:

"Who is able to assess its functioning and if necessary amend it." (Alberici A., 2006),

3. Background

Andragogy term was used for the first time by a German elementary school teacher named Alexander Kapp in 1833, Alexander Kapp 1893¹



In his book "Plato's Erziehungslehre" Pädagogik Fur ALS ALS Und Die Einzelnen Staatspädagogik. Praktisch Dessen oder Philosophie, he uses the term Andragogy, who after being rejected by German philosopher JF Herbart, was forgotten for nearly a century.

Later, Van Enckevort revealed that this term was used again in 1921, the sociologist E. Rosentesock, in his article which dealt with the role and functions of teachers, who teach adults. E. Rosentesock expressed the opinion that the formation of adults require special teacher, specific methodology and a specific philosophy. While in 1951, the Dutch researcher found again used the term in a book entitled Andragogy, published by Swiss psychiatrist Hanselmann. Just six years later, a German teacher Poggeler, published a book entitled Introduction to Andragogy: Basic Issues in motion Education. It is in this period also other scholars in Europe began using this term. Further, the 1900, found widespread in psychiatry, psychology, and education in the sciences and in 1981 appears for the first time in a dictionary, thus receiving the status of an official term. This determined and the need to spread rapidly as the term and to use similarly in different sectors of

¹ Imazh i marrë nga -

<http://adulted.about.com/gi/o.htm?zi=1/XJ&zTi=1&sdn=adulted&cdn=education&tm=33&f=00&tt=8&bt=4&bts=4&zu=http%3A/www.uni-bamberg.de/fileadmin/andragogik/08/andragogik/andragogy/index.htm>

research, as presented quite important that the same should be planted and in the scientific definition. (Begotti P., 2006, p. 7).

Just after the end of the First World War, both in Europe and in the US, began to appear in a growing mass of knowledge on the characteristics of adult learners. But only in the last decade, these insights were developed in an integrated conceptual framework of learning in adulthood. (Begotti P., 2006),

4. Few Words on Malcolm Knowles and Principles of His Theory

Malcolm Knowles is one of the most famous exponents and one of the most prominent researchers, in terms of adult learning. For more than five years were a lot of research and work, to collect information known today, to formulate a theory on the characteristics of adult learners. First attempt was made by the Informal Adult Education (1950), which was based on the idea that: adults learn best in informal situations comfortable, flexible and welcoming. (Knowles S. M., et alii, 2008, p. 72)

What distinguishes this researcher is that at the beginning of his theory, he sees adults as learners, which means as a student with their own characteristics and individual perspectives. Adult education for Knowles is the totality of knowledge dealing with adult learners in parallel and distinct against the pedagogical model of learning of children. Knowles says that the objective of teaching learning therefore defined as a learning escalated, independent of the individual. This is how to develop personal roles in various stages of development and life, that Knowles calls need to learn, which makes them dependent and students need to learn and how to learn, which makes them autonomous and independent, which Knowles called self - direct Learning. This is one of the main tasks that the teacher who teaches adults then turn them from dependent student, the student to independent. (Knowles S. M., et alii, 2008, p. 78)

Knowles, on the theory of adult learning, based on his experiments and research on the characteristics discerning adult individuals. He makes a very significant difference between andragogical and pedagogical model, basing it andragogic in these six principles: (Knowles S. M., et alii, 2008, pp. 77-80)

1. Need to know /known: before you commit to learn something, adults have the need to know why they want to learn it.
2. The concept / idea for yourself: adults have a concept / idea of themselves as persons responsible for the decisions of their personal lives.
3. The role of early experience: whether to compare with teenagers or young adults, adults begin an educational activity with a greater experience and the different nature and quality.
4. Willingness to learn, adults are willing to learn what they need to know and also want to know even how to properly handle their situations of real life.
5. orientation towards learning, in contrast to children and young people with learning orientation, at least in school, is the focus on the subjects, adults this orientation is focused on real life.
6. Motivation: adults generally respond to external stimuli (good job, promotion, salary increase, etc.), But the most powerful motivation are internal drives (desire for greater professional satisfaction, self-esteem, quality of life etc.

Knowles andragogical model is a process model that differs from traditional models of content type used by date. Change does he lies in the fact that one uses content or not, the difference lies in the fact that while one tries to convey model knowledge and skills, andragogical model conceived as a process attempts to provide procedures and resources to help students learn information and skill. (Knowles S. M., et alii, 2008, p 140).

5. Factors affecting adult learning.

Usually the adult resist to new learning opportunities. This is both because of problems with psychological nature, as well as because it requires not deny the experience of the past, and not to dispute themselves, then the person who has already been realized. Begotti P., 2006, p. 14),

Learning languages by adults has its influence factors, which Mazzotta summarizes in three groups: (Mazzotta, P.,1996,)

- a) individual factors.
- b) social factors.

c) natural factors.

Regarding individual factors, it is clear that they vary from one individual to another. Among them we can mention

- First, the motives that has everyone for learning a foreign language (education, employment, tourism, etc.)
- Needs general or specific language (languages professions)
- Personality traits: closed, open.
- Willingness to accept risks, which may face in achieving learning objectives.
- Personal experiences.
- Strategies used to teach.
- Personal learning styles.
- Cognitive personal style.
- Emotional factors: stress, anxiety, etc.
- Personal habits, or obtained.

Among the social factors may include:

- Environment and context in which an adult has lived and learned.
- Social and geographical ancestry.
- The culture of origin.
- Learning styles influenced by the environment and the context in which the student has lived and worked either.

Among the natural factors:

- Individual propensity for learning languages
- The age of the individual (given here neuro-psychological factors affecting language learning).

Once again we can say that these factors should be no doubt by glotodidactic and didactics of foreign languages to prepare methods, curriculum, syllabus, appropriate strategies and techniques, considering these factors as crucial and important in teaching – acquisition the foreign languages and not only, in order to realize a qualitative objectives, such as increasing student as well as teacher, have established themselves in the learning process.

6. The Relation Teacher - Student

In connection with the dynamic development of the teacher - student initially necessary to distinguish through contexts where performed this report. Thus, if it is conducted in university environments, this report is characterized by the predominance of asymmetric model. (Daloiso M., 2009, p. 119-120)

Why is that? The fact is that in the context of academic education we often limit, to simply transmit knowledge and this dictates the way of realizing through lectures, where as Zeus on top of the Cathedral we speak without considering the public (just students), to whom we refer to, no matter the requirements, needs, expectations, background and this happens not only because is more comfortable and rewarding for our ego, making us feel the only source of information from which the student can get information, forgetting that he still owns his knowledge and we are there to promote to increase the knowledge, and why deep inside, hesitate to break the traditional teaching model, despite theoretically we know that we need to change it. But when the teachers hesitate to do this, then how should the student react from which we expect to be ready for change, change which he must feel within ourselves and we have to help towards this process. Obviously he has to play little finger to do this, as it is not motivated, does not feel equal, not valued, so that we remain at a standstill. Hence, its formation is not efficient and long to be reaching, but defective and will not prepare it at all to recognize and play social roles, which will meet in a very near future, but a half I do not know that any of the self and society.

But what we know, is that adult students often feel like they are protagonists formative mapping. Often they ask questions about why they need a particular subject, who is the purpose of its use in real life. They even often express their needs on

the language and how they would like to fulfill these needs. But the problem is that teachers often do not receive even bother to listen or to explain, even we have often heard to say:

- I teach there, that there is nothing to be.
- We know we get it.
- Why would you mind giving us we now how do I claim, etc.
- But when done and you, until yesterday you had lips with milk.
- You don't know how to learn.
- I'm talking to the wall.
- But why did you come to learn etc.

All these, not only should not be expressed, but must make the teacher to reflect and ask himself about it :

- Is it worth the way I teach the subject?
- Does the knowledge content, that students really need?
- Do you know the needs of my students?
- Do you really know them?
- Do I make the effort to figure out where it fails their way of learning?
- Do I make an effort to help them develop their learning independently?
- Do they not have achieved the goals that I have set forth the subject matter and students?
- Do I recognize their forms and strategies of learning?
- Do I have applied variety of strategies and techniques in order to convey information that I come from many information channels, etc?

Only if the answers to these questions honestly, or others that are raised during work, the teacher can understand what to change and what to try to change to students.

While in contexts where learning a language is carried out in the center of languages, or the institutions where adults work, the ratio varies somewhat. Even here, this process depends on many factors, but the most typical is not asymmetric. He becomes symmetrical where the relationship teacher - student is no longer a dependent relationship, but, in most part, an independent and reciprocal relationship.

Critical element in developing the role of teachers, which Rogers, as we have said, the calls: facilitator of learning, is a personal report between these two important subjects, as by his teacher must possess at least these gifts action :

- Truthfully and authentic, be himself,
- Inflammatory abilities, but not possessive, evaluation, trust and respect.
- Understandable, able to listen, sensitive and accurate. (Rogers C.R., 1996, p. 106 -126)

7. The role of teacher anagogical model.

The figure of the language teacher spins a very important role in andragogical model, not only because he must possess specific skills: linguistic, organizational, management, identification, didactic, but also because it is the only point of reference in relation to the teaching of the language. We know that students are influenced by many factors in the learning process, but the same applies to the teacher and his way of teaching and necessarily, but these factors also affect his teaching methodology. For this reason, teachers have to be interested not only on the content to be transmitted, but also

should be clear how to react in class with his manner of conduct and reporting of students, so that the line adjusts the demands and needs of the student, observe and feel respected. (Serragiotto G., 2004, pp. 105-119),

The teacher who reflects itself in this way, manages to successfully change the role, from a teacher teaching in a teacher andragogic becoming a capable leader, a student assistant and facilitator. In this way, it manages to be based energy strategies and habits acquired by the student.

He must not only possess extensive skills, but also diverse, which relate not only to glotodidaktike and methodological side, but that have to do with reporting capabilities and communications. He should be able to understand the features that represents each individual, not only psychologically, or character, but also features about individual skills, learning about, learning style and the type of intelligence that he owns. Besides them, the teacher must know the background of socio-cultural-formative, which characterizes his pupil.

It turns out that the figure of the teacher is a complex figure, which must possess at the same time not only a qualitative linguistic baggage, but also personal capacity: empathy and willingness to work willingly and efficiently, not only to share his knowledge, but also realize that the student is not a tabula rasa, which you will fill your head with what I know, but it is an individual with certain experiences, which have to agree to facilitate the process awareness and change, that individual should perform individually.

Teacher of adults can be identified in many roles as counselors, facilitators, leaders, executives, middlemen (Knowles M., 2008, p. 121).

Andragogic teacher prepares in advance a series of procedures to include student in a process that owns the following elements:

- To prepare the student: to provide necessary information on what you will learn and how to teach.
- To ensure the creation of a climate conducive to learning:
- Creation of a joint working mechanism. In contrast to the lecturer where adult learner, however, remains dependent on what the teacher offers, andragogical model offers adult students a very different role. He is part of the implementation of the common plan curriculum.
- Diagnosing communication needs: working out a pattern of behavior and performance, or desired skills.
- The design of a model lesson, in which the individual can use a whole range of human and material resources independently.
- Actualization of the program: the main factor for the operation of the program is the quality of teachers. He no longer considered as the accompanying knowledge, but as a "facilitator", so soothing and aid in the learning process. He becomes a resource coordinator of student service.
- Program evaluation, understood as a review by students, who review the skills desired models, to evaluate again the problems between the new model and the level of their skills. ¹ Knowles M., 2008, p.122-137)

Advisory Teacher as "Counsellor", to help the students should be, as people say, knee to knee with them. It should be related to the student experience and participate in it. The teacher becomes the source where the student gets the knowledge he needs to fill what he knows, and enriched with new information and experiences common divide teacher that he has, thereby enabling teachers to become part of our common experience and his knowledge . The teacher also becomes a mediator between language and student helping him in the process of recognition, ownership and learning not only the language, but everything revolves around her.

Teacher conceived by Rogers as Facilitator "Facilitator", to and as such, he should know his duties and limits, as should be: assistant, consultant and advisor.

As a "facilitator", he has the duty to assist students to become aware to their needs for further knowledge, help overcome the status of dependent students, the independent student status. Make them ready to accept new strategies and approaches to learning.

The role of the teacher as a "tutor", predicts that the teacher is the expert and make it possible not only awareness of cognitive student's needs, but also the realization of activities that coordinate with student expectations. (Begotti P., 2006)

Your guardian may be different, according to the context in which it operates. Could be a university tutor, online tutor, etc. However, what is common to both roles, the function remains the leader and mentor, who provides the tools necessary and appropriate, allowing the organization of information to be a shared process, based on mutual cooperation and conducted in a peaceful climate, trust and appreciation to the student.

In conclusion we can say that: the role of "facilitator" is geared to learning to learn. (Balboni P. 1994, p.34)

Rogers proposes us directions through assignments from a teacher to a teacher - facilitator, and tells us what are his duties. Among them we can say that the teacher is important landmark where the learner finds the necessary orientation points in the complex process of learning and in the long process of its formation. (Rogers C.R., 1969, pp. 164-169).

Referring to this model of student you can find below a didactic unit suitable for adults, a unit that has as thematic human addiction problems that plague our society every day more.

Addiction and related problems	
Destination	Adults over 18 years
Language level	B2/C1
Time	6-8 orë
Language objective	<ul style="list-style-type: none"> - Increase knowledge about lexical semantic field about various addictions as addictions to drugs, tobacco, beverages, food, gambling, pets, relationships, money, sex, etc. - - Expansion of vocabulary about the emotional realm, spiritual individuals with addiction. - - Knowledge of some specific features and technical language of these addictions as well as communication and jargon created for them respectively as such: it drugs, gambling - Adapting their technical standard language, as appropriate medical tecnico- - - Compares between forms of communication used for drugs between Italian and Albanian jargon - - Analysis of textual typologies of Blog-s to talk about various addictions. - - Implementation of texts to appeal to society and sensitize about the most dangerous addictions to human health and society
Cultural objectives	<ul style="list-style-type: none"> - - Understanding human dependencies. - - Knowing the characteristics and consequences of moving up these dependencies features - - Knowing the opinions and thoughts of individuals to use, or not, of drugs. - - Understanding the issues depending bring these individuals and society - - Knowing the type of communication as cultural phenomenon associated with toxic independent world. - - Reflection on linguistic diversity and language used - - Compares between forms and types of communication between individuals Italian and Albanian

	<ul style="list-style-type: none"> - - Introduction to technical terminology specific medical or social related to the specific subject.
Materials	<p>Authentic materials, visual and auditory stamped.</p> <p>Four texts that bring different opinions about different depending.</p> <p>Letter to write the notifications</p>
Glotechnology	Video- projector , computer, internet
Organization	This unit is divided into three LU (Learning Units) each of them collects and presents the argument expression associated with DU, in order to provide an overview of opinions relating to different sectors of society.
Description of LU 1	Represents the opinions of adults (individuals, parents, professors, sociologists)
LU 2	<p>Type of text:</p> <p>a. Letter to the director of a newspaper,</p> <p>b. The transcript of part of a conference that discusses human addictions</p> <ul style="list-style-type: none"> - There are thoughts and official data (ministers, doctors, association against drugs, or other addictions, INSTAT) - c. Type of text: informative newspaper articles scientific, advertising texts (press, TV), reports the official information
LU 3	<ul style="list-style-type: none"> - Its divided in four phases
Criteria	<ul style="list-style-type: none"> - - Students know which are the main characteristics of text typologies as formal letter, relations, advertising texts, newspaper articles, informative, scientific. - - Owning a sufficient vocabulary about semantic field of the depm different. - - Are used to working in work groups (cooperative learning)
Modality of work	Jigsaw
Phase 1	<p>Motivation - Designing globalization groups of images of individuals belonging to different layers in different situations.</p> <p>Brainstorming on feelings, prejudices and vocabulary about the argument in question</p> <p>The organization of work and class formation of 4 groups</p> <p>-</p>
Organization of class and the work	<p>The realization of 4 groups</p> <ul style="list-style-type: none"> - Base (4 persons each) positioned in such a way as to create a circle between groups and teachers.. 1. <i>Distribution of materials (1) and the formation of the expert-group: reading individually, group comments on the content of the material (1), the organization of ideas through a summary</i>

	<p><i>statement in order to refer friends to the basis group that what they understood</i></p> <ol style="list-style-type: none"> 2. <i>2. Return to the group-basis. Each expert (within a prescribed time) communicates friends share belonging to him.</i> 3. <i>3. The final comments: located in the horseshoe shape, in the form of plenary, develop group discussion and opinions issued by the work once done. The teacher plays the role of moderator.</i>
The second phase - Analysis	
Classroom organization	<p>Classroom organization maintain the same form. Each member receives a certain task within the group: leadership, while others will present each performance.</p> <p>The organization of work Distribution of materials: the distribution is made in the form of random. Beginning teacher assigns texts (one for each group), directing how it will work, in order to begin work on a detailed analysis.</p>
Organization of the work	<p>Distribution of materials: the distribution is made in the form of random. Beginning teacher assigns texts (one for each group), directing how it will work, in order to begin work on a detailed analysis.</p>

Example text 1¹

Sono malato di gioco d'azzardo. In 5 anni ho perso 100mila euro,

Venerdì, 22 marzo 2013 - 14:18:00

Salve

Sono un uomo di 37 anni , con un lavoro precario e poco retribuito. Le racconto in breve il mio dramma , il gioco d'azzardo . Tutto e' iniziato 5 anni fa , per la prima volta in vita mia sono andato in un casino e ho imparato a conoscere le slot machine . Sembrava una cosa cosi stupida e infantile e all'inizio non mi ha causato alcun problema , poi con il passare del tempo andavo a giocare sempre più con insistenza e frequenza , perdendo e cercando di rifarmi delle somme perse cadendo sempre nello stesso errore di rincorrere una vincita che mi facesse recuperare tutto cio che stavo perdendo . Ho cominciato a farmi prestare soldi , a intingere soldi dal lavoro , avevo un libretto di risparmio ,prosciugato in pochi mesi , poi sono cominciati i guai con le banche , con le finanziarie , con la famiglia , con gli amici . In 5 anni ho perso più di 100.000 euro , e ho debiti per 30.000 euro , sono disperato e non so piu cosa fare . Ho tentato più volte di smettere stando lontano dalle sale giochi per alcuni mesi , ma poi ci sono ricaduto e mi rendo conto che ormai sono agli sgoccioli della mia vita. Sono stanco di vedere piangere i miei genitori per me , di ricevere telefonate da persone che rivogliono i loro soldi di sapere che non uscirò più da questo tunnel e che continuando a vivere la mia vita non sara mai serena.

Ho pensato più volte di togliermi di mezzo di farla finita , ma non ne ho avuto mai il coraggio , adesso forse in questa lettera che scrivo sto capendo che e' giusto che ciò avvenga , almeno troverò un po di pace e serenità e non provocherà più guai e disagi a chi mi sta vicino .

Le scrivo non per chiederle aiuto in quanto credo che ormai non c'e' più nulla da fare per me , ormai e' tardi ma per far arrivare questo mio sfogo a giornali , riviste , tv , etc , affinché lo stato chiuda al più presto tutte le forme di gioco esistenti , perchè tutte possono diventare d'azzardo e non serve mettere un foglietto all'ingresso con scritto sopra che il gioco può causare dipendenza come sulle sigarette che il fumo provoca il cancro . Lo so che tale mia richiesta rimarrà inevasa , almeno ci ho provato , per cercare di salvare persone che sono ancora in grado di salvarsi .

¹ Tavolieri R., **Sono malato di gioco d'azzardo. In 5 anni ho perso 100mila euro" Venerdì, 22 marzo 2013 - 14:18:00**

Grazie per aver letto la mia lettera , sperando che qualcuna la legga e capisca che il gioco e' come il cancro ti fa morire lentamente e non te ne fa accorgere fin quando non sei allo stato terminale .

RISPOSTA

Gentile lettore,

a Tutto c'è una Soluzione e non è mai troppo tardi per Vincere una dipendenza, che essa riguardi le sigarette, l'alcol, il sesso o come nel suo caso il gioco d'azzardo. Mi sono chiesto anch'io se è Giusto chiudere le sale da gioco d'azzardo esistenti in Italia per evitare di far indebitare tante persone che come lei giocano per anni e anni. Io sono d'accordo con lei, perché finché ci sono persone che giocano senza riuscire a smettere, e che perdono del tempo prezioso che potrebbero utilizzare in altro modo, penso che la chiusura di queste sale da gioco sia un'Ottima soluzione, così come è paradossale e ipocrita permettere la vendita delle sigarette scrivendoci sopra che possono portare alla morte. Io penso sia utile la libertà di scelta, intendiamoci, ho una mentalità aperta, ma usiamola bene la nostra libertà, non la sprechiamo con stupidità ed ignoranza come a volte viene fatta. Comunque non preoccuparti, sei ancora in tempo a prendere in mano le redini del tuo futuro. Intanto evita pensieri dannosi di farla finita per liberarti dalle preoccupazioni che hai ora per ciò che stai facendo, ricordati che per Nessuna cosa al mondo vale la pena di preoccuparsi o di farla finita, la tua vita forse vale meno dei soldi che hai buttato via fino ad ora? Non credo proprio, la vita di un uomo non ha prezzo, tu hai semplicemente sbagliato, ed ora ti accorgi di questo e vuoi rimediare, questo è la cosa Importante. La Prima cosa che ti consiglio di fare sin da subito è di metterti in contatto con un Centro per la cura del gioco d'azzardo, I SerT: Servizi per le dipendenze patologiche delle Aziende Asl hanno specifiche equipe (composte da medici, psicologi, assistenti sociali, educatori) che si occupano di diagnosi e cura del gioco patologico. L'accesso al SerT è gratuito e diretto: non si paga alcun ticket nè ci vuole la richiesta del medico di famiglia. La presa in carico della persona con dipendenza da gioco d'azzardo è prevalentemente di tipo psicologico, con trattamenti individuali e di gruppo.

E' garantito, se richiesto, il pieno rispetto dell'anonimato. I professionisti del SerT sono tenuti in ogni caso alla riservatezza. Al SerT possono accedere tutti i cittadini italiani e le persone straniere regolarmente soggiornanti sul territorio italiano, anche minorenni. Ti lascio un numero verde gratuito del Servizio sanitario regionale 800 033 033 che puoi chiamare tutti i giorni feriali dalle ore 8,30 alle ore 17,30 e il sabato dalle ore 8,30 alle ore 13,30: operatori qualificati ti forniranno i riferimenti dei servizi a cui ti puoi rivolgere per avere assistenza gratuitamente e anche in anonimato. Puoi rivolgerti anche all'Associazione Giocatori Anonimi tel. 338 1271215 Di seguito invece ti lascio 2 link di siti che informano sui Centri per la Cura dei giocatori d'azzardo in ogni regione italiana, i siti sono questi:

http://www.cestep.it/centriaiuto_GAP_frame.htm

<http://www.giocaresponsabile.it/index.cfm?fuseaction=ServiziTerritoriali>

Caro lettore, la cosa Migliore che puoi fare è di riprendere la tua Libertà un passo alla volta, Contattando sin da subito uno di questi Centri di cui ti ho parlato prima, quello più vicino a casa tua o quello di un'altra regione se lo preferisci. Sono gratuiti e ti daranno la Chiave per Vincere la dipendenza nella quale sei Temporaneamente caduto, ma dalla quale puoi Liberarti.

In questo modo non solo puoi tornare alla tua vita di sempre Migliorandola, ma potrai dopo Aiutare altre persone che come te hanno attraversato questo sentiero della dipendenza, è sarà una soddisfazione oltre che Aiutare te stesso, poter dare Aiuto ad altre persone non trovi?

Ricordati che per ogni problema c'è una Soluzione, ogni difficoltà può Essere Superata, ogni volta che scivoliamo nel sentiero delle prove che ci offre la vita, possiamo Rialzarci, non cedere alla rassegnazione, fai in modo che sia tu a Vincere le prove che stai affrontando, fatti Aiutare da persone competenti e da persone che come te hanno attraversato queste prove difficili ma che hanno Superato brillantemente, come ad esempio i giocatori anonimi, nel cui gruppo esistente in ogni regione potrai essere Aiutato a Vincere la tua Temporanea difficoltà, perché così come anche loro l'hanno vinta, anche tu puoi Superare Benissimo questa dipendenza.

Fallo per te, per le persone a te Care come la tua Famiglia, i tuoi Amici e per le persone che potrai Aiutare in futuro.

Caro lettore, è normale sbagliare nella vita, ma è anche Giusto Rialzarci e continuare ad andare avanti Meglio di prima e più Forti di prima.

Il primo passo l'hai già fatto:

- chiedere Aiuto,

- il secondo è quello di Contattare questi centri Specializzati o i gruppi di Auto Aiuto di persone che hanno Vinto queste dipendenze

- il terzo passo è quello di Mettere in Pratica sin da Subito le Metodologie Efficaci per Superare la dipendenza.
Cambia te stesso e Cambierai il mondo.

Un Caro saluto per te

dott. Rolando Tavolieri

Activities on the texts

Read text and proceed as follows:

I - (the meaning of the text)

a. Think that the author really need help or think that can confront alone?

b. Mark the text parts that justify your opinion.

Think that the replies given by the psychologist is enough and closes his work with that.?

- List the reasons consequences and solutions offered

- Remember that this is a problem that affects the Albanian society?

- The work in Albania in this regard?

II semantically

a. Point out words associated with semantic field dependences. Bring them and organize by an individual criterion. They will appear at the closing stage.

III - on text typology

e. Analyze the organization of the text, highlight sections, according to you, determine the manner of writing (such as punctuation, symbols used, etc.)

f. Based on observations, construct a summary table. Give examples

g. Compare this kind of text with other types of texts presented in this didactic unit. Draw conclusions.

Example text 1¹

Opzioni: Replica al messaggio•Quota questo messaggio

Re: per stare meglio

Inviato da: annie (IP registrato)

¹ Tavolieri R., Sono malato di gioco d'azzardo. In 5 anni ho perso 100mila euro" Venerdì, 22 marzo 2013 -

14:18:00

http://www.affaritaliani.it/rubriche/lettere_allo_psicologo/gioco-d-azzardo-patologico230313.html

Data: Tue, 12 August 2003 - 15:12

ciao a tt!è la prima volta ke visito qs sito e appena letti i mex di qs discussione ho deciso di scrivere la mia..premetto ke io nn sono d'accordo sull'uso di droghe (più o meno pesanti,chimiche o naturali...parlo in genere..) e condivido l'idea di chi dice ke cmq i problemi nn si risolvono così..'x' x qnt ci si possa sballare,la mattina dopo ci si alza e tt è come prima! d'altra parte xò nn me la sento nemmeno di condannare ki lo fa..nè ki lo fa una volta ogni tanto nè ki è dipendente da certe sostanze..mi rivolgo soprattutto ad anonima:nn essere così rigida,x'nn è qs il modo di farsi ascoltare o di aiutare le persone..sei libera di esprimere liberamente le tue opinioni ma nn devi farlo in modo così brusco..altrimenti nn puoi stupirti se la gente ti "chiude la porta in faccia"!ad ogni modo credo ke ogni persona sia libera di fare le proprie esperienze..ricordando sempre xò ke la vita è una sola e ke forse sarebbe meglio pensarci un pò prima di rischiarla..più è alto il rischio più bisognerebbe riflettere su qnt ne vale la pena!voglio dire..una cosa sono una canna o un paio di cocktails..un'altra una pasticca di ecstasy..un'altra ancora una sniffata di coca..!quindi senza giudicare nessuno voglio dirvi:divertitevi,certo..ma cercate di scegliere sempre il meglio x voi.e soprattutto affrontate i problemi,nn nascondeteli..un bacione

a

tutti!

. Read the text and proceed as follows:

I - (the comprehension of the text)

a. Consider that the author is in favor, or against the use of drugs.

b. Mark the text parts that justify your opinion.

c. Spurred by the underlined parts, arrange a summary file, eliminating as much as possible, deictic t without removing any comma concepts expressed by the author.

II semantically

b. Point out words associated with semantic field of addiction Bring them and Organize by an individual criterion. They will appear at the closing stage.

III - on text typology

e. Analyze the organization of the text, highlight sections, according to you, determine the manner of writing (such as punctuation, symbols used, etc.)

f. Based on observations, construct a summary table. Give examples.

g. Compare this kind of text with other types of texts presented in this DU. Draw conclusions.

- Closure: horseshoe shaped, plenary, presented works evolved. The teacher organizes the presentation of works.

Phase 3	Summary
The organization of the work and the class	Choice that makes the leader formed 4 groups of 4 members. The leader, along with his band, choosing the workplace within the classroom and coordinates the development of the activity.
(leader gets the job proposal)	Activity - 1. Conduct a public appeal against the use of cigarettes / alcohol / drugs. You are free to formulate and design, as well as in determining the

	generation that addresses public. In the choices that you make should note features that represent typologies of texts that will draft.
Phase 4 Reflection	<p>Reflection on the subject of addiction: distribution of a short newspaper article, which deals with addiction to gambling or use of soft drugs by young Italian or Albanian. Mostly will be emphasized specific language used in conjunction with various types of drugs, especially in terms of language toxic independent who have a language all their own, and that may not be detected, a language frequently updated .</p> <p>Based on what has been learned over the jargon used drugs until now, each group should bring into play a telephone dialogue between friends who have opposing opinions on the use of soft drugs like marijuana or hashish, ecstasy.</p> <p>In order not to be understood by family, two friends must use a language that only they are able to understand, based on already learned vocabulary, but also should try to also create new expressions (using paraphrasing) etc.</p>

Conclusions

Teaching adults is a difficult process and requires a fairly good professional preparation, because as we have noted above adult learner presents different specifications from other age category, thus teaching process must be adapted exactly these traits and characteristics.

References

- Alberici A., (2006), "L'adulto, le sue transizioni: orientamento e apprendimento lifelong" tek Bresciani P.G. - Franchi M., *Biografie in transizione*, Franco Angeli, Milano.
- Begotti P., (2006), *L'insegnamento dell'italiano ad adulti stranieri*, Guerra, Perugia,
- Daloiso M., (2009), vep e cit., fq 119-120.
- Demetrio D., (1990) , *Manuale di educazione degli adulti*, Laterza, Roma-Bari, fq 27.
- Knowles M., (1993), *Quando l'adulto impara. Pedagogia e andragogia*, Franco Angeli, Milano.
- Knowles S. M., (1990), Adult learner. A neglected species. Gouf, Houston. Th cover, the title .
- Knowles S. M., et alii, (2008), *Quando l'adulto impara. Andragogia e sviluppo della persona*, Franco Angeli, Milano, fq 74.
- Mazzotta, P., *Strategie di apprendimento linguistico e autonomia dello studente*, Adriatica, Bari,
- Per stare meglio - - <http://spaziogiovani.ausl.pr.it/phorum/read.php?17,326>
- Rogers C.R., (1996) vep e cit., 106 -126.
- Serragiotto G., (2004), "Un nuovo destinatario: lo studente adulto", a cura di Serragiotto G., *Le lingue straniere nella scuola*, (2004), UTET, Torino, fq 105- 119.
- Tavolieri R., Sono malato di gioco d'azzardo. In 5 anni ho perso 100mila euro" Venerdì, 22 marzo 2013 - 14:18:00 http://www.affaritaliani.it/rubriche/lettere_allo_psicologo/gioco-d-azzardo-patologico230313.html
- Zatti P., (2011), *Trattato di diritto di famiglia - Volume 4*, Giuffrè Editore.

The Benefits of Mandatory Health Insurance. The Institutional Approach in Albania

Fjoralba Memia, PhD. Cand.

European University of Tirana

fmemia@hotmail.com

Abstract

Albanian health insurance system is currently facing multifaceted challenges, standing in the way of meeting the Government's commitment to provide basic health care to the entire population. Law no.10383, dated 24.02.2011" On compulsory Health care Insurance in the Republic of Albania", is a major step in the process of redefining and expanding social health insurance in Albania. The Law establishes a Social Health Insurance Fund as autonomous legal person in charge of financing packages of services for social health insurance beneficiaries. Mandatory health insurance scheme as part of the social protection system has been set up in order to prevent and overcome social risks standing in the way of health care services financing. This research aims to make an analysis of the benefits in context of mandatory health insurance scheme, especially between the Compulsory Healthcare Insurance Fund and health service providers. The research also intends not only to provide a theoretical analyses of legal acts, but also presented some conclusions and concrete practical suggestions in terms of necessary changes.

Keywords: healthcare insurance, health services benefits, health service providers

Introduction

The right to health insurance of citizens is included in the group of economic and social rights in the Constitution. This right is a positive one just like most of the rights that are part of this group (Constitution of the Republic of Albanian). This conclusion is arrived based on the reference made by constitutional provisions when it conditions the application of this right to a special law which shall establish rules and its application procedure.

Health care is part of the social objectives and the state within its constitutional powers and tools that it possesses intends the highest possible health, physical and mental standard. Health care is guided by the principle that the right to health care is a fundamental right of the individual and the guarantee of equal rights to health care, based on non-discrimination. The right to health care is a fundamental right of a social – economic character and aims respect of human rights, equality and social justice .

The existence of this right is not only based on human nature, but is associated with the state obligation and interaction to create legal instruments in order that this right is realized. Assessing the importance of health care, in compliance with constitutional obligation and objective, the state takes over creation of conditions for the implementation of this right.

The Albanian state healthcare system is divided into three tiers of service. The first tier and entry level to the rest of the health service is the level dealing in primary care, which includes health and hygiene and health education centers, maternity and pediatric clinics, local emergency rooms, rural hospitals.

The next level provides secondary care and consists of medical and diagnostic services in hospitals. The final level provides tertiary care and consists of scientific research medicine including four national university centers with diagnostic services.

Law no. 10 383, dated 24.2.2011, "On compulsory healthcare insurance in the Republic of Albania", as amended, it has extended its services options to the population benefits, according to the FUND's contracts with public and private services providers.

The FUND's finances the compulsory healthcare insurance services packages, in which are included (Annual Report 2013, Compulsory Healthcare Insurance Fund):

- Free of charge medical visits in public health institution, financed by the health insurance and according to the referral system;

- Free of charge domicile visits, when the patient's health conditions make impossible his/her appearance at the health institution;
- Medical examinations at the public health institutions – free or with co-payment; (Unique tertiary examinations are reimbursed at the extent of 90% and co-paid by the insured persons at 10%).
- Medical treatments at the contracted public/ private institutions;
- Full or partial drugs reimbursement depends on the category. More specifically, the insured persons do not pay anything at all for drugs or pay a partial amount up to 50% of the drugs price.

1. The compulsory health insurance services package in pharmacies and public primary health care

-When Health Insurance Institute (actually Compulsory HealthCare Insurance Fund) was implemented in 1995, all pharmacies had been privatized. Licensing is based on physical inspections of the pharmacies that have to fulfil a series of requirements for being contracted by Compulsory HealthCare Insurance Fund, namely sufficient physical space, certain distance from the other pharmacies, at least one trained academic professional (referred to as 'technical director'), they have to provide at least 80 % of the drugs included in the Compulsory HealthCare Insurance Fund drug list, and they should not have suffered more than one 'punishment' by the scheme (lack of contract renewal for a certain year).

Compulsory HealthCare Insurance Fund contracts specify the requirements of claims processing, periods of claims processing and reimbursement, and the duties and obligations of both parts including enforcement mechanisms and fines (Denny 2003). According to these contractual regulations, Compulsory HealthCare Insurance Fund is not obliged to reimburse pharmacies if certain formal requirements are not fulfilled. Pharmacies contracted by Compulsory HealthCare Insurance Fund are reimbursed for prescriptions filled in by health insurance beneficiaries according to the reference drug and price list. Pharmacies are required to deliver the prescriptions to be reimbursed once or twice a month (16th and 30th of each month) plus a list of all prescriptions delivered. Prescriptions have to contain the name, birthday, insurance category and Compulsory HealthCare Insurance Fund registration number of the beneficiary, the code, the signature and stamp of the prescribing family physician, the generic name, the code according to the Ministry of Health list and the dose of the drugs prescribed, the code of the diagnosis, a serial number of the prescription and the total value of drugs. Pharmacists do not fully accept that they have to perform the revision of prescription before presenting their invoices and are suffering the financial consequences of formal errors that have been committed by prescribing physicians.

-The Council of Ministers Decision no. 135, dated 03.12.2014, "On approval of the drugs list reimbursed by the Compulsory Healthcare Insurance Fund and the scope of their price coverage". This list is conceived based on the international classification system ATC (anatomic, therapeutic and chemical) and contains 477 drugs just like the previous year. 56 new drugs (or 33 new active principles) are added to the reimbursed drugs list, which cover a large number of diagnoses and more specifically are: oral anti-diabetics; drugs for children with diabetes and hormonal disorders; antithrombotic in vassal surgery, drugs for cardiac therapy, drugs for patients with prostate; drugs for the treatment of some types of cancer, drugs for Nephrology - Dialysis Service, from which patients with organ transplants and under dialysis process will benefit; drugs for patients with hepatitis; drugs for palliative care to the benefit of patients in the terminal stage; drugs for psychiatric service that will help patients suffering from psychological disorders to have a better mental health, drugs to combat alcohol to the benefit of alcoholics, drugs for Allergy diseases to the benefit of the patients with more severe forms of bronchial asthma; drugs for Ophthalmology service to the benefit of patients with eye macular degeneration; drugs for Gynecology service and treatment of a rare disease for children .2014 Reimbursable Drugs List is expanded with 56 new drugs, compared to reimbursed drugs list of 2013, which will be used in all areas of ambulatory medicine in the interest of a greater number of patients. The 2014 list of reimbursable drugs provides for the same scope of coverage, as in the previous year drugs list. So, the reimbursed drugs price will be covered at a rate of 50 % to 100 %. Social categories such as pensioners, full disabled people, children 0-12 months, patients suffering from CA , TB, orphans, blind people will benefit free of charge the first alternative of each drug included in this list. Social categories such as veterans and war invalids benefit 100% free all the drugs in the reimbursable drugs list and those registered in the Republic of Albania.

-According the Council of Ministers Decision no. 737, dated 05.11.2014 "On the financing of primary health care services from the compulsory health care insurance scheme", Compulsory Healthcare Insurance Fund gains

independence in providing its services to insured persons, being the direct contractor of health centers and monitored of their performance. Meantime, the minimum package of services that health centers will provide is determined by the Ministry of Health and approved by the Council of Ministers. Additional services and those offered to uninsured individuals are determined by special agreements between the Ministry of Health and Compulsory Healthcare Insurance Fund.

The Health Center services packages contracted by the FUND include 7 services, which are the following ones:

- Health Care in emergency cases
- Health Care for Children
- Health Care for Adults
- Health care for women and reproductive health
- Health Care for the elderly
- Mental Health Care
- Promotion and health education

Recent legal amendments mean that primary health care is funded by ISKSH (and partially from the Ministry of Health with respect to investment costs) through contracts signed between Compulsory Healthcare Insurance Fund and health centers (HC). Health centers offer primary health care as a non-budgetary and non-profitting public legal person. Health centers are responsible for the use of funding provided by Compulsory Healthcare Insurance Fund. Based on this decision, being the direct contractor and supervisor of the work done by Health centers, Compulsory Healthcare Insurance Fund has autonomy to render services to insurance beneficiaries. This type of funding and supervision exercised by the Compulsory Healthcare Insurance Fund upon health care centers is quite progressive because

it allows for further improvement of the conditions in which such services are provided and it attracts better-qualified medical personnel. Meanwhile the minimum service package, to be offered by the HCs is defined by the Ministry of Health and approved by the above mention decision, which include pediatric health care services, health care for children's and adults, woman health care, medical urgency and mini laboratory services. In 2013, the Health Center physicians registered 1,669,496 persons who performed visits for the first time or 290 thousand persons more compared to 2012. In 2013, 414 primary contracted healthcare centers performed 6 million and 537 thousand visits, from which 6.1 million visits performed by the general and family practitioners and 420 thousand visits from the specialist of the Specialty Health Center of Tirana (Annual Report 2013 Compulsory Healthcare Insurance Fund).

2. The compulsory health insurance services package in pharmacies and public primary health care

The FUND signs contracts with public hospitals, regarding the health services financing provided by them. More specifically with:

- University Hospitals
- Regional Hospitals
- Municipality Hospitals

The hospital organizes and provides hospital health services to the population according to the district/region in which it is situated in 3 (three) levels, which are: 24 hours emergency service, specialist ambulatory service and inpatient hospital service.

In this regard, the hospital is obliged to provide health service according to the relevant specialty of the services list as stated in the contract and the referral system. According to the region it covers, the hospital provides free of charge services per insured inhabitants for controls, visits, examination, diagnosis and any other necessary treatment in service environments based solely on the General/Family/Specialist Practitioners of the district or the region (Gertler P 2000). The patients' identification is done through the type recommendation issued by the physician and accompanied by the health booklet and patient's ID.

In terms of financing of hospitals, there is a long tradition of budgeting using historical budgets with adjustments for salary increases and inflationary costs. These budgets are fairly restrictive for hospitals and limit the ability to transfer staff or resources from underutilized areas to areas short of resources. In the past year, HII has made significant steps with

contracts with each hospital. A ten year relationship with Durres Hospital has demonstrated success in improved governance and management.

The Compulsory Health Care Insurance Fund introduced the collection and reporting of information by hospitals through use of software which facilitates entry of the information at hospitals while enabling the creation of a great variety of reports for Compulsory Health Care Insurance Fund use. Also Compulsory Health Care Insurance Fund has also introduced a costing methodology for procedures or diagnoses as well as a number of performance indicators. Future success will depend on continued development and improvement of all of these initiatives but it will also depend on the introduction of strong hospital management, the ability for managers to penalize and reward staff as required and accountability measures at all levels of the system.

-The Council of Ministers Decision No. 308, dated 21.05.2014, "On approval of the health services package to be financed by the Compulsory Health Care Insurance Fund".

This decision defines health service packages to be financed by the Compulsory Health Care Insurance (Fund) such as;

Dialyses Service Package

Cardiology services Package

Cardio surgery services package

Kidney transplant services package

Cochlear implant services package

The approval of these packages materializes the new approach of the Compulsory Healthcare Insurance Fund that funding of the health services will be based on their real value and they will be used efficiently for the patient's needs. The purpose of the Fund to finance the afore-mentioned packages is to improve and increase patient's access to services and extend financing in the private sector as well.

These services will be primarily offered by public health institutions, in accordance with their medical and technical capabilities. In case they are short of these capacities, these services are projected to be delivered by licensed private health institutions, which are contracted and financed from the Fund.

The price of health services packages is equally financed by the Fund both at public and private health institutions. Insured persons who benefit from these packages are exempt from co-payment.

It is anticipated that the services specified in the package will be provided according to the contract to be made with the Fund based on health insurance legislation and according to clinical protocols, which will be drafted by the Ministry of Health.

The Fund will create for the first time the register of health packages beneficiaries. The register will be held by the Fund and will be administered in cooperation with university services. The Fund will also monitor the quality of these packages delivery, in order it may use financial resources with a greater efficiency.

-The Administrative Council Decision nr 88, date 9.07.2014, "On approval of rules, criteria and ways how to draft the National Register of Packages financed by the Fund".

Pursuant to Law no. 10383, dated 24.2.2011, "On compulsory healthcare insurance in the Republic of Albania", as amended and Council of Ministers Decision no. 308, dated 21.05.2014, "On approval of the health services packages to be financed by the Compulsory Health Care Insurance Fund at the hospital service" there are adopted all criteria, rules and ways how to draft the National Register of Packages to be financed by the Fund. The National Register of Packages funded by Compulsory Health Care Insurance Fund is a state document saved in a physical and electronic form and administered by the Fund, which reflects the beneficiaries of health services packages financed by the Fund. The register will have the form of an opened book for every package of health services. It will be held at the authorized offices of the Fund and will be administered according to the rules defined in this draft decision. All the movements at the National Register of Packages and other documents shall be made by computer and manual techniques. The decision has defined documents needed for actions in the Register as well as documents to be issued based on the content of the Register. The office authorized by the Fund, which is part of the structures of the University Hospital Services Directory of

the Fund, receives from any health service provider that has made contracts with the Fund an updated information for free capacities of each service package. Registration of patients (Planning) will be made based on the basic documents such as: the consultation decision made by the relevant service at UHC and the priority form of emergency treatment, which are submitted to the Fund office by these services. Registration at private medical institutions is made on equal basis, according to an alphabetical order, taking into consideration the offered capacities, location of the institution in relation to patients, according to the particularity of service. Notice for registration is sent to private health institutions in an electronic form and in hard copy. Patients are deregistered from the National Registry of Packages in cases of death and only from that package sheet for services provided consistently (e.g. dialysis). Patients who currently receive dialysis service package will be registered in the Packages National Registry according to public and private health institutions where they actually receive service.

-The Administrative Council Decision nr 90, date 9.07.2014, "For the approval of type contracts on financing of health services packages offered by private health institutions"

Decision no. 308, dated 21.05.2014 "On approval of the health services packages to be financed by the Compulsory Health Care Insurance Fund at hospital service" entitles Compulsory Healthcare Insurance Fund (Fund) to finance packages of some health services in private health institutions. In connection with this financing, the Fund has approved the type contract with private health institutions. Contracts take into consideration the specifications of services packages and namely the fact that the dialysis service unlike other services is a procedure that develops continuously. The Fund will observe the hospital rules, procedures and obligations stipulated in the contract while financing the service package. The contract describes at the beginning the hospital obligations, focusing on the way the hospital will exert its activity by abiding by and implementing the orders, instructions and other normative acts concerning the compulsory health care insurance scheme.

We would like to underline that for the services provided by Tirana University Hospital Center and University Hospitals in Tirana, the contract will be made by the University Hospital Services Directorate, and for dialysis services that are provided in the districts, the contracts shall be signed by the Regional Fund Directorate. A special clause deals with obligations of the Fund's Directorates that are party to the contract, concerning payment and communication between the Fund and Hospital for all matters described and derived from this contract. Contract provisions elaborate ways of how to control funding of dialysis packages service, medical records and clinical records, implementation of a referral system from national registration of service packages, implementation of contractual, technical, administrative and financial obligations etc. The contract also describes sanctions as well as procedures, content and form of a complaint in case of a contractual partnership. All provisions of this contract are in support and pursuant to the legislation on compulsory healthcare insurance.

Conclusions

After decades of centralized control with the Ministry of Health managing many of the health sector functions in Albania, the Health Insurance Institute was formed in 1995. Early after that, the pharmacy reimbursement program commenced followed by the primary health care delivery system. The Compulsory Health Care Insurance Fund took on some functions in the hospital sector and will be responsible for purchasing hospital care as of March 2013. While there has been some progress in the reform of the health sector in recent years, many of the initiatives have yet to be completed. There are several problems which have been responsible at least in part for the slow reform process. These include a reluctance to give up central control by government, a distinct lack of management expertise in hospitals and a reluctance to enable any local autonomy, among other factors. There is also an inability to enforce accountability in the system. This is a result in part of the cultural and political history. The Compulsory Health Care Insurance Fund is committed to reforming the method of financing hospitals to include methods such as activity based or bed day funding, global budgeting and payment by case using a diagnoses related grouping method or something similar. Such models have been used extensively in many countries and have shown varied degrees of success.

The Albanian Constitutional and legal framework provides for the existence of independent organs. There are several key principles in the Constitution that support it. The Constitution, by viewing the social protection under the human rights viewpoint, considers that the health care and insurance is a state duty, by not understanding at any moment that the institutions running this sector should be dependent to the executive.

One key concept in the Albanian legislation that can help in establishing autonomous (or independent) organs is that of the public entity. This concept refers to non -state actors that serve a public interest. Such organs in any case, being established by law, reflect the state will. However, the daily management is not under the supervision of the executive. Also, establishment and finance enjoy the same status. This model can easily be a good reference for any amendments to the Compulsory Health Care Insurance Fund organization and functioning. There is another perspective , not mentioned so far in this material that is to be considered for the models of public administration organs adopted by the Republic of Albania and the reformation of the public administration. It is related to the acceding to the European Union and the obligation to comply with the Copenhagen criteria, which imposes to all candidate countries reforms in the direction of the *acquis communautaire* including the public administration reform.

Bibliography

- Gertler P, van der Gaag J. The willingness to pay for medical care. Baltimore, MD, Johns Hopkins University Press, (1990).
- Nuri B. Albania Health in Transition Profile (2003)
- World Health Organization, Sector of programming and development at HII. Health Insurance Institute Strategic (2003)
- Prof. Dr.Denny Pieters, Social security system of Albania.
- Witter Sophie and Ensor Tim, " An introduction to health economics"
- Law Nr. 8417, dated 21.10.1998, "Constitution of the Republic of Albania", proclaimed with the President's decree Nr. 2241, dated 21.10.1998, "On the proclamation of the referenda for the final approval of the Constitution of the Republic of Albania.
- Law no. 10 383, dated 24.2.2011, "On compulsory healthcare insurance in the Republic of Albania", as amended
- The Council of Ministers Decision no. 135, dated 03.12.2014, "On approval of the drugs list reimbursed by the Compulsory Healthcare Insurance Fund and the scope of their price coverage".
- The Council of Ministers Decision no. 737, dated 05.11.2014 "On the financing of primary health care services from the compulsory health care insurance scheme",
- The Council of Ministers Decision No. 308, dated 21.05.2014, "On approval of the health services package to be financed by the Compulsory Health Care Insurance Fund".
- Decision No.46, dated 12.10.2013 " On approval of type contracts between the Fund, Pharmacies and Pharmaceutical Agencies, Import and Distributor Drugstores; and tripartite contracts between the Fund – University Hospital Center-Drugstores; and Fund - Regional Hospital - Drugstores for 2014 " .
- Decision No. 47, dated 12.10.2013 "On the criteria that pharmacies and pharmaceutical agencies shall meet in order to sign the contract with the Fund and procedures to bind a contract."
- Decision No. 48 dated 12.10.2013 "On the criteria that the drugstores must meet in order to make contract with the Fund and the procedures of their binding."
- Decision No. 49, 51, 53, 55 dated 12.10.2013, respectively "On the establishment of a technical committee for drafting service packages for liver transplant; dialysis service package; kidney transplant service package the package of Cardiology and Cardiac surgery services".
- Decision No. 89 dated 12.24.2013 "On approval of 2014 TYPE contract between the FUND and the Health Center " .
- Decision No. 90 dated 12.24.2013 "On approval of 2014 TYPE contract between the Fund and Health Center of Specialities."

The impact of Albanian schools in the Nation-building process

Lulzim Hoxha

European University of Tirana, Albania

E-mail: lulzimhoxha_uet@yahoo.com;

Abstract

Education is often perceived as an individual will of citizens to become part of the social edifice, in which they learn the history of their ancestors and their country despite of the political sphere. In this paper I'll try to argue that not only education isn't an independent category of knowledge, but also that the whole process of learning is marked and shaped by a given political goal, namely the construction of a solid social space which defines our political identity as members of a community. A further study of the historical contexts in which education gave birth to a unified social community will give an answer to the issue if education is a field deprived of any political argument but only objective truths, or if this field performs specific functions to unify a functionally divided society and its mission comes from outside the education system. This issue will be treated through a comparative analysis between two opposite scholars of nationalism such as Isa Blumi and Denisa Kostovicova. Firstly I'll try to argue the impact of schools and mass education on the construction of national myths from the perspective of the contemporary theories of nationalism which will be explained in the discussion between the primordialist (learning has always existed and it contains historical truths despite of the political sphere with the final mission of nationally promoting mother tongue) and the instrumentalist (learning is shaped as a political instrument with a specific function) viewpoint.

Keywords: Nationalism, Ideology, Constructivism, Education

Language and education in the performing of nationalist propaganda

The contemporary theories of nationalism focus on the idea that nation as a social community has been constructed by the nationalist propaganda of the renaissance, which has politicized certain elements such as language, religion, culture in view of the changing realities of that time. According to Eric Hobsbawm "Mass education is one of the crucial factors that influenced the creation of national identity" (Hobsbawm: 1992). To illustrate his assumption, he takes the example of Italy where before the foundation of the Italian state in the XIX century, Italian language was spoken only by the privileged social strata which made about 2.5 % of the whole country. By unifying the new community formed under the effect of the national discourse, mass education integrates all the differences that exist in society by reproducing a large scale of unification through the written national language newspapers and. Even in such multicultural states as the Ottoman empire or the state of Yugoslavia, respectively the ottoman language (which differs from the Turkish language of our times) and the Serbian language were both national languages, thus citizens were obliged to learn these language despite of their ethnicity to become part of society, especially in the Ottoman empire where language marked the social hierarchy of people. Albanian language was banned and for several years it remained limited only as oral speech. Professor Albert Doja remarks that "the main argument of the Ottoman state to ban the organization of learning in Albanian language was that Albanians belonged to different religious communities such as Muslims, Orthodox and Catholics. Language was even more important for Albanian population because since they couldn't rely on their religious identity, language became the main instrument of Albanian national identity" (Doja: 2009). For this purpose the setting-up of a school where could be learned Albanian language was of crucial importance for the political aspirations of Albanian national identity.

The same phenomenon can be remarked in Kosovo Albanians under the rule of the Yugoslavian state. The setting-up of the Albanian University in Pristina in 1968 immediately became an important political instrument for "Albanian nationalist discontent simmered throughout the 1970s, with Pristina University becoming a breeding ground for nationalists" (Poulton: 1997) The first proclamations for unification with Albania came exactly after the foundation of the University of Pristina, where in 1981 a large protest exploded with a massive wave of unrest in Kosovo sparked off by University students. University was transformed in a political tool for articulating people's national appartenence.

Even in Europe we can find the nationalist discourse articulated by the romantic writers, intellectuals and political elites that rooted and spread the concept of people's sovereignty. Firstly, the rationalist scientific revolution of XVI century encouraged the intellectuals to study the fundamental laws and notions of the universe and humanity. Therefore, man was put in the center of the universe and was endowed by inherent and inalienable values, underlying today's doctrine of universal human

rights. The next step was the legitimacy of power through the approval of the rule of the sovereign by the citizens. This process was completed by the XVIII and XIX century political philosophy, political theories and classical sociology with social theorists such as Max Weber, Kant, Marx or Montesquieu etc that altogether produced and also invented what we know in our days as the basic features of society and human beings. Especially with Max Weber's principles of legitimate power it is shaped the profile of legitimacy despite of the form in which the ruler decides to perform his political power whether "charismatic, traditional or legal rational". Thus, it was founded the issue of the identification of all the citizens into a cultural community with a given state, which now appeared as the institutional tool of exercising people's or nation's will. The reproduction of these new rational principles were performed through the rejection of despotism, which in other words meant the rejection of the past and also the rejection of Oriental cultures, which according to Marx they were symbols of Europe's past. One of the most cited political theorists that is still very popular in contemporary philosophical debates is Montesquieu, which in his most known book "The spirit of laws" writes: "Under despotism, man is a creature that blindly submits to the absolute will of the sovereign." In democratic monarchies, moderate states power was limited by restrictions. A monarch may have as much power as a despot but in a moderate, monarchical system the prince "receives instruction", and he chooses ministers more competent than in despotic systems" (Anne Cohler: 1988)¹. Thus we can say that philosophical knowledge gave a fundamental contribution not only on explaining the legitimacy of power and politics but also in rationalizing and structuring a knowledge which served as a political instrument to demarcate a specific cultural area (the developed and rational west) from other cultural areas (the Orient as backward and irrational) and historical spaces (the past as a symbol of backwardness). The activity of the discovery of the historical past and other cultural areas took the shape of a Pan-European cultural movement which lasted from XVIII to the XIX centuries, through which were "discovered" the ancestors of nations were invented national literary languages and were developed the histories and myths of specific nations (Thiesse, 2004). Nonetheless this process of invention shouldn't be conceived as an artificial process, because what these intellectuals effectively did was inserting in the category of objective knowledge, several traditions transmitted verbally. As Enis Sulstarova puts it:

What the intellectuals did was the organization of the past and cultural heritage of populations in order to increase the political mobilization for the foundation of national states. The writing of some languages that were till that time only spoken and also the mass education were considered by them as the most important instruments for embedded and the spread of the national imagination.

In central and eastern Europe, the activity of intellectuals in service of national culture and movements for national liberation, took a major significance compared with western Europe, where the intellectual strata constituted only one of different social groups in competition with each-other for political influence and their activities were linked or conflicted with the classes of aristocracy, clergy, bureaucracy or the working classes. Besides, in most of Western Europe, universities were set-up before the founding of the nations-states, thus they were able to create a strong profile in society before being linked with the national imagination. Different was the case in Central and Eastern Europe where Universities were founded after the national awakening and the intellectuals had the monopoly of the codification of national languages, of the collection of cultural heritage and the inventing and spread of national imagination (Schopflin: 2000). Mostly, this was a characteristic of Balkan regions which were under the rule of the Ottomans. In this way can be explained the ambivalent positions of Albanian figures such as the Frasheri brothers, Hasan Prishtina or Ismail Qemali who used to be part of the Ottoman administration for several years and from the other hand some years after they became the main figures of Albanian national awakening. In this context, the position of Sami Frasheri was particularly emblematic: in his "Shqiperia cka qene, c'eshte e cdo te behet" he says that the most dangerous enemy for Albania are the turks, meanwhile in "Perhapja e Islamit" which was written originally in Arabic, he says that "gjuha turke eshte nje nder gjuhete me te embla" (Turkish is one of the most sweet languages) (Sami Frasheri: 1994). Also Hasan Prishtina in a total controversy with the ideal of the national awakening which was a movement addressed particularly against the Sublime Porte, in his memoirs writes that "Për kombin tonë shqiptarë, rrezik nuk përbëjnë osmanët, por fqinjët tanë, grekët dhe serbët"/for our Albanian nation the greatest threat are not Ottomans, but our neighbors Greeks and Serbs (Hasan Prishtina: 1995). These examples show us that the imagined nation is much more difficult to come into life in the form of achieving the independence from a wide multi-national organization such as the Ottoman Empire, than inventing it as a process of reunion such as in Italy or Germany where there already exist some institutions that at a certain period can be politicized by diffusing national propaganda² thus constructing the national imagination of the state. Sami Frasheri and Hasan Prishtina knew that a total rupture with the Ottoman Empire

meant a total dissolution of the official nationalist propaganda which was also made possible by their political post inside the empire. As the multiple model of nationalism in which different parts struggle on which will infiltrate their political message (religion, ethnicity, language etc.) in the nationalist propaganda, education is also one of the fields of this struggle which will be shown in the following of this paper through analyzing the strive for the founding of the first school of Albanian language in Korça on 7 March 1887.

The role of education in the construction of Albanian national identity

Until the 1880s there didn't exist a single officially recognized Albanian-language school in all of the Albanian-populated territories. As Isa Blumi points out "this constituted an important disadvantage since schools were central to the development of intelligentsia that historically formed nation-states" (Schwandner-Sievers & Fischer: 2002). Further it will be discussed the issue of whether Albanian schools constructed Albanian national identity or on the contrary they were constructed by the propagation of Albanian identity as a political tool. Two different scholars of Albanian national identity such as Denisa Kostovicova and Isa Blumi support the respective assumptions. Both of them agree that Albanian schools had a crucial impact in the construction of Albanian nationhood even because Albanian identity was invented, as we have already emphasized in the beginning of this paper, through the politicization of the spoken language. Since Albanian language started to be written it became an important factor of the national discourse through the publication of romantic poetries of the Frasheri brothers, Pashko Vasa and all the writers the Albanian renaissance.

Denisa Kostovicova in her article "Shkolla shqipe and nationhood: Albanians in the pursuit of education in the native language in interwar (1918-41) and post-war autonomy (1989-98) Kosovo" gives an analytical approach to the spread of Albanian language in Kosovo under the Yugoslavian state. In her analysis she remarks that Muslim religious schools¹ in the interwar period and the "parallel system" in private school-houses² during the post-war autonomy made possible the conservation of learning in Albanian language.³ Then she adds: "the so-called national courses gave meaning to Albanian nationhood" (Kostovicova: 2002). In her explanation she gives a clear description of the important role of schools in the construction of national myths, but she doesn't seem to give an answer to the question: How and in what circumstances Albanian-language schools were transformed into symbols of nationhood among the Albanians? In other terms: why Albanians in Kosovo considered it necessary to develop their national aspirations through schools of their mother tongue? In her approach, Kostovicova seems to sanctify the role of schools by transforming them from a political instrument for national identity into a final goal of national aspirations, as if nationhood was incorporated within the essential features of the demand to learn Albanian-language.

An answer seems to be provided from the other scholar, Isa Blumi, who appears to offer a more clear explanation to the problems with Kostovicova's approach. While speaking about the prominent figures that proclaimed Albanian national consciousness (Frasheri brothers etc.) he states that: "they were able to articulate cultural, political and spiritual concepts of a nation despite using Turkish, Arabic and Persian in clerical and secular schools of the Ottoman state, or studying under a decidedly hostile "Greek" system. This reality suggests that educational institutions and especially their curriculum and language of instruction did not constitute the key element in the development of Albanian nationalists" (Blumi: 2002). It is important to clarify that the rapid expansion of schools particularly in the northern Gheg regions only took place after the league of Prizren in 1878 (Rexhepagiq: 1970). His conception emphasizes that nationalist articulations of a sophisticated and geographically broad claim to a singular identity took place outside the context of an educational system that reinforced Albanian identities. This suggests that we should be looking elsewhere for other factors which helped articulate one's identity and the myths surrounding them. Furthermore he remarks that Austrian and Italian policy-making communities have used the development of education in northern and coastal areas of Albania to strengthen their imperial positions against the Ottoman Empire (Blumi: 2002). These historical facts are not relevant to the explanation of Kostovicova in Kosovo, but they show the importance of nationalist propaganda to manipulate the initial objective of the building of schools as imperial instruments by foreign powers, by transforming them in national fabrications of Albanian identities and myths.

¹ While repressing Albanian secular schools, Serbian authorities condoned the work of private religious Muslim schools. This policy was driven by the same rationale as that of prohibiting secular schooling in Albanian – to undermine the feeling of Albanian national identity by stimulating the supremacy of collective identification based on religion.

² After the abolition of Albanian language in Universities, Albanian students collected their school and University Diplomas after years of studying in adapted rooms, shops, cellars, garages and attics (See Shkelzen Maliqi, *Kosova: Separate worlds-reflections and analysis 1989- 1998*, Peja: Dukagjini 1998, pp.113-17

Blumi's explanation shows clearly that nationalism doesn't come together with schools of national language, but the later comes after the implementation of the national identity which doesn't include only the written languages, but a whole set of cultural forms which are transformed in a political doctrine through the mechanisms of nationalist discourse. Just like, as Hobsbawm emphasizes, "nationalism comes before nations" (Hobsbawm: 1992) we can also say nationalism comes before mass education and it's not mass education that produces nationalism, but it's the opposite. Blumi continues explaining that members of the Ottoman élite such as the Frasheri brothers, Ibrahim Temo and Ismail Qemali, had much to lose in the social changes occurring due to the imperial dynamics of the region (Blumi: 2002). Therefore it seems clear that Albanian national identity was a movement from above, i.e. the upper strata of the Ottomans were the first promoters of Albanian identity. The first secular school for boys opened in Korca in 1887 (Konitza: 1899) was only a consequence of the already existing struggle for Albanian identity, which nine years before the League of Prizren gave a crucial contribution.

The different ideas of Kostovicova and Blumi show us that there is no fundamental inner reason in the struggle for setting-up Albanian language schools, that is to say the reason is not in the schools themselves, but in the political instruments that constructed schools as a breeding ground for national consciousness. Therefore we can say both of these positions are true on different contexts but both of them doesn't seem to grasp the basic idea of shifting identities. Even if Blumi seems to indicate that national schools were constructed by Albanian national identity to promote their language, he also seems to fall into an essentialist point of view while remaining attacked only on the political reasons of ethnically Albanian Ottoman elite. Even though this elite looks clearly interested in the invention of an Albanian national identity, that doesn't necessarily explain which elements of Albanian culture they transformed, nationalized and politicized to find the appropriate legitimacy among the ethnically Albanian population. Both of their viewpoints seem to analyze fixed identities, as if they were fixed once and for all respectively through the activity of romantic poets of the renaissance in Albania and the activity of informal learning during the interwar and post-autonomy period in Kosovo.

Conclusions

The idea of shifting identities can lead us to a much more clear analysis to the contemporary debates in Albanian public sphere regarding the revisiting of Albania's history by the Turkish authorities. It's obvious that history can't offer an objective truth, because as I've tried to show in this paper, the historical circumstances define the writing of history. Just after the independence Albanian history was written with a specific political mission, that is to say: a history of national liberation where the main purpose was the affirmation of national liberation through offering a subjective view of Ottoman's backwardness and brutality. Meanwhile, nowadays the turks are not anymore the enemies of our independence but an international partner in our foreign affairs. According to the present circumstances it looks clear that we can't have the same approach with an international partner as we had 100 years ago with the enemy from which we gained our liberation. Thus, as I've tried to explain in this paper, identity is a shifting category that can't be defined as a fixed notion but as a variety of elements. For example in the case of Kosovo interwar and post-autonomy period, Albanian schools were conceived as instruments of national identity, whereas before Albanian independence schools were simply tools in the hand of foreign imperial powers with the mission of helping the Christian minorities inside the Ottoman empire. In the rise of national consciousness it was the Albanian spoken language which was politicized⁵ and transformed as the center of the invention of national identity. In other terms, on different periods we can identify ourselves through different elements of our identity, depending on which of these elements is more relevant to the historical context.

References

- Cohler, Albert. 1988. "Montesquieu's comparative politics and the spirit of American Constitutionalism", University Press of Kansas, 71-5.
- Doja, Albert 2009. "Etniciteti, ndërtimi kombëtar dhe nacionalizmi në territorin etnik shqiptar: qasje antropologjike e konfliktit të marrëdhënive ndëretnike", Polis 8, Tiranë p. 148-68.
- Frashëri, Sami 1994. "Përpekja e heronjve në përhapjen e Islamit", Mhрани, Stamboll, Përkthyer nga Miftar Ajdini.
- Hobsbawm, Eric 1992. "Nations and nationalism since 1780: Programme, myth, reality" 2nd edition. Cambridge: Cambridge University Press.
- Konitza, Faik. 1899. "Mémoire sur le mouvement national albanais", Brussels: Albania.

⁵ "Gjuha jone sa e mire, sa e bukur, sa me vlerë" (our language so nice, so beautiful, so precious) (See Naim Frasheri)

-
- Kostovicova, Denisa 2002. "Shkolla shqipe and nationhood", London, UK: C. Hurst & Co. Publishers, pp. 157-171.
- Poulton, Hugh & Taji-Farouki, Said 1997. *Muslim Identity and the Balkan States*, Hurst & Company, London.
- Pristina, Hasan 1995. *Një shkurtim kujtimesh mbi kryengritjen shqiptare të vjetit 1912*", Tiranë: Eurolindja
- Rexhepagiq, Jovan 1970. *Zhvillimi i arsimit dhe i sistemit shkollor të kombësisë shqiptare në territorin e Jugosllavisë*, Prishtina: Enti i Historisë së Kosovës.
- Schöpflin, George 2000. *Nations, Identity, Power: The New Politics of Europe*, London: Hurst & Co.
- Schwandner- Sievers, Stephanie & Fischer, Berndt 2002. *Albanian Identities, Myth and History*, London: Hurst & Co.
- Sulstarova, Enis 2010. *Në Pasqyrën e Oksidentit*, Tiranë: Logos.
- Thiesse Anne-Marie 2004. *Krijimi i Identiteteve Kombëtare: Evropa e Shekujve XVIII-XIX*. Pejë: Dukagjini.

The integration in educational system of children with disability - a philosophy and a legal obligation

Entela HOXHAJ

University of Shkodra "Luigj Gurakuqi", Albania

enhoxhaj@yahoo.com

Irma Baraku

Commissioner for Protection from Discrimination, Albania

irma_baraku@yahoo.com

Abstract

The increasing visibility of the children with disability or special needs enhanced the debate and efforts for a new philosophy related to the treatment of disability problematics in general and, especially, to their education. The concept of disability has evolved to a model of integration and social inclusion, especially the social inclusion of children with disability in common schools. The law 'On the protection from discrimination' prohibits discrimination on grounds of disability, and refusal of registration in an educational institution because of this ground. Furthermore, this law provides the obligation of state institutions to take positive measures to make possible the enhance of education of vulnerable groups, including children with disability or special needs. These provisions would lack if not accompanied with the creation of a legal framework that explicitly provide for this inclusion philosophy and create the proper mechanisms to make it applicable. It is evident the indispensability of a multi-dimensional treatment of this problematic, that requires also the collaboration of many actors. The innovative stands just in the creation of mechanisms that would make possible such an inclusion. This process requires directors of educational institutions and active and teachers, devoted on the integration of children with disability in every aspect of teaching and educational process.

Keywords: disability, inclusion, integration, reasonable appropriateness

Introduction

The treating of issues related to the education of children with disability is multidimensional. Thus, in this paper is proposed the treatment in 3 approaches:

- (i) A general overview on the evolution of the concept 'disability'.
- (ii) The legal framework on the rights of education for the children with disability (a comparative international approach).
- (iii) The institutional mechanisms that guarantee the respect of the rights of children with disability in the field of education.

The following constitutes an attempt to highlight the indispensability of interlacing all the above aspects so that children with disabilities would be part of the qualitative education process.

1. A general overview on the evolution of the concept 'disability'.

The concept '*disability*' has undergone an evolution that leads us from an analysis of the individual features of the child to an interlacing with the social attitude and engagement on the view and treatment of these features. The evolution or change of its meaning has been formalized through several international acts. In terms of the UN Convention on the Rights of Persons with Disabilities "*persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*" (UN Convention on the Rights of Persons with Disabilities, Article 1). This Convention constitutes an important document for the sanctioning of a new model of treating disability as one that imposes obligations on States

parties. The Council of EU has adopted the legal framework for the implementation of this Convention (European Commission, 2013, p. 52). 2003 was the European Year of people with disabilities for which it was drafted an action plan (EQUINET, 2009, p. 7).

The Charter of Fundamental Rights of the European Union provides for 'disability' as one of the grounds on which discrimination is prohibited (Botim i Ministrisë së Integritimit, 2008, p. 5), but *the EU legislation does not provide a definition for 'the disability'*. This concept has been treated by European Court of Justice (here in after ECJ) which does not link the disability with 'the disease', but with "*the limitations resulting from physical, mental and psychological impairments and impede the participation of the the individual in his professional life*". This is the approach of the ECJ in the first issue addressed regarding the provision of disability by the *European Council Directive 2000/78 / EC of 27 November 2000, "On the definition of a general framework for equal treatment in employment and during labor relations "* (ECJ, case *Chacón Navas v. Eurest Colectividades SA* (2006) [C-13/05](#)).

According to EU legislation, there are two models of disability treatment: (a) the **medical** model that sets the problem to the sick person, and (b) the **social** model that draws attention to the obstacles which the society itself creates by negative attitudes, stigma and prejudice (Baraku, I., Hoti, P., 2013, pp. 205-2013). The European Court of Justice extends the protection also to individuals who are discriminated against on grounds of their association with a person with disabilities (ECJ, case *S. Coleman v. Law Attridge and Law Steve* (2006) C-303/06).

However, nowadays three models of understanding 'disability' are recognised: medical, social and bio-psycho-social model.

(a) The medical model sets into focus the concept of the individual with his health problems and requires that he adapt to the demands of society in which is part (Save the Children, 2013, p. 23).

(b) The social model emphasises that, despite the medical condition, the society should offer to the individuals with a disability the necessary conditions for qualitative life (Rieser, R., Mason, M., 1992, p. 15).

(c) The bio-psycho-social model is a combination of the above models. This model comes from the International Classification of Functioning, Disability and Health (here in after ICF) of WHO. ICF looks beyond the idea of a purely medical or biological conceptualization of dysfunction, taking into account the other critical aspects of disability. This allows for the impact of the environment and other contextual factors on the functioning of an individual or a population to be considered, analyzed, and recorded (WHO homepage).

The evolution of the concept of 'disability' requires a new approach in the treatment of children with disabilities, especially their education. The following issues deal with their right to education and some aspects closely related to it.

2. The legal framework on the rights of education for the children with disability (a comparative international approach).

The right to education of individuals with disabilities is a challenge of the democratic societies which increasingly tend towards inclusiveness processes. The equality bodies emphasize that *the promotion and fulfillment of human rights needs to respect and take account of the diversity of the population and to advance inclusion and equality* (EQUINET, 2011, p. 6).

The raised question is "*What 'inclusion' means?*".

To be inclusive requires that we strive to identify and remove all barriers to learning for all the children. This means that we must attend to increasing participation not just for disabled students but for all those experiencing disadvantage (Ballard, K., 1999, p. 1).

Albania is the 127th country that ratified, with the law no. 108 / 2012, the UN Convention on the Rights of Persons with Disabilities that provides special protection for the children with disabilities, to ensure that these children enjoy all rights and fundamental freedoms (UN Convention on the Rights of Persons with Disabilities, Article 7). On the other side its Article 24 pays attention to the obligation of States parties to guarantee the right of persons with disabilities to education, by not allowing them to be excluded from general education, free education and the primary compulsory primary due to disability.

The "qualitative education" as a model which should support the process of learning, is the focus of the Dakar Framework for Action adopted by the World Education Forum in Senegal in 2000. This concept should be also aimed for the children with disabilities because it exceeds the concept of '*integrated education*' which is based on the medical model of disability

and reinforces the concept of '*inclusive education*', which aims to the access, the participation and the achievement of results within the process (Save the Children, 2013, pp. 21-23).

Given that the first criterion for a comprehensive education is access, it would be of interest to give an overview of the current situation of school attendance of children with disabilities. According to INSTAT data (Instat is the Albanian Institute of Statistics), the number of children with disabilities registered in the compulsory education is 2.400, including the disabled students of the special schools. This number constitutes only 5 % of the total number of children registered in the compulsory education (INSTAT homepage). Meanwhile, according to a study realized by *Save the Children*, the total number of children with disabilities in kindergardens and primary schools for the scholastic year 2011-2012 results as following:

- 511 children in kindergardens that is 0,49 % of the total number (103.492) of children frequenting common kindergardens,
- 3.167 children in the primary schools that is 0,64 % of the total number (472.892) of children frequenting common schools.

Thus, the total number of children with disabilities in common education is 3.678 that constitutes 0,63 % of the total number of 576.383 children frequenting common education.

In the legal perspective, the first step towards guaranteeing the right to education of children with disabilities is its provision in the fundamental law of the state. It was also highlighted by Goldsworthy, according to which "*the contemporary constitutional doctrine is based on a democratic liberal constitutional model based on four columns; one of these columns is the guarantee of individual rights*" (Anastasi, A., 2009, p. 78). In this regard, the Albanian Constitution contains some provisions that guarantee this right. Prof. Anastasi highlighted that fundamental rights (including the right to education) are formally guaranteed by the Constitution through several facts:

- (i) The provision of a set of principles such as those of direct democracy, the separation of powers, equality and non-discrimination.
- (ii) Setting margins on the extent to which the fundamental rights can be limited.
- (iii) The provision of constitutional mechanisms for the protection of fundamental rights – Ombudsman, and the right to protect these rights by court way (Anastasi, A., 2009, pp. 80-81).

The adoption of legislation in conformity with international acts has been, and yet remains, an important obligation for Albania. The Constitutional Court plays an indisputable role in the protection of these rights, through addressing the constitutionality of laws and also their incompatibility with international acts ratified by the Republic of Albania (Albanian Constitutional Court, Decision no. 48 / 2013). In this respect it "*bases its opinions not only on the text of the convention, but also the interpretation that the European Court of Human Rights has made on its provisions*" (Anastasi, A., 2009, p. 84)

The law "On the pre-university education in the Republic of Albania", adopted in 2012 guarantees and promoted the inclusion of more children with disabilities in common schools. It has brought several innovations:

- It gives an understanding of disability according to international standards.
- It provides the principle of non-discrimination of children with disabilities in the exercise of the right to education.
- It enables the involvement of many stakeholders in education issues, especially the children and their parents, but also of psychologists and social workers.

During 2013, the Normative Dispositions "On Pre-university Education System" were approved; they provided detailed procedures and rules for the education of children with disabilities.

The law "On the Protection from Discrimination" prohibits the discrimination based on disability, and the refusal to accept in an educational institution because of it. The provision of 'discrimination because of association' as one of the forms of discrimination is a guarantee in the support of the parents of disabled children (KMD, Decision no. 54 / 2014). On the other hand, this law provides the obligation of state institutions to take positive measures to enable the promotion of education of vulnerable groups, including the children with disabilities and special needs.

In certain cases, certain individuals or groups have the same opportunities to realize their rights and "*governments, employers and service providers must ensure that they take steps to adjust their rules and practices to take such differences into consideration – that is, they must do something to adjust current policies and measures... By taking special measures, governments are able to ensure 'substantive equality', that is, equal enjoyment of opportunities to access benefits available in society, rather than mere "formal equality"*" (FRA, 2010, p. 35). The Albanian Law On protection from Discrimination

charges the Council of Ministers and the Minister of Education with the responsibility to take measures for the respect and ensuring of the right to education for persons with disabilities in the appropriate ways.

The 'reasonable adjustment' is another necessary condition for the inclusion of children with disabilities in the common base education. *'The denial of reasonable adjustment'* is a form of discrimination provided by the Law On protection from Discrimination. However, this law does not provide a definition of this term. Even in light of European legislation, *there is an absence of explicit provisions requiring a reasonable accommodation* (Commissioner for Human Rights, 2011, p. 7). Although this term in everyday language relates primarily to the costs of this process, the experts in the field think that *it could relate to the quality of the accommodation itself and mean that the accommodation must be effective* (European Communities, 2009, p. 26). The reasonable adjustment relates primarily to the elimination of barriers to the accessibility to educational institutions. The lack of access to buildings and public spaces yet is one of the main barriers to achieving equality in the education of children with disabilities. However, this would be a very narrow interpretation of this concept; it should include the preparation of learning materials in a suitable format for the type of disability.

3. The institutional mechanisms that guarantee the respect of the rights of children with disability in the field of education.

The indispensability for the multi-dimensional treatment of the related problematic is evident. Thus, it is required the collaboration of several stakeholders. The innovation especially stands in setting the mechanisms that would make effective the inclusiveness. The following treats the mechanisms set up by:

- (a) the educational institutions,
- (b) the Commissioner for Protection from Discrimination,
- (c) the judicial way to protect the right to education of children with disabilities.

(a) The educational institutions. The local educational unit should establish a commission, consisting of doctors, psychologists, teachers and specialists for children with disabilities. This commission provides the relevant recommendations for the child's attendance in a common educational institution or a specialized one after examining the request of a parent or a director of an educational institution. It recommends attendance in a specialized school only when it deems that the pursuit of a common school would not appropriately develop the child with disabilities. However, the decision is up to the parents to decide whether their child with disabilities will attend a specialized educational institution or a common one.

To integrate children with disabilities into every aspect of teaching and educational process, it requires active and dedicated directors of educational institutions and teachers. They are legally charged to develop personalized programs for students with disabilities, through the special commission referred above. The development of these programs is done in collaboration with the parents and the children. Ensuring the inclusiveness seeks to give support provided by law for the teacher who has in his class children with disabilities or special needs. This support can be accorded by giving available additional teachers, creating a class with a smaller number of students, etc.

It is equally important that the directors of educational institutions consistently take measures to raise the awareness of all stakeholders (teachers, parents, and students) and to treat any discriminatory phenomenon within the school environment. According to the Law On protection from Discrimination, they should address any complaint about discrimination within these facilities. It also determines the deadlines for their handling of appropriate disciplinary measures to avoid discriminatory situations. In this perspective, the fight against prejudice against children with disabilities takes appropriate importance by promoting their integration within the premises of the educational institution.

(b) The Commissioner for Protection from Discrimination is an independent institution created to guarantee everyone's rights against discriminatory behaviours and discriminatory stimulating behaviours, on grounds of an open list among which disability. The Commissioner has the power to assist victims of discriminating behaviour through reviewing complaints, administrative investigations, through the drafting of reports and even recommendations. This institution is similar to

equality institutions in EU countries. It is an institution built on the Paris Principles that are applied as a standard for equality institutions. It is also created in conformity with

article 13 of the Council Directive 2000/43/EC of 29 June 2000 "On the principle of equal treatment between persons irrespective of racial or ethnic origin" (EQUINET, 2010, pp. 9-10).

Although the improvement of the legal framework, the Commissioner has noticed that there are times when children with disabilities were denied admission to common schools. During his practice the Commissioner found the discrimination of children with disabilities due to the failure of the structures responsible for evaluating the student's individual needs through Multidisciplinary Commissions, pursuant to the applicable provisions governing the education of children with disabilities (KMD, Decision no. 92 / 2013). The Commissioner ascertained that these legal provisions on education were too little known or overlooked by the directors of educational institutions and by the Regional Education Directorates and Offices, which have a major role in their implementation. Thus, disabled child is denied the right to be included in the common basic education or even when he enters, yet does not take the education in accordance with the legal requirements and in qualitative way affecting the future expected performance. Any deviation from the implementation of these obligations places children with disabilities in a discriminatory situation (KMD, 2013, p. 11).

(c) The judicial way to protect the right to education of children with disabilities.

The public administration must respect the Constitution, the legislation in force and fundamental human rights during its activity. However, reality brings cases of continuous violations by the executive institutions, and not only them. Lawyers and researchers highlight the necessity of creating mechanisms that would ensure the respect of fundamental rights by emphasizing the obligation of public administration to meet its extensive objectives that are constitutional wide ones (Dobjani, E., Puto, E., Dobjani, E., & Toska E., 2013, p. 265). Prof. Anastasi on this regard raises the question: Can only negative rights be protected in court or even socio-economic rights can enjoy this opportunity? According Anastasi, in the case of the right to education "it can not be denied the ability of the courts to force the state to give equal opportunity in order to be educated according to the skills of everyone" (Anastasi A., 2009, p. 88). Upon studying and analysing, in the following are listed some recommendations on educational institutions in Albania regarding the integration in the educational system of children with disability:

Recommendations

- Managerial staff of educational institutions and teachers should be trained continuously for a clear understanding of the concepts 'inclusive and qualitative education' as well as a treatment model for disability.
- To ensure effective implementation of new legislation adopted in the field of education in Albania, there should be taken measures aiming at the inclusion of children with special needs or disabilities in common schools, by offering a qualified and personalized treatment.
- To eliminate barriers to buildings, transportation, teaching methods and communication, the responsible state institutions must take measures to ensure that children with disabilities enjoy on equal basis with others and without discrimination the right to education.
- Within educational programs it should be included the concept of discrimination and its forms of appearance in order to raise awareness, respect for diversity and reduce prejudice for children with disabilities.
- Statistical data on the inclusion of children with disabilities in the educational process should be updated especially highlighting their numbers in common schools.

Literature

- (INSTAT homepage) www.instat.gov.al
- Albanian Constitutional Court, Decision no. 48 / 2013 (no. 48, date 15.11.2013), (www.gjk.gov.al)
- Anastasi, A., 2009, *E drejta kushtetuese e krahastuar (Raste nga praktika kushtetuese dhe leksione për studentët e drejtësisë)*, Tiranë.
- Ballard, K., 1999, *Inclusive Education: International Voices on Disability and Justice*, Philadelphia.

-
- Baraku, I., Hoti, P., 2013, *The concept of discrimination and other concepts related to it in the albanian legislation – comparative overview with the EU directives in the anti-discrimination field*, in Proceedings book of '4th International Conference on European Studies – Social, Economic and Political Transition of the Balkan', organized by EPOKA University, Tiranë, 8-9 November 2013.
 - Botim i Ministrisë së Integritimit, 2008, *Versioni i konsoliduar i Traktateve të Bashkimit Europian dhe Karta e të Drejtave Themelore e Bashkimit Europian*, Tiranë.
 - Commissioner for Human Rights, 2011, *Opinion of the Commissioner for Human Rights on National Structures for Promoting Equality*, Strasbourg.
 - *Dakar Framework for Action*, 2000, World Education Forum, Senegal.
 - Dobjani, E., Puto, E., Dobjani, E., & Toska E., 2013, *E drejta administrative – Kontrolli mbi Administratën Publike*, Tiranë.
 - ECJ, case *Chacón Navas v. Eurest Colectividades SA* (2006) [C-13/05](#).
 - ECJ, case *S. Coleman v. Law Attridge and Law Steve* (2006) C-303/06).
 - EQUINET (European Network of Equality Bodies), 2009, *Towards a new European Union Disability Action Plan*, Belgium.
 - EQUINET (European Network of Equality Bodies), 2010, *Influencing the law through legal proceedings – The powers and practices of equality bodies*, Belgium.
 - EQUINET (European Network of Equality Bodies), 2011, *Equality bodies and National Human Rights Institutions-Making the Link to Maximise Impact*, Belgium.
 - European Commission, 2013, *2012 Report on the Application of the EU Charter of Fundamental Rights*, Belgium, European Commission, Directorate – General for Justice.
 - European Communities, 2009, *Disability and non-discrimination law in the European Union*, Luxembourg.
 - FRA (European Union Agency for Fundamental Rights), 2010, *Handbook on European non-discrimination law*, Luxembourg, European Union Agency for Fundamental Rights, Council of Europe
 - KMD, 2013, *Annual Report 2013 of the Commissioner for Protection from Discrimination*, Tiranë.
 - KMD, Decision no. 54 / 2014 (The Albanian Commissioner for Protection from Discrimination www.kmd.al)
 - KMD, Decision no. 92 / 2013 (The Albanian Commissioner for Protection from Discrimination www.kmd.al)
 - Principles relating to the Status of National Institutions, Adopted by General Assembly resolution 48/134 of 20 December 1993 (The Paris Principles).
 - Rieser, R., Mason, M., 1992, *Disability equality in education*, London.
 - Save the Children, 2013, *Analitical Study 'Arsimi gjithëpërfshirës në Shqipëri'*, Tiranë, Save the Children.
 - *UN Convention on the Rights of Persons with Disabilities* (<http://www.un.org/disabilities/convention/conventionfull.shtml>).
 - WHO homepage (http://www.who.int/classifications/icf/icf_more/en/).

The protection of the rights of Roma community, social policies and Albanian legal and institutional framework for their implementation

Irma Baraku

Commissioner for Protection from Discrimination, Albania
irma_baraku@yahoo.com

Entela Hoxhaj

University of Shkodra "Luigj Gurakuqi", Albania
enxoxhaj@yahoo.com

Abstract

A considerable number of minorities, including Roma, live in Albania. The improvement of legislation and policies on minorities is one of the measures that our country has projected to take within the five priorities of the European Commission to Albania. Albania has approved legislation in conformity with international acts and has established mechanisms for the protection from discrimination of Roma people. The protection of minorities is guaranteed by the Albanian Constitution and the laws that provide for the respect of their rights. Albania has a large institutional framework for the protection of the rights of Roma people. The recognition of these institutions has a fundamental importance in realizing the protection of their rights. Each institution has its part of responsibility but the cooperation and coordination between them is essential to providing the best possible results. For the implementation of strategic documents that were adopted in our country is required cooperation and coordination of actions between central and local government. The issue of housing, the access to the enjoyment of economic, social and cultural rights, the promotion of the employment of Roma, remain significant problems. The equality bodies face three challenges in dealing with cases of discrimination against Roma: (i) positive measures, (ii) strengthening of NGOs in decision-making, (iii) service respect to diversity and promoting equality.

Keywords: minorities, discrimination, equality, human rights.

Introduction

The treatment of the Roma as a minority within the Albanian society, since the beginning, is faced with a lack of the legal definition of 'minority' in both levels, international and domestic legislation. There were difficulties in determining a general definition for the 'minorities' because of their diversity and in setting the consolidated features for their determination. When referring to the protection of the rights of the Roma community, we will address the raised issues in accordance with the definition of 'racial discrimination' given by ECRI, according to which we are dealing with 'the different treatment based on ethnicity, origin, color, nationality, religion, and language' (ECRI General Policy Recommendation No. 7, par. 1 / b, c). While the European Convention on Human Rights gives a broader meaning to the concept of 'ethnic and racial' by explicitly including the 'nationality'; this approach is different from that given by the EU legislation, because the Directive on Racial Equality expressly excludes 'nationality' from the concept of 'race' or 'ethnicity'. However, the jurisprudence has shown that nationality can be understood as a component of ethnicity (FRA, July 2010, p. 79).

In Albania, although the internal legislation does not have a legal definition of 'minority', there are two types of minorities:

- i. National, ethnic minorities (Greek minority, Macedonian minority, and Serbs-Montenegrin minority).
- ii. Ethno-linguistic minorities (Vlach minority and Roma minority).

However, in reality there are other communities such as the Bosnian, Egyptian, and Gorani. In this paper, we are focused on the sensitive issue of respecting the Roma community rights.

According to Census 2011, conducted by INSTAT, it results that the total number of population in the Republic of Albania is 2.800.138 inhabitants, among which minorities are 52.700 individuals; these minorities represents about 1,9 % of the total population. The debate over the exact number of individuals belonging to the Roma community has been constant. Thus, this opinion did not consolidate even in Census 2011. According to Census 2011 data, there result in 8.301 Roma inhabitants in Albania.

In this census, it was included the question on ethnicity as a voluntary option, which means self-declaration as a criterion for identifying the ethnicity of the population. Regarding this question, it resulted that: (i) 390.938 inhabitants have preferred not to answer; (ii) the answers of 44.144 others were invalid or indefinite. The results of Census 2011 on Population and Housing were contested by representatives of minorities, including Roma and Egyptian associations (Progress Report on Albania, 2013, p. 56).

For the detailed analysis of the issues, we propose to highlight three important aspects to be addressed, closely related to the effective respect of the rights of Roma in Albania: (1) the Albanian legal framework that guarantees the rights of Roma community; (2) the development of policies aimed at reducing the differences and promoting the implementation of the principle of equality; (3) establishment of the institutional framework for the protection of the rights of Roma and Egyptians in Albania.

1. Creating the necessary legal framework that guarantees the rights of Roma.

The Albanian legislation in the field of non-discrimination provides a wide range of acts, starting with the Albanian Constitution, and international treaties ratified and domestic laws, which are enumerated in the following.

I. The Constitution of the Republic of Albania aims to promote respect for equality and non-discrimination, in its several provisions, where we can mention Article 18, but also Articles 16 and 20. Article 18 states "*1. All are equal before the law. 2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or parentage.*"

The Albanian Constitution gives the opportunity to refer to important documents of international and regional, giving them legal force that comes immediately afterward and setting them to the second level within the hierarchy of legal norms (*Albanian Constitution*, Article 116). Obviously, it is a very broad framework, among which are the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*, ratified by the Republic of Albania in 1991. However, we want to highlight those that entirely serve as an important basis to develop a domestic legislation that promotes the principle of equality in the exercise of human rights.

II. International Convention on the Elimination of All Forms of Racial Discrimination – ICERD; Albania adhered in 1994. The Convention establishes the obligation of States Parties to forbid and eliminate racial discrimination in all its forms and to guarantee the right of everyone to equality before the law regardless of race, color or national or ethnic origin, notably in the enjoyment of some rights such as:

- Political rights > the right of participation in elections, active and passive right to vote, and equal access to public services.
- Other civil rights > the right to free movement and free choice of residence in the territory of a State, the right of citizenship, the right to marriage and choice of husband / wife, the right to property, the right of inheritance, the right to freedom of thought, conscience and religion, the right to freedom of gathering and creating peaceful organizations.
- Economic, social and cultural rights > the right to work, the right of establishment of trade unions and the membership in them, the right to housing, the right to medical treatment, social security and social services, the right to education and professional preparation.

III. European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by Albania in 1996 (*Albanian Law no. 8137 / 1996*), in its Article 14 provides for '*prohibition of discrimination*', while Protocol no. 12, Article 1, refers to the general prohibition of discrimination, expanding the scope of Article 14 even when a person is discriminated against in the enjoyment of any right or benefit under national legislation.

IV. An essential place among main related international documents has the ratification of Albania without any reservation to the **Framework Convention of the Council of Europe for the Protection of National Minorities**. This Convention has the basic purpose of ensuring the implementation of the principles of equality and non-discrimination for persons belonging to national minorities. It prohibits any discrimination based on belonging to a national minority, and determines the liability of the signatory parties of the Convention to guarantee, to persons belonging to national minorities, the right of equality before the law and equal protection by the law.

V. **European Social Charter**, a Council of Europe treaty, adopted in 1961 and revised in 1963, has become part of Albanian domestic legislation with its ratification in 2002. The European Social Charter has enshrined *explicitly* the principle of equality (Article 20) "*All are equal before the law*" and the principle of non-discrimination (Article 21) "*Any discrimination on any ground such manner as sex, race, color, ethnicity, ethnic or social origin, language, religion or belief, political beliefs or other beliefs, association with a national minority, residence, birth, disability, age, sexual orientation should be forbidden*".

VI. **The Albanian law no. 10.221, date 04.02.2010 "For protection from discrimination"** makes concrete Article 18 of the Constitution. It is the organic law on the basis of which is provided the protection against discrimination. The purpose of this law is to ensure the right of every person to equality before the law and equal protection by the law, equality of opportunities and possibilities to exercise the rights and freedoms of the individual, as well as effective protection against discrimination. The law regulates the implementation and observance of the principle of equality in relation to an exhaustive list of causes, explicitly including race, color, language and faith that are essential elements of a minority.

The Albanian law provides the belonging to a group as the reason for which is offered protection, and also provides discrimination 'because of the association with persons belonging to protected groups'. LPD provides as form of discrimination "*instruction to discriminate, as an instruction or request, based on hierarchical relationship to discriminate against one or more persons, based on the reasons mentioned in Article 1 of this law*". Upon our opinion, the term 'hierarchy' should be removed, because this form of discrimination may also occur in relationships at the same level. The Albanian law, in arranging housing refers to '*a place where housing is provided*'. As this wording is not clear, its clarification would be of benefit. In accordance with the outlined above, the object also should be expanded (OSCE / ODHIR, 2013, p.12). In any case, segregation can not be justified, but '*it is noted that the laws of Albania, Serbia and FYROM do not foresee any regulation on segregation*' (OSCE / ODHIR, 2013, p.12).

The main areas, in which this legal protection is ensured, are expressly provided and include protection from discrimination in employment, in education, and in the delivery of goods and services. But, protection from discrimination under the Albanian law on non-discrimination is guaranteed to all fundamental rights recognized by the Constitution of the Republic of Albania, the international acts ratified by Albania, as well as by the applicable laws.

Other laws also stipulate the principle of equality and protection from discrimination, although it is necessary a legislation change or the adoption of new legislation to ensure protection from discrimination (Progress Report on Albania, 2013, p. 58). Mostly, it is necessary to have these laws harmonized with the Albanian law on non-discrimination, in terms of the grounds to which subjects can be protected from discriminatory attitudes and on the forms of discrimination.

2. The development of policies aimed at reducing the differences and promoting the implementation of the principle of equality.

To achieve the design of appropriate and effective policies in supporting the integration of the Roma community should be considered two problematics:

- 2.1. The identification of the nature of issues and obstacles.
- 2.2. The determination of priorities and the promotion of best practices.

2.1. The identification of the nature of issues and obstacles.

The situation in which lives the Roma community in Albania is evident discriminating and not in conformity with the standards that a democratic state should offer to its citizens. The multiple discrimination often touches this community; it is a situation where an individual undergoes discrimination on more than one ground. In other words, a certain person, belonging to a given minority, could be of a certain age, and even have a gender that can add vulnerability to him. Thus, all of this can make him a victim of discrimination (KMD, 2013, p. 21). This paper highlights some issues that appear mainly in:

- a. providing of services in respect of diversity and without discrimination,
- b. education,
- c. employment.

Problematic related to Roma concern similar issues within post-socialist countries. Notwithstanding the state-socialist social control policies, a measure of independent Romani activism did emerge laying the groundwork for post-socialist Gypsy mobilization. (Barany, 2012, p. 27). Among European experiences, one of the most established programs to promote employment income-generating opportunities for Roma is Hungary's Autonomia Foundation, which provided grants and interest-free loans to develop employment programs for Roma. Its income-generating initiatives included livestock breeding, agricultural programs, and small-enterprise development. (Ringold, Orenstein, & Wilkens, 2005, p. 193) The following is focused on the problematic related to Albanian conditions and perspectives.

a. The main problematics related to '**Providing services in respect of diversity and without discrimination**' are associated with *housing, access to social protection, registration in the civil registry*.

Housing – Is one of the most sensitive areas for a considerable number of Roma people in Albania. They live in residential difficult conditions, with insufficient space and inadequate facilities.

By the analysis of the situation is evidenced as following:

- Some of the Albanian local units have not built social housing.
- The local units did not provide special quotes assigned to this community in order to narrow the visible differentiation with non-Roma population.
- The Albanian legislation is seemingly neutral and respects the principle of equality, but its social effects on Roma community are unfavorable and exclusive. The responsible institutions should intervene to avoid indirect and substantive discrimination. This attitude held ECHR in the *Thlimmenos case* (ECHR 6.4.2000).
- Another phenomenon, which appears more frequently, concerns the deportation of Roma families from lands subject to development due to the public interest or to development needs of the property rightful owners.

When vulnerable individuals are not able to provide themselves alternative accommodation, they must be supported by the state within the available sources. The state should take into account that domestic legislation should provide protection from deportation particularly in procedural terms. Procedural assistance includes providing remedies and offering, within the possibilities, legal aid to people who need to address the court to defend their rights (*General Comment nr. 7, art. 11.1*).

Although Article 41 of the Albanian Constitution guarantees the right to property, Article 17 thereof provides for the restrictions made by law and they should be made on a proportionate basis. The Albanian law on expropriation for public interest (Albanian law no. 8561 / 1999)

The law on expropriation for public interest regulates the right of the state to expropriate, protect the rights and interests of their respective owners and determines the cases and procedures for carrying out expropriations. This law does not protect those who are placed in these properties by informal way. But, on the other hand, the current situation is closely linked to the process of legalization of informal buildings. It is noted that there are times when ALUIZNI (Agency for the Legalization of Informal Buildings) directories have taken all measures to finalize the procedures to legalize these apartments. Meanwhile, the interventions of INUK (National Urbanistic Building Inspectorate) and INUV (Local Urbanistic Building Inspectorate) are done without having a definitive answer on the compliance or not of the legalizing criteria. In cases of meeting criteria of legalizing, these families would benefit from the expropriation.

On the other hand, the legislation provides the obligation to take measures for the rehabilitation of displaced persons. Specifically in Article 21, paragraph 2 *lë* of the law "*On Territorial Planning*", as amended (Albanian law no. 10119 / 2009),

stipulates that: ***The plans, in accordance with the territory that is object of planning, contain an element for the rehabilitation program for persons displaced as a result of the implementation of the plan.***

The European Court of Human Rights has dealt with issues of forced displacement in the context of Article 8 of the European Convention on Human Rights, upholding respect for domicile, private and family life.

Although this Convention does not oblige the state to provide for domicile, in the case *Yordanova and others v. Bulgaria* (ECHR 5.6.2012), the ECHR ordered the Bulgarian authorities to suspend deportation pending the outcome of the proceedings before the court. This decision was significantly influenced by the fact that it regarded a considerable number of individuals placed informally for a long time, and because of the lack of an assessment by local institutions on the effects that the violent deportation of Roma residents would bring to the development of this territory (ECHR 5.6.2012). The protection of Roma Community from violent deportation was brought to attention even by European Union Agency for Fundamental Rights – FRA (FRA, March 2010, p. 138).

Access to social protection – Social protection is closely related to its acquisition criteria, which, as in the case of housing benefit, requires intervention in setting the indispensable criteria to be included in this system.

Registration in the civil registry – The lack of registration of children in the civil registries is another problematic for Roma children in Albania. Lack of registration of Roma and Egyptian children reduces their access to the enjoyment of economic, social and cultural rights (CESCR, 2013, p. 4).

b. Education.

The Albanian law on protection from discrimination provides for special duties for the Ministry of Education: its expressed obligation to issue bylaws for the elimination of discrimination in the field of education. Despite the law “*On pre-university education*” and its relevant bylaws facilitate the registration of Roma children in schools, even without birth certificate, we found that 9-year schools have hesitated to enforce this rule. The project ‘*The second chance*’ determines the possibility of schooling even when it was not made in the right time. However, the Commissioner for Protection from Discrimination in some cases has identified schools that have refused to admit students belonging to these communities.

The educational institutions should be attentive to avoid cases of segregation that may occur because Roma community is located in certain areas, and their children go to the same school. During 2013, the Commissioner for Protection from Discrimination has conducted monitoring to see the distribution of Roma children in the primary schools in Tirana. The Commissioner found that there was not a tendency to separation or concentration of Roma children in a single school (KMD, 2013, p. 52). Even the dropout situation of Roma scholars is a widespread one. The Committee on Economic, Social and Cultural Rights came up with concerns related to the lack of measures to effectively address the highest rates of primary education dropout by Roma girls, compared with boys. This phenomenon disproportionately affects Roma children (CESCR, 2013, p. 4).

In order to guarantee the right of children to equal access, the Regional Education Directories are obliged to apply with priorities for the Roma community two bylaws of the Minister of Education: (1) Directive no. 29, date 02.08.2013 “On the procedures to attend basic education part-time”; (2) Directive no. 30, date 02.08.2013 “On the procedures to attend basic education for students that have not attended at least two classes of basic education”.

c. Employment.

Roma people struggle with evident problematics in employment. Despite they are involved within the action plans of local government or the national strategies that provide for the enhancement of Roma employment, still the number of unemployed remains high. Within the conclusions of the Committee on Economic, Social and Cultural Rights is highlighted that the lack of access of Roma people in employment is also because state priorities are not implemented in local level (CESCR, 2013, p. 3).

2.2. The determination of priorities and the promotion of best practices.

In the framework of implementing the legislation mentioned in the first issue of this paper, there have also been elaborated non-discriminatory strategic documents and politics, among which: the Sectorial Strategy of Social Protection 2007-2013

and the National Action Plan 'Roma Inclusion Decade' 2012-2015. The drafting of these documents is a real challenge related to the undertaking of positive measures to promote the integration of Roma and the implementation of the principle of equality. One of these measures, continuously proposed by the Ombudsman and the Commissioner for Protection from Discrimination, has been to amend legislation that would allow inclusion in the system of social protection or registration.

The Law on Protection from Discrimination provided the obligation of the Council of Ministers and the Ministry of Education to take positive measures to enhance the education of minorities or girls, which would directly affect the level of education of this community. There were taken several measures such as the exclusion from tuition fees for Roma students or the free supply with books for Roma children of pre-university education, etc.

3. Establishment of the institutional framework for the protection of the rights of Roma and Egyptians in Albania.

The European Commissioner for Albania, in the Annual Report of 2013, highlighted the engagement that Albania should have in the framework of the implementation of the National Action Plan to quickly improve Roma life conditions. Thus, it is essential the coordination of public administration at central and local level (Progress Report on Albania, 2013, pp. 52-57).

Albania has already elaborated legislation in conformity with the international acts and has created the mechanisms for the protection from discrimination of the Roma community. The Law on Protection from Discrimination provided for the creation of the institution of the Commissioner for the Protection from Discrimination, whose competences are in conformity with Directive 2006/54/EC of the European Parliament and Council that in Article 20 determines that these organs should ensure independent assistance to victims of discrimination through addressing issues and assistance in court. This process is closely linked with the *"assistance to victims, the definition of criteria useful for the identification of cases that must be supported, thus the issue would take effect at the time of settlement beyond the specific case"* (European Network of Equality Bodies, 2010, p. 14).

However, the European Bodies of Equality and Non-discrimination have defined some aspects that should be taken into account during the addressing and monitoring issues related to the respect of the rights of Roma community. These aspects concern the indispensability of education for anti-discrimination legislation through strategies of information, increasing capacities to address cross-cultural issues or creating the necessary spaces by identifying them as protectors of the community (European Network of Equality Bodies, 2010, pp. 13-14).

The Albanian Commissioner for the Protection from Discrimination, in the framework of registered complaints, has delivered some recommendations to local governments to take positive measures for the Roma community in order for their requests to be treated with priority (KMD, 2013, pp. 7-8). The deportation of Roma families from their households in August 2013 has been a matter of particular concern. This concern was also addressed in the Conclusions of the Committee on Social, Economic and Cultural Rights, 18 December 2013.

This research contributes to the knowledges of people working in educational institutions, policy-makers and NGO-s in Albania for issues related to the rights of Roma community and the development of policies on promoting the implementation of the principle of equality and reducing the differences.

Conclusions and Recommendations

- Protection from discrimination under the Albanian legislation on non-discrimination is guaranteed to all fundamental rights recognized by the Constitution of the Republic of Albania, the international acts ratified by Albania, as well as by the applicable laws. However, it is necessary to have these laws harmonized with the Albanian Law on Protection from Discrimination, in terms of the grounds to which subjects can be protected from discriminatory attitudes and on the forms of discrimination.
- There is a wide range of laws that stipulate the principle of equality and protection from discrimination. However, it is recommended to amend legislation in order to make possible the benefits from the social housing programs, census or social protection.
- It is recommended to take positive measures to encourage training, education and employment of Roma in Albania.
- In order to avoid violent deportations of Roma from the land where they are located in an informal manner, the staff of central and local institutions should be trained.

- Local governments should perform studies for the evaluation of the social consequences of development programs of the territory for public interest, as well as for the property developments by the rightful owners.

Literature

- ✓ Albanian law no. 10.221, date 04.02.2010 "For protection from discrimination"
- ✓ Albanian law no. 10119 / 2009 "On Territorial Planning", amended.
- ✓ [Albanian law no. 8137 / 1996](#) "On the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms".
- ✓ Albanian law no. 8561 / 1999 "On expropriation and getting temporary use of private property for public interest".
- ✓ [Barany, Z., 2012, *Politics and the Roma in State-Socialist Eastern Europe*, published in Pusca, A. \(ed.\), *Eastern European Roma in the Eu: Mobility, Discrimination, Solutions*, New York, International Debate Education Association \(<https://www.questia.com/read/123372281/eastern-european-roma-in-the-eu-mobility-discrimination>\).](#)
- ✓ CESCR, 2013, Conclusions of the Committee on Social, Economic and Cultural Rights, 18 December 2013.
- ✓ ECHR 5.6.2012, case *Yordanova and others v. Bulgaria* (no. [25446 / 06](#)).
- ✓ ECHR 6.4.2000, case *Thlimmenos v. Greece* (no. 34369 / 97).
- ✓ ECRI General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination, CRI(2003)8, adopted 13 December 2002.
- ✓ *European Convention for the Protection of Human Rights and Fundamental Freedoms*
- ✓ European Network of Equality Bodies, 2010 (March 2010), *Making Equality legislation work for Roma and traveller*, Brussels.
- ✓ FRA, July 2010, *Handbook on European Non-Discrimination Law*, European Union Agency for Fundamental Rights, Council of Europe.
- ✓ FRA, March 2010, *The State of Roma and Traveller Housing in the European Union: Steps Towards Equality*, European Union Agency for Fundamental Rights.
- ✓ *General Comment nr. 7*, UN Committee for Economic, Social and Cultural Rights.
- ✓ KMD, 2013, *Annual Report 2013 of the Albanian Commissioner for Protection from Discrimination* (http://kmd.al/skedareti/1410951832-Annual%20Report_2013.pdf).
- ✓ OSCE / ODIHR, 2013 (30 april 2013), *Overview of Anti-Discrimination Legislation in the Western Balkans*, Varshavia (<http://www.legislationline.org/topics/topic/84>).
- ✓ Progress Report on Albania, 2013 (www.mie.gov.al)
- ✓ Ringold, Orenstein, & Wilkens, 2005, *Roma in an Expanding Europe: Breaking the Poverty Cycle*, Washington, DC., World Bank (<https://www.questia.com/read/120498350/roma-in-an-expanding-europe-breaking-the-poverty>).

Development of Microfinance Institutions (MFIs) in Kosovo

Qefsere Kupina

PhD Candidate – European University of Tirana

E-mail: qefsere@gmail.com

Prof. Dr. Drini Salko

Lector on Faculty of Economy and Agribusiness, Agricultural University of Tirana

E-mail: drinisalko61@gmail.com

Abstract

Well functioning microfinance sector can contribute to the creation of the sustainable financial institutions of the country. An improvement in the microfinance institutions (MFIs) seems to have a positive impact in the lives of the people that able to work but is limited to banking service. The role and importance of the microfinance institutions have increased during the last decade. Large numbers of microfinance programs increased significantly in conflict affected environments, and in many cases become successful institutions. Kosovo is a good example, which indicates the role of MFIs in countries emerging from conflict. By the end of the war in Kosovo (1999) brought the emerging necessary needs for capital projects dealing with reconstruction for economic, social and political development. Therefore, financial support from large numbers of international and relief organizations was imperative for the overall situation in Kosovo. Expansion of the microfinance institutions' networks and improvement of their activities are important for the Kosovo financial system. Microfinance sector in Kosovo is well specified and regulated within their constitutional acts. The microfinance institutions' goal as a development organization is to serve the financial needs of un-served and underserved markets as a means of meeting development objectives. Researching the current situation of MFIs in Kosovo, the aim of this paper is to describe the overall microfinance sector improvement to its establishment, thereby to provide some additional assessment for the studies in the future. It was stated that microfinance in Kosovo has found an adequate environment for development as well network expansion.

Keywords: microfinance, microfinance institution, development, loans

1. Introduction

The issue of microfinance industry is not new anymore in Kosovo. Microfinance sector in Kosovo is well specified and regulated within their constitutional acts. It is considerable progress made in Microfinance sector since its creation. The first MFIs, begins with their activities in Kosovo immediately after the war ended in 1999, continuously with their expansion and competitions. Almost all MFIs focusing on providing favorable products and services to small and micro business, household economies without making distinctions in their living standards. The progress of microfinance sector during the last decade can considered successfully offering products and services from a number of MFI in Kosovo. This improvement seen to have some positive impact keeping stable small business sector, household economies as very important components for overall economic growth.

The main focus on this paper is to analyze the overall microfinance sector position in Kosovo and its development in the last years. Through analysis of the MFIs activities, it will be possible to provide a clear picture of stabilization of microfinance sector Kosovo as the objective of this paper. On the other hand, MFIs development as part of financial institutions considered importance for financial sector growth in Kosovo.

From the context above we are going to analyze the trend of active borrowers achieved during 2011-2013 from published reports about MFIs, especially focusing on work of three main MFIs in Kosovo by comparison of their activities during 2012-2013. More than this, we try to provide some conclusions and recommendations by concerning the improve work of MFIs in the future. We observed that to increase their client numbers MFIs need to reduce their cost of lending, reducing interest rate and also other fees that increase the cost for their clients should review. The support from government state to microfinance sector in Kosovo was recommended.

Review of the overall microfinance sector development and focus in the studying its necessity for operation in Kosovo it was possible to show the growth of active number of borrowers in MFIs. Comparative analysis is a good opportunities to show improvements of three MFIs in Kosovo as a sample for the studies in the future.

We consider, this paper will contribute to argue that more effort in modernization of MFI will need by taking account that Kosovo is a transitional economy. The microfinance sector expected to play a crucial role in economic growth and poverty alleviation also.

1.1 General overview of microfinance institutions improvements

Continuous improvement in microfinance institutions seems to have a direct impact on the lives of the people who are able and have the capacity to work but are limited to traditional banking service. Regardless, if the banks are hesitant to provide small loans to people interested in, apparently that microfinance is the choice. This because the microfinance refer to small – scale financial services primarily credit and savings provided to people who willing to work, at the local levels of developing countries both rural and urban (Robison,2001). The role and importance of the microfinance institutions have been positively valued during the last decade. It is observed that during the last 30 years of the microfinance establishment the expansion of the microfinance institution's network in the world has been increased in the very large manner. By reaching at 3,316 MFIs in 2006, from 681 that were in 1997¹, and increased to 3,652 institutions in 2010, it is powerful evidence for the role that microfinance showed in all around the world. In conjunction of this by serving for 205 million clients, of whom 137.5 million are poorest when they took their first loan strengthens, the conclusion of the Microcredit Campaign Summit in 2012, that states, "**Our dream is to see microfinance to become an ever more powerful tool for helping our clients achieve their dreams**"². As well it is important to emphasize for how microfinance programs were increased significantly in conflict affected environments, and in many cases become successful institutions³.

Similarly as in many countries in transition, microfinance institutions in Kosovo, initially started with activities supported by donors and international organization. It is observed that majority of Kosovo MFIs is concentrated mainly in the larger towns. As specified, this is typical of microfinance programs by opening new branches in areas with higher population density. Thus, serving marginalized groups is still a challenge for microfinance programs, especially when groups live in rural areas. Microfinance Institutions (MFIs) are licensed⁴ with new regulation⁵ approved by UNMIK⁶ and rule XIV of the Central Bank of Kosovo (CBK). These regulations place the MFIs under control of the Central Bank of Kosovo⁷. Remarkable success in increasing the number MFI, have been achieved by providing the financial services to the un-served people from the commercial banks. Currently, 17 MFI estimated to operate in Kosovo⁸, from whom 12 are members of AMIK⁹. The Association of Microfinance Institution of Kosovo (AMIK) has been established, with the aim to engage together the group of MFIs in order to support the needs of Kosovo's small and micro business sector (SMS) and to push facilities growth in the microfinance industry. Microfinance sector is dominated by foreign owned companies, whose assets constitute almost the total sector assets. Kosovo MFIs activity, mainly are focused on financing, households, small business, agriculture crediting, construction and industry. During 2011, the MFIs in Kosovo reached to 52,589 active clients. In 2012 according to Mix Market report the number of borrowers reached is 42,881 and during 2013 (less 896) the number of active clients is 47,556.

2. Indispensability of Microfinance in Kosovo

¹ For more see at : State of the Microcredit Summit Campaign Report 2007

² For more see at : State of the Microcredit Summit Campaign Report 2012

³ <http://www.banyanglobal.com/pdf/Kosovo>

⁴ Previous regulation for microfinance was more simple regulated (Regul. No 1999/13)

⁵ New regulation is considered to be more quantitatively and qualitatively better (Reg.no 2008/28)

⁶United Nation Mission in Kosovo

⁷ www.idlo.org/MF/Documents/Publications/6E.pdf

⁸ See, CBK (Central Bank of Kosovo ,Report 2013)

⁹ AMIK do not represent all MFIs that currently operate in Kosovo

Conflicts cause degradation of both quality of life and economic situation; many environments suffer from a lack of financial and social capital, infrastructure and functioning relationship, (Welle et al 2010). Almost all post- conflict countries are faced with unpredictable changes in economy, legislation, as well in the market. These changes can affect the governments to review the operational models often resulting on alleviation poverty, unemployment, and informal economy. Well functioning microfinance sector can be essential for the creation of the sustainable financial institutions. In the Kosovo aftermath of year 1999 brought the emerging necessary needs for capital projects dealing with reconstruction for economic, social and political development. Kosovo is estimated with the highest number of poor people in the Balkan, with 34.5 percent of its population living below the poverty line (AMIK). Kosovo is characterized with youngest populations of Europe, and a high population growth rate, while unemployment about 35.1 percent¹ remains the constant problem. Households and poor enterprise often fail to secure the capital they need and miss opportunities for growth since they do not have access to institutional banking services. In the absence of financial institutions, they are supported largely on informal sources of families, friends, supplier or moneylenders for their financial needs².

According to Country Strategy 2013- 2016 Kosovo, the absence of essential social services in Kosovo, remittances from the Diaspora play a crucial role in providing informal social safety net for poor households. In purpose to meet those needs, creating the formal sector, such as non-government, government and private organization bring to the attention microfinance sector. Thus, as per, Brau and Woller (2004), microfinance is the term that has come to refer generally to such informal and formal arrangements offering financial services to the poor.

The creation of the MFIs in post- conflict countries, NGOs and other development and humanitarian organizations should aim to use and accept local social norms and practices, before imposing 'imported' development, which often are driven by donors (Das, 2003). Post- conflict countries continue, Das (2003) are in stage of changing environment and it is important for microfinance institutions (MFIs) to adapt to the transition and evolving political, social and economic changes that occur. The MFIs in conflict affected countries have been presented in more commercial approaches to their growth, by following the example of normal environments of MFIs around the world. Microfinance is often considered both as a tool for fighting poverty and as a tool for post- conflict reconciliation, (Welle et al 2010).

Starting with pilot projects for establishing the first phase of microfinance activities rural zones have great significance. In November 2000, two municipalities were selected, offering village - based credit and savings associations, with the aim of expanding to 72 associations, covering one - third of villages in Kosovo by the end of four years³. Hence, microfinance Institution (MFI) goal as a development organization is to serve the financial needs for un-served and underserved markets as a means of meeting development objectives (Lidgerwood, 1998) are estimated as a necessary development.

Meanwhile, microfinance institutions grow successfully in all around the world, reaching the considerable number of poor people, mainly in the local areas and are becoming commercially applicable. Based on Kosovo 2005 Progress Report EU, in Kosovo, community assistance has been provided since 1999 under a series of instruments including humanitarian aid, exceptional financial support and financing to Pillar IV of UNMIK. On the other hand, the competition on banking market is slowly emerging (SME report)⁴, one year after the war ended just one bank (MEB)⁵ was operating being followed later with other three banks, starting with their activities. All banks were granted the right to undertake various types of activities, including deposits and savings and to issue credits. While, financial instruments like leasing, factoring, and loan guarantee programs are limited on the Kosovo market. Being more focused on more traditional credit instruments, the consideration of financial institutions should be given to the introduction of other kinds of financial instruments to ensure greater SME access to finance(SME report)⁶. During the phase of reconstruction, banks and non- bank financial institutions are using loans and micro credit schemes as a support for SME development. The UNMIK with its responsibility in purpose of

¹ According to the results of the Labor Force Survey published by KAS , see CBK –AR- 2012

² <http://web.undp.org/evaluation/documents/Essential-on-microfinance.pdf>

³ These two municipalities are Klina and Vushtri

⁴ See publication under : <http://www.riinvestinstitute.org/index.php?gjuha=en&action=category&cid=3&faq=4>

⁵ MEB Bank is the first bank with international capital in Kosovo and first bank that received it's license in the beginning of the year 2000

⁶ SME Report : see RiinvesFinancing and Development

regulation "non-bank microfinance institutions"¹ in Kosovo establish the first Regulation² no. 1999/13, on the Licensing of non-bank microfinance institutions³.

Accordingly, most MFIs were established by international humanitarian organizations. Majority of Microfinance Institutions⁴ in Kosovo has an NGO status, and they do not take deposits. Transferring the assets from NGO to licensed MFIs in Kosovo is a matter of priority. Exceeding these obstacles, the importance in MFI will grow in relation to broadening low-income people's access to savings services in Kosovo.

Therefore, the needs for more detailed legislation for MFIs in Kosovo is apparent, the adopted UNMIK Regulation 2008/28 and the Central Bank of Kosovo⁵, took place. The new regulation distinguishes two types of MFIs: Registered MFIs – loan disbursement and Licensed MFIs – deposit taking⁶. Based on new regulation, registered and licensed MFIs, should create a new business entity with minimum capital of at least 2.5 million EUR (3.7 million USD) and meet a number of other requirements, in particular the total value of liabilities cannot exceed five times the capital of an institution⁷.

The slowdown economic growth microfinance Institutions (MFIs) in Kosovo remain to have a complementary role in the banking system, by their roles in financial intermediation, which mean crediting low income people, households and individual businesses which see banks too costly or can hardly reach.

3. Operation of the Microfinance Sector in Kosovo

Initially, when microfinance first emerged as a development tool, both donors and practitioners focused on the cumulative amount of loans distributed, and with no concern for how well the loans suited borrower needs and little concern about if the loans were repaid (Ledgerwood, 1998). Positive effects of microfinance towards the social aspects stay with the main goals that MFI has in relations with poverty reduction, creating conditions for access to the financial services such as credit and savings for "those"⁸ are restricted by traditional banks and as well the established of the sustainable microfinance institutions. In an effort to assume the responsibilities as an efficient financial intermediary, the expansion of microfinance institutions, has demonstrated that it is part of a well-organized financial system. In other hand, taking into account macroeconomic conditions, managed growth, deposits mobilizations and cost control are combined as the components considered as key factors that contribute to the success and sustainability's of many MFIs, (Ledgerwood, 1998). In the context below, because the microfinance institutions (MFIs) are financial institutions whose activity is usually in small value lending, it is evident these institutions give small loans to individual and small businesses, whether in agriculture, manufactories or services⁹. So, as Barr (2005) state, "Microfinance institutions attempt to compete with moneylenders by offering credit to a broader range of households on more favorable terms"

The Kosovo microfinance sector has made a sufficient progress since its establishment, being focused on the financing of small business and households. According to the CBK reports, during 2011- 2013 appears to have light decline trends in the microfinance sector market.

- By the end of 2011, fifteen (15) MFIs with lending activity had been operating in Kosovo. An MFI in Kosovo does not have a right to receive deposits, so the main source of funding consists of the credit lines from external markets. The

¹ Non-bank micro-finance institution" means a financial institution which is not a bank and which is engaged in the business of micro-finance;

² This regulation provides rules for establishing non-bank microfinance institutions in Kosovo

³ "micro-finance institution" shall mean an institution which provides credit to physical and juridical persons in an amount not exceeding 2,000 Deutsche Marks in cumulative exposure to one single borrower or related borrowers;

⁴ Microfinance Institution - a legal entity organized as either an NGO under the NGO Law or as a joint stock company under the Law on Business Organizations which provides as its primary business loans and a limited number of financial services to micro and small legal entities, low-income households and low-income persons; see: LAW No. 04/L-093 On Banks, Microfinance Institutions and non bank financial institutions.

⁵ <http://www.oecd.org/investmentcompact/Kosovo%20Albanian.pdf>

⁶ www.idlo.org/MF/Documents/Publications/6E.pdf

⁷ A report from MIX and CGAP: February 2009 : Eastern Europe and Central Asia Microfinance Analysis and Benchmarking Report ,2008.

⁸ With "Those" we mean: poor people, households, small business, low- income people, women's, etc for whom usually microfinance refers.

⁹ Summary information on Payment and Settlements Systems in the Republic of Kosovo , Based on "Blue Book " of the European Central Bank

average value of a loan issued from MFIs in 2011 was Euro 1,819 while (Euro 1,852 was in 2010). Amount of loans, achieved by MFIs during 2011 was 57,536 loans (CBK Annual report 2011).

- The number of MFIs branches in Kosovo decreased in 2012 for 8 branches less (119 was in 2011). According to CBK 2012 report, the structure of MFI loans share shows that 64 percent of total loans are issued to the households, while 36 percent is reported to be issued for small business and some of agriculture activities. This structure is because MFIs provide small loans in volume, designed for household consumer needs and also the capacity of smaller loans does not necessarily satisfy the financial needs of enterprises. In 2012 the numbers of active loans is 52,885 and show a decrease comparing with 2011, active loans 57,536 active loans. Loans issued by MFIs are divided into four (4) intervals.

Table1. Distribution of MFIs loans at intervals, according to their values and numbers

MFI loans	2012			
	0 ≤ 5,000	5001 ≤ 10,000	10,001 ≤ 25,000	> 25,000
Value (in millions of euro)	48.8	7.1	4.8	12.1
Number of loans	31,879	905	290	194

Source by: CBK annual report, 2012 (Table 7)

As per the data from table 1, the most frequented loans issued by MFIs are loans issued in value of euro 5,000 (31,879 number of loans), the number of loans at the interval of euro 5,001 up to 10,000 are 290 loans, while the loans with high of euro 25,000 is the lowest number of loans issued by MFIs (194 number of loans).

- According to CBK annual report, in 2013 foreign companies continue to dominate in MFIs in Kosovo during 2013, whose assets constitute of 91.6 percent of total sector assets. Loan structure is dominated with 46.3 percent with loans for services, of which 16.4 percent are trade loans. Agriculture loans have a share of 27 percent, and the remainder is designated for construction, industry and energy.

By analyzing 8 of MFIs the member of AMIK, it was noticed that microfinance institutions are associated mainly with small firms and low-income households in Kosovo. The average number of active clients 49,564 shown in table 1, including the data from 8 MFIs¹.

Table 2. Number of active borrowers of 8 MFI (member of AMIK)

Year	AFK	BZMF	FINCA KOS	KEP	KGMAM F	KosInve st	KRK Ltd	Start	Total number of active borrowers
2011	5,192	4,351	13,281	17,100	4,703	2,769	5,293	na	52,689

¹ Table 1 : contains the data for MFI that reported in Mix Market and AMIK (the data for more 4 members of AMIK are not included due to lack of date to Mix Market reports)

2012	6,410	1,733	10,520	14,960	4,809	2,953	5571	1,496	48,452
2013	7,695	N/A	11,424	13,366	4,815	2058	6,609	1,589	47,556

Source: MIX market, AMIK publication report 2012, 2013 (adapted by authors)

It is worth stating that decrease on the number of active clients on lending from MFIs is comparing last three years, should be considered as an obstacle on future SMEs. This, because the number of SMEs is large in number, where since 2000 it is estimated the number achieves around 130,000 registered small businesses.

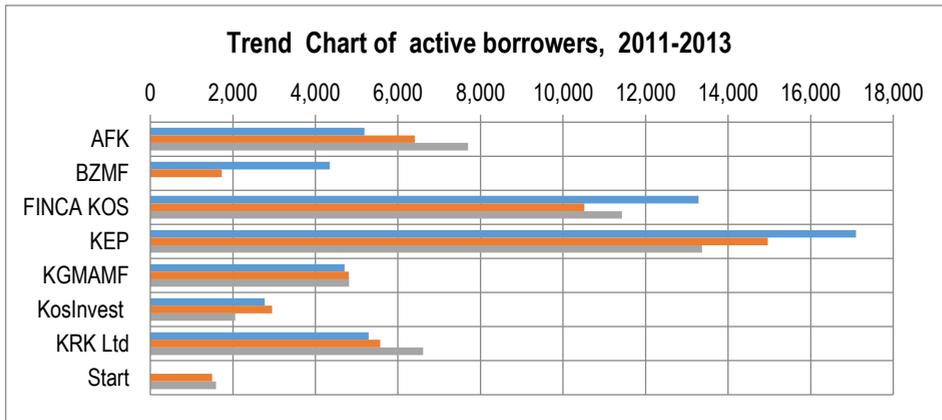


Figure 1. Number of active borrowers trend - 8 MFIs in Kosovo (adapted by authors)

With the functioning of such numbers of MFI in Kosovo, it is assumed that it does not mean that all are adequate to operate. As a sample for illustration, it takes the data for three largest MFI in Kosovo comparing their operation during 2012 – 2013.

Table 3. Three largest MFI in microfinance marketing in Kosovo 2012-2013

	Amount of loans		Number of borrowers		Average loans		Branches	
	2012	2013	2012	2013	2012	2013	2012	2013
IMF								
KEP Trust	23,725,991	20,429,796	14,964	13,366	1,586	1,528	33	33
FINCA	9,930,746	10,753,114	10,520	11,424	944	941	22	20
AfK	9,900,246	10,221,972	6,410	7,695	1545	1328	9	9
Total	43,556,983	41,404,882	31,894	32,485	1,358	1,266	64	62

Source dates from AMIK report 2012- 2013 adapted by authors

Based on the regularly online annual reports of MFIs, that are currently members of the Association microfinance institution of Kosovo (AMIK) shows, the amount of loans for 2013 is 66.5Mil. Euro. The year 2013 shows a decline for 5.7 Mil Euro, by comparing with the year 2012¹ which indicate 72.3 million Euro (total amount of loans).

From the data taken from MIX Market (website), which do present the data only for 8 MFIs members of AMIK, as well the data from annual reports of AMIK 2012 and 2013 as per (Table 1), it has seen the trend of total borrowers reached during the three year period by each of MFIs operate in Kosovo.

¹ Including BZMF in 2012 report

- By serving with the credit small and micro enterprises, up to 14,964 in 2012 and with some decrease up to 13,366 active borrowers in 2013 and achieving with over 20.5 mil Euro (table 2) or 30 percent of the total amount of loan portfolios (66.5 mil Euro) during 2013 KEP¹, is the largest microfinance institution in Kosovo market.
- Second MFI as per (table 1) indicate to be **FINCA KOS**, with 11,424 active clients in 2013 (904 clients more than 2012, in other hand 1,857 clients less compared with 2011). While in 2013 FINCA achieving the 10.8 mil Euro or 16 percent participation in total amount of loan portfolios (66.5 mil Euro on 2013).
- AFK is listed as third MFIs per its capacity, by containing 9 branches, with 7695 active clients, and 10.2 mil. Euro of amount of loan portfolio achieve in 2013.

As an important indicator concerning the MFIs performance in Kosovo seeing to be the achieved profit. This indicator is increasing in recent years. In the first six months on 2014 the profit generated by MFIs in Kosovo was around 13 million Euros. In the view of the customers, we judge that this positive indicator is the result of the high cost of lending paid by MFIs client.

CONCLUSION AND RECOMANDATIONS

Some relevant information can be used from the experience of MFIs in Kosovo. Microfinance sector has found an adequate environment for development as well network expansion. It is considered the number of clients using services provided by microfinance institutions. Here is no possibility to distinguish whether the clients are poor when for the first time takes loans from the microfinance institutions. The larger clients of MFIs in Kosovo are households that use services for short time usage (almost, the farmers are users in yearly basis)

- Microfinance sector in Kosovo is improving well with its activities since the establishment after the war ended in 1999. Through, development of microfinance sector, Kosovo as a post- conflict country, achieved to contribute positively to the overall financial system of the country, being focused on the financing of small business and households.
- The legal aspect of microfinance activities is well improved, by placing the MFI under control of the Central Bank of Kosovo, even though there is still some slowdown on transfer of MFIs from NGOs to new business entities and taxation obligatory.
- The large number of poor people in Kosovo (34.5% of its population) living below the poverty line, is inducement that microfinance as a tool for fighting poverty need to be present in a large manner than actually is.
- Microfinance institutions reaching a satisfactory number of clients in yearly bases, thus continuing to increase their active client is very important for the donors and investors to see conditions for funds.
- Because of microfinance refers to the small amount of loans, households, farmers, micro enterprises, it is imperative to be imprudent in regards to the obstacles that SMEs have to get the access to credit. Since 2000, in Kosovo it is estimated 130,000 small businesses are registered.
- The number of active clients, that use microfinance institutions' products, enables future researchers to improve detailed research on analyzing the impact that microfinance has on supporting, benefit and risk in relation to its client and financial system of the country.
- In supporting the microfinance sector in Kosovo, the state government must create a Guarantee Fund, which could support microenterprises in the urban sector and farmers' economy in the rural sector. This Guarantee Fund may reduce the cost of microenterprises in borrowing from commercial banks, by subsidizing enterprises with a partial payment on banking interest. This is so because the interest rates applied by commercial banks are very high, due to the risk they see from these groups of enterprises.
- Alongside the poverty reduction and increase efficiency of micro business in Kosovo, financing from MFIs must have as an objective also supporting the farmers' economy for them to produce for a broader market.

¹ KEP (Kosovo Enterprise Program) operate in Kosovo since 1999 as a project of Swiss- based International Catholic Migration Commission (ICMC). KEP was the first MFI to operate in Kosovo.

- To fulfill their mission of financial support for micro and small businesses, the MFIs should aim at reducing the cost of lending for their clients, reducing interest rates and other fees that increase the cost.

Reference:

Robinson, M. S. (2001). *The microfinance revolution: sustainable finance for the poor* (Vol. 1). World Bank Publications.

Welle-Strand, A., Sitter, N., & Kjøllesdal, K. (2010). Assessing microfinance: the Bosnia and Herzegovina case.

Brau, J. C., & Woller, G. M. (2004). Microfinance: A comprehensive review of the existing literature. *Journal of Entrepreneurial Finance, JEF*, 9(1), 1-27.

Das, N. (2003). *A Critical Assessment of Micro Enterprise Development in Post-conflict Rehabilitation: A Case Study of Three MFIs in Kosovo* (Doctoral dissertation, Oxford Centre for Mission Studies and University of Wales). Pg 69

Ledgerwood, J. (1998). *Microfinance handbook: an institutional and financial perspective*. World Bank Publications. Third Printing July 2000

http://www.fgda.org/dati/ContentManager/files/Documenti_microfinanza/State-of-Microcredit-Summit-campaign-report-2012.pdf

http://www.promujer.org/publications/our_publications_4_Pdf_EN_SOCR07_Eng.pdf State of the Microcredit Summit Campaign Report 2007

<http://www.microfinancegateway.org/library/kosovo-case-study-linkages-between-microfinance-and-other-livelihood-programs>

<http://www.bqk-kos.org/repository/docs/2014/EN%20-%20UNMIK%20-%201999-13.pdf>: ON THE LICENSING OF NON-BANK MICRO-FINANCE INSTITUTIONS IN KOSOVO: Regulation no. 1999/13 UNMIK/REG/1999/13, October 1999

http://www.unmikonline.org/regulations/unmikgazette/02english/E2008regs/RE2008_28.pdfREGULATION NO. 2008/28 : AMENDING UNMIK REGULATION NO. 1999/13 ON THE REGISTRATION, LICENSING, SUPERVISION AND REGULATION OF MICRO-FINANCE INSTITUTIONS

<http://www.idlo.org/MF/Documents/Publications/6E.pdf> Voice of microfinance no 1

<http://www.amik.org/english/>

Microfinance : <http://web.undp.org/evaluation/documents/Essential-on-microfinance.pdf>

Country Strategy Kosovo 2013-2016 ,file:///C:/Users/City%20Computer/Downloads/Country-Strategy-Kosovo+2013-16%20(2).pdf

http://www.banyanglobal.com/pdf/Kosovo_Case_Study_-_Addressing_the_Realities_of_a_Post-Conflict_Environment_-_Linkages_between_Microfinance_and_Other_Livelihood_Programs.pdf

http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1423_final_progress_report_ks_en.pdf: Kosovo , 2005 Progress Report EU

5th SME Development in Kosovo 2002 annual report ;

<http://www.rinvestinstitute.org/index.php?gjuha=en&action=category&cid=3&faqe=4;>

<http://www.oecd.org/investmentcompact/Kosovo%20Albanian.pdf>

Central Bank of Kosovo, annual report, 2011,2012 ,2013

A report from MIX and CGAP: February 2009 : Eastern Europe and Central Asia Microfinance Analysis and Benchmarking Report ,2008

Payment and settlement systems in Kosovo: Summary information on Payment and Settlements Systems in the Republic of Kosovo Based on "Blue Book" of the European Central Bank <http://www.bqk-kos.org/repository/docs/SistemilPagesave/Kosovo%20-%20Blue%20Book%20-%20FINAL%20%28english%29.pdf>

Enterprises Dealing with Corruption: A Microeconomic Analysis.

Emira Hoxha Kalaj, Ph.D.

Aleksander Moisiu University

emirahoxha@uamd.edu.al

Abstract

This study focuses on survey data and qualitative evidence from Albanian manufacturing firms to examine the scale and consequences of corruption and bribery at the enterprise level. It analyses the costs and benefits from the entrepreneur's perspective. The set of covariates includes information about; use of external finance, policy influence, experience of corruption, firms size and ownership structure. To control for differences in the availability of collateral, the proportion of the fixed assets is included. The models used in the paper are probit where the dependent variable is binary and ordered probit where the dependent variable is categorical and orderable. Empirical results show that manufacturing firms operating in an environment in which tax evasion is more prevalent are more likely to suffer demands for bribes from corrupt officials. The regression analysis shows that tax evasion is a matter of degree and that is not limited to small and medium-sized enterprises. Even quite large firms acknowledge concealing part of their sales from tax authorities. Enterprises that are evading taxes are less likely to obtain an external audit. In addition, the data predict that corruption and tax evasion is more likely to occur when the principal owner is male rather than female. Moreover, findings show that the main effect of the separation of ownership on the likelihood of bribery is insignificant.

Keywords: corruption, bribery, ordered probit

Introduction

The lack of efficiency associated with government intervention and corruption in many developing countries are well known. Corruption may affect the extent of competition. Corruption can be described as an action in which the public power is used for personal gain (Jain, 2001). From the definition it is clear that there are three conditions necessary for the corruption to arise: discretionary power, economic rents, and weak institutions.

In contexts of weak states and underdeveloped civil societies firms may exert influence on the state. Such influence may have impact on the direction of reforms and on the quality of governance in transition countries. The way firms interact with the state has an important implication in understanding the dynamics of corruption. Studies on the phenomenon recognize different forms of it, ranging from grand to petty corruption.

This paper analyses corruption with particular focus on identifying the nature of the phenomenon. Corruption is related with the country's economic, cultural and political institutions (Svensson, 2005). According to the literature at least two relevant categories of public corruption exist: the political and administrative corruption (Bardhan, 1997; Warren, 2004). Administrative corruption refers to the petty forms of bribery related with the implementation of the laws and regulations. Whereas the political corruption refers to the capacity of firms to influence the formation of the laws, regulations, and decrees.

Literature review

Using data for about 4000 firms in 25 transition economies, Campos and Giovannoni (2007) examine the relationship between lobbying and corruption. Their results show that lobbying and corruption are substitutes; firm size, age, ownership, per capita GDP and political stability are important determinants of lobby membership; and lobbying appears a much more effective instrument of political influence than corruption. However, the study does not address completely how the different kinds of corruption and lobbying interact with each other.

Ramdani and Witteloostuijn (2012) predict that bribery is more likely to occur when the principal-owner is male rather than female. Using the World Bank Enterprise Surveys of 2002-2005 they found that the equity share of the largest shareholder is negatively related with the likelihood of firm bribery. Their finding indicate that corporations without separation of ownership and control are more likely to engage in bribery than their counterparts with separation of ownership.

Using World Bank Institute (WBI) surveys of public officials in eight Latin American and African countries, Recanatini *et al.* (2005) found that agencies whose head is popularly elected are systematically more corrupt, while independent agencies whose head is appointed by a political body tend to have better organizational design. According to their study, corruption is lower when internal decisions on budget, procurement and personnel are regularly audited. The data showed that corruption is also influenced by demand-side factors, agencies that provide services to firms are more prone to corruption.

Bitzenis and Nito (2005) conducted an empirical research to investigate the various obstacles that Albanian entrepreneurs encountered in their local business environment. Their study showed that the most important obstacles the entrepreneurs encountered in Albania included unfair competition, changes in the taxation procedures, energy crises, and lack of financial resources. In the paper bureaucracy and corruption do not appear to represent significant barriers to entrepreneurs.

Corruption and tax evasion matters because it has consequences for resource allocations (Kenyon, 2008). Tax evading firms draw labor away from those that do pay taxes. Tax evasion and corruption lowers state capacity to raise revenues and provide necessary public services. These consequences can undermine the social contract that exists between the state and the economic actors. This is of particular interest to a country like Albania. In my study I try to better understand the dynamics of tax evasion and corruption in the firm level using cross-sectional data.

Data and methodology

The Albanian 2013 Business Environment and Enterprise Performance Survey (BEEPS) has been used to give answer to the hypothesis of the paper. The survey through interviews with firms in the manufacturing and services, capture business perceptions on the obstacles to enterprise growth, the relative importance of various constraints to increasing employment and productivity, and the effect of the business environment indicators that are comparable across the countries. The data were collected in Albania between March 2013 and July 2013 as part of the fifth round of the BEEPS, a joint initiative of the World Bank and the European Bank of Reconstruction and Development. The sample was selected using stratified random sampling. Three levels of stratification were used in Albania; industry, establishment size, and region. Industry stratification was designed as follows; manufacturing industry, and two service industries (retail and other services). Size stratification was defined; small (5 to 19 employees), medium (20 to 99 employees), and large (more than 99 employees). The number of employees was defined on the basis of the reported permanent full-time workers. Regional stratification was defined in 4 regions; Durres and Shkoder, Elbasan and Korçe, Fier and Vlore, and Tirana as shown in table 1.

Table 1- BEEPS Sample Frame

Region	Employees	Manufacturing	Retail	Other Services	Grand Total
Durrës & Shkoder	5-19	26	25	59	110
	20-99	14	7	16	37
	100+	8	0	0	8
	Total	48	32	75	155
Elbasan & Korce	5-19	32	11	95	138
	20-99	8	0	5	13
	100+	1	0	0	1
	Total	41	11	100	152
Fier & Vlore	5-19	20	9	50	79
	20-99	14	0	4	18
	100+	2	0	2	4
	Total	36	9	56	101
Tirana	5-19	197	107	253	557
	20-99	55	20	45	120
	100+	11	0	5	16
	Total	263	127	303	693
Grand Total		388	179	534	1101

Source: Albanian 2013 Implementation Report (World Bank, 2013)

The BEEP surveys have an excellent set of questions tax compliance, corruption levels (as reflected in gift payments to officials), the fairness of the legal system, the structure of the firms, and expectations of audits. The data set is used to estimate models about; (a) the perceived share of income reported by firms for tax purposes; (b) gift payments to tax collectors; and (c) their behaviour about tax compliance.

As a measure of bribe payments the variable, **Corruption** is constructed using firms responses of the question -“It is said that establishments are sometimes required to make gifts or informal payments to public officials to “get things done” with regards to customs, taxes, licenses, regulations, services etc. On average, what percentage of total annual sales, do establishment like this pay in informal payment”. The variable, **Tax evasion** is constructed using firms responses of the question –“Recognizing the difficulties many enterprises face in fully complying with taxes and regulations, what percentage of total sales would you estimate the typical establishment in your area of activity reports for tax purposes?”¹

To give answer to the hypothesis I used OLS estimation where the dependent variables are continues, probit where the dependent variable is binary and ordered probit where the dependent variable is categorical.

¹ Since informal firms often misreport taxes, economics literature on informality uses this variable as a measure of the extent of unofficial activity.

Empirical results

The regression results rely on the information describing 360 manufacturing firms. Table 2 show the OLS regression results relative to the corruption as the percentage of gifts or informal payments and tax evasion as percentage of sales reported for tax purposes.

Table 2 – OLS Regression Results on Corruption and Tax Evasion

	Corruption (informal payments as % of sales)	Tax evasion (as % of sales reported for tax purposes)
Small (< 20)	.302 (.121)	2.014 (1.35)
Medium (20-99)	.128 (.123)	1.104 (1.24)
Large (>100)	-.005 (.129)	.002 (0.75)
Female owner	-.099 (.025)***	.006 (0.65)
External audit	-.478 (1.75)*	-.005 (6.86)***
Sole proprietorship	.026 (3.21)***	1.106 (1.22)
Partnership	.005 (2.80)***	.007 (2.34)***
Corporation	-.046 (1.63)	.112 (0.95)
Foreign ownership	.003 (0.62)	-.187 (1.07)
Borrowed from banks	.039 (2.81)***	.071 (2.73)***
Exporter	.012 (4.43)**	.001 (0.44)
Tax evasion	.044 (1.52)	-
Cons	-.439 (.524)	5.12 (4.43)
# Firms	360	360
R ²	0.38	0.42

Note: ***, **, and * indicate statistical significance, respectively at the 1, 5 and 10 per cent level, or better.

Besides others the link between tax evasion and corruption or bribe payments is interesting as shown in the first column, table 2. Regression results show that larger the percentage of sales paid out as bribes, the larger the tax evasion. An increase of 1 percent in tax evasion results in around 4.4 percent in corruption or bribe payments.

Larger firms, female ownership, and the presence of external audit lower the percentage of corruption in terms of gifts or informal payments. The marginal effect for corporations is higher in magnitude though the coefficient is not statistically significant.

Corruption and tax evasion increases in the case of firms whose working capital is financed from banks. Exporting firms are subjects to corruption and tax evasion and coefficients are statistically significant. This fact may be related with the request for gift of informal payments when applying for several operating licenses.

Table 3 – Regression Results on the Requested Payments and Policy Influence

	Informal Payment requested	Policy Influence
	(1)	(2)
Small (< 20)	.221 (.023)***	.014 (1.35)
Medium (20-99)	.587 (.087)***	.104 (1.24)
Large (>100)	.499 (.140)***	-.034 (0.28)
Female owner	-.090 (.019)***	-.035 (0.013)***
External audit	-.034 (.029)**	-.005 (6.86)***
Sole proprietorship	.008 (.003)**	1.106 (1.22)
Partnership	.068 (.013)***	.007 (2.34)***
Corporation	-.083 (.031)*	.112 (0.95)
Foreign ownership	-.302 (.121)	.187 (1.07)
Borrowed from banks	.128 (.123)	.071 (2.73)***
Exporter	.005 (.129)	.005 (0.64)
Tax evasion	.814 (.117)***	-
Cons	-.306 (.674)	4.12 (3.43)
# Firms	343	296
R ²	0.47	0.32

(1) Probit regression; (2) Ordered Probit

Note: ***, **, and * indicate statistical significance, respectively at the 1, 5 and 10 per cent level, or better.

Empirical results in table 3 show the ordered probit when the dependent variable is the requested informal payment and the ordered probit when the dependent variable is the policy influence. Regression analysis provides us with the finding that firms with higher tax evasion also have less influence over regulations. These results suggest that the relationship between government officials and tax evading firms is more a type of extortion by the later than capture by the former.

Conclusions and comments

This article analyses data for manufacturing firms in Albania. Results show that tax evasion and corruption in terms of gift or informal payments is not limited to small and medium size enterprises. The positive relation between corruption and tax evasion suggest that government bribery has complex consequences. This relationship maybe explained with the fact that firms “cover” the costs of bribes by under-reporting revenues. Corrupted firms lower their economic cost of bribes but increase the probability of altering effects in front of the competitors.

Moreover, the empirical results suggest that in the case of corporation the corruption and the probability of paying gifts or informal payment to public official is lower. In this sense the separation of ownership lowers the likelihood of firm bribery. This result maybe related with the fact that benefits of such bribery in the case of corporations are not fully internalized by the owners. On the other hand it may be explained from the managerial reputation argument because professional managers seek to preserve their good reputation avoiding to engage in illegal acts (Clarke, 2011). This result imply that stimulating the separation of ownership may be an effective instrument in the fight against corruption.

In addition, the owner gender is important. Empirical results show that a firm with a male owner is more likely to engage in bribery and informal payments to the public officials compared to enterprises with female owner. This evidence is consistent with earlier studies on the impact of gender on corruption (Swamy *et al.* 2001). The female participation in firms ownership can help to reduce firm corruption and tax evasion, implying that government authorities might consider to stimulate female entrepreneurship and ownership.

References

- Bardhan, P. (1997). Corruption and Development: A Review of Issues. *Journal of Economic Literature* (35), 1320-1346.
- Bitzenis, A., & Nito, E. (2005). Obstacles to entrepreneurship in a transition business environment: the case of Albania. *Journal of Small Business and Enterprise Development*, 12 (4), 564 - 578.
- Campos, N., & Giovannoni, F. (2007). Lobbying, Corruption, and Political Influence. *Public Choice*, 131 (1), 1-21.
- Clarke, G. R. (2011). How Petty is Petty Corruption? Evidence from Firm Surveys in Africa. *World Development*, 39 (7), 1122-1132.
- Jain, A. (2001). Corruption: A review. *Journal of Economic Surveys*, 15 (1), 71-121.
- Kenyon, T. (2008). Tax Evasion, Disclosure, and Participation in Financial Markets: Evidence from Brazilian Firms. *World Development*, 36 (11), 2512-2525.
- Qerimi, Qerim and Bruno S. Sergi (2012). “The Boundaries of a Neglected Relationship: Corruption and Economic Freedom. The Case of the Western Balkans,” *Problems of Economic Transition*, Vol. 55, No. 2, pp. 68-97.
- Naghshpour, Shahdad and Bruno S. Sergi (2008). “Democracy and Economic Growth: The Experience in Southeast Europe,” *Transformations in Business & Economics*, Vol. 7, No. 3 (15), pp. 120-128.
- Ramdani, D., & Witteloostuijn, A. (2012). The Shareholder-Manager Relationship and Its Impact on the Likelihood of Firm Bribery. *Journal of Business Ethics*, 108 (4), 495 - 507.
- Recanatini, F., Prati, A., & Tabellini, G. (2005). *Why are some Public Agencies Less than Others? Lessons for Institutional Reform from Survey Data*. Washington DC: Paper presented at the Sixth Jacques Polak Annual Research Conference.
- Svensson, J. (2005). Eight Questions about Corruption. *Journal of Economic Perspectives*, 19, 19-42.

Swamy, A., Knack, S., Lee, Y., & Azfar, O. (2001). Gender and Corruption. *Journal of Development Economics* , 64, 25-55.

Warren, E. M. (2004). What does Corruption mena in a Democracy. *American Journal of Political Science* (48), 328-343.

Global Crisis Financial Policies

Artan Nimani
Shpetim Reznqi
Valbona Zeqiraj
Nevruz Zogu

Abstract

The current crisis has swept the world with special emphasis, most developed countries, those countries which have most gross -product world and you have a high level of living. Even those who are not experts can describe the consequences of the crisis to see the reality that is seen, but how far will it go this crisis is impossible to predict. Even the biggest experts have conjecture and large divergence, but agree on one thing:- The devastating effects of this crisis will be more severe than ever before and can not be predicted. Long time, the world was dominated economic theory of free market laws. With the belief that the market is the regulator of all economic problems. The market, as river water will flow to find the best and will find the necessary solution best. Therefore much less state market barriers, less state intervention and market itself is an economic self regulation.

Keywords: global crisis, financial policies, free market, economic problems

Introduction

Free market economy became the model of global economic development and progress, it transcend national barriers and became the law of the development of the entire world economy. Globalization and global market freedom were principles of development and international cooperation. All international organizations like the World Bank, states powerful economic, development and cooperation principles laid free market economy and the elimination of state intervention. The less state intervention much more freedom of action was this market- leading international principle. We live in an era of financial tragic. Financial markets and banking in particular economies are in a state of thy good, US stock markets fell about 40%, in other words, this time, was one of the darkest moments 5 since 1920. Prior to her rank can only "collapse" of the stock of Wall Street in 1929, technological collapse of 2000, the crisis of 1973 after the Yom Kippur war, while the price of oil quadrupled and famous collapse of 1937 / '38, when Europe was beginning World war II

In 2000, even though it seems like the end of the world was the corner, the world economy survived almost intact. Of course that was small recessions in the United States, Europe, or Japan.

Much more difficult the situation was at crisis 30s, or 70s, however, succeeded world. Regarding the recent financial crisis, it has all the signs to be much sharper and with more consequences. The decline in stock prices is more a byproduct of what is really happening. Financial markets began dance of death with the credit crisis, which came as a result of the large increase in real estate prices and household debt. It is these last two phenomena can be matched very well with the gains of the '20s, a period during which people spent fists as if there was no tomorrow.

All is not away from the mouth of the word recession, that fact no longer a sudden and abrupt. But as much as the financial markets melt, the greater is the risk of a problematic economy for years to come. Thus, for example, the banking crisis in Japan proved to be much more severe than initially expected, partly because the assets which were based more loans had, especially the land that falling in value. The price of land in Japan is about 15 years that continues to fall. (ADRI Nurellari-Published in the newspaper "Classifieds"). At this moment, it is still difficult to çmosh to what extent the crisis has affected the economy and what would be the consequences of the crisis. What we know is that many banks will need more time to reduce the award of credit, but banks have this primary function, this means huge loss

Crisis and reflections

Goal economic crisis of recent is serving as an excuse to launch a worldwide campaign against the market economy and free enterprise as well as a motive to justify a greater intervention of the state in free economy. Trade being considered the main responsibility of this crisis while leading cause actually was government interference in the economy. It is understood that greed played a role in this situation and many bankers saw as state support green light to abuse even more generous by giving loans to home for individuals who do not have collateral or sufficient income. The current crisis, as well as that of 1929, began in the financial sector (Wall Street) and the most powerful country in the world. (According to IMF estimates, the US ranked first with 23.6% of world GDP in 2008, followed by Japan with 8.0%, China 7.1%, Germany 6%, etc.).

This crisis spread to all countries, especially the developed ones, and quickly turned into an economic crisis with serious social consequences. Analysts noted that, after one year, the world has lost an estimated fortune of \$ 15 trillion (10.3 trillion euros).

Furthermore, countries like Iceland and Hungary and Latvia but went on the Brink. (SPIEGEL, 07/09/2009). According to the latest projections of the IMF, (October 2009), world GDP is expected to fall 1.1 percent this year.

- deeper decline would be more developed countries: 3.4%;
- 5.4% in Japan,
- 5.3% in Germany,
- 5.1% in Italy,
- 4.4% in Britain,
- 3.8% in Spain,
- 2.7% in the US,
- in France, 2.4%

The economic downturn is accompanied by rising unemployment rate:

- 9.3% in the US in 2009 and 10.1% in 2010 and
- Eurozone countries respectively 9.9% and 11.7%.

Millions of Americans lost their homes and millions of mortgages pyramids alia, their value fell. During this crisis emerged fraudulent financial schemes like "Ponzi" (1920). Bernard Madoff, former chairman of the board of NASDAQ Stock Exchange New York for decades had set up a giant pyramid where 15 400 investors lost 65 billion USD!

Compared with the Great Depression, this crisis has as main feature the world is now in the phase of globalization, economic interdependence, development of technology and the Internet, and consequently its superceding measures are expected to be more effective.

So, what are the causes and roots of the crisis? Of course they are many and varied. In this article I bring to the attention mainly thinking of some Nobel Prize winners in Economics, as Paul Krugman (2008), Joseph E. Stiglitz (2001, Amartya Sen (1998), as well as a major global personality

Financial policies, mistakes and consequences

In many recent articles quoting Nobel converge on the opinion that the roots and causes of the current crisis associated with the wrong policies pursued in the US and other developed countries in the direction of the economy.

Have a significant impact, especially given theories and liberal and monetarist policies of laissez-faire type, which give priority to market the automatic operation of markets, as self-correction and self-regulatory and governmental regulations that underestimate. They were processed by M. Friedman, leader of the Chicago School of Economics in the 70s, and were implemented in the governance of R Reagan, Thatcher M. etc. in the 80s and later.

These theories challenged those JM Keynes (1883-1946), (British economist, and known as the founder of modern macroeconomics), which elaborated on government policies to mitigate the effects of business cycles, recessions and depressions through fiscal and monetary measures . East science- writes Krugman- economy dates back to the classic work of Adam Smith's "Wealth of Nations" in 1776. For more than 160 years of economic theory was developed, whose

central message was: Believe market! Economists agreed with cases of market failure, where the most important is the "exceptions" ... The essence of economics "neoclassical" was also the belief in a market system

But the Great Depression of 1929 that faded the faith. After that, most economists focused on the analysis of Keynes for what had happened and the road-solutions for future depression, which he was summarized in 1936 in his work, "The General Theory of Employment, Interest and money ". Keynes rejected the view that free market economies can self-function, expressing disbelief in particular for financial markets. He called for active government intervention -to draw more money during crises and, if necessary, to fight unemployment - by spending more on public works. Keynes argued not only that markets are not self-correcting, but that in an economic crisis, monetary policy can not be effective. (Krugman, September 2, 2009.)

In this line is also A.Sen when analyzes "the current economic crisis, partly caused by a huge overestimation of the action of market processes and is exacerbated by anxiety and lack of confidence in the financial market and in businesses in general. Supervisory role of government in the US has been reduced significantly, fueled by a growing belief self-regulatory nature of the market economy (Sen, March 26, 2009).

By analyzing the causes of this crisis in a more concrete context, but encouraged by liberal theory, B. Obama President in his speech on April 14, 2009 at Georgetown University Washington, notes that this recession, unlike the previous one "did not come as a term, a decrease normal business cycle. It was caused by a storm of irresponsibility real decision-making that stretches from Wall Street to Washington to Main Street. "

Capitalism and moral rules

The question now relates very strongly to the nature of capitalism and the need or not to change its A.Sen-writes. Some defenders of capitalism redeemed, who oppose the amendment, say that capitalism is being blamed for economic problems short - many problems they throw it bad governance (for example, the Bush administration) and the bad behavior of some individuals (or as John McCain described during the campaign presidenciale- "Wall Street greed"). But others see truly serious defects in the existing economic rules and want to correct them, seeking an alternative approach that has been called - "new capitalism."

Thinking for a "new capitalism" jumped Symposium held in Paris on 8 January 2009. In his speech, the president called N.Sarkozy French financial capitalism based on speculation " an immoral system " that has " broken logic of capitalism ", German Chancellor A.Merkel raised concerns that the system " can not continue the way it is " and proposed" to the regulated markets "while former British prime minister said T.Blair for a new financial order based in " values unlike a maximum short-term profit. "

M. Yunus economist who runs a large microcredit bank in Bangladesh, (winner of the Nobel Peace Prize for 2006) states that 'the invisible hand' of Adam Smith, which was supposed to solve all the problems of the market there. What we are witnessing is a dramatic failure of markets. It seems clear that the market is not able to solve all the problems themselves so people now running on governments to seek emergency assistance. Capitalism, with all the mechanisms of the market, would not this issue survival -. But there should be only one reason to do business as profit maximization; it is necessary to include social incentives. "(Spiegel Online International. 10.10.2008.)

Leaving aside the theories of "government interference", not trusting the self-regulatory role of the market, governments have taken extraordinary measures to inject hundreds of billions USD in banks and other institutions to escape from bankruptcy and to stem crisis economic. Have not even been reluctant to intervene directly to protect national industries, such as those of cars in the US, Germany etc.

Aware that state-level regulatory measures are not enough, are cast in full swing movement and even international institutions and organizations such as the G8, G20, IMF, WB, etc.). Quite fruitful and resulted in further predictions especially the G20 meeting held in London on April 3, 2009, where leaders agreed to 1.1 trillion USD IMF grant to support a program for lending, growth and employment in the global economy.

Confirming the effectiveness of these measures, seven months later, at the G20 Summit in Pittsburgh (USA) on 24-25 September 2009 the head of the IMF, Strauss-Kahn said that cooperation of leaders must continue to support global economic resurgence, as this is still uncertain. So-added ai- is premature to give up monetary and fiscal adjustment.

With this condition purposeful facing global financial thy good, governments must be careful yen and to take urgent measures. The government should allow the market to do the work yourself by re decided resources from non-productive sectors or inefficient as it was part of the banking sector was dealt with loans for homes, to other sectors more productive. So should the market be given the opportunity to normalize the relationship between savings, lending and productivity. But governments in the country to allow healthy pruning that would make the market itself rotten branches of the economy, is extended (but not eliminating) rottenness. As said Daniel Mitchell of the Cato Institute, the free market without bankruptcy is like religion hell. Market without bankruptcy is crippled and disabled and can not make itself functioned. Adding liquidity to the market US state has taken a short-term measure that simply has to help those banks who have had weaknesses in management and has to push inflation Yes abortive happen pruning activities will close those activities that can not stay standing and that consumers do not want and funds, resources or energy to spend on profitable activities. But instead of leaving the bankrupt financial institutions have abused the situation or who have made wrong choices in the market which should be held accountable, then the US government and other governments were brought into play to keep walking these losers. Instead the government to take responsibility for the crisis belonging to withdraw from the market and the government did the opposite of worse hands thrust in the market economy by hundreds flocked biljons taxpayers. But money in itself does not generate wealth if it was possible we would eradicate poverty long time ago.

Although banks stopped lending to each other, fearing that their balance sheets filled with debt and "toxic waste" would break from moment to moment. In this situation solidification liquidity, central banks pumped off across the banking system and in greater amounts, yet releasing the situation did not happen. The Thor will that crisis is more serious than anticipated so far.

We also present the conclusion that du some concrete actions governments and overcoming BQ able to refer to this rescue plan, plans to rescue the banking sector vulnerable share initially in the US and Europe and has usually go two great actors : - Governments and central banks.

Central banks are responding to the deduction of interest procent them as well as getting infected guarantor assets of banks in difficulty. Eg. In October 2008, the Fed double the level of liquidity available to banks amounting to 9000 billion dollars.

- The US government return the Paulson Plan, which plan provides for the acquisition of assets infected by various banks to the tune of 700 billion dollars.
- France: The State guarantees all bank operations worth 320 billion dollars and helps capitalization of banks in the amount of 40 billion dollars.
- Germany: The State guarantees banking operations in the amount of 400 billion dollars and helps banks capitalization ages 80 billion dollars.
- UK: The State guarantees banking operations in the amount of 320 billion dollars and helps capitalization of banks in the amount of 64 billion dollars.
- Switzerland: helping in bank capitalization of 6 billion frz. and purchased assets of 60 billion frz infected.
- India: banking sector assisted with 9 billion dollars
- China: Low interest percentage.

And then some question logic that win and who lost from all this financial maelstrom. In the first place who also won the main responsibility of this crisis. And they are many managers, Bankers, Banking and Financial Intermediaries who made diverse type products placed on the stock exchanges of know- you with the promise of unrealistic profit for funders providing for their own immediate profit on the capital invested by others . The big funders, many market speculators are harvested guaranteed their profits and leaving the mess later because financial .Only salaries and bonuses of managers of many banks ranged in 500,000 to 50 million dollars yearly, while wages of workers or to provide normal living of their families. According to the magazine "Le Times", only 15,000 American families earn 5% of total US national income - which is equivalent to an income of 9.5 billion dollars per household per year. At the same time in the world currently 1.2 billion people live on less than \$ 1 a day coast big banks which acquired years of realized gain on investments for themselves

and others, while in the present case, investment their bare fiddling with the master in the state budget burden, the burden of ordinary citizens who do not have any responsibility in banking arrogance.

Who lost - this is the flip side to pay not less in the whole world. Here Lost mainly banks and the various financiers share their financial savings in search of a greater profit, a profit that became fashionable "the skill and diligence of the various financial foundations Lost pension funds, which invested in these financial products the hope of greater capitalization, to be found today crumpled losses followed. Incur the same fate of Kosovo Pension Fund which is finally speaking only in 2008 lost about 100 million euros from its total. If you do not know why it does not say anything about the money collected from property Privatization Agency of Kosovo, which allegedly are stored in a safe place, but do not know where and how much is the real value of today's citizen, which lost millions of families now and in the future will bear huge financial losses with their backs by reducing purchasing power and increase state tax that would bear on them to cover the risk that the state now has taken over banks the calling "financial products infected". Bankers and financiers have learned their colossal profits while thousands of employees Lost in the economy, the effects of this crisis have already begun to feel, the second after the one sector finance as he is Automotive, where most automotive manufacturers are seeking the help of the state and have temporarily stopped production. In the ongoing crisis will continue on building activity, industry, hotel and on the whole economy. The recession has involved in the second half of 2008 the US, Japan, France and Germany, while forecasting gross domestic product depression for 2009-2010 will behave around the -10% -3. With this prediction is evident loss of hundreds of thousands of jobs.

In conclusion based on IMF data, loss or total cost will pay globe this crisis will reach up to 4.1 trillion dollars.

Literature and references

1. Civici, a "... or the global financial crisis?", Tirana, 2010
2. Paul Krugman a Nobel Laureate in Economics (2008),
3. Joseph E. Stiglitz, a Nobel Laureate in Economics (2001)
4. Amartya Sen Nobel Prize winner in Economics (1998)
5. Beqa B GLOBAL FINANCIAL CRISIS: ITS devastating effects and left
6. Govori F.- Finance - Prishtine2010
7. Nimani A., - Pristina or financial policies in 2010
8. SPIEGEL ONLINE International. And SPIEGEL 10.10.2008, 17.09.2009
9. Nytimes.com.24.10.2008
10. A.Greenspan-chairman of the Federal Reserve in the years 1987-2006
11. Sen, March 26, 2009.
12. M. Yunus winning the Nobel Peace Prize for 2006
Daniel Mitchell of the Cato Institute, February 2010
13. (Stiglitz, Stiglitz July 2008 and December 2008).
14. Adri-Nurellari Published in the newspaper "Classifieds" Tirana 2010.
15. G. Ilić, Evropske Reform Unije - Institucionalni aspect., Belgrade 2004
16. Sadiq, M., Transition and Institutional Reforms in Kosovo, RIINVEST, Prishtina 2007
17. <http://www.evropaelire.org/content/article/2042938.html>
18. <http://www.telegrafi.com/?id=46&a=4272>
19. <http://www.setimes.com/cocoon/setimes/xhtml/sq/features/setimes/roundup/2008/10/10/roundup-bs-04>
20. <http://www.noa.al/index.php/ekonomi/90-ekonomi/987-raporti-i-ri-i-fmn->
21. <http://www.bbc.co.uk/albanian/regionalnews/2008/1>

Learning the Spanish Language for Ideological, Political, and other Curious Reasons

Prodani Anastasi

Universiteti i Tiranës, Albania

nastaprodani@yahoo.com

Gjinali Aida

Universiteti i Tiranës, Albania

aidagjinali@yahoo.it

Gjoka Sandra

Universiteti i Tiranës, Albania

sandragjoka@gmail.com

Abstract

Spanish language and teaching it in Albanian schools did not come as a request of the labour market. It was made available only through the need and lunatic wishes of a dictator, who wanted to spread his words, his revolutionary ideas and the pattern of the building socialism in Albania according the lessons of Marxism-Leninism in the whole world, and in this case in Spanish-speaking world, either in Spain or Latin America. As a consequence, small but concrete steps were undertaken for the schooling and professional education of those who in the future would work as translators, radio presenters or teachers of Spanish language. The main purpose of this research is to highlight the itinerary followed by the Spanish language in the context of totalitarianism in Albania from the '90s till nowadays.

Keywords: Spanish language, Marxist-Leninist members, communist propaganda, Spanish curriculum.

1. Introduction.

Trying to provide a panorama of the teaching of Spanish language in Albania is a privilege, but also a relatively important duty and responsibility. Thanks to the successful collaboration among generations, but also among university colleagues and other institutions, we were able to receive a material that has never been published before. The interviews and discussions, whether online or physical, are the main source of information that will be published in this study. The difficulty is time, memory that has erased fragments and names that belong to a 50-year period. We should add to this variable the difficulty of the mentioned period, the totalitarian dictatorship or "dictatorship of proletariat", where intentionally or not, the mechanism of memory erasing has worked and becomes more evident in some areas of study. We are dealing with the years of the Cold War, where Albania firstly belonged to the Block of Eastern communist countries, and then, was transferred to the "building of socialism by relying entirely upon its own power". Without such a historic context, it is not possible to grasp the fate of Spanish language in Albania, "in this country, the lighthouse of Marxism-Leninism in the whole world, which laughs in the face of wolves".

The existence of the Spanish language in Albania is closely related to the mentioned communist period. Enver Hoxha, the leader of the Communist party, which was later renamed The Albanian Labour Party (PPSH), was in the same time the *de facto* government and state leader for nearly 40 years. Because of this, he was the writer of many books inspired from the Marxist-Leninist ideology and from the socialism pattern that was being applied in Albania. The obligation and his wish to spread this pattern of the socialist Albania brought forth the need for translating the works of Enver Hoxha in as many foreign languages as possible. It is worth mentioning the fact that in 1972, the Academy of Science was created, acting as the highest scientific institution, whose main objective was to support the socialism in Albania, being based on the principles of Marxism-Leninism, inspired by the Communist Party. For the same reason, in 1956 there was created an institution dedicated exclusively to the composition of the Albanian Labour Party history. From 1968 to 1990 this institution published

all the works of Enver Hoxha and other communist politicians (Prodani A., 2013: 11). This is the general panorama whose immediate obligation, or if we take into consideration the terms used at that time, "the obligation of the party", was the translation of the Enver Hoxha works and his claims, even in Spanish.

2. Nombres de guerra

During that period, there existed only two publishing houses in Albania: Publishing House "Naim Frashëri", which dealt with fiction works' translation, and the Publishing House "8 Nëntori", which dealt with the translation Enver Hoxha's works and other translations of political aspect, and also, the publishing of two magazines in Spanish: "Albania Hoy" and "Albania Nueva", which were entirely dedicated to the propaganda of "victories and achievements of the socialist Albania", published once in two months and with a duration of some years.

Faced with this situation, there came the need and the necessity to educate people in Hispanic background. And where better than in Cuba? The only Spanish-speaking communist country. Therefore, in a bilateral agreement, in 1962 the first generation of Albanian young people was sent to be educated in Havana. This generation was composed of 2 young boys who studied there for 5 years.

The honourable professor Skënder Vuçini, who belonged to the second generation sent to Cuba in 1963, tells the following in an interview conducted on November 14th, 2014, 10.00 am:

"The two boys who went to Cuba to get an education in 1962 are Ali Laho from the village of Peqin and Shezai Shyti from the village of Terbac in Vlore. At that time, they were both working as teachers in the village. The next year, in 1963, Perparim Sinani and me, just graduating from high school, went to Havana to study there and return to the country 5 years later, in February of 1969."

But Cuba was not the only country that welcomed Albanian youngsters. Two other generations were sent in the distant communist China to be educated in Hispanic studies. Professor Fatmir Xhaferi, who actually works as professor of Spanish language in the faculty of Foreign Languages, graduated in the University of Beijing. In an interview conducted on December 3rd, 2014, at 01.00 pm, tells:

"I was an excellent student of medicine. I adored it and the thought of learning a foreign language never crossed my mind. They simply told me they had decided for me to go to China. In the period of 1974-1978, the time of my studies in China, it was out of the question to object what the system decided for you. So, together with Professor Hamdi Dega, we became the second and the last generation sent to China. Later, the relationship between both countries was interrupted."[We would like to remind here that two other young students who graduated in China were Ivzi Koçi and Tasim Kokona]

After the return of the young people in Albania, they were immediately employed in the only publishing house at that time, with the duty of translation or editing, even in Radio Tirana, the first radio station in Albania. Others were employed in the Central Committee of the Party, in ATA or in the Ministry of Foreign Affairs.

In the middle of the '70s, the first Spanish contingent came in Tirana. They were a couple and lived in the "German villas". Both of them worked and gave their contribution in the publishing houses and also in Radio Tirana. The objective this time remained the same: to transmit news and successes of Albania to the whole world. At the time, there were prepared separate radio programs for Spain and Latin America. The duration was one hour. The Spanish people edited the materials translated by translators-understudy and radio speakers at the same time.

When questioned in an interview performed by the translator Elvi Sidheri with the Spanish writer and journalist who visited Tirana in 1974, José Catalán Deus told that he was part of the National Anti-fascist Revolutionary Frontier (NARF). He himself was a fan and supporter of the communist propaganda and at the time NARF used to make propaganda for the communist regime of Hoxha in Albania (Sidheri E., 2014).

All the foreigners, including Spanish and those of Latin America, were communists with Marxist-Leninist belief, and they visited Albania as guests officially invited by the Albanian government. They were part of the Marxist-Leninist Communist parties or NARF, that is, extreme left wing groupings. They used nicknames, "nombres de guerra", or "war names", and not their real names. Very often, when visiting Albania, they changed the war names they used in Spain. They worked as

professors of Spanish language, they prepared news or edited them, they corrected the texts translated into Spanish from Albanian, and also hosted radio programs. There we also people like Ramon Sanchez Lizarralde who engaged in fiction translation, mainly works of Ismail Kadare. Their activity and engagement lasted for a certain period of time (generally 2 to 4 years), then later they went back to their country and were replaced by other incoming couples. They were part of the propaganda machinery of the communist regime, as well, to transmit the voice and successes of the socialist Albania in the world. It was not a rarity for them to attend the School of the Party¹ and listen to lectures on Marxism-Leninism. (The School of the Party was attended by future leaders of the new socialist system who were educated on an ideological and political background. The axis of the education was the Marxism-Leninism ideology.)

Table 1 represents data on the Spanish contingent; the first table provides the war names; the second, their real names and the last one their occupation in Tirana. Some data are missing due to lack of information and in the table there are represented 12 couples. The information has been gathered thanks to the consultancy of María Rocés González, M^a Antonia Garcia (Clara) and Jesús Hernández (Andreu), Elsa Bakshevani, Ivzi Koçi, Skënder Vuçini and Fatmir Xhaferi.

Table 1

Members of FRAP (Frente Revolucionario Antifascista Popular)², CP (marxist-leninist) of Spain, [PCE (m-l)], who worked at Radio Tirana, at the Publishing House "8 Nëntori", at the High school of foreign languages "Asim Vokshi" and at the University of Tirana.

nº	Period	War nicknames used in Albania	Real names	Members of	Observations	Employee of...
1	1965-1970	Luis Buhalance ³	?	PCE(m-l)	Member of Central Comitty of th CP of Spain <i>PCE (m-l)</i>	Radio Tirana
2	1970- 1974	Guillermo	Pedro	PCE(m-l)		Radio Tirana
	1970-1974	Elena	?	PCE(m-l)		Radio Tirana
3	February 1974- February 1976	Antonio	José Catalán Deus	PCE(m-l)		Radio Tirana & Publishing House "8 Nëntori", & Spanish lessons at Radio Tirana
	February 1974- February 1976	Beatriz	Dolores (Lola) Galán	?		P. H "8 Nëntori" & Radio Tirana
4	1975-1980	Juan	Benjamin Padilla	PCE(m-l)	Replaced J. Catalán y Lola Galán	P. H. "8 Nëntori" & Radio Tirana
	1975-1980	Clara	M ^a Antonia Garcia Sanz	PCE(m-l)		Radio Tirana
5	1977- October 1980	Victor	?	PCE(m-l)		Radio Tirana
	1977- October 1980	Rosa	?	PCE(m-l)		Radio Tirana
6	1979- 1983	Pablo	?	PCE(m-l)	Replaced Juan y Clara	Radio Tirana
	1979- 1983	María	?	PCE(m-l)		High school "Asim Vokshi"
7	October 1980- April 1984	Karlos Sanchez	Ramón Sánchez Lizarralde	PCE(m-l)	Replaced Victor y Rosa	P. H. "8 Nëntori" & Radio Tirana
	October 1980- April 1984	Karmen Gonzalez	María Rocés González	PCE(m-l)		Radio Tirana & Spanish lessons at Radio Tirana

² <http://www.march.es/ceacs/biblioteca/proyectos/linz/documento.asp?reg=r-9533>

³ PCE (m-l) was founded by October-December 1964 and right-away sent its members work at the broadcasts of Radio Tirana. The mail of PCE (m-l) came to the Spaniards of Radio Tirana always in the name of Luis Buhalance.

8	1983-1986	Pepe	Rafa Lluch	PCE(m-l)	Replaced Pablo y María	Radio Tirana
	1983-1986	Lola		PCE(m-l)		High school "Asim Vokshi" & Radio Tirana
9	April 1984-1987	Andreu	Jesús Hernández	PCE(m-l)	Replaced Karlos y Karmen	P.H. "8 Nëntori" , Radio Tirana & Tirana University
	April 1984-1987	Ana	Margot Coria	PCE(m-l)		Radio Tirana
10	1986- 1988	Eduardo	Ángel Yébenes	PCE(m-l)	Replaced Pepe y Lola	Tirana University
	1986- ?	Elisa	Elisa	?		Radio Tirana
11	1987- 1989	Ramón ¹	Ramón	PCE(m-l)	Replaced Andreu y Ana	Radio Tirana
	1987- 1989	Adela	Adela	PCE(m-l)		Radio Tirana
12	1988- 1990	Juanjo	Juanjo	PCE(m-l)	The last ones to leave	Radio Tirana & Tirana University
	1988- 1990	Pilar	Pilar	PCE(m-l)		Radio Tirana

Apart from the Spanish marxist-leninists, there were others from various countries working at Radio Tirana. All these marxist-leninists were housed initially at Aviation Apartment Buildings and then they were all transferred to live at the Germans' Villas/Compound.

At the beginning, there were three 30 minute radio-broadcasts in Spanish: one for Spain, one for Latin America and a joint one for both. Later, there were run two 1 hour broadcasts: one for Spain and one for Latin America. The broadcast programme started: "Habla Tirana. Habla Tirana. Están en sintonía de radio Tirana..." and the programme was accompanied with the play of International's Anthem.

"Albania Nueva" was an illustrated political & social magazine. It was published twice a month in Albanian, Spanish, German, Arabic, French, English, Italian and Russian. Editorial address was: "Shqipëria e Re", Rruga "Themistokli Gërmenji" 6, Tirana, Albania. It contained articles on the planned economy, Congresses of the Party and of the Socialist Women, on People's Army, health service, polit bureau, artistic-cultural life (parade of 1st May, May concerts, movie festivals), handicraft, as well as short artistic writings in prose and poetry; segments from the history and geography of Albania. Photos were produced by ATA (Albanian Telegraphic Agency).

Furthermore, other marxist-leninists, although less in numbers, came from Latin America to work at Radio Tirana.

1. The Peruvian Felix was provided also with a residence permit
2. After the coup d'état in Chile, Raul from Chile came for a period of 6 months to find refuge in the country.
3. A couple of Chileans with two children, named Mario and Jimena.
4. A couple of Colombian, Marsela and Dario with three children resided for 4 years.

According to the interview conducted by E. Bakshevanit, Radio Tirana broadcasted in 20 foreign languages, apart from Albanian targeting Albanians living abroad. These broadcasts were in the following languages: Chinese, Arabic, Turkish, Serbo-Croatian, Polish, Czech, Hungarian, Romanian, Italian, Portuguese, Indonesian, English, French, German, Swedish, Spanish, Persian, Russian, Greek and Bulgarian.

To attend the Party's School, the requirement was to have graduated the high school and be a party member. This school trained the young cadres for party secretaries, etc.

On the other side, other Albanian young people, who had graduated on Albanian Language and Literature, attended a second three-year school, of 12 hours of lessons per week, in the premises of Radio Tirana, to learn the Spanish language, taught by the Spanish people visiting Tirana. Radio Tirana was at the time one of the European radios, which transmitted more foreign language programs, more than twenty languages, in different timetables and frequencies for Spain and Latin American (Sidheri, 2014).

¹ The last couples did not use any longer the war nicknames as SCP (m0l) ewas legalised in Spain in 1981.

In the below interview conducted on November 11th, 2014, 03.00 pm, the translator, and, at the same time, the first speaker of Spanish language in Radio Tirana, Elsa Bakshevani, reminisces:

"I had just graduated in Albanian Language and Literature. Together with my friend from university, Rina Hasani, we were asked to become radio speakers and broadcast news in Spanish. We started learning Spanish with native speakers. Some of them were teachers of Spanish language, some were not. But they were native speakers, as well. It was important to learn the language."

Before the employment of E. Bakshevani, R. Hasani and Kristofor Ndreu, two other employees worked at the Radio, Niko Redi and Leo Prela, who did not have the proper academic education, but had learnt Spanish when they were emigrants in Latin America. The first one was in Mexico.

What happened to the young people that were educated in Cuba and China? As it was mentioned above, they were employed in both publishing houses and in Radio Tirana. Professor Skënder Vuçini, in continuance of his interview, adds:

"Ali worked at the Radio. Shezai was sent to the Central Committee. From 1972-1974 I worked in the Radio as professor. I corrected the speakers' errors. The news was registered before being aired. So, the news in Radio was not aired live. Besides Radio Tirana, I worked in the publishing house, as well. My first translation, directly after my return to Albania in 1969, was the work of Enver Hoxha titled "The Story of the Albanian Labour Party". Moreover, Professor Ivzi Koçi, Hamdi Dega¹ and Fatmir Xhaferi who graduated in China, worked as translators of Spanish language in publishing houses." [H. Dega has worked until the end of the '80s in the Albanian News Agency (ANA)]

With regards to these issues, Professor Fatmir Xhaferi adds:

"I was employed in the publishing house "8 Nëntori". I worked there for 16 years. After 16 years, the editorial office of foreign languages was closed. We used to work 36 people that translated all the works of Enver Hoxha. We translated it from Albanian into different languages."

3. Spanish as a "rare language"

By the middle of the '70s, there was an unsuccessful attempt to open a branch of Hispanic studies following the arrival of the professor José Catalán Deus, but it would be the year 1979 the one that would indicate the opening of the Spanish branch in the foreign languages high school "Asim Vokshi", where, besides Spanish, there were also opened branches of German and Italian. These three languages were labelled at the time as "rare languages". Maybe it was due to the low number of students or due to the low number of study rights, compared to the allowed places for English, Russian or French; or maybe because these languages were not known in Albania, or perhaps in the context of third languages, the new ones were considered a minority, because the minimum number of students was 8 per class. Spanish language teaching lasted only for a four-year period in the high school. The last generation was in 1983. In four years there were a total of 35-40 students (Archive of Asim Vokshi, 1979- 1983).

With regards to teaching, professor Skënder continues:

"I graduated in Hispanic Language and Literature in Cuba. With the opening of the Spanish branch in "Asim Vokshi" I taught Spanish Literature, History and Syntax. [?]"

Professor Fatmir adds:

"I was assigned as teacher of Spanish language in "Asim Vokshi" high school in 1979. It was my first time as a teacher. In the beginning, I raised my voice on the issue of lacking books. This concern was supported, enabling thus students to be supplied with books from my personal library and from that of the Spanish people working in the radio. In this way, students were supplied with books."

Although the beginnings of the Spanish language were difficult, it is worth mentioning the fact that before the '90s, the policy applied for foreign languages was the centralized one, based on the 5-year plan of the Party, as it happened with everything else in the economic-social-political Albanian life during the totalitarian period.

4. A forced “marriage”: Spanish- Russian

Spanish started in 1979 as an independent branch in the foreign language high school “Asim Vokshi”, where there was studied only one foreign language; the Spanish experience lasted 4 years; it was terminated in 1983, and re-opened in 1990. The trajectory of Spanish in the high school “Asim Vokshi” has its own ups and downs, but it was always on the move and it was not absent for a long time. Whereas for it being included again in the university level, in the Faculty of Foreign Language, it had to wait for nearly two decades.

In 1999 it is offered within the bilingual package, together with Russian language. Students studied Spanish and Russian at the same time. Even after the '90s, what could not be achieved by the Labour Party, was achieved by the leading rings of the education institution, that together with the centralizing and planning policies, inherited from the past, united Spanish and Russian, with the purpose of keeping alive the Russian one in the pre-university system. Spanish, being the attractive and trendy language for the young, was “married” to the Russian that was considered as old-fashioned and lacked employment perspective for the youth. During the interview conducted with regards to this issue on November 10th, 2014, 1.20 pm, with the Spanish teacher Nertila Buçpapa at “Asim Vokshi” high school, she reminisces:

“The Spanish-Russian branch was opened in 1999. This branch lived for 10 years, as the last generation dates in the academic year 2008-2009. From 2009 up to now, we offer the branch Spanish-English.”

Nowadays, in this high school of linguistic profile, Spanish and Russian are “divorced”. Two other linguistic couples are available: Spanish-English and Russian-English. Thanks to the possibilities of chosen subjects and languages offered by the school, students are free to choose other languages according to their preference, despite what they are studying. Nertila presents actual available data of the academic year 2014-2015.

“Spanish as primary language is taught 4 hours per week. 112 pupils learn it as a primary language, 128 as a third one, because it is not offered as a second language. 60 students have chosen it as an advanced language, 37 pupils participate in the translation subject and 36 other in the Civilization one, which are specific subjects and are offered for an advanced level [it refers to X, XI and XII classes].”

Questioned on the request-offer balance with regards to the quotes published by “Asim Vokshi” high school to start the pre-university cycle, she replies:

“There are published approximately 40 or 80 quotes. This is decided by the school principal depending on the available classes. Pupils are selected based on the average marks of the elementary school. There is no other additional acceptance exam.”

5. “The new nest” for Spanish language in Albania

In 2005 Spanish language is included in the curriculum of the Faculty of Foreign Languages as a subject of choice and three levels are offered according to the Common European Framework of Foreign Languages. In the beginning of the academic year 2007-2008, the Spanish government collaborated by sending one Spanish lecturer in the framework of the Program for Lecturers AECID. Later, in September of the academic year 2008-2009, the Spanish branch is opened in bachelor studies “Hispanic Language, Literature and Civilization” within the Department of Italian language. These steps were gradual and came as a need of time. While Spanish was in its first steps, in January 2009, the Department of Spanish language was suddenly opened by a decision of the Prime Minister of that time, Mr. Berisha, and the first Spanish ambassador in Tirana, Mr. Montobio. At that time there were only two Albanian professors and one Spanish lecturer, who worked full time in the department.

In such a situation, in 2009, the Spanish government, in collaboration with the Spanish department and the intermediation of the Spanish embassy in Tirana, designed a CAP project, through which professors of the 8 best Spanish universities came to assist the consolidation of the Hispanic studies. Thanks to the intermediation of the International University Menendez Pelayo the collaboration with the following universities became possible: *Universidad Complutense de Madrid, Universidad Autónoma de Barcelona, Universidad de Salamanca, Universidad de Oviedo, Universidad de León y Universidad Nacional de Educación a Distancia (UNED)*, and three main fields of the study programs were covered: Language, Culture (literature and history), and the Spanish language didactics. Besides training the professors and lecturing the students, work was done to compile the teaching manuals of each subject, which was a novelty for the Faculty of Foreign languages. Moreover, great attention was paid to extracurricular activities directly or indirectly linked to students or academic circles related to Spanish language. As a consequence, in November 2009 the theatre group of the department

was created; it has done many theatrical performances and has participated in the Festival of the university theatre of foreign languages in Macedonia, UNIFEST. In the academic year 2011-2012, in the Spanish department, began the bachelor studies in "Intercultural and Touristic Language and Communication" (Prodani, 2014). Today, there are approximately 340 students studying Spanish as primary and secondary language at the department of Spanish language. Respectively, 210 students attend the studies in the first Cycle; 50 others in the second Cycle of the Master studies and approximately 70 people study Spanish as a secondary language. From the academic personnel, 9 are full time professors, 4 are part time and there is one Spanish lecturer.

Outside the auditorium, Spanish language had a home of its own. In 1997 "Casa de España" (Spain's house) is opened in Tirana, which was preceded by the opening of the society "Amigos de España" (Spain's friends) (in the end of 1996), where, besides organizing courses of Spanish language and culture and different cultural activities, served as a consulate for many years until the opening of the Spanish embassy in Tirana. In May 2003, *Casa de España* is given another function. It is transformed in the centre of checking the DELE exams.

But this cultural centre would be closed due to the recent worldwide economic crisis that overtook Spain as well, and as a consequence dramatically reduced cost related to the expansion of Spanish culture and language. Such a hit was felt in the radius of Spanish expansion in Albania. In 2013, *Casa de España* was closed, concentrating thus the activities only in schools and universities. Meanwhile, *Casa de España*, has its own virtual life by opening a page in the social network "Facebook", which is used to share materials and information related to the Hispanic world. Now, it is the Department of Spanish language that is transformed in the examining centre of DELE exams, starting from 2013. Although in February 18th, 2009, the Ministry of Education ordered the use of Spanish in the list of chosen subjects in the A-level exams in Albania, it is not included in the pre-university system yet, as it has happened with Italian, French or German, as subject of free choice.

6. Conclusions

The Spanish language has a lifespan of over 50 years in Albania despite the short and long gaps in the auditors, its ups and downs, which came as a result, sometimes of ideological reasons and sometimes of political ones. It is important to emphasise that Spanish today is gaining every day more and more ground between younger generations and this requires a wise policy and a great support to make possible the introduction of Spanish language in the compulsory and high schools, just like other languages, such as German, French and Italian.

References

Interview

- [1] Bakshevani E., Interview on 11.11.2014, hour 15:00 by Sandra Gjoka.
- [2] Buçpapa N., Interview on 10.11.2014, hour 13:20 by Sandra Gjoka.
- [3] Vuçini, Skënder. Interview on 14.11.2014, hour 10:00 by Sandra Gjoka.
- [4] Xhaferi, Fatmir. Interview on 3.12.2014, hour 13:00 by Sandra Gjoka.
- [5] Maria Rocés Gonzalez, Email of January 7, 2014

Archive materials

- [1] Spanish Department Archive, Faculty of Foreign Languages, UT, Registries and reports of 2014- 2015.
- [2] "Asim Vokshi" high school Archive, Registries and reports checked by the documents of 1979- 1983.
<http://www.march.es/ceacs/biblioteca/proyectos/linz/documento.asp?reg=r-9533>

New social phenomena in the optics of values in post-communist Albania

Ina K. Zhupa

Phd Candidate

Professor at the Social Science Faculty,
European University of Tirana

Abstract

Albanian society is experiencing post-communist period, which is associated with numerous changes in the social, economic and political field. Important aspect, are the values that people believe and reflect on their daily behavior. Values change as a result of other changes, especially economic ones, but not so fast and immediate like in other areas. Inglehart explains that the change of values is a result of greater economic development, an economic development in a society influence to fulfill the basic requirements that people have to live, and in this way they have the tendency to require for another value orientation. (Inglehart, Baker, 2000). In this regard, we try to look how the people in Albania, as a former closed communist society, might judge on certain social phenomenons that are difficult to be accepted and welcomed. Phenomena, such as divorce, abortion, euthanasia, suicide, prostitution, homosexuality, that are already common for a democratic society. Based on a quantitative methodology, surveys have been conducted to look at people's perceptions about these phenomena. These data are analyzed in this paper and bring us a society with traditional values. Analysis of these data will help us to understand better what kind of values we share in relation to the conception of this social phenomenon in albanian society, the problems that we can face and some predictions for the future.

Keywords: cultural change, social behavior, social phenomena, value patterns, cultural democratization.

Introduction

Albania, as a country that went through a long and wild transition, encountered after the '90s, certain social facts. It's not that this phenomenon that we are about to analyze did not exist, but they weren't talked publicly. The phenomenon are the divorce, abortion, euthanasia, prostitution, and homosexuality that don't necessarily connect to each other. It's normal that the divorce that was somehow legal, it's not treated in the same way as the abortion that was illegal or as homosexuality that was never discussed in the Albanian communist society. The purpose of the paper is not to treat this phenomenon as equal, but to observe them in the specter that in the communist times they were banned altogether.

The quantitative methodology of this paper tries to measure the public opinion concerning this issues so we could understand the differences between them and the general approach. First, we try to conceptualize the clear concept of the phenomenon and the background of the last 50 years of the communist regime on how the society understood them. Second, they are treated as phenomenon that exist in the Albanian society and not as social choices that might ask for another methodology. Third, we consult the empirical data that we retrieved from the questioner and we analyze their outcome.

Methodology

I used quantitative method with the purpose of understanding the actual situation of the Albanian society. I have applied a questionnaire with structural question where the responders had to choose one of the given alternatives. This simplify the classification of data and common results. The survey took place only in Tirana, the capital of Albanian because we think that Tirana can be a representative of all the country. The reason is that according to last CENSUS of the country made by INSTAT (Statistical State Institute) in Tirana lives 1/3 of the population of our nation. (Census, 2012: 134) Secondly form a demographic point of view the internal migration during the democratic years in Tirana represents a conglomeration of different cultures from the regions where they have previously lived and lastly, Tirana is the only region that offers an easier infrastructure for mobility.

These are the reasons that make me judge that by studying Tirana I will have the chance to generalize the result of the country without damaging the representativeness.

The survey was made by trained surveyors, which are students in the European University of Tirana. The surveyors did not complete by them self the survey and this avoided misunderstanding or fictitious fulfillment of the survey without even reading the questions. Instead, it assured that they would answer the needs of the responders.

The quota sampling method was selected because there is a lack of accurate data and address of the population and also because this method preserves the proportions of population's age, gender, income, etc.

In order to understand the values in time, the sampling was divided in group age. Given that the number of Tirana's population was around 600,000 of people aged over 15 years, (Census, 2012:134) it was decided for the sampling size to be 250 responders.

The data were collected, reviewed and processed in the SPSS program which offers a better option for statistical analysis by using the frequency device to analyze the society profile

Albanian communism and treatment of social phenomena

According to Emile Durkheim (1951), suicide was considered as one of the most intensely individual acts, which are purely determined by biographical and psychological factors. Variations in suicide differ from one ethnic, religious, racial and occupational group to another. Durkheim believed that there is a relationship between society and self and this highly contributes to the spread of suicide. Suicide rates is an indication of the extend to which people are not included into the societies group of life (Durkheim, 1951).

During communism, killing was also an exclusivity of the state. If you decided to kill yourself you should think on the consequences that would fall on your family and relatives. This because in essence, to kill yourself meant to be upset to communism and not to yourself. According to the latest WHO data published in April 2011 Suicide Deaths in Albania reached 196 or 0.90% of total deaths. The age adjusted Death Rate in 2011, is 6.11 per 100,000 of population ranks Albania #116 in the world. (<http://www.worldlifeexpectancy.com/albania-suicide>) The age adjusted Death Rate is 5.9 per 100,000 of population ranks Albania in 2012. (<http://apps.who.int/gho/data/view.main.MHSUICIDEV>.) For 2013 and 2014 in Albania we have found interesting numbers from WHO, concerning the number of psychiatric medics. The number of psychiatrists per 100 000 population ranges vary widely: from 30 per 100 000 in Switzerland and 26 in Finland to 3 in Albania and 1 in Turkey. (<http://www.euro.who.int/en/health-topics/noncommunicable-diseases/mental-health/data-and-statistics>)

Euthanasia refers to the practice of ending a life in a painless manner, usually by lethal injection or withdrawing life-supporting treatment. Assisted suicide differs to euthanasia as the doctor merely provides the means of committing suicide. The debate about whether people should be allowed to determine when they die is a complex and long running one. Euthanasia means "accelerated death of the person who suffers from an incurable disease, triggering fatal or serious physical abnormality, which aggravates the mental, emotional or physical state of the patient (terminal illness), and that can be caused in different ways and from different subjects, under the clear and continuous desire of the patient, with the only interest of giving an end to his sufferings"

According to the Professor Ismet Elezi "murder is an unlawful act or omission, through which another person is deprived of life intentionally or recklessly" . Euthanasia differs very little from the murder described above, to not say that it doesn't differ at all. Both concepts consist of taking away another person's life (Elezi, Kacupi, Haxhia, 2001:235).

Regarding the divorce in Albania, after adoption of the constitution of 1946, new laws were implemented regulating marriage and divorce. Marriages had to be contracted before an official of the local People's Council. After 1967, religious wedding ceremonies were forbidden. The minimum age for marriage was set at sixteen for women and eighteen for men. Because marriage was now supposed to be based on the full equality of both spouses, the concept of the father as head of the family, recognized by precommunist civil law and considered essential to Albanian family life, was officially deprived of legitimacy. A husband and wife now had the legal right to choose their own residence and professions. However, marriage to foreigners was prohibited except with the permission of the government.

The new divorce laws were designed to facilitate proceedings. The separation of spouses was made grounds for divorce, and in such cases a court could grant a divorce without considering related facts or the causes of the separation. Either

spouse could ask for a divorce on the basis of incompatibility of character, continued misunderstandings, irreconcilable hostility, or for any other reason that disrupted marital relations to the point where cohabitation had become intolerable. Certain crimes committed by the spouse, especially so-called crimes against the state and crimes involving moral turpitude, were also recognized as grounds for divorce. In divorce cases, custody of children was granted to the parent "with better moral and political conditions for the children's proper education."

Furthermore, until 1991, abortions were illegal and women were encouraged to have "as many children as possible," in addition to working outside the home. Some traditional practices, such as the presentation of dowries and arranged marriages, reportedly were condoned by the authorities.

Throughout its existence, the communist regime persisted in its campaign against the patriarchal family system. In the mountainous north, where vestiges of traditional tribal structures were particularly prevalent, the local patriarchs were detained and the property of their clans was appropriated. Patriarchalism, according to party propaganda, was the most dangerous internal challenge to Albanian society.

Homosexuality carried harsh penalties in the People's Socialist Republic of Albania, to which convicted homosexuals faced lengthy prison sentences and ill-treatment in prison. Prostitution was another unknown phenomenon during communism, as well as a social taboo. Due to the social ostracism that prostitutes are subjected to, generally, the entry of a member into prostitution provokes downward spiral deeper into poverty for a family (Sokoli, Gedeshi, 2006). In the study that Natalia Ribas Mateos makes, she mentioned that "Albanians often mention the fact that nowadays gypsy women tend to be the prostitutes in Albania, and that they also were in the past when prostitution was forbidden during communism." (Ribas Mateo, 2005:331)

Empirical study

The questioner, contained more issues than the ones that we elaborated. Based on the religious teachings and principles, Inglehart makes a classification of the position that people will take on such phenomenon as: abortion, divorce, euthanasia, and suicide. He connects it to their pillar of values whether they are traditional believers or seculars. This phenomenon are banned by the religious institutions and from the Great Will of the God that they believe. So, we also put this phenomenon to the questioned, in a list of things that they might encounter in their life. This, in order for them to give a mark if they never justify an action as such, (which we noted as 1, in a scale of 10, where by 10 was noted if they always justify this action). The answers marked from 1 to 4 are classified as completely in the traditional values side and the answers given from 7 to 10 are classified as completely on the side of the secular values. Let's take a look at each and every one of the phenomenon, given that their perception differs from the next.

The first in the list is abortion, to which 70.9% of the questioned answered on the side of the traditional values pillar. From this group, 48.5% of them answered that this is never justified (which corresponded to our mark of 1). Meanwhile 16.1% of the questioned answered on the side of the secular values. The expectations over this question where for the secular values to receive more marks, this because the Albanian law allows abortion under some certain specifications (yet it allows it). And this could have influenced the people to justify this action even more. Anyway this did not happen. Which gives us a clear indicator that values are not essentially related to what the law allows or not in a society. For more specification over the answering results the table below helps us:

Justification on abortion	1 (Never)	2	3	4	5	6	7	8	9	10 (always)	I don't know	No answer
Percentage	48.5	8.0	8.9	5.5	9.3	3.4	6.3	3.0	1.7	5.1	0	0.4

The next phenomenon is the divorce. To which the questioned answered in 46.4% on the side of the traditional values and 31.4% on the side of the secular values. Here, as it looks, the fact that the divorce has always been accepted by the law as an opportunity that is given to the married couples in case that the contradictions that they might have cannot be solved through mutual understanding, has influenced the result. This is the aspect which i think influenced, even though this is a society more and more opened on the different forms of being in a couple. The table below shows the concrete results:

	1	2	3	4	5	6	7	8	9	10	Don't know	No answer
Justifying divorce	(never)									(always)		
Percentage	27.4	7.2	3.8	8.0	16.5	5.5	8.0	7.6	5.9	9.7	0.4	0

The next phenomenon questioned is euthanasia, in which, several times the clarification of the word was needed. This because in our country the phenomenon is not discussed enough maybe because we did not have many health cases as such into which, the public opinion was called in judgment, as it happened in the countries nearby. In this question, 71.6% answered on the side of the traditional values, and 15.7% on the side of the secular values. For more, the following table:

	1	2	3	4	5	6	7	8	9	10	Don't know	No answer
Justifying euthanasia	(never)									(always)		
Percentage	56.8	7.2	5.9	1.7	3.8	2.5	4.7	3.8	1.7	5.5	4.7	1.7

The last phenomenon is suicide, which is a known phenomenon for our society and that has been analyzed a lot in the mass media. The questioned answered 93.7% on the side of the traditional values and from this group, 83.9% stand for never justified. On the side of the secular values, only 1.5% of the questioned. This extreme percentage is thought to be related to the belief that life is a gift from God and goes along with the indicator questioned prior, where God results as an important part of their life. By giving this much importance to God, a stance like this was expected.

	1	2	3	4	5	6	7	8	9	10	Don't know	No answer
Justifying suicide	(never)									(always)		
Percentage	83.9	3.8	4.7	1.3	2.5	0	0.4	1.3	0	0.8	0.8	0.4

The next question was: "For each of the phenomenon below, can you tell us if you always justify it?"

- Homosexuality
- Prostitution

If the questioned answer from 1 to 4, thus by not justifying the phenomenon, then they belong to the values of survival. If they mark from 7 to 10, by justifying them, then they belong to the values of self-fulfillment.

Concerning homosexuality, 74.3% of the questioned marked it with 1, as never justified. By giving a strong majority of the mark one on the side of the values of survival. Adding here also the other marks on the same side, the percentage goes to 85.3%. On the other side, the side of the values of self-fulfillment are only 5.5% with only 1.3% as always justifying it. The table gives us the varied results:

Justifying homosexuality	1	2	3	4	5	6	7	8	9	10	Don't know	No answer
Percentage	74.3	5.5	3.4	2.1	6.3	0.8	1.3	2.5	0.4	1.3	0.8	1.3

The next point was prostitution. To this, the questioned, again answered on the side of the survival values by giving the mark 1 on 77.6% of the times, and 89.8% added to the other marks of the same side. Meanwhile, on the side of the values of self-fulfillment, the questioned that justify this phenomenon are only 2%. And we have to stress, that none of the questioned marked 10. For more, the table below:

Justifying prostitution	1	2	3	4	5	6	7	8	9	10	Don't know	No answer
Percentage	77.6	5.9	3.8	2.5	4.6	1.7	0.8	0.8	0.4	0	1.3	0.4

Concerning prostitution and homosexuality, in order to understand better, we chose not to question related merely to the justification or not of the phenomenon, but also of the persons. Which means the judgment on the prostitutes and the homosexuals, as how would they accept these people near them. The question asked was: "I will give you a list of people of different categories. Can you tell us if among them you find people that you do not wish to have as your neighbors? Which ones?" Options: I do not want them (1); I want them (2); Indifferent (88); No answer (99). Concerning prostitutes, the table below reveals us that a majority of 77.1% does not wish to have them as neighbors, which means that they do not accept to have them near, and nor to have everyday visual contact to the prostitutes.

Prostitutes	Do not want them	I want them	Indifferent	No answer
Percentage	77.1	13.5	9.0	0.4

Almost the same results came out concerning the issue of homosexuals where the questioned answered that they would not want them as neighbors on the score of 78.3%. Giving hereby again their no acceptance over the phenomenon but also for the homosexuals as persons. The table below gives us the exact percentage of each option:

Homosexual	Don't want them	I want them	Indifferent	No answer
Percentage	78.3	10.7	10.2	0.8

Conclusion

In this paper were taken in consideration some social phenomena encountered today in Albanian society but not only. These phenomena were treated together for the fact that during the communist period were not issues for the public and for the judgment of the people. Phenomena were divorce, abortion, suicide, euthanasia, prostitution and homosexuality as different to each other. From the historical content we realized that the phenomena were treated in a different way during the communist period. Divorce, from all the phenomena was legally allowed/permitted. Even though, in practice the communist moral do not accept it and after this the punishment takes different forms. Abortion was illegally but in different circumstances was rarely permitted. Another phenomenon, prostitution was also illegally but it was not denied in Albania and the regimen played the role of the "ignoramus". The suicide was specific as a phenomena and it was not expected to have a legal adjustment. Even though every society does not support the suicide, during the communism if a member of a family commit a suicide his/her family was persecuted. Homosexuality was legally punished during the communist period and the identified persons was obliged to take hormonal medicines. While euthanasia was never discussed as a phenomena of the society.

The results taken from the survey show that:

Divorce justification was 46.4%

Abortion justification was 70.9%

Suicide justification was 1.5%

Euthanasia justification was 15.7%

Prostitution justification was 2%

Homosexuality justification was 5.5%

As above, Albanians stand in the side of the traditional values instead of centuries values. Being different from other phenomena where every person is object in a specific moment, prostitution and homosexuality are connected with the daily life and with assigned persons, not only a phenomena. From the survey also it comes out that persons were not accepted at 75%, again in the side of traditional values.

The higher scale of unacceptance is connected with the less known and discussed phenomena during the communism period in Albania. I believe that there is a connection between recognition and acceptance as showed even from the data. In this way, if the society need is to be opened towards the phenomena than the recognition is the key for the acceptance. Today in a global world where these phenomena are more than discussed, it is needed to enlarge the discussion also for the Albanian public opinion.

Bibliography

Damousi, J., Plotkin, M. B. (2012) *“Psychoanalysis and Politics: Histories of Psychoanalysis Under Conditions of Restricted Political Freedom”* Oxford University Press: USA

Durkheim, E. (1951) *Suicide : a study in sociology*. The Free Press

Elezi, I., Kaçupi, S., Haxhia, M. (2001) *“Commentary of the Criminal Code of the Republic of Albania”*, Tirana

Inglehart, R. & Baker, E.W, (2000) “Modernization, cultural change and the persistence of traditional values” *American Sociological Review*, Vol. 65 (February:19–51)

Population and Housing Census of Albania 2011 (2012) INSTAT ALBANIA, Tirana: Adel Print.

Ribas, M. (2005) *“The Mediterranean In The Age Of Globalization: Migration, Welfare, And Borders”*, Transaction Publishers:New Jersey

Sokoli, L., Gedeshi, I. (2006) *“Trafikimi, Rasti i Shqiperise”*. Instituti i Sociologjise: Tirane

Internet source

From <http://www.worldlifeexpectancy.com/albania-suicide> last seen january 2015.

From <http://apps.who.int/gho/data/view.main.MHSUICIDEv> last seen january 2015.

From <http://www.euro.who.int/en/health-topics/noncommunicable-diseases/mental-health/data-and-statistics> last seen january 2015.

Structure of Personality Variables of Special Olympics Athletes and Unified Partners in Football

Dragan Popović

Miloš Popović

Evagelia Boli

Hamidovoć Mensur

Marina Jovanović

Faculty of Sport and Physical Education,

University of Pristina temporarily seated in Leposavić, Serbia

Sport's Center Novi Pazar, Serbia

e-mail: dragan.popovic@pr.ac.rs

Abstract

Due to its simplicity and explicit algebraic and geometric meanings, latent dimensions, and identification structures associated with these dimensions, reliability of the latent dimensions obtained by orthoblique transformation of principal components can be determined in a clear and unambiguous manner.

Let $\mathbf{G} = (g_{ij})$; $i = 1, \dots, n$; $j = 1, \dots, m$ is an acceptably unknown matrix of measurement errors in the description of a set E on a set V . Then the matrix of true results of entities from E on the variables from V will be $\mathbf{Y} = \mathbf{Z} - \mathbf{G}$.

Assume, in accordance with the classical theory of measurement (Gulliksen, 1950, Lord & Novick, 1968; Pfanzagl, 1968), that matrix \mathbf{G} is such that $\mathbf{Y}'\mathbf{G} = \mathbf{0}$ and

$$\mathbf{G}'\mathbf{G}\mathbf{n}^{-1} = \mathbf{E}^2 = (e_{jj}^2)$$

where \mathbf{E}^2 is a diagonal matrix, the covariance matrix of true results will be $\mathbf{H} = \mathbf{Y}'\mathbf{Y}\mathbf{n}^{-1} = \mathbf{R} - \mathbf{E}^2$

if $\mathbf{R} = \mathbf{Z}'\mathbf{Z}\mathbf{n}^{-1}$

is an intercorrelation matrix of variables from V defined on set E .

Suppose that the reliability coefficients of variables from V are known; let \mathbf{P} be a diagonal matrix whose elements p_j are these reliability coefficients. Then the variances of measurement errors for the standardized results on variables from V will be just elements of the matrix $\mathbf{E}^2 = \mathbf{I} - \mathbf{P}$.

Now the true values on the latent dimensions will be elements of the matrix

$$\mathbf{Q} = (\mathbf{Z} - \mathbf{G})\mathbf{Q}$$

with the covariance matrix $\mathbf{Q} = \mathbf{Q}'\mathbf{Q}\mathbf{n}^{-1} = \mathbf{Q}'\mathbf{H}\mathbf{Q} = \mathbf{Q}'\mathbf{R}\mathbf{Q} - \mathbf{Q}'\mathbf{E}^2\mathbf{Q} = (q_{pq})$.

Therefore, the true variances of the latent dimensions will be the diagonal elements of matrix \mathbf{Q} ; denote those elements with q_p^2 . Based on the formal definition of the reliability coefficient of some variable $\rho = q_p^2 / \sigma^2$ where q_p^2 is a true variance of the variable and σ^2 is the total variance of the variable, or the variance that also includes the error variance, the reliability coefficients of the latent dimensions, if the reliability coefficients of the variables from which these dimensions have been derived are known, will be

$$q_p = q_p^2 / \sigma_p^2 = 1 - (\mathbf{q}_p' \mathbf{E}^2 \mathbf{q}_p) (\mathbf{q}_p' \mathbf{R} \mathbf{q}_p)^{-1} \quad p = 1, \dots, k$$

Keywords : / reliability / latent / dimension / matrix / vector / variance /

1. Introduction

Mildly retarded people (F70) acquire language with some delay but most achieve the ability to use speech for everyday purposes and to hold conversations. Most of them also achieve full independence in self-care (eating, washing, dressing, bowel and bladder control) and in practical and domestic skills, even if the rate of development is considerably slower than normal. The main difficulties are usually seen in academic school work, and many have particular problems in reading and writing. However, mildly retarded people can be greatly helped by education designed to develop their skills and compensate for their handicaps. Most of those in the higher ranges of mental retardation are potentially capable of work demanding practical rather than academic abilities, including unskilled or semiskilled manual labor.

In a sociocultural context requiring little academic achievement, some degree of mild retardation may not itself represent a problem. However, if there is also a noticeable emotional and social immaturity, the consequences of the handicap, e.g. inability to cope with the demands of marriage or child-rearing, or difficulty fitting in with cultural traditions and expectations, will be apparent.

In general the behavioral, emotional, and social difficulties of the mildly mentally retarded, and the needs for treatment are more closely akin to those found in people of normal intelligence. An organic aetiology is being identified in increasing proportions of patients, although not yet in the majority. If the proper standardized IQ tests are used, the range 50 to 69 is indicative of mild mental retardation. Understanding and use of language tend to be delayed to a varying degree, and executive speech problems that interfere with the development of independence may persist into adult life. An organic aetiology is identifiable in only a minority of subjects. Associated conditions such as autism, other developmental disorders, epilepsy, conduct disorders, or physical disability are found in varying proportion. If such disorders are present, they should be coded independently.

Moderate mental retardation (F 71): These individuals are slow in developing comprehension and use of language, in achieving self-care and motor skills, and some need supervision throughout life. Progress in school work is limited, but a proportion of these individuals learn the basic skills needed for reading, writing, and counting. As adults, moderately retarded people are usually able to do simple practical work. Completely independent living in adult life is rarely achieved. Such people are fully mobile and physically active and the majority show evidence of social development in their ability to communicate with others.

2. Methods

2.1. Sample of respondents

To carry out the research correctly and to get results stable enough in terms of sampling error, it was necessary to take a sufficient number of respondents into the sample. The sample size for this type of research is conditioned by the objectives and tasks of the research, the population size and degree of variability of the applied system of parameters.

Based on the chosen statistical-mathematical model and program, objectives and hypotheses, we opted to include 40 respondents in the sample, a total of 80 in each subsample (40 Special Olympics athletes and 40 partners). The size of such a sample should meet the following criteria:

the sample effective should be such as to permit as many degrees of freedom as to make it possible for any coefficient in the pattern matrix or any correlation coefficient equal to or greater than .30 to be considered different from zero with an inference error less than .01.

to use adequate statistical methods successfully, according to the latest beliefs, the number of subjects in the sample should be five times larger than the number of the variables applied.

In addition, the respondents were to meet the following specific requirements:

respondents were male,

the age of respondents was defined on the basis of chronological age, so the research covered respondents aged 15 to 18 years plus-minus 0.5 years,

respondents were required to be members of a society that brings together Special Olympics athletes,

respondents were required to attend training classes regularly, what was determined on the basis of records kept by the coaches.

In defining the population from which the sample was drawn, except the above, no other restrictions or stratification variables were applied. The measurement was carried out in organizations and schools that bring together children with special needs.

2.2. Sample of conative variables

For the assessment of conative characteristics, the measurement instrument CON6 was selected to assess the following conative regulators:

- Activity regulator (EPSILON),
- Organ functions regulator (CHI) ,
- Defense reaction regulator (ALPHA),
- Attack reaction regulator (SIGMA),
- System for coordination of regulatory functions (DELTA) and
- System for integration of regulatory functions (ETA).

2.3. Data processing methods

Not a single commercial statistic program performs assessment of reliability of latent dimensions. What is more, the number of the texts which define this procedure is very small and the number of those describing this procedure is even rarer. Though, in a paper which proposes a competitive application of semi-orthogonal transformations of principal components in explorative and confirmatory analyses of latent structures (Momirović, Erjavec & Radaković, 1988), a procedure for reliability estimation of latent dimensions based on Cronbach's strategy for assessing generalizability is presented. But that procedure is as equally justified as the assumptions from which the Cronbach coefficient α is derived. Nowadays, for unclear reasons, everyone calls the coefficient by his name, though, long before him, exactly the same measure with virtually the same assumptions was proposed by Spearman & Brown, Kuder & Richardson, Guttman, and described in a more simplified form by Momirović, Wolf & Popović (1999), as well as some other psychometricians who worked and created in a nascent phase of the development of the theory of measurement in the times not affected by the computer revolution.

The value of research depends not only on the sample of respondents and sample of variables, i.e. the value of the basic information, but also on the applied methods for transforming and condensing the information. Some scientific problems can be solved with the help of a number of different and sometimes equally valuable methods. However, with the same basic information and from the results of various methods, different conclusions can be made. Therefore, the problem of selecting particular methods for data processing is rather complex.

All the data in this research were analyzed at the Multidisciplinary Research Center, Faculty of Sport and Physical Education, University of Pristina by the system of data processing programs DRSOFT developed by Popović, D. (1980, 1993) and Momirović, K. & Popović, D. (2003).

Assessment of reliability of latent dimensions

Due to its simplicity and explicit algebraic and geometric meanings, latent dimensions and identification structures associated with these dimensions, reliability of the latent dimensions obtained by orthoblique transformation of principal components can be determined in a clear and unambiguous manner.

Let $\mathbf{G} = (g_{ij})$; $i = 1, \dots, n$; $j = 1, \dots, m$ is an acceptably unknown matrix of measurement errors in the description of set E on set V . Then the matrix of true results of entities from E on the variables from V will be $\mathbf{Y} = \mathbf{Z} - \mathbf{G}$.

Assume, in accordance with the classical theory of measurement (Gulliksen, 1950, Lord & Novick, 1968; Pfanzagl, 1968), that matrix \mathbf{G} is such that $\mathbf{Y}'\mathbf{G} = \mathbf{0}$

and

$$\mathbf{G}'\mathbf{G}n^{-1} = \mathbf{E}^2 = (e_{ij}^2)$$

where E^2 is a diagonal matrix, the covariance matrix of true results will be

$$H = Y^t Y n^{-1} = R - E^2$$

if

$$R = Z^t Z n^{-1}$$

is an intercorrelation matrix of variables from V defined on set E .

Suppose that the reliability coefficients of variables from V are known; let P be a diagonal matrix whose elements ϱ_p are these reliability coefficients. Then the variances of measurement errors for the standardized results on variables of V will be just elements of the matrix $E^2 = I - P$.

Now the true values on the latent dimensions will be elements of the matrix

$$\varphi = (Z - G)Q$$

with the covariance matrix

$$\varphi = \varphi \varphi n^{-1} = Q^t H Q = Q^t R Q - Q^t E^2 Q = (\varrho_p \varrho_q).$$

Therefore, the true variances of the latent dimensions will be the diagonal elements of matrix φ ; denote these elements with ϱ_p^2 . Based on the formal definition of the reliability coefficient of some variable $\varrho_p = \varrho_p^2 / \varphi^2$ where ϱ_p^2 is a true variance of the variable and φ^2 is the total variance of the variable, or the variance that also includes an error variance, the reliability coefficients of the latent dimensions, provided that the reliability coefficients of the variables from which these dimensions have been derived are known, will be

$$\varrho_p = \varrho_p^2 / s_p^2 = 1 - (q_p^t E^2 q_p) (q_p^t R q_p)^{-1}$$

$$p = 1, \dots, k$$

Proposition 1

Coefficients ϱ_p vary in the range of (0,1) and can take the value 1 if and only if $\varphi = I$, i.e. if all the variables have been measured without error and the value is 0 if and only if $\varphi = 0$ and $R = I$, that is, if the total variance of all the variables consists only of the variance of the measurement error and variables from V have a spherical normal distribution.

Proof:

If the total variance of each variable from some set of variables consists only of the measurement error variance, then it is necessary that $E^2 = I$ and $R = I$, and all the coefficients ϱ_p are zero. The first part of the proposition is obvious from the definition of the coefficients ϱ_p ; that means that reliability of each latent dimension, no matter how that latent dimension is determined, equals 1 if the variables from which the dimension is derived are measured without error.

However, the reliability coefficient matrix $\varphi = (\varrho_p)$ is often unknown, so the measurement error variance matrix E^2 is also unknown. But if the variables from V are selected so as to represent some universe of variables U with the same field of meaning, the upper limit of the measurement error variance is defined by the elements of matrix U^2 (Guttman, 1945, 1953), or by unique variances of those variables. Therefore, in this case, the lower limit of reliability of latent dimensions can be estimated by the coefficients

$$\varrho_p = 1 - (q_p^t U^2 q_p) (q_p^t R q_p)^{-1}$$

$$p = 1, \dots, k$$

derived by a method identical to that by which coefficients ϱ_p are derived with the definition $E^2 = U^2$, i.e. in the same way as Guttman derived his measure ϱ_6 .

Proposition 2

The coefficients ϱ_p vary in the range of (0,1) but cannot reach the value 1.

Proof:

If $R = I$, then $U^2 = I$ too, and all the coefficients ϱ_p are equal to zero. But as $U^2 = 0$ is not possible if matrix R is

regular, all the coefficients ρ_p are necessarily less than 1 and tend to 1 when the unique variance of the variables from which latent dimensions are derived tends to zero.

Applying the same technology, it is easy to derive measures of the absolute lower limit of reliability of latent dimensions defined by this method in the same way as Guttman derived his measure ρ_1 . For this purpose, set $E^2 = I$. Then $\rho_p = 1 - (\mathbf{q}_p' \mathbf{R} \mathbf{q}_p)^{-1}$

will be measures of the absolute lower limit of reliability of latent dimensions, as, of course, $\mathbf{Q}'\mathbf{Q} = I$.

Proposition 3

All the coefficients ρ_p are always less than 1.

Proof:

It is obvious that necessarily all the coefficients ρ_p are less than 1 and tend to 1 when m , the number of variables in set V , tends to infinity, as then every quadratic form of matrix \mathbf{R} tends to infinity. If $\mathbf{R} = I$, then, obviously, all the coefficients ρ_p are equal to zero. However, the lower value of coefficients ρ_p may not be zero, because it is possible, but not for all coefficients ρ_p , that the variance s_p^2 of some latent dimension is less than 1. Of course, the latent dimension that emits less information than any of the variables from which it was derived, has no sense, and it is perhaps best to be discovered based on the values of coefficients ρ_p .

Measures of type ρ_1 (Momirović, 1996) defined by functions ρ_1 and ρ_2 will be, for the result defined by function h ,

$$\rho_1 = \rho_1^{\rho_1}$$

$$\text{And} \quad \rho_2 = 1 - \rho_1^{\rho_1}.$$

It is not difficult to show that, for regular sets of particles, measures of type ρ_1 are estimates of the lower limit of reliability of measures of types ρ_1 and ρ_2 , and measures of type ρ_2 are estimates of the upper limit of reliability of measures of types ρ_1 and ρ_2 .

3. Results

To achieve high athletic performance in each kinesiological activity, as well as in football, the application of scientific research in the training process is of crucial importance. As success in sport depends on a number of factors, it is very important to have reliable indicators on which dimensions affect the achievement of maximum results and to what extent. Conative space is the part of a person which is responsible for the modalities of human behavior. As there are normal and pathological modalities of behavior, analogous to that, there are normal and pathological conative factors.

The characteristic of normal conative factors is that they are mostly independent of each other and normally distributed in the population. Attempts of studying normal modalities of behavior and normal conative factors are rare, therefore this subspace of personality is not clearly enough defined.

In previous studies, pathological conative factors are much better defined than normal factors, and in most cases there are certain theoretical explanations for them.

It is thought that pathological conative factors are responsible for those forms of behavior which reduce the adaptive level of human, considering its potential capabilities. The impact of conative factors is not the same on all the activities that are insensitive to the influence of conative factors, and there are those on which the influence of these factors is crucial. This influence can be positive or negative depending on which factors and activities are in question. So, there is no activity that would be completely independent of the influence of conative factors, that is why determination of the structure of conative regulatory mechanisms in athletes is very important.

Therefore, estimation of latent dimensions in such research is possible on the basis of simple confirmative algorithms which are suitable not only for their considerable efficiency and effectiveness, but because they provide a simple interpretation of the results.

The algorithm applied in this research together with the accompanying program attempts to solve the structure of the treated spaces in the simplest possible way.

Principal Components of Conative Variables**Table 1**

	FAC1	FAC2	h ²
epsilon	,12	(,93)	,89
chi	(,77)	-,34	,72
alpha	(,89)	-,12	,85
sigma	(,76)	,38	,72
delta	(,85)	,05	,65
eta	(,95)	-,08	,90
Lambda	3,54	1,16	
%	59,14	59,14	
Cum.	19,48	78,62	

Pattern of Conative Variables**Table 2**

	OBL1	OBL2
epsilon	-,04	,94
chi	,83	-,28
alpha	,90	-,04
sigma	,68	,44
delta	,78	,11
eta	,95	-,00

Structure of Conative Variables**Table 3**

	OBL1	OBL2
epsilon	,05	,94
chi	,80	-,20
alpha	,90	,04
sigma	,72	,51
delta	,79	,19
eta	,95	,09

Intercorrelations of Oblimin Factors

Table 4

	OBL1	OBL2
OBL1	1,00	,10
OBL2	,10	1,00

Just like in the determination of all the structures of the analyzed anthropological status, the selection of a data processing method depended on the fact that each method of determining factors put certain restrictions on the primary information, so only the factors obtained by at least several factor methods can be considered as real factors.

Hottelling's method of principal components reduced the intercorrelation matrix, according to Momirović's B6 criterion, to two principal components which explained 78.62% of the total variance of the variables (Table 1). Thus the first characteristic root drew already 59.14% of the common variance of the variables. Most variables have high positive projections ETA .95, ALPHA .89 DELTA .85, CHI .77 and SIGMA .76 over the first principal component. This principal component, undoubtedly, acts as a general conative factor.

The second principal component explains 19.48% of the variance, and the variable of the activity regulator EPSILON .93 has the highest projection on it.

The communalities of all the variables are satisfactory. Though the other principal components cannot be given a specific reality as is the case with the first principal component, their inspection may reveal those generators of variability which, according to the position of their importance, are responsible for the variability of the analyzed space.

To obtain a parsimonious structure, the entire initial coordinate system is rotated in one of the oblique rotations. In this case, Jenrich and Sampson's direct oblimin criterion is used while the same number of factors is retained and three matrices are obtained: a pattern matrix (Table 2), a structure matrix (Table 3) and a factor intercorrelation matrix (Table 4). In order to obtain an interpretable structure, the factor pattern matrix and the structure matrix will be interpreted at the same time.

The first oblimin factor has the largest parallel and orthogonal projections with the test vectors whose intentional objects of measurement were integration of regulatory functions (ETA), defense reaction regulation (ALPHA), organ function regulation (CHI), coordination of regulatory functions (DELTA) and attack reaction regulation (SIGMA).

It is reflected in the hypo- or hyperfunction of inhibitory mechanisms in certain situations followed by inhibition of some physiological processes and increased egotonicity. This factor of the first row belongs to the asthenic (anxiety) syndrome characterized by a decrease of excitation in the higher centers for regulation and control. It is obvious that it reduces adaptation in sport because it deactivates those structures of the nervous system which are responsible for that. This regulator is in a two-way relationship with the defense reaction regulator that modulates tonic arousal.

The second oblimin factor represents the single factor of the activity regulator. The activity regulator (EPSILON) is one of the elementary and lowest located regulatory systems in the hierarchy. Its function is regulation and modulation of

the activating part of the reticular formation, and therefore it is directly responsible for the activity and energy level on which other systems function, including cognitive and motor processors. Extroverted and introverted behavior models depend partially on the basic functional level of the activity regulator and partially on (mainly inhibiting) functions of cortical processors.

The factor intercorrelation matrix (Table 4) shows that the first latent dimension has no statistically significant correlation with the second one, what means that the isolated latent dimensions are factorially pure. The cybernetic model of conative regulator that is actually integrated into the model of cognitive functions, works through the biologically and socially most important and complicated system for regulation and control of regulatory functions that is in relationship with all other systems. The efficacy of cognitive regulatory mechanisms depends partially on the physiological factors which determine the amount and stability of the regulation and partially on the programs created under the influence of exogenous factors as well as on the interaction of social factors and physiological basis of regulatory mechanisms. As the player has no especially expressed desire to perform uncontrolled aggressive movements in a football game, this pathological personality trait should be particularly examined by all available measurement instruments in future studies.

4. Conclusion

The research was conducted with the aim to determine the structure of conative characteristics in Special Olympics athletes and partners in football.

For this purpose, 80 athletes and partners engaged in football were tested. For the assessment of cognitive characteristics, the measurement instrument CON6 was selected by which the following conative regulators were estimated: activity regulator, organ function regulator, defense reaction regulator, attack reaction regulator, system for coordination of regulatory functions, system for integration of regulatory functions, and system for excitation and inhibition.

All the data in this research were analyzed at the Multidisciplinary Research Center, Faculty of Sport and Physical Education, University of Pristina by the system of data processing programs DRSOFT developed by Popović, D. (1980, 1993) and Momirović, K. & Popović, D. (2003).

The algorithms and programs implemented in this research have been fully presented and the results of these programs have been analyzed.

To obtain a parsimonious structure, the entire initial coordinate system is rotated in one of the oblique rotations. In this case, Jenrich and Sampson's direct oblimin criterion is used while the same number of factors is retained and three matrices are obtained: a pattern matrix (Table 2), a structure matrix (Table 3) and a factor intercorrelation matrix (Table 4). In order to obtain an interpretable structure, the factor pattern matrix and the structure matrix will be interpreted at the same time.

The first oblimin factor has the largest parallel and orthogonal projections with the test vectors whose intentional objects of measurement were integration of regulatory functions (ETA), defense reaction regulation (ALPHA), organ function regulation (CHI), coordination of regulatory functions (DELTA) and attack reaction regulation (SIGMA).

It is reflected in the hypo- or hyperfunction of inhibitory mechanisms in certain situations followed by inhibition of some physiological processes and increased egotonicity. This factor of the first row belongs to the asthenic (anxiety) syndrome characterized by a decrease of excitation in the higher centers for regulation and control. It is obvious that it reduces adaptation in sport because it deactivates those structures of the nervous system which are responsible for that. This regulator is in a two-way relationship with the defense reaction regulator that modulates tonic arousal.

The second oblimin factor represents the single factor of the activity regulator. The activity regulator (EPSILON) is one of the elementary and lowest located regulatory systems in the hierarchy. Its function is regulation and modulation of the activating part of the reticular formation, and therefore it is directly responsible for the activity and energy level on which other systems function, including cognitive and motor processors. Extroverted and introverted behavior models depend partially on the basic functional level of the activity regulator and partially on (mainly inhibiting) functions of cortical processors.

5. References

- Andrejević, D. (2000). Problem samozapošljavanja i zapošljavanja invalida i drugih hendikepiranih lica u Republici Srbiji. Belgrade, Serbia: Republički zavod za tržište rada i Institut za mala i srednja preduzeća.
- Aršić, R., & Stanković, V. (2014). Analysis of the sports results achieved at national level competitions organized for the hearing-impaired children of Serbia. In S. Simović, V. Stanković (Eds.), *V Međunarodni naučni kongres „Antropološki aspekti sporta, fizičkog vaspitanja i rekreacije“*. Banja Luka, Bosnia and Herzegovina.
- Boli, E., Popović, D., & Popović, J. (2012). The structure of personality characteristic of dancers. *Kinesmetric*, 1, 161-177.
- Boli, E., Popović, D., Hošek-Momirović, A., Popović, J. & Savić, V. (2012). Algorithm and program for determining differences in the level of personality characteristics of male and female dancers in Mahalanobis` space. *Kinesmetric*, 1, 17-43.
- Gunzberg, H. (1973). Procena sposobnosti kod umereno i teže retardirane dece. Zagreb, Croatia.
- Momirović, D, Wolf, B., & Popović, D. (1999). The introduction to the theory of measurement and internal metric properties of composite measuring instruments. Priština, Serbia: Faculty of Physical Education, Centre for Multidisciplinary Research.
- Momirović, K. & Popović, D. (2003). Construction and application of taxonomy neural networks. Leposavić, Serbia: Faculty of Physical Education, Centre for Multidisciplinary Research.
- Popović, D.: (1980) Research methodology in Physical education. Niš, Serbia: University of Niš.
- Popović, D. (1992). Methodology of research in physical education. Athens, Greece.
- Popović, D. (1993). Programs and subprograms for the analysis of quantitative modifications. Priština, Serbia: Faculty of physical education, Center for multidisciplinary research.
- Popović, D., Kocić, J., Boli, E. & Stanković, V. (1995a). Cognitive characteristics of female dancers. International Congress "Images of Sport in the World", 75th Anniversary of the German Sport University, Abstract Volume, (pp. 96). Open Forum, Cologne, Germany.
- Popović, D., Petrović, J., Boli, E. & Stanković, V.: (1995b) The structure of the personality of female dancers. 3rd International Congress on Physical education and Sport, Exercise & society supplement issue No. 11 (pp. 196), Komotini, Greece.
- Popović, D., Stanković, V., Kulić, R. & Grigoropoulos, P. (1996). The structure of personality of handball players. 4th International Congress on Physical education and Sport, Exercise & society supplement issue No. 15 (pp. 164), Komotini, Greece.
- Popović, D., & Stanković, V. (2005a). The differences of the levels of cognitive abilities and personality characteristics among grammar school and medical school students. In N. Dikić, S. Zivanic, S. Ostojic, and Z. Tornjanski (Eds), *10th Annual Congress of the*
- <http://en.unesco.org/themes/education-21st-century> (date: 12.10.2014)
- <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/normative-action/fundamental-principles/equality-of-opportunity-and-treatment/> (date: 12.10.2014)
- http://www.unesco.org/education/nfsunesco/doc/isced_1997.htm (date: 12.10.2014)

Divorce; Albanian Reality

Alketa Molla

European University of Tirana

Faculty : Social Sciences

Branch: Sociology, Social Anthropology

Email: alketa.molla@yahoo.com

Abstract

The phenomenon of divorce every day and more is becoming worrisome for Albanian society. Before 90s divorce was taboo. The number of divorced couples was very low and one of the reasons was the mentality, and prejudice build up from the monopoly political system. On the 90s the political system has changed and we had the phenomenon of the opening of the society and the immigration. Alongside this phenomenon every year it is noticed that the number of divorced couples is been increasing. This phenomenon is documented on the annual statistics provided by courts in the country. The purpose of this study is to explore the impact of the immigration and the opening of the society in to the increasing of the phenomenon of divorce. What kind of background have the couples that had a divorce and how many of these couples have had at least one of the partners in immigration? How much is the impact of the distance between partners in their relationship? What is the level of the presence of the divorce's culture in Albanian reality and what is the impact, influence of the country's culture that Albanian have been immigrated? The improvement of social and economic politics from the government affects the increasing of new jobs, this can make the immigration's phenomenon to be curbed and therefore curbing divorce's phenomenon due to immigration. The study carried out by virtue of representative model. The sample non casual: partners returned from immigration have made the request for divorce. Thematic analysis of data. Conclusions drawn in an interpretative approach. The study will be based on the official data of the courts and data provided by NGOs that have been dealing with divorce.

Keywords: Divorce, Divorce culture, migration, marital relationship

Introduction

Divorce is a human right expressed by law. After 90s the number of divorces in Albania has been growing. Albania during the mono-party political system was a closed country, isolated and any kind of communication with other countries was avoided. The number of divorce was very low because of the mentality, or as a result of the system. In that period, divorce was taboo. It was seen as a very serious act that was accompanied by a series of negative social and psychological consequences for the family members. Albanian society today is an open society. People are able to move, migrate to other countries. Many Albanian families sheltered in emigration. Also many men have emigrated, leaving the family in Albania. The distance for a long time one of the spouses, generally men, accompanied by a range of consequences, including the cooling of relations between spouses. Often this phenomenon creates contradictions and disputes at the couple while the latter led to divorce. Standing for a long time away from each other spouse has brought the creation of new connections in their host country, thus leading to dissolution of marriage. Divorce is portrayed as a social problem of concern to the Albanian reality. The number of Albanian couples divorced has come growing, and recent figures are alarming if they refer to the statistics of the courts. Increasing the number of divorces is evident in major cities and smaller ones. This phenomenon is present throughout society.

Purpose of the Study

Divorce is a phenomenon that plagues every day society. This concern comes not only because why has increased but also the fact that he has social as well as economic costs (psychological consequences for partners but also for the children, economic conditions after divorce, etc.).

The purpose of this study is:

Immigration, the opening of the society, as they have increased the number of divorces. How much is present in the Albanian reality the culture of divorce? In this study made a detailed look at the anthropological terms, the impact has been open society, confronting culture in cultures of other countries where Albanians migrated terms of divorce. The study highlights the impact of these other cultures in development of a culture of divorce in Albania.

What are the particular problems that lead a couple to divorce, in terms of relations between spouses and their character? The distance for a long period, has also brought a cooling in the couple keep peace. Couples who previously had their contradictions between the departure of her husband emigrated were added even more these contradictions. Another fact is that the husband emigrated, creates a new connection where it is not concerned with for the family that is left in Albania.

Social and economic changes, their improvement may affect the improvement of conditions in many families. This could possibly bring the curb immigration as a phenomenon, it is known that immigration is so widespread due to the weak economy and the country's high rate of unemployment. Inhibition of migration And downsizi will bring consequently the inhibition of divorce due to immigration.

Questions and Hypothesis

The hypothesis is cast in this study is:

- Increasing the number of divorces as a result of immigration and the opening of society

Questions posed in this study are:

- What couples go to divorce?
- How many of these couples have had one of the partners in emigration?
- How did the distance for a long time in the relations between them?
- What changes in social policies and cultural and economic will not help these couples divorce?

Methods and Research Methodology

To realize onwards study used primary data, interviews of divorced persons and secondary data obtained from the literature.

The primary data obtained from interviews conducted with partners who have made them for a divorce are more interested and have the main weight in this study.

They highlight the social problems facing a family with one of the partners in immigration.

In reviewing the literature gathered data relating to divorce that came as a result of leaving for a long time one of the partners in emigration.

The study conducted based on a representative model study with qualitative data collected from the literature. Also in the study included primary data from semi-structured interviews and unstructured that are conducted with the participants in the study.

The sample: Used non-casual approach. Select the champion is aiming to give answers to the study questions. Participants in the study are partners who have made themselves a request for divorce. Interviews were conducted with divorced persons who have stayed away partner for a long time as a result of emigration. The aim of these interviews is to see how it has impacted the distance in the relationship, the pair stay for a long time in one place another culture.

Data processing is carried out through thematic analysis starting with unprocessed data, interpreting, summarizing and categorizing them.

Conclusions drawn using interpretive approach.

Analysis, interpretation of data

Divorce is a social problem which is massive out most recently in Albania. If we refer to the statistics of the major courts in the country the first thing that we would be striking is the fact that every year the number of divorces is incremental. Here we can say that even numbers of marriages per year is high. So therefore there is no marriage divorce. Albanian society is rich with cultural values and norms which apply massively by its members. One of them is the marriage which is a cultural norm that applies generally by all members of society.

If we refer to the statistics of divorce before the 90 th will note that their number is very low, almost negligible. The family has been in the consolidated and partners have had a common lifestyle. We Albanian mentality was the holy family and divorce regarded as taboo as seen as the destruction of the family. This taboo was exacerbated by the communist regime which does not give the individual more freedom and space. He directed not only at individual political views but also his behavior. The influence of politics and family life mentality that many couples do though have contradictions, do not do divorce disputes. Many couples who have problems in their relationships hid them because of the mentality and prejudices that were made by the company. The degree of emancipation of women was very low. They were almost humble before their spouses. There may be thought that women take the initiative to make application for divorce. These are some factors influenced the decrease in the number of divorces during that period. The change of the political system has resulted in the change of mentality regarding marriage, divorce. During the party system in Albanian society there was a culture of divorce and couples stay together even if there were serious problems in their relationships. The strength of opinion, prejudices society had a great impact on them. Political change is accompanied with social changes, increasing the level of independence and secession individual opinion influence his behavior. Increased rate of women's emancipation and awareness for their rights. If at first they do not dare to claim for divorce even if the problems were serious enjoyment, today demand-lawsuits made by numerous women were compared with men. Increasing the number of divorces shows not itself addition of family problems but there are also other means. Dealing Albanian culture with the culture of their host country Albania has had a particular impact in their lives. This has led to the creation of a culture of divorce in Albania which was missing for as long as divorce itself was a taboo couple problems not covered to be agreed by others.

Another factor is the lack of immigration during that system. There was no immigration and thus there was no separate living partners. They lived with each other so the resolve family problems together. There was no unemployment and low economic level was nearly the same for all.

After the change of political system Albanian society faced more veshtures which were also reflected in family relations. Many people hired in that system emerged now unemployed creating economic problems for their families. Immigration was seen as the only opportunity to ensure their livelihood. The economic difficulties have made many partners to emigrate and live so far from each other. Initially these migrations were carried out illegally by men. They migrating illegally were unable to take along their families. Wives and children stood in Albania. Lack of residency permits in places where they had migrated forcing these valuable partner to stay for a very long time without turning. They came to their families in Albania only in special occasions and stood a few days. This short stay near family so happen because they were employed in places where they had migrated and risk losing their jobs if they do not return in time there. But on the other hand it's prolonged absence accompanied immigrant partner with other family problems that remain to be solved is generally women has led to the deepening of relations between partners cooling. These are coupled with the distance problems that have arisen and are triggered off sharply between these partners. Problems in couples are associated with divorce.

The analysis of data obtained from interviews revile out the fact that during the time that the couple has been living together that have had a normal relationship. 90% of these cases the couple claim the problems began with the migration of the partner. Largest number of the divorces of what makes couples who have had one of the partners in immigration. But the problem lies not only here. 60% of divorces are made at the request of women. They complain that upon their return, their spouses have shown bad habits that had not before emigrating. They say that their partners have become violent, aggressive, alcohol users, play games of chance, do not respect them. There are many cases when women accuse their husbands for adultery and fornication for their host countries. This has made these spouses ekonomikisht not contribute to their own families in Albania. In many cases this is the reason that these spouses to make separate application for divorce.

But there are also other reasons. Physical and psychological violence is a cause that is present in almost all the requirements, lawsuits filed by women. They accuse their wives have committed violence against them. Failure of mutual relations is another cause which negatively affects the couple. The lack of the respect for one another be it even in decisions related to family do you often create friction. Partner does not complete his duties as a parent against requirements and childcare. In some cases women pose as divorce because of the abuse of the household income by the spouses in gambling. The latter not only does not contribute economically to the family itself but also abuse the revenues are mainly provided by spouses.

- 40% of divorces have come as a result of lawsuits burrave. Kerkese request made by men have as main reasons for divorce adultery and relationships outside of marriage. They complain that at the time of their stay in immigration women would betrayed or worse to have created an affair. Other causes encountered in applications, be they sued for divorce by women or men.

•

There are other cases where both partners were immigrants when they made the request for divorce. Difficulties that have faced these couples in their host countries have had a large impact on their relationship. Difficulties to find a job, to adapt to the language and culture of the country where they had migrated had influenced the way they conduct in their Relationship. They argue that problems and disputes began after the couple had emigrated. During the time that had been in Albania couple had a normal relationship.

- From the statistical data, the majority of the divorces are aged 30-40 years old. Partners who belong to this age have had a marriage that lasted mostly more than 5 years. They claim that in the first years of their marriage was normal. Problems between partners started after the birth of children and have increased greatly over the years. Almost all of these marriages have children. There are some cases limited in number, which are almost negligible who have not had children of divorced couples. The study noted that marriage is endangered to an end during the 10-year-old to her first. The number of divorces is higher for marriages from 5-10 years. 56% of the cases studied belong to this category.

The number of divorces that belong partners with age under 30 years old. Most couples divorces you belong to this age do divorce during the first years of marriage without achieving 5-year-old. We request their lawsuits researchers pose as divorce because ignorance best partner because they have made a hasty marriage without a sufficient period of recognition. Regarding the lowest number of divorces it consists of persons who are over 40 years old. Couples who have over 10 years of marriage are less likely to make divorce. It is also noticed by the limited number of divorces performed by these couples compared with those who have less than 10 years martese.44% of cases have made divorce after having been for more than 10 years married.

From a demographic overview of the distribution of divorces will note that the phenomenon of divorce is more common in urban areas compared to rural areas. Urban areas are those that lead to the highest number of them. 64% of the divorces are from these areas. They pose the greatest problems of social and economic. Here dominate unemployment, difficult economic situation. Problematic are the vices such as alcohol, gambling which relate mainly to men, especially when they stay away from the family for a long time. Women in urban areas have the highest number of requests for divorce than men. Generally women who have made an application for divorce are employed. Making income from work makes them more secure and independent. Women have become more aware of their rights. So if their marriage has become problematic relationships in pairs are cooled by stay for a long time away partner, being associated with ongoing conflicts and disputes women decide to end the marriage by making separate application for divorce. All women interviewed claimed that they are trying hard to preserve their marriage even for the interests of children but this has been impossible because it has lost its meaning.

Are divorced from rural areas are fewer in number. They constitute 36% of the divorces. Most of the divorces who have not completed university over belongs to this category. Even these pairs exhibit the same problem in their relationship where dominate conflict, violence and cooling of relations. Number of women who have made an application for divorce from rural areas is lower compared to men. Most women in rural areas are domestic. They care for their family properties and work mainly in agriculture. From this work they provide very little income. Men are mostly immigrant after puthuajse in rural areas is impossible to provide a pune.Rjedhimisht the problems that have led to divorce these pairs are connected mainly with immigration. There are few cases where both partners were in immigration and one of the partners is back in Albania to make a request for divorce. From interviews emerge data that are specific to couples who are in immigration. Mostly spouses who have migrated away initially and after having secured a permit have made family reunion taking the wife

emigrated with children. Spouses say that during that stayed away from each other they have had a normal marriage without displaying significant problems. Disputes and contradictions between partners started mainly because they have been united in immigration. Generally women in migration are more likely to make for a divorce if they have a problem in pairs. They say that during their stay far apart they have not noticed their spouses some habits and behaviors which they have emerged after joined in emigration. They allege that stay for a long time only negatively affected their spouses. They have become people with habits that did not have before. From these data it is clear that migration has affected the behavioral change and the addition of family and social problems.

Even literacy rate partners plays an important role in their lives but also in relations in pairs. By inspection of the data obtained from the statistics noted that the large number of divorces men have not finished secondary education. They constitute 60% of the divorces. Likewise these people do not have a skill and a steady job. Consequently, their economic incomes are low. This social group constitutes the highest number of emigrants as well have greater difficulty to find jobs in the country. We request-sued for divorce court made the stakeholders present due among other causes economic difficulties that partner not only does not contribute economically to the family but in many cases wastes its revenues in gambling. This category persons have more disagreements and contradictions with partner. Often conflicts between these partners degenerate into physical violence and psychological.

While the lower number of divorced couples belongs to partners with higher education. Only 6% of the divorced couples have carried higher education. This I think also the fact that the number of people with higher education who has emigrated is lower. These couples as a reason for divorce submit a mostly adultery and cooling of relationship.

The survey data of the study noted that the number of women seeking divorce is higher than the number of men. This can be explained by the fact that the number of men who emigrated alone without their families is higher than of those who emigrated as a family.

Men are those who exhibit more problems in the family during their migration to non-presence for a long time. Women must cope with family problems. After the partners return from migration many of them exhibit vices and problems which they had not before emigrating. Many women say that life becomes unbearable when economic problems were added to the problems in couple relationships. They claim that it is not easy to make the decision to divorce, especially when children are between .. The breakdown of a marriage may be associated with a variety of negative consequences that have an impact on children as a lack of respect, tolerance for spouses, can also be generate physical and psychological violence.

- From the data obtained in court if he divorces you compare realiuara Arranged marriages are greater in number than those that are made with the mutual consent of the partners so fondly. 52% of divorces belong arranged marriages

Arranged marriages partners in their request for divorce lawsuits have due among other reasons the mismatch of characters. They claimed that they have known each other well before marriage. As a result of this ignorance their marriage is accompanied by a series of problems and disputes which have degenerated into conflicts during marriage, especially when they have resided for a long time away from each other as a result of immigration.

Conclusions

As a result of the prolonged transition alongside social problems are also present economic problems. High rate of unemployment, poverty have made many people see immigration as the only possibility to provide them economic income. Emigration from one hand solves economic problems but adds social problems. Solve economic problems because through it many families earn a living tyre.Pra is the only source of immigration on the other hand ardhurave.Por added social problems which have led to an increase in the number of divorceve.Keto problems mainly related to living separate you do partners.

Key factors that play a very important role in family life are social and economic policies in place. These policies directly affect the improvement of living and therefore we iron out the problems in the family. The realization of economic policies would have a wider impact on society. Creation of new jobs would reduce the phenomenon of immigration because it is known that migration takes place mainly for economic reasons. Halting immigration would make you more couples not living separate and so it will not have those problems that cause living away partner. Inhibition of mass immigration would bring the inhibition of divorce was caused by immigration. Government intervention through its social policies and economic factors can significantly affect the reduction of the number of divorces.

Bibliography;

Bejja, Hamit & Leke Sokol "Divorci- observations and reflections";

Tirana Dudaj & Rinia, Sokol, Leke. Sociological Analysis. Institute of Sociology. Tirana; IS & Rinia

Articles on divorce published in the press.

Materials and statistics from the organization "Women Forum Elbasan" etc.

Official sources. Statistics from the main courts: Tirana, Elbasan, Fier, Durres, Korca,

Statistical Yearbook of the Ministry of Justice 2009,2010,2011,2012,2013.

Statistics of the "Nation Master", World Statistics.

Ferraro, Garry & Andreatta, Lusa "Cultural Anthropology, Applied An Prespective"

Belmont, CA: Wadsworth, 2010: 206-283

The main roles of bankruptcy administrator in Albanian Bankruptcy Law

Erjola Aliaj, Msc, PhD candidate

European University of Tirana

E-mail: aerjola@gmail.com

Abstract

The bankruptcy procedure in Albania is governed by Bankruptcy Law No.8901 dated 23 May 2002, as amended. This law establishes non-discriminatory and mandatory rules for the repayment of the obligations by debtors in a bankruptcy procedure and ensures an adequate, reliable and effective mechanism for the reorganization or liquidation of a commercial company that is facing financial difficulties. Moreover, this law intervenes not only in the procedural rights of creditors towards insolvent debtors, but also in the material contractual and property rights of the persons, who had a legal relation with the insolvent debtor before and or/after the bankruptcy procedure has started. The administrator plays a fundamental role in the bankruptcy procedure. The latter is given heuristic, determined, regulatory and managerial powers in Albanian Bankruptcy Law. This paper provides an analysis of the main roles of bankruptcy administrator in Albanian Bankruptcy Law, such as control and distribution of bankruptcy estate, use or disposal of property, role in executor contracts, and contest of transactions etc.

Keywords: Albanian Bankruptcy law, role, bankruptcy administrator

1. The roles of a bankruptcy administrator.

The administrator plays a central, multifaceted role in the bankruptcy procedure (Galvano, 1992). Despite the administrator is given investigatory, adjudicative, administrative and management powers, the most important decisions made by the administrator are subject to supervision by the creditors' committee or meeting of the creditors (Katro, 2004). For example, the decision to keep or close/liquidate a business enterprise in whole or in part or to prepare a bankruptcy plan is made by the meeting of creditors or the creditors' committee based on a report prepared by the administrator.¹ Also, for undertaking important actions, that may affect the bankruptcy procedure, such as, sale of activity, company, enter into loan contract and file a lawsuit, the consent of the meeting of creditors or the creditors' committee is required.² Furthermore, the consent of the creditors' committee is required even in case of sale of the company to a person, who owns 20% of the capital, who is in close relations with the debtor and is a creditor with special repayment rights.³

1.1. The control of Bankruptcy Estate

After the bankruptcy procedure is opened, according to article 116 of Bankruptcy Law, the administrator immediately takes possession and management of the bankruptcy estate (Torreman, Tegu & Shehi, 2005). The administrator may enforce the recovery of the debtor's property by means of an executive title.⁴ The administrator shall prepare a record of all assets that constitutes the bankruptcy estate in collaboration with the debtor (Cuming, Baranes, 2013). In this record, should be defined the value of each asset. In case the value of the asset depends on whether the debtor activity will continue or will be closed, the administrator should present an alternative value.⁵ The administrator shall deposit the current record of assets with the Bankruptcy Court.⁶ The bankruptcy administrator compiles a list of all creditors of the debtor, who have become known by the books of the debtor, by notification of the debtor, upon their request or in any other way (Torreman, Tegu & Shehi, 2005). The list must show the state that enables mutual compensation of claims and the amount of obligations toward the bankruptcy estate in case of a rapid sale of the debtor's property.⁷ As a result of article 67, the

¹ Article 124 -125 of Bankruptcy Law no.8901 dated 23 May 2002, as amended.

² Ibid. article 128

³ Ibid. article 130

⁴ Ibid. article 116 point 2

⁵ Ibid. article 119

⁶ Ibid. article 122

⁷ Ibid. article 120

debtor's right to manage and dispose of the assets of the bankruptcy estate vests in the administrator (Cuming, Baranes, 2013). Technically, the administrator does not become the owner of the property. However, according to article 68, the debtor loses the power to deal with the property and any attempt by the debtor to do so is legally invalid (Katro, 2004). The debtor does, however, have a limited power to give a discharge of an obligation owing to the estate when the performing party provides performance to the debtor after opening of the proceeding and without being aware of the fact that the proceedings have started. If the proceeding has not been published, the performing party is presumed to be unaware of the proceeding.¹ All civil claims, where the debtor is a party, as stated in article 71, shall be suspended upon opening of bankruptcy proceedings (Torreman, Tegu & Shehi, 2005). A feature of the control over the estate property vested in the administrator is the power to restart in favor of the estate any action affecting the property the debtor had at the date the proceeding was opened (Galgano, 1992). Also, the administrator may continue actions against the debtor relating to claims on:

- a) separation of an asset from the bankruptcy estate;
- b) special repayment; and
- c) the obligation toward the bankruptcy estate.²

Referring to article 77, the bankruptcy administrator is the only person who, during the bankruptcy proceedings, can claim the right to compensation for damages of bankruptcy creditors incurred before or after the opening of bankruptcy proceedings, due to the decrease of the bankruptcy estate (Katro, 2004). The meeting of creditors is the authority, which decides whether the debtor and his family should be granted from the bankruptcy estate of an amount for living (Torreman, Tegu & Shehi, 2005). Also, the administrator may grant interim maintenance to the debtor and his/her family, until a decision shall be taken by the meeting of creditors.³

1.2. Fulfillment of legal actions

1.2.1. Administrator's Right under Contract not Performed by both Parties

There are some important circumstances in which the invocation of a bankruptcy proceeding can have a very significant effect on the rights of persons who have entered into transactions with or who have received property from the debtor before a bankruptcy proceeding has been opened or a request to open bankruptcy proceedings has been made (Cuming, Baranes, 2013). The administrator is given significant options with respect to such contracts (Galgano, 1992). Article 86 provides that when at the date of opening of the proceedings a contract between the debtor and another person has not been performed by either party, the bankruptcy administrator may opt to perform the contract instead of the debtor and claim by the other party damages or fulfillment of the contractual obligations (Torreman, Tegu & Shehi, 2005). If the administrator does not accept to execute the contract, the other party has the right to claim the non execution of the contract only as a bankruptcy creditor. In other words, the *Bankruptcy Law* precludes an action for specific performance of the contract brought by the other party (Cuming, Baranes, 2013).

1.2.2. Limitation on Administrator Right under Contract not Performed by both Parties

Bankruptcy law provides limitation on administrator rights under specific contracts such as forwarding and financial future contracts⁴ and contracts for the sale of movables by the bankruptcy debtor providing for the reservation of ownership⁵.

Article 87 contains special rules applicable to forwarding and financial futures contracts (Katro, 2004). According to article 87, if it is agreed that the goods shall be delivered on a certain date or within a certain period of time and if this period ends on or after the bankruptcy proceedings are open, the other party cannot require the execution of the contract, but can have claims about the no execution of the obligations, only in the quality of bankruptcy creditor (Torreman, Tegu & Shehi, 2005).

¹ Ibid. article 69

² Ibid. article 72 and 73 point 1

³ Ibid. article 84

⁴ Ibid. article 87

⁵ Ibid. article 89

Referring to article 88, if contractual services that constitute obligations to contractual parties are periodic, and if the other party has fulfilled part of the service at the time the bankruptcy proceedings are open, this party is called bankruptcy creditor, even if the administrator pretends the execution of non performed services (Cuming, Baranes, 2013). According to article 89, if the debtor has sold a movable property with the reservation of ownership before the bankruptcy proceeding was open and the buyer has taken possession of the property, the latter may pretend the execution of the sale contract (Torreman, Tegu & Shehi, 2005).

1.3. Disagreement of debtor's actions

The most significant effect of bankruptcy on the operation of non-bankruptcy law as it applies to contractual or property rights acquired by other persons from the debtor is the power given to the administrator to have declared invalid a transaction that in a non-bankruptcy context may be valid (Galgano, 1992). Under articles 100-105, the bankruptcy administrator may treat as invalid transactions that "disadvantage bankruptcy creditors" occurring within specified periods prior to opening the bankruptcy proceedings or after a request to open a bankruptcy proceeding (Cuming, Baranes, 2013). This power can be exercised in several contexts:

- when the debtor has given security or payment of debts to bankruptcy creditors within 90 days prior to the opening of the proceeds or after the opening of the proceeding and at a time when the debtor was illiquid.¹ A person with a close relationship with the debtor, as defined in article 107 is presumed to know of the illiquidity or the bankruptcy proceeding.
- when the debtor has entered into transactions providing "incongruent coverage" of a debt made within 3 months prior to invocation of bankruptcy proceedings including a time when the debtor is not illiquid and the other party to the transaction is unaware of the effect on creditors or as a result of gross negligence was unaware of the illiquidity of the debtor or the request to open the proceeding.²
- when the debtor has entered into transactions that are immediately disadvantaging the bankruptcy creditors
- when the debtor has entered into transactions with the intention to disadvantage the creditors occurring within 10 years before the date of the request to open the proceeding if the other party was aware of this intention, the debtor's illiquidity or the effect of the transaction on creditors.³
- when the debtor has entered into an onerous contract with a person having a close relationship with the debtor, as defined in article 107, who is aware of the debtor's intention to disadvantage his/her creditors, occurring within 2 years before the request to open the proceeding.⁴
- when the debtor has made a gift of property (other than a casual gift of a minor nature) within 4 years before the request to open a proceeding.⁵
- when a transaction is performed by execution pursuant to an executive title (Cuming, Baranes, 2013).

1.4. Disposal and use of assets

According to article 133, the administrator may dispose with no restriction any asset that is subject to the special repayment right (Torreman, Tegu & Shehi, 2005). Also, he may dispose differently a claim that the debtor has assigned to a creditor as security (Katro, 2004). There is a limitation to such right of the administrator, in case the value of the collateral is smaller than or equal to the loan amount alleged by the secured creditor or expenses amount for its execution, taken together (Cuming, Baranes, 2013).

¹ Ibid article 101-102

² Ibid. article 103

³ Ibid. article 104

⁴ Ibid. article 104 point 2

⁵ Ibid article 105

In order to exercise such a right, the administrator must meet some procedural requirements such as the notification of the creditor having the right of special repayment in relation to the condition of the property, to the sale of the property, and to protect the creditor's interest in case of an overdue sale (Torreman, Tegu & Shehi, 2005).

According to article 139, the bankruptcy administrator may decide to use for the bankruptcy estate an asset, over which has the right of disposal, when the loss of value caused by the use shall be compensated with payments to creditors with the opening of bankruptcy proceedings (Katro, 2004). This compensatory payment obligation exists only to the extent to which the loss of value from the use violates the right of the creditor with special repayment (Torreman, Tegu & Shehi, 2005).

The administrator may also unit, process and mixes the asset with other properties so long as the security position of the secured creditor is not thereby impaired (Cuming, Baranes, 2013).

1.5. The assessment of creditors' claims

According to article 141-142, the bankruptcy creditors must submit their claims in writing to the bankruptcy administrator (Torreman, Tegu & Shehi, 2005). The latter records all claims with data and files them in the court. (Galgano, 1992). The administrator plays only a supplementary role in assessing the validity of these claims (Katro, 2004). The decision whether a claim has or has not been verified is made by the meeting of creditors in a verification meeting¹ or by the Bankruptcy Court². However, the administrator has the obligation to assess the claims and to indicate which should be accepted or denied (Cuming, Baranes, 2013).

1.6. Distribution of the Estate.

The Administrator is responsible for the distribution of the bankruptcy estate (Torreman, Tegu & Shehi, 2005). The initiation of a distribution must take place only after the general verification meeting of the creditor³. However, before making any distribution a list of claims must be published at the Bankruptcy Court with details about the distribution and which parties benefit from it⁴. The distribution list must address the following critical areas:

- The order of priorities as provided in Article 605 of Albanian Civil Code;⁵
- Costs of the proceeding and administrative debts that have priority over the claims of bankruptcy creditors;⁶
- Claims of secured creditors;⁷
- Amount retained for not determined or conditional claims (Cuming, Baranes, 2013).

2. Other roles of the Bankruptcy Administrator

According to article 160 of Bankruptcy Law, the administrator's accounts must be presented by the administrator to a meeting of creditors convened by the Bankruptcy Court (Katro, 2004). The administrator, as stated in article 61-62, is entitled to request that the Bankruptcy Court convene a meeting of creditors and is entitled to attend and participate in such a meeting (Torreman, Tegu & Shehi, 2005). The Bankruptcy Court may decide to reject the request. If the Bankruptcy Court rejects the request, the administrator has the right to appeal this decision in accordance with the Code of Civil Procedure (Cuming, Baranes, 2013). Referring to article 145-146 and article 152, the administrator has also role in assessing the validity of creditors' claims. The administrator may deny a filed claim at the verification meeting (Katro, 2004). The effect of this denial is that the creditor whose claim is denied must bring an action in court to establish the claim, unless the claim is

¹ Ibid. article 143

² Ibid. articles 147-148

³ Ibid article 150

⁴ Ibid. article 151

⁵ Ibid. article 150 point 3

⁶ Ibid. articles 37-38

⁷ Ibid. articles 35, 41 and 153

based on an executable deed or final judgment, in which case the administrator must bring action and have the claim assessed (Torreman, Tegu & Shehi, 2005). The administrator, as defined in article 66, may be required to give reports to the meeting of creditors with respect to progress of the proceedings and the management of the bankruptcy estate. (Cuming, Baranes, 2013). An important aspect of the duties of the administrator involves handling of labor contracts (Galgano, 1992). The administrator has the right to terminate labor contracts. However, this must be done in accordance with the provisions of Albanian Labor Code in order to minimize the volume of claims of the insolvent's employees (Torreman, Tegu & Shehi, 2005).

Conclusions

The Bankruptcy Law plays an important role in all of the countries with a highly developed economy. The Bankruptcy Law is an evident adaptation of German legislation which in many respects does not fit with the needs of a developing economy. The role of the administrator in the administration of the bankruptcy estate is significant. The law does not provide clearly specific criteria for the appointment of a bankruptcy administrator, except for the requirement that the administrator should have a background in economics. The roles of the administrator must be carried out by trained, capable and competent persons. The bankruptcy administrator must duly and properly perform, during the whole procedure until it is closed, the duties stated in law. The analysis of the main roles of the administrator shows that the legislator has regulated, in detail these aspects of bankruptcy procedure. The main roles of bankruptcy administrator in Albanian Bankruptcy Law are control and distribution of bankruptcy estate, use or disposal of property, role in executory contracts, and contest of transactions etc. His performance is supervised by the Bankruptcy Court and by the Creditor's Meeting and the Creditor's Committee. Currently, there are no many cases judged in regards to the non fulfillment of his duties by the bankruptcy administrator.

References

Legislation

1. Bankruptcy Law no.8901 dated 23 May 2002, amended.
2. Decision of the Council of Ministers No. 125 dt.06.02.2013 "On approval of the code of ethics for the bankruptcy administrators"
3. Instruction No.22 dt.29/07/2008 "On assigning the interim bankruptcy administrators"

Monographies

1. Cuming C.C. R., Baranes Y., (2013) Manual on the Albanian Bankruptcy Law. Maluka Publishing House.
2. Torreman, P., Tegu, F., Shehi, A. (2005). Bankruptcy in comparative aspect, Tirana, Kristalina –KH Publishing House
3. Galgano, F. (1992). Commercial law (Seventh edition), Rome
4. Katro, K. (2004). Bankruptcy Law

U.S. Empire: Divergent Views

Alida TOMJA

"Aleksander Moisiu" University
Email: alidatomja@hotmail.com

Daniel BORAKAJ

"Aleksander Moisiu" University
Email: daniel_borakaj05@yahoo.com

Abstract

The restructuring of the international order at the end of the Cold War created a unipolar system with the United States at the top, but at the same time, restored the language of empire and their categorization as an imperial power. Moreover, the foreign policy pursued by George W. Bush administration after September 11, 2001, prompted many researchers to describe the US role in the world as inseparable from this term. The debate is widely increased in recent years and the dilemma is whether to refer them as imperial or hegemonic power of this system. If it's hegemonic nature would be purely obvious, then how can be explained that many researchers do not hesitate to define America as empire, especially after September 11, 2001? Based on the literature that deals with the US imperial character, this paper aims to answer the above questions, and to highlight that United States, do not possess anything as an imperial power beyond their Republican core.

Keywords: *United States of America, imperialism, empire, hegemony*

Introduction

Concerns about how operates a unipolar world and the single pole of the system, constitute the main lines of the global political debate in the early 21st century. Many political commentators, historians, politicians, both inside and outside the US, in efforts to understand the international system dominated by them, continued to discuss american history and the so-called "imperial dimensions" of the latter, using a variety of terms such as empire, hegemony, colossus or imperial power.

Describing America as the empire of our days has become fashionable among researchers. For some of them, here can be mentioned Chalmers Johnson, America needs a long time to be called so (Johnson 2004: 2), while, for some others, United States are living a transition from Republic to Empire (Garrison. 2004: 4-5). There are also authors who openly designate it as an empire, as Andrew J. Bacevich, Jim Garrison, Lloyd C. Gardner and Marilyn B. Young, Chalmers Johnson, James Petras and Morris Morley (Bacevich, 2002, Garrison. 2004 Lloyd C. Gardner & Marilyn B. Young, 2005, Johnson 2004, James & Morris. 1995), or use the term "Colossus", as Joseph Nye and Niall Ferguson. While, for most authors, among them: Charles-Philippe David, David Grondin, Rosemary Foot, S. Neil MacFarlane, Michael Mastanduno and many others, United States do not constitute empire, but a hegemonic superpower.

Accusation against American imperialism, have historical roots and are not limited to the development of the 21st century or after September 11. However, there are some differences between the notion of American Empire used many years ago and what is spoken today. Today, America is the only superpower in the world. Military, economic and cultural power, of these states are essentially unsurpassed and uncontroversial, therefore, many scholars do not hesitate to define them as empire, writing for their "imperial" features. But did these features really characterize US foreign policy? Let's handle this issue below.

Reflections on “imperial” features

Imperialism is a term, which mainly relates to the nineteenth century Europe and to the trend of that period to create empires. Its negative connotation hints colonialism, civilizing missions and chauvinism, making it a despised phenomenon. At the end of the nineteenth century, imperialism became synonymous not only to the territorial expansion but also to the colonial oppression (Gilden 1987: 333-50). So, expressed simply, Empire means a system characterized by realistic military and territorial dimension, by dominance over other players of the international system, failing to refer their voluntary and submission obedience. Therefore is not surprising that Americans not only reject this phenomenon, but oppose all those scholars who try to portray them as an imperial empire, pointing out that this phenomenon is contradictory to the whole values upon which they are founded.

In the late 1980s, before the end of the Cold War, Susan Strange, used the concept of a “non-territorial empire” (Strange 1988: 7), to describe the system of domination imposed by the United States after World War II. However, although American history has not been a territorial expansion power, can not be denied the fact that America has dominated the world militarily and economically. According Stephen S. Shalom, even United States have never been a great official empire like Britain, have shown imperial nature, which has been mostly informal and neocolonial. This means that although USA in general has not intended to set remote territories under their legal control, they maintain and expand economic domination over as many countries they could (Shalom 1993: 8). Another group of researchers defend the idea that United States have been expansionist power during the 19th century, especially between 1807 and 1904. Hurrell, as one of the authors that supports this line of thought, says that, after the victory of the Spanish-American war of 1898, the United States established protectorates in Cuba, Haiti, Nicaragua and the Dominican Republic, by interfering repeatedly in the internal affairs of Central American and Caribbean countries (Hurrell 2007: 267). But realistically this is the only short imperial classic period for the United States, which realized that, instead of occupying territories and becoming an imperial power, they could benefit more by developing trade links with the world.

In contrast to the founding fathers, a good part of researchers who argue that the United States should be considered empire, imply a modern version of the latter that differs from its traditional meaning. A interesting view on this issue is provided by Jim Garrison. The alternative term that he attributes to the United States is a imperial republic. According to him, the true essence of empire is the control of one nation over all other nations. Although America remains a republic within its borders, it has become an empire in relation to the rest of the world, in this sense, America is an imperial republic. Indeed, he goes even further, stating that:

Whatever qualms people may have about it, America has become an empire, and there is no turning back. The transition from republic to empire is irreversible, like the metamorphosis from caterpillar to butterfly. Once power is attained, it is not surrendered (Garrison 2004: 4-5).

Garrison continues to indicate that United Kingdom learned the meaning of empire to America, but the focus of the last one has never been territories. The modern version of empire view, not with the same meaning of the previous times, is found even to Michael Ignatieff, according to which:

The 21st century imperium is a new invention in the annals of political science, an empire lite and a global hegemony whose grace notes are free markets, human rights and democracy, enforced by the most awesome military power the world has ever known (Ignatieff 2003).

In fact, american foreign policy, more than territorial claims or foreign countries administration, aimed to use their military power in function of free markets and commercial advantages. However, Garrison points out that whether or not America represents a new kind of empire, above all, remains a state carved in the list of dominant powers that have shaped history.

9/11 and the American Empire

Should be noted that a considerable part of the studies, connect the imperial character of the United States specially with the foreign policy pursued by the latter after the terrorist attacks of September 11. However, despite of any political affiliation, establishing United States as an empire only as a result of recent phenomena associated with September 11, subsequent declarations of war against terrorism, or military intervention in Iraq, is clearly insufficient definition, limited, but above all, incorrect. US military intervention in Iraq, as was proved later, had not intended to deploy a colonial rule over the territory, but to export the values and political principles, that American world respects by being liberal democracy.

Immediately after September 11, 2001, Max Boot emerge as one of the most vocal supporters and optimistic to American foreign policy. In the article, the *U.S. Imperialism: A force for good*, Max Boot argues as follows:

U.S. imperialism has been the greatest force for good in the world during the past century. It has defeated Communism and Nazism and has intervened against the Taliban and Serbian ethnic cleansing. Along the way, it has helped spread liberal institutions to countries as diverse as South Korea and Panama. (Boot 2003: 15).

At this way, Max Boot is among those researchers who supported US intervention in Iraq, and the so-called unilateral war with the latter. Robert Duarric and William Odon are two other authors who, commenting US military interventions in Afghanistan or Iraq, try to understand their impact on America, by not considering them as evidence of its imperial power. According to them, external challenges are not a serious threat to the United States, neither emerging powers like China, Al-Qaeda or other similar non-governmental organizations. They can cause damage, but no way destroy the American empire (Duarric & Odon 2004: 7). By these researchers logic if Iraq will rise up as stable state willing to cooperate with the United States, and if other regional countries like Syria and Iran do the same, it will only empower more the American empire (ibid: 208). Meanwhile, the policy pursued by the US in the Middle East, according Duarric and Odon, more than obedience to US imperial or colonial tendency, threatens the continuation of its domination or global leadership.

Another author who devoted special attention to the American empire issue is Noam Chomsky, known as an anarchist and social-liberal in the same time. Chomsky argues that before U.S entered in the war [World War II], analysts concluded that in the postwar world they will aim to enjoy undisputed power, limiting the sovereignty of those countries that would interfere their global plans (Chomsky 2003: 15). According to him, the imperial strategy of the US is clearly based on the National Security Strategy of 2002. The particularity of W. Bush administration's foreign policy followed after September 11, stands at willingness to act based on this strategy but with more determination and ferocity (ibid). Chomsky's work on this issue has led to the creation of 17 volumes in late 2007, with the co-author Chalmers Johnson. According to the latest, American empire roots predate September 11, concretely with the "Monroe Doctrine" of 1823, when United States decided all Latin America under their influence sphere. By this author, the fact that the US has established more than 725 bases worldwide, qualifies America as an empire, regardless of whether or not it has annexed territories (Chalmers 2004: 23).

Even British journalist Jonathan Freedland has maintained a critical stance on US foreign policy after September 11, 2001. Freedland argues that this policy crowned by the invasion of Iraq, is essentially non-American. In his article, Emperor George, Freedland argues that Bush administration and the Iraq War, are not typically American, on the contrary, in every direction are almost exceptions to American rules. According to him, aggressive foreign policy of the USA actually creates the idea of imperial behavior, but the latter is simply a consequence of the superiority of George W. Bush and his neoconservatives followers because the United States have never been a colonial power (Freedland 2003). Naill Ferguson as Max Boot and Paul Johnson, thinks that there is nothing inherently wrong with being Empire as long as the latter serves the needs of the metropolis and periphery. The author rejects the idea that all empires have exploiter character claiming that may exist liberal empires that enhance their security and prosperity, providing public goods to the rest of the world. In his view, America is an informa-liberal empire which the world needs, a blessing power in a world dominated by religious conflicts, violence and political oppression (Ferguson 2004: 10).

Contrary to most of above authors, national security adviser Condoleezza Rice, asked in 2003 by a German team news if America can be compared with the Roman Empire, responded clearly against this comparison: the United States never had but neither have imperial ambitions. Similarly, Secretary of Defense Donald Rumsfeld was asked by a reporter of Al-Jazeera in 2003, if the United States had deployed to Iraq to build an empire. His insistent response was: US are not colonial power, we have never been so. America does not use power to go around the world in an attempt to acquire their wealth and resources. We have never done and we will never do something like that, because this is not how democracies behave (ibid: 1). However, despite various claims of academics to define it as traditional or modern Empire, hegemony or, as Ferguson called it, a-monster-hegemonic power, what remains indisputable is their unprecedented power. Therefore, by this point of view, are eligible some researchers who raise the question: if the United States can not be described as an empire then what nation could be? The fact remains that they are consolidated as the world's major global power, able to exercise it at a much higher level than any other nation, reigning supreme in all dimensions of military, economic, political, technological and cultural power. Many researchers, comparing the nineteenth century Britain to the United States, come to the conclusion that, while the British Empire never really enjoyed the hegemonic status, the United States, as mentioned above throughout this paper, since the War II qualified solidly as global hegemonic power manifested through economic domination, forming the framework of world trade, the dollar hegemony, as well as in other military, technological and cultural areas. In closer military terms the Cold War raised United States in the position of unquestioned leadership (Gaddis 2004: 29-30).

It is already known that one of the principles of international state system operation, is the countries differentiation based on their strength. In this sense, the international state system is hierarchical, it begins with the most powerful state in top and ends with the less powerful one in the end, depending on the specific position of their power. As mentioned above, the unique place of the United States is widely accepted in this hierarchical structure of the international relations system, even the fact that there is a deep gap between them and other major powers in the system.

Not an Imperial but a Hegemonic Power

Contrary to the authors analyzed until now, another group of scholars are not agree to classify United States as imperial power. According to them US are the only global hegemonic power. But what should be understood by the latter? What are the components that determine the status as single hegemonic power of the world? The concept of hegemony in international relations system actually suffers by the problem of definition. Some researchers define it broadly, including all the attributes of state power as economic production and productivity, military power, but also the ideological and cultural one. Other scholars, mainly realists, tend to privilege more military force while the institutional neo-liberalism focuses on cooperation and interdependence issues of the global economy. According to the latter, hegemony is a situation in which a state is so powerful, able to determine and control the implementation of the basic rules that regulate interstate relations, but above all, that have the will to do it (Keohane 1984: 34-5).

However, despite the conceptual confusion created, remains clear that hegemony consists in the possession and command of a multidimensional set of power sources. John Mearsheimer, Andrew Gamble, Robert O. Keohane, and Robert Gilpin are a group of scholars try to clarify this notion. According to these authors, hegemony firstly relates to the strong power of a state, understood in military and economic terms. Militarily, a hegemon skills are at a level that no other country can fight against him (Mearsheimer. 2001: 40); enjoys economic supremacy in the international system and leads to material resources (Gamble in Patrick Karl & Armand Clesse 2002: 130) Secondly, hegemony means ambition to be the dominant power, to maintain security, economic and ideological interests (Gilpin 1981: 29-30). Thirdly, hegemony has to do with polarity. The hegemonic state, because of the military and economic unrivalled advantages, is the single largest power of the system, the only polar actor (Mearsheimer 2001: 40), creating a unipolar international system. Fourthly, hegemony has to do with the will. A hegemon must be willing to use his inaccessible power to impose order in the international system (Keohane & S. Nye, 1977: 44). Finally, hegemony means comprehensive changes to the international system structure. At the time that a state wins this status, the system ceases to be anarchic, turning into hierarchical (Mearsheimer 2001: 34).

Other approaches, especially Antonio Gramsci, highlights the ideological dimension of hegemony as consensual domination. According to him, hegemony means a dominant force that use not only the military means, but also the ideological sources as very important to structure others competing behaviors and choices. In this way, are favored the most powerful interests and especially its desire to be more prominent actor (Iseri 2007: 94). Almost in the same line of thought is Immanuel Wallerstein, who clarifies that hegemony is a situation in which a country is able to impose its rules in the interstate system, creating a political order in favor of its interests. Hegemonic state enjoys additional advantages for

offered or protected enterprises, advantages which are not accorded by the "market", but earned by its political pressure (Wallerstein 2002: 357). Meanwhile, according to Kenneth Waltz, power that enjoys a hegemonic power does not mean that the state possesses the ability to shape the international system according to its interests at all times (Waltz, 1979: 191-192). For the well known researcher Joshua S. Goldstein, hegemony has to do with the state that is able to detect, or at least to dominate the rules and agreements through which are realized international political and economic relations. According to this author, the economic hegemony means the ability to focus the world economy about yourself, whereas political hegemony means the ability to dominate the world militarily (Goldstein 1988: 261).

As we see, the most of these definitions reflects the role that the United States actually have in today's global system. Joseph Nye's assertion that, since the Roman Empire there has not been a great nation to be established so powerfully over others (NYE 2002-03: 545) is widely accepted.

However, this author trying to mitigate Goldstein's definition, argues that if hegemony is defined in a modest way as the situation where a country has significantly more sources of strength or abilities than others, then this simply means American prevalence and not necessarily domination or control (ibid: 558). Nye, rightly, mention several cases during the last decade, where the United States have not been able to control or dictate events in accordance with their preferences. However, this fact does not make it a less hegemonic state. United States are qualitatively differentiated from other countries, owing to a decisive political, economic, military, technological and cultural power. This fact is reinforced even further, if we refer to Zbigniew Brzezinski's that United States is and will remain the first global superpower, the only and last.

Conclusions:

In this point of view, the debate raised above, the imperial empire or hegemony, has been sufficiently constructive. In the context of this dilemma, the answer is clearly negative:

- the United States is not an empire, do not possess anything like an empire beyond their core Republican. In technical terms, can not be called either "imperial republic".
- in the most basic terms the international relations system of this century does not appear seduced by archaic tastes of territorial conquest, it is even hard to imagine any realistic scenario that showed this principle as desirable and workable.
- should be clear that US is a protector of the territorial status quo of this international system;
- although they are a superpower, as many scholars have convincingly dubbed empire, they are not land- grabber, do not have territorial ambitions, and never have intended territorial expansion;
- in contrast to other imperial powers of modern international history, the United States does not need to annex the territory of other states to consolidate their wealth or military capabilities;
- even in those countries where Americans have installed their military bases, did not intend their colonization, but creating conditions to establish democratic institutions by which will derive the security and stability;
- most great powers possess commercial nuclear power that makes possible their immunization against invasion.

Therefore, it is unlikely that the US ever become an "imperial republic" in the traditional sense of the term, following the footsteps of the ancient city-states, which transformed their hegemony in the empire. This title could possibly be linked to the United States of 1803 or 1898 years, but not to the America of today. Its hegemonic power is not an illusion but a product of two very important factors. Firstly, the United States enjoys superiority in military, economic, technological, cultural and geopolitical power and secondly, since the collapse of the Soviet Union has not born any other power able to challenge it, in all dimensions of power components.

Bibliography:

Bacevich, Andrew J. 2002, *American Empire. The Realities and Consequences of U.S. Diplomacy*. Cambridge, Mass: Harvard University Press.

-
- Boot, Max. 2003. "U.S. Imperialism: A Force for Good", *National Post*, 13 May.
- Chalmers, Johnson. 2004. *The Sorrows of Empire: Militarism, Secrecy, and the End of the Republic*. New York: Metropolitan Books.
- Chomsky, Noam. 2003. *Hegemony or Survival: America's Quest for Global Dominance*. New York: Metropolitan Books
- David, Charles-Philippe & Grondin, David. 2006. *Hegemony or Empire? The Redefinition of US Power under George W. Bush*. Aldershot: Ashgate.
- Duarric, Robert & Odon, William. 2004. *America's Inadvertent Empire*. New Haven: Yale University Press.
- Ferguson, Niall. 2005. *Colossus. The Price of America's Empire*. New York: The Penguin Press.
- Freedland, Jonathan. 2003. "Emperor George", *The Guardian*, 2 April.
- Foot, Rosemary. MacFarlane, Neil S. Mastanduno, Michael. 2003. *US Hegemony and International Organizations. The United States and Multilateral Institutions*. New York: Oxford University Press.
- Garrison Jim. 2004. *America as Empire. Global Leader or Rogue Power?*, San Francisco: Berrett-Koehler Publishers.
- Gardner, Lloyd C. Young, Marilyn B. 2005. *The New American Empire*. New York: The New Press.
- Gildea, Robert 1987. *Barricades and Borders. Europe 1800-1914*. New York: Oxford University Press.
- Gilpin, Robert. 1981. *War and Change in World Politics*. Cambridge University Press.
- Goldstein, Joshua S. 1988. *Long Cycles: Prosperity and War in the Modern Age*. New Haven: Yale University Press.
- Hurrell, Andrew. 2007. *On Global Order: Power, Values, and the Constitution of International Society*. Oxford: Oxford University Press.
- Iseri, Emre. 2007. *Neo-Gramscian Analysis of US Hegemony Today*. School of Politics, International Relations and the Environment (SPIRE), Keele University, U.K.
- James, Petras & Morris, Morley. 1995. *Empire or Republic?*. New York: Routledge.
- Johnson, Chalmers 2004. *The Sorrows of Empire. Militarism, Secrecy, and the End of the Republic*. London: Verso.
- Keohane, Robert. 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, NJ: Princeton University Press.
- Keohane, Robert O. & Nye, Joseph S. 1977. *Power and Interdependence: World Politics in Transition*, Boston: Little, Brown, Cop.
- Nye, Joseph S. Jr. 2002-3. "Limits of American Power", *Political Science Quarterly*, Vol. 117, No. 4.
- Mearsheimer, John J. 2001. *The Tragedy of Great Power Politics*. New York: Norton.
- O'Brien, Patrick Karl & Clesse, Armand (eds.). 2002. *Two Hegemonies. Britain 1846-1914 and the United States 1941-2001*. Aldershot: Ashgate.
- Strange Susan. 1988. "The Future of the American Empire", *Journal of International Affairs*, 42 (1).
- Shalom Stephen S. 1993. *Imperial Alibis. Rationalizing U.S. Intervention after the Cold War*. Boston: South End Press.
- Waltz, Kenneth N. 1979. *Theory of International Politics*. Boston: Addison-Wesley.

“Discontinuity” as a Concept that affects today’s Art Practice

Nuri Yavuz, Asst. Prof.

Assoc. Prof. Dr. Ayhan Helvacı

Uludağ University Art Faculty

ayhanhelvacı@gmail.com

nuriyavuz70@gmail.com

Abstract

It has been experienced an alteration which has affected the art environment as in every single area of our lives through the last quarter of the 20th century. When reviewing the artistic works of that time, we encounter “discontinuity” as a fundamental concept in which the philosophers such as Foucault and Baudrillard have constructed its philosophical basis. Discontinuity is defined as the opposite of the “continuity” notion. It corresponds to an environment at which the understanding of continuity predominated on a certain period of time is interrupted and disrupted. This way of thinking also has identified the way of action of artist. Many of contemporary artworks that have a command of a structure devoid of continuity are individually indicators of the altering environment. It is aimed in this study to form an analytical medium on how the discontinuity concept establishes the ground for creating contemporary artworks. As a method, it will be initially determined the extent of the discontinuity concept and then examined within the scope of this concept how selected contemporary artworks have been formed.

Keywords: Contemporary Art, Discontinuity, Alteration

Introduction

“No two categories, and no two kinds of experience are more fundamental in human life and thought than continuity and discontinuity”.

Anthony Wilden

It is necessary to determine the effects of developments in science and technology to be able to make a healthy reading of contemporary art. The conditions which we are in and required to express as “Information Age” should be determined and discussed of their effects in the art world. Therefore, explaining and querying the concepts and phenomenas related with contemporary art with traditional tools and methods without defining the situation that modern technology has come will put the issue into a narrow perspective.

Today's lifestyle corresponds to a period which based on technology, and that digital technologies and digitalization have covered all field of life. The life without computer, phone and internet doesn't seem possible. In this case, today's art world has undergone great change and transformation as a result of digitalization. Certainly, as far as the positive aspects of this change, there are also negative sides. Here, however, without mentioning the debate referred, “continuity” and “discontinuity” of the concept of art has been studied to examine. On discontinuity, like thinkers Jean-François Lyotard, Jean Baudrillard; Kubilay Aktulum opined, as well. The ideas that Kubilay Aktulum put forth in his pieces “Fragmentation / Discontinuity / Disconnection” and “Discountiunity in Narrative and Some Functions” (Aktulum, 2008) give important clues for understanding contemporary art environment.

“Discountiunity” As a Concept

That transfer is important on continuity and discontinuity, “continuing and continuing action’ whose Latin root extends to ‘continuar’ covers the meaning ‘to persist in space’, ‘to sort elements repeatedly in time’, ‘to combine ends in a form creating the whole’ ‘to maintain something started’ and ‘to extend’. There is a temporal and spatial use of continuity. This is the opposite of the meaning of discontinuity, and it carries the meaning of a discontinuity disconnection, shelving, being heterogeneous and repellent; according to the temporal of view, the moment, intellectually, took the location of time in

discontinuity. Discontinuity which was taken from Latin verb 'discontinuare' is used to mean 'to make transient', 'to interrupt the continuity', 'to smash', 'to split' and 'not to maintain'."(Aktulum, 2005).

"In Latin language 'dis' prefix has meanings 'separation, suspension, opposite direction and reverse'. Discontinuities defined in this way, bears the idea of negation, and expresses an attitude of rejection. The negation is to confront the collectivity and the idea of the integrity" (Aktulum, 2005).

Revolution in Art

According to İsmail Tunalı, until the the Baroque period, understanding of Western art perceived the art as a closed system. However, art works were freed from thought of closed system thanks to the mechanical universal concept which has been brought about by positive natural sciences developed after the Renaissance. This starting point has affected the understanding of contemporary art. As a result of this, the idea of modern art has occurred. Although, classical art described artwork as closed and organic system, modern art perceived the artwork as 'wide-open' field(Tunalı, 2008:120).

Modern era corresponds with a period which has output points like scientific accuracy, adherence to the rules which the Renaissance, the Reformation and the Enlightenment movements give direction to. The modern era experienced the initial shock by giving place to Einstein's "relativism" theory and quantum physics's 'possibility of occurring more than one possibility at the same time' in the fight that it began as an ideal community projects with science-based approach. The followed was led people to the idea that modernism brought about destructions rather than happiness. The actual collapse of modernism was after the Second World War. Now, in postmodern era; the dominant belief is not uniqueness but majority, not certainty but possibility, not continuity but moment, not integrity but fragmentation, not order but chaos, and not the belief that not art reflects the reality but art will not be able to reflect the reality. According to them, disintegration, chaos and discontinuity control the society, therefore, it is impossible to create determinative social theory.

Breaking from Reality in Art

According to Jale Erzen,with enlightenment,art becomes independent from daily life and also from other fields such as science and ethics. Art was no longer a phenomenon that serve the religion and with the development of photo; the obligation of expressing imaginary illusion of reality was also eliminated (Erzen, 2011:103). With the coming forward of industrilization, a plurality of formats which, before, could be produce only by dexterity have been started to be mass-produced by machine. Thus, it is entered a period in which the relation between the format and the content was cut off and which the format lost its value. With reproduction, the uniqueness of art was broken like Walter Benjamin emphasized in his work called "Work Of Art In the Age Of Mechanical Reproduction".The continuity too was broken as a requirement of replication or repeatability. According to him, uniqueness and continuity are related with distance, transience and reproducibility are about to closeness. With general expression, reproduction has a dimension which destroy the reality.

"It is the first time in the history of the world that mechanical reproduction recover the artwork from being dependent to a ritual. Reproduced artwork, an even grater extent, is becoming a designed artwork for reproducing. From a photographic negative, for example, can be large amounts of printing, so there is no sense to ask for 'the authentic'printing. But the moment that the criteria of authenticity is interrupted from being applicable to artistic production, the overall function of art is reversed. Instead of relying on ritual, he, started to be based on another practice which is politics."(Benjamin 1993: 82-83).

Roland Barthes explains in his article entitled "Rhetoric Of The Image" which he penned that image word comes from imitare word and on the basis of every visual arts a copy case lies,therefore,the image is not trusted and picture is thought just as a copy (Erzen, 2011: 25).

Erzen is thought as a something which turns the life into material things about the image he defined as a representation, making the dead alive again according to many thinkers, making them eternal, freezing them in time, mummification them or taking the image of their face with a mask like in ancient civilizations. In this context, the idea of that visual arts are only copies of a copy is dominant. Absolute essence of any entity can exist only mentally, a reduction is a question when it turns into a substance. For example, when we say red, we need to think about an ideal red; but at the moment that it becomes a red coat or a flower, it loses its ideal state. In this perspective of subject it is believed that in many metaphysical approach;

it is broken the relationship with reality when image is on the carpet (Erzen, 2011: 25). The thing expressed in this context is that art move away from the structure which comes out from its own internal necessity and turn to copy and imitation. Baudrillard fixed the issue with followed statement: "On the horizon of simulation, the real world not only it is lost but also the question about its itself existence has lost its meaning " (Baudrillard, 2012: 36).

Aktulum stated that collage was one of the fundamental concepts of art which created the effect of discontinuity, and was used in plastic arts at the beginning of the 20th century (Aktulum, 1999: 222). In collage, the surfaces on the same plane but in different identities are brought together. In particular, the collages of Picasso which once appeared with experimental searching, became a concept which was discussed about new possibilities of expression by Surrealist and Dadaist. After World War II collage has become a way of discussing new possibilities of expression with orientation that Fluxus, Pop Art, Conceptual Art concept induced. With 70s, with artists such as Chuck Close, it was left in environment questioned about the effects of digital technology to art field. Nowadays, many new media art understanding which technology-based and is offering solution instances with numerable datas has emerged. It is concerned that it is available in the core of all styles containing collage impacts a devastating, shredder and transitory structure. There were some artists that transformed the collage method to the way of style in their works. One of the best examples of this artists is Robert Rauschenberg. His work called "Retroactive" which was produced in 1925 is a good example of the concept of collage. Rauschenberg, in this study, applied oil painting, pencil, wood and metal on canvas surface. He made the following statement about his understanding of art: "Working in the space between the life and art."

Indeed, collage, due to the incremental nature, includes the will of signification of the space. Rauschenberg created an incremental structure by combining many different elements such as paper, robe and fabric pieces which are daily using objects. He, often, intervened with paint to three-dimensional objects after he pasted them into the canvas surface. The main reason of such stylistic development of artist is to desire to break the traditional concept of painting and create a distinctive language.

Art Searching itself in Pieces

In the period after Second World War, tendency to collage has increased extensively. In this period, the idea of the traditional art was discussed more deeply. Discussions focused on artist, artwork, art perception and art object. Art orientation that we called its name as a conceptual art, is a result of those discussions. Conceptual art can be explained as a changing direction of art event from practical existence towards mental/conceptual existence. Now, conceptual approaches are important in art production and concept-based insights are adopted. The boundaries between painting, sculpture, music, theater, cinema and engineering fields are removed and it is began to try experimental searchings extending to interdisciplinary approaches. Because of this feature, art completely broke the traditional understanding of continuity and formed a discontinuous field.

Joseph Kosuth is one of the most important representatives of conceptual art. "One and Three Chairs" which was produced by Kosuth, in 1965, has discontinuous dimension as a structure. In this study, Kosuth, used a real wooden chair, a photo of the chair and a paper on which is written dictionary meaning of chair. These elements which are quite different from each other in terms of structural characteristic are substantially indicators which formed the concept of chair imaginatively. Kosuth, have questioned the relationship between image and language in his works. Indeed, conceptual language has structure which differs according to the cultural and psychological structures of audience. The conceptual content of product which is reflected with different indicators isn't always understood in the same intensity in the opposite side. One of the another methods of combining events and facts in the discontinuity approach is installation. Installation is a concept frequently used in media art forms. Its origins goes back to the enlightenment period. Installation is the process of bringing together elements which are independent from each other and as a method it greatly contributed to the development of photography and cinematography. Grete Stern, gives the first example of the installation work. Today it is one of the fundamental features of the world of art and technology. In media field, elements which are independent from each other are combined by this method and it can be made different operations on the document. For example, a movie whose shooting finished can not released in movie theaters before its installation stage is completed.

DJ is one of the music methods that discontinuity understanding dominate. The word for of DJ in english is disk jockey. DJ's origins goes back to 1970s. DJ have different meaning like making music thanks to discs or making music by combining different musics or making one of the known music 'MIX'. DJ entertains the audience with music in entertainment venues. The important thing for them is exciting and entertaining the audience with the music they did. Mostly, they create the music

with improvisation techniques. Nowadays the development of digital music has increased the possibilities of expression of DJ. Music stored on the digital codes are great resources for DJ. It became easy to handle with the logic of "cut-copy" a piece selected from memory. This process correspond to a completely discontinuous understanding when their integrity thought.

Result

Artistic journey which began with cave painting which are accepted as the first works of art kept on until today by changing its style features. It will be displayed that sometimes the idea of continuity and sometimes discontinuity idea dominated when this historical heritage is examined. Artists who lived in the same period and even the members of the same trend have different stylistic features. In fact, this is a natural result, since even twins have different personality traits.

When contemporary art environment is examined, a period that we can call it as a "chaos" is dominant. Now it is an ambiguous issue what is art and what is not. There is no doubt technology has a great role for this case of today's art. The images world pumped by mass communication tools continues to reach out everyone's memory from small child to adults. In this situation adults are affected by this sound and images bombardment, which spreaded all over the world, it seems unlikely that tiny children show resistance to this structure. Now simulacra replaced it instead of the true one. In today's society the glory of imitating object, naturally, brought about kitsch case. Some advanced countries in the world put kitsch art works to the museum and it means the glorification of a structure that creates and consumes kitsch. In this situation, it seems that the situation of continuity and discontinuity like day and night will keep on to engage the agenda.

References

- AKTULUM, K. (1999) Relationship Between Texts, Öteki Publications, İstanbul.
- AKTULUM, K. (2005) Discontinuity in Narrative and Some Functions, LITTERA, Literature Writings, Vol. 17.
- AKTULUM, K. (2008). Fragmentation / Discontinuity / Disconnection, Suleyman Demirel University, Faculty of Fine Arts, Journal ART-E, V: 1 P: 1
- BAUDRILLARD, J. (2012). Conspiracy of Art, Ayrıntı Publications, Trans. Acts of Genç-Işık Ergüden, 4th Edition, İstanbul.
- BENJAMIN, W. (1993). Work of Art in the Age of Mechanical Reproduction, Literature & Criticism 2/3.
- ERZAN, J. N. (2011). Multiple Aesthetic, Metis Publications, 1st Edition, Metis Publications, İstanbul.
- TUNALI, İ. (2008). Aesthetic 11st Edition, Remzi Publications, İstanbul.

Frustacionit and Crime in Contemporary Society - Case Study the Western Balkan

Fatmir Qollkaj, PhD.c.

Pro-Dean of the of University Law,
Lector University AAB - Deanery-Law, Pristina

Abstract

When we talk about society, in particular in terms of developing its sociological us always remains good impression when talking to a healthy society and developed, however long history of social development gives us to understand that the development of society is also followed by numerous pathological phenomenon, deviant and criminal. This phenomenon, as the development of regression contradictions are development testified as a driving force of society, not just the dialectical point of view worldly but also from the standpoint of Merton Dyrkemit of other thinkers of the twentieth century. Criminality as a result of the promoters, different forces the drive has been the phenomenon of early and ongoing follow-up of human society, caused in most of the time the frustrations such as individual and collective. Starting from the individual, then the family, group and to greater social organization, frustrations are manifest modalities of development as controversial complex, multidimensional social. Changes occurring in contemporary society in the late twentieth century terms as in terms development economic, technical and technological followed with profound changes in the political, legal and cultural. These changes greatly influenced the lives of states social training, companies involved in this global development where ragging result of increased individual and collective result of which is also the growing crime in intensity and modalities manifest.

Keywords: Frustacionit, Crime in Contemporary Society, Western Balkan

Introduction

Frustration as emotion, as the state is inevitable feature as at the individual level as well as collectively, throughout the history of development of human society, each time with increased intensity of times the intensity of the smallest forms less stable. "The situationragging caused, bullied by a cause, by not achieving the fulfillment of physical or spiritual needs of man, and these may be different as poverty, violence, not essential success, and many other differentreasonwe encounter in life our daily. Experiencing this emotion in people is different as is the expression of various complaints raised also, if we take as an example of "poverty" is undoubtedly a factor that became frustrated highest percentage of people worldwide depending on degree what is this hardshipraggingrate is as large, long lifeeveryone encountered such a situation due to lack of fulfillment of the need materialistic. However important is how to achieve to become a solution to the problem through methods that are accepted by society and these methods do not illegal. It is positive ifragging acts as incentive to achieve the good life purposes such as education, business, etc. But on the other hand when he combined with criminal offenses are undoubtedly considerable damage.

Collective Frustacionit

Collective frustrations show discrepancies situation (distance) between the reception and achieving fulfillment of needs, goals of a social group within a society, or society itself as' total. When it comes to organized society in the state and collective frustrations can add that changes occurred in the political and social life in the last threeyears the twentieth century in a part of Europe and in particular in the Western Balkans had to follow a corporate ragging (thanks absolute majority) resulting re influenced by social stratification and social training realignment in life. Changes in policy have been changes in the economy, social training and general life created a new system axiological with essential major differences based on value, with a new system of qualified freely. Unequivocally that these changes are driven and caused a collective ragging which manifested with different intensities to different individuals in major addiction by many factors such as personality of the individual, family, culture, subcultures his economic situation etc. "This collectiveragging manifested as aggression, as" grumbling "through illegal actions until they are extreme, criminal actions." **(Haskoviq Mujo, Psychology).**

So the Western Balkans converted to the appropriate field and extent of crime in all its forms, especially the modalities of drug crime, trafficking in human beings, murder, rape etc. What makes the particular Western Balkans in the context for which we refer to is the escalation of collective rabies and modify its collective aggression. As was said collective rage

succeeds as configuration and spontaneous accumulation of collective energy high intensity based on the increasing dissatisfaction as the result of not meeting and not meeting the objectives of large, high collective national interest. The better example is the situation in the former Yugoslavia in the early 90 -ties beginning of the breakup of the former federal state, then the other example is the overthrow of the dictatorship and neodictatorship in Albania, since 97 where the death toll was over 3000 people.

FRUSTACIONIT collective results as a collective response to fear because in modern societies is today "We live in such a time and culture where it seems only basic sense of collective fear" (**Sofradjija & Agjalic Kriminalisticke Topic Sarajevo 2011**)

Individual Frustacionit

Frustrated man is the man who fails to fulfill his motives because of the severe obstacle that can not own it. Such situations are a source of frustration to the man and his experience, which is caused by such situation there are specific nature and special performances. "Man is man desperate frustrated, anxious, fearful, withdrawn and upset, that overtakes an interior concern seriously. Such experiencing strong influences on the intellectual processes in everyday life and in the person's behavior toward others and to ourselves of his own.. "(**Nushi Pajazit, General Psychology**).

To others frustrated man appeared a kind of disorder was warm contacts and Disorder Act of pace, contacts with others. To himself that his special behavior; begins to think deeply about its nature overtakes even this thought for a long time. The manragging show some physiological changes, associated with life change his feelings. However frustrated people react differently to their condition ragging. Howeverraggingpeople react differently to their condition ragging .Some triple their activity to possess obstacle or frustrating situation, others reorganize behavior, actions and their wishes to come down to the lowest level of aspirations, changing the purpose of fulfilling specific theme, changing ways of performing the theme and utilizing new tools for achieving the pursued.

"Failure to resolve personal and family issues or other issues through the legal existence creates opportunities and opens the path for other forms of action which often end with diverse passions and victims' (**Ragip Halili, Victimology, Pristina 2011**)

Separate form of manifestation ofragging is wandering, embracing characteristic of a subculture and ignoring the normalization life. "This category of persons deriving from families where drugs consumed, poor families where none of the parents does not work, problematic families" (**Zejneli Ismail, delinquency of minors in the Republic of Macedonia 2008**)

Various forms of criminality as a Result of Frustacionit

Criminality is one of the biggest risks in the system stabilized ethical norms and social values. Criminality is a major economic burden for the community (detection, apprehension, trial, punishment, rehabilitation of the criminal). "Another reason for the curiosity of the 'ordinary man' for criminality is knowledge of street-life personality and the person who has committed any criminal act, and that again is a function of better understanding the behavior of people and the actions their in general. "(**HaskoviqMujo, Forensic Psychology**).

No matter from which aspect we want to know criminality in any social community, first ask the question how widespread this phenomenon. Answer on this question first of all give us different criminal statistics, where the structure of offenses within a year dominationraggingoffenses caused by an individual, where offenses have passionate primates (**5 murders of love, rejection of love, jealousy, inability the unity and common life data made public by Electronic media coverage, Tirana, Albania, cases decided by life imprisonment**).

As a result of frustration and aggression we can conclude that a lot of criminal acts can be committed for money reasons such as property thefts, (a criminal act that is growing rapidly) as well as other criminal acts such as murderers, violations, etc. "Apart from the social environment, the perpetrator's personality as a unique notion is to be considers when we need to analyze the motives of the crime...in the criminalistic practice the most frequent motives pertaining to the commitment of a criminal act are bad economy, hatred, sexual reasons, religious extremism, love, etc". (**Korajlic&Muharremi , Kriminalistika 2009**)

As mentioned above, political and economic changes and disorders as complex processes in the West Balkans have influenced in the increase of collective frustration which in turn have resulted in the flourishing of the organized crime

especially in human trafficking where the majority of victims are juvenile and young girls. "Trafficking of human beings, especially that involving young women as victims of prostitution increases any time there are socio-economic problems and disorders. Such situations are created after great political transformations, during and after political turmoil, civil wars, local wars, recessions and great economic crises. Usually, victims of human trafficking are females of different ages...the findings from IOM for Kosovo in 2000 indicate that the average age of victims is 22 years old". (**GashiRexhep ,Krimi i Organizuar , 2014**).

Conclusions

Finally, we can add that the frustration should be accepted as a psycho-social phenomenon intertwined with elements and characteristics of the personality dependent on the social environment as well as other factors which together fuel criminal acts. Criminality, as a growing phenomenon, deserves an institutional attention in order to prevent it. Additionally, civil society must exert sophisticated control through socialization projects for special social categories which will in turn help the general socialization of the society. The implementation of the punishing policies within a given country as well as the role of the international organizations and international community in general is not to be underestimated.

Literature

- Antony Gidens, Sociology, Tirana 2007
Bakic Ibrahim, Sociology, Sarajevo 1998
RecepGashi, Organized Crime, Pristina, 2014
HaskovicMujo, Forensic Psychology, booklet, Prishtina, 2008
HaskovicMujo, Psychology, scripts in English Pristine 2006
HaskovicMujo, Izbeglistvo of devijantnopenasanje
RagipHalili, Victimology, Pristina 2011
RagipHalili, Criminology, Pristine 2013
KorajlicNedjat& Muharram Bruno,, Pristine 2009
NushiPajazit, Psychology,, Pristina, 2012
MladjenovicRajk, Criminology Sarajevo 1997
Terry F. Pettijohn, Psychology edition Classifieds, Tirana 1996
Sofradjija&AgjalicKriminalisticke Topic 2011
VeselLatifi, Criminology Pristine 2014
Zejneli Ismail, delinquency of minors in the Republic of Macedonia in 2008

A Study of the Effects of Total Quality Management on Occupational Safety Regulations

Selman AKSOY

Düzce University,

Department of Occupational Health and Safety, Düzce

Mehmet KAHRAMAN

Mehmet Akif Ersoy University,

Faculty of Economics and Administrative Sciences,

Business Administration Department, Burdur

Abstract

The aim of this study is to determine the role of total quality management (TQM) in controlling occupational health and safety operations which is highly significant to enterprises. Data has been obtained by survey technique which is one of the initial collection techniques. A questionnaire with 34 questions used by Güngör (2008) earlier has been conducted. Data has been attained from the employees' answers to the questions of the survey who work at two different machine-manufacturing enterprises. Enterprises have been chosen intentionally from those that one of them applies TQM and the other doesn't. Data was analyzed by SPSS-20 software. At the end of the research, it has been revealed that the enterprise which implements TQM, has more regulations about occupational safety than the other enterprise which doesn't implement TQM. In conclusion, it has been detected that the TQM applications have a positive effect on occupational safety regulations.

Keywords: Total Quality, Machine Production Industry, Occupational Safety

Introduction

Occupational health and safety (OHS) can plainly be defined as providing safe working conditions for employees. Subjects about employees' safety are getting more important not only at working environments but also in every segment of society (Keleş, 2005).

Every 15 seconds, 160 workers are exposed to occupational accidents and 1 worker dies due to occupational accident and/or occupational disease worldwide. As a result of occupational accidents or occupational diseases daily 6.300 workers, annually 2.3 million workers lose their life. As a result of occupational accidents, absenteeism figures reach over 337 million every year. Health and safety conditions at workplaces profoundly vary depending on social groups, industries and countries (Kılış & Demir, 2012). In developing countries where national economy highly depends on dangerous industries such as agriculture, mining and fishery, injuries and deaths have been experienced more frequently. Besides, particular social groups such as immigrants, children and women especially in poor countries are affected the most by occupational accidents and diseases (MMO, 2012).

According to figures of International Labour Organisation (ILO) the total cost of occupational accidents and diseases in industrialised economies holds %1 - %3 of Gross Domestic Product (GDP). It is estimated that the total cost of occupational accidents and diseases in developing countries holds around %4 of GDP (Ceylan, 2011).

It is clearly understood that the situation in Turkey is desperate when the death figures are examined depending on occupational accidents. Occupational accident and death figures during the last decade are indicated at Table 1. This data consists of accident statistics which have officially been reported to Social Security Institution (SSI) of Turkey. Unfortunately most of the accidents occur in Turkey are not officially recorded. The recorded accident figures are less than 70 thousand in a population of 75 million. The number of occupational accidents reaches 800 thousand in Germany with a population of 83 million. It can be inferred that all accidents in Turkey are not recorded in comparison to Germany (Ceylan, 2011).

Table 1 Number of deaths in Turkey as a result of occupational accidents (2000-2012) [5].

YEAR	NUMBER OF OCCUPATIONAL ACCIDENTS	NUMBER OF DEATHS
2000	74847	1173
2001	72367	1008
2002	72344	878
2003	76668	811
2004	83830	843
2005	73923	1096
2006	97027	1601
2007	80602	1044
2008	72963	866
2009	64316	1171
2010	63903	1444
2011	69227	1700
2012	74871	774

According to 2012 statistics of Social Security Institution (SSI); 74871 occupational accidents, 2036 incapacities and 774 death incidents had been occurred. When the figures are examined in terms of employee, employer and the state, the extent of financial and emotional losses increase (SGK, 2013). In this sense, Total Quality Management (TQM) applications play a significant role in minimizing the number of accidents and deaths at workplaces. In this study, it has been attempted to find out the effect of TQM applications on occupational health and safety studies which makes this study important.

Occupational accidents and diseases in Turkey considering the losses above is appeared to be a significant issue. Occupational accidents cause deaths of thousands of people, disability as well as emergence of serious economic losses. Occupational accidents are mutual problem of all countries and the studies indicate that the accidents can be minimized by taking necessary measures. Countries which are inadequate to take necessary measures have been affected by the accidents more than the other countries (Ceylan, 2012).

Many countries have made remarkable progress in forestalling occupational accidents in recent years (Keleş, 2005). In addition, improvements in TQM have positively affected the occupational health and safety area. TQM considers person the most significant value of the organisation and also represents a quality system where all the workers are responsible for. The most significant dimension of TQM is providing to create a safety culture at workplaces in order to reduce occupational accidents or even avoid them before they occur (Duran & Çetindere, 2012). Occupational health and safety management system (OHSAS 18001) which is essential part of TQM has been structured to meet health and safety obligations efficiently at workplaces. Thus, the repetition of accidents will be avoided by creating an effective safety culture. It is possible to maintain production processes with a result of customer satisfaction by providing safety working environment. Employees and managers who are responsible for quality of products and manufacturing processes are also the leaders of TQM operations. (Ofloğlu & Sarkaya, 2005).

Contemporary management approaches assume that human factor is the leading factor to the success of organisations. Therefore physical and psychological states of employees as well as their attitudes towards the organisation are getting more important. In this sense, occupational health and safety culture and its implementations at workplace take one of the most significant roles of the organisation (Zorlu, 2008).

In Turkey working population has been shifting from agriculture sector to manufacturing industry. Therefore studies about occupational health and safety become more important as the figures of labour force increases. The main reason that occupational health and safety studies are constantly gaining more importance is because the numbers of occupational

accidents and diseases have been increasing due to insecure and risky workplaces which cause more deaths and injuries (Aydın, Karaca & Özgüler, 2013)

In this research TQM's role in the studies of OHS has been examined which improves OHS performances of enterprises and also provides proactive approaches to prevent occupational accidents and diseases before the risks have not emerged at workplaces (Ofiuoğlu & Sarıkaya, 2005). Recently, the number of academic researches and studies about OHS has increased. However researches which examine the effect of TQM on OHS are quite few. In this sense, it is thought that this study would enrich the literature.

RESEARCH METHOD AND RESEARCH QUESTION

In this research, survey method has been used as a data collection tool. It has been profited by the questionnaire which was developed by Güngör(2008) . Questionnaire consists of 34 questions and it has been organised convenient to Likert scale that can be rated on 1-5. In order to find out the efficiency of TQM which is the main subject of the research, two enterprises have been chosen in Istanbul. Both enterprises manufacture machine while one of them implements TQM principles and the other one doesn't. Survey has been conducted among 274 employees; 160 of them are from the enterprise where TQM principles are implemented, 114 of them are from the enterprise where TQM principles are not implemented.

In this study it has been examined and attempted to understand whether there is a different thinking about the effect of TQM applications on OHS studies among employees. According to this, research question has been formed. Research question reveals the relation between two or more variables but defines this relation with a question (CWU, 2014). For that purpose it has been attempted to answer the following question below.

Is there a meaningful difference between the viewpoints of employees from the enterprise where TQM principles are applied and employees from the enterprise where TQM principles are not applied?

RELIABILITY

Totally 274 questionnaires have been evaluated in the study. Cronbach Alpha value has been taken into account as the general reliability was being examined in the questionnaires. The values calculated over 0,70 are reliable values (Bayram, 2012).

Reliability results that have been obtained by SPSS20 are indicated at table 2 below.

Table 2. Reliability test table of the conducted survey

Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items
,979	0,979	34

As a result of reliability test, Alpha value had the value of 0,979. This value indicates that the survey has a high reliability. In Güngör's study Alpha value was resulted as 0,978. Values that have been reached by these two studies are approximately the same.

FINDINGS

In this study factor analysis method has been implemented. Besides, with the help of Kaiser-Mayer-Olkin test (KMO) and Bartlett test of sphericity, it was decided whether it's possible to use factor analysis. Factor analysis is a statistical technique which enables to obtain few unrelated variables by getting the variables interrelated together when the number of data is very high (Çelik, 2012). The most common practice of factor analysis is principal component analysis. This analysis eliminates dependency between many variables and also provides us to acquire fewer new variables (Polat, 2012). In this sense, principal component analysis has been used in order to reduce numerous variables to fewer variables. As a result of analysis, three components (factor) - in other words - variable groups have been formed.

When the perceptions of employees are examined in terms of occupational health and safety management system, according to survey results; average values are in the range of 4,237 to 2,9562 at the enterprise where TQM is applied and average values are in the range of 2,8333 to 1,6579 where TQM is not applied.

Table 3. KMO and Barlet test

Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	,973
Approx. Chi-Square	8830,157
Bartlett's Test of Sphericity Df	56
Sig.	,000

Data indicated at table 3 according to KMO and Bartlett's test, sample appropriateness value (0.973) points out a normal distribution of data and also appropriateness for factor analysis. "Chi-Square" value (8830.157) with a meaningful result ($p=.000<0.05$) is an indication for the validity of the result of factor analysis.

Table 4. Factor analysis for determining perceptions of the employees' application-level of occupational health and safety management system

	Factor Load	Average	Eigenvalue	Explained Variance
"Responsibilities of the employees and the employer at workplace" factors		2,9403	20,420	25,580
It is benefitted from the studies of employee-occupational adaptation in order to prevent occupational accidents	,807			
Internal auditing is done according to determined plans	,704			
Collaboration and coordination regarding occupational health and safety is provided throughout the enterprise	,703			
Methods like IQ test, medical examination, psychotechnic test etc. are used during recruitment stage in order to select convenient employee who has the qualifications required for the job	,677			
Organizational structure of our organisation has been identified. (Organization Chart)	,665			
It is complied with relevant legislation to prevent occupational accidents.	,656			
Occupational health and safety researches and accident analyses are conducted regularly to prevent occupational accidents	,630			
Periodic control and maintenance of machinery and equipments are done.	,619			
Employees are trained by a specific training programme to prevent occupational accidents and diseases	,608			

Occupational health and safety committee is effective in the prevention of occupational accidents and diseases in our enterprise.	,602			
Noise measurements are made in noisy areas and measures are taken against noise.	,588			
Risk assessment is conducted in order to prevent occupational accidents.	,574			
In order prevent occupational accidents; there is a barrier or a distance between the employees who are busy with hazardous occupation and the others.	,556			
Plans are made to apply risk control methods.	,537			
“Training and internal control” factors		3,2737	1,534	24,643
All staff is trained about occupational health and safety.	,722			
Employees get periodic health checks in accordance with the legislation from the beginning of the recruitment.	,705			
Our enterprise has a permanent workplace doctor for the period specified in law.	,701			
Employees who are necessarily need the training about occupational health and safety are trained	,669			
Personal protective equipments and warning signs related to occupational health and safety are used.	,655			
Employees are trained about occupational health and safety	,648			
Accident and injury report is subsequently prepared when an accident occurs.	,637			
Accident statistics are recorded regularly	,624			
Records and data related to occupational accidents are kept adequately.	,605			
There is a certified first aid team which is actively working.	,585			
Enterprise is controlled by the state and private institutions in terms of occupational health and safety	,505			
Orientation training is being performed for the new employees to prevent occupational accidents	,468			
“Occupational diseases and risk assessment” factors		2,8864	1,067	17,487
There is a ventilation system for prevention of occupational diseases.	,852			
We are trying to avoid circulation of dust with the help of water in order to prevent occupational diseases	,733			

Hazardous materials is physically separated from the working environment in order to prevent occupational diseases	,609			
Attention and support of managers regarding occupational health and safety is sufficient	,588			
Risk assessment is used for preventing the repetition of damage or harm that has already emerged.	,585			
Risk assessment is used for preventing the emergence of harm and damage as a proactive method.	,525			
Instead of very hazardous substances less harmful substances are used to prevent occupational diseases.	,507			
Managers are trained about occupational health and safety	,448			

Perspectives of employees were gathered under 3 factors according to eigen value criterion. Initial factor was described as "responsibilities of the employees and the employer at workplace". Responsibility factor of the employees and the employer has an eigen value of 20,420 at workplace. This value explains %25,580 of total variance. The average value of participants' answers to this factor is 2, 9403. According to this value participants think that employees and the employer have some responsibilities to reduce occupational accidents and diseases.

The second factor attained was described as "training and internal control". Eigen value of this factor equals to 1,534. This value explains %24,643 of total variance. The average value of participants' answers to this factor is 3, 2737. Participants remark that training and internal control are effective on occupational safety regulations.

As a result of factor analysis the third factor was described as "occupational diseases and risk assessment". The eigen value of this factor is 1,067. This value explains % 17,487 of TQM's role in occupational safety studies in other words % 17,487 of total variance. The average value of participants' answers to the questions of "occupational diseases and risk" factor is 2, 8864. Participants' thoughts are moderate about the decrease of occupational accidents and diseases in case of eliminating risks.

The obtained 3 factors explain %68 of total variance.

ANALYSIS OF RESEARCH QUESTION WITH T TEST

Research question was already determined as "Is there a meaningful difference between the viewpoints of employees from the enterprise where TQM principles are implemented and employees from the enterprise where TQM principles are not implemented?". At this stage in order to analyze the question "T test for independent samples" has been conducted. T test results are indicated at table 5 and table 6.

Table 5. Group Statistics of factors

Factors	Total management quality	N	Average	Standard deviation	Average of Standard error
Responsibilities of the employees and the employer at workplace	Applied	160	3.6013	0.73682	0.05825
	Not applied	114	2.0125	0.69993	0.06555
Training and internal control	Applied	160	3.8943	0.69651	0.05506
	Not applied	114	2.4020	0.62459	0.05850
Occupational diseases and risk assessment	Applied	160	3.3922	0.83359	0.06590
	Not applied	114	2.1765	0.62551	0.05858

Table 6. Independent samples t-test results of the factor

Factors		Levene's Test for Equality of Variances		T test for Equality of Means						
		F	p	t	sd	Sig.(2-tailed) (p)	Average difference	Standard error difference	% 95 confidence bounds of difference	
									Lower limit	Upper limit
Responsibilities of the employees and the employer at workplace	When variances are equal	3,345	,069	17,961	272	0,000	1,58881	,08846	1,41466	1,76296
	Variances are assumed to be not equal			18,117	250,779	0,000	1,58881	,08770	1,41609	1,76151
Training and internal control	When variances are equal	2,033	,155	18,229	272	0,000	1,49149	,08182	1,33041	1,65257
	Variances are assumed to be not equal			18,565	258,006	0,000	1,49149	,08034	1,33329	1,64969
Occupational diseases and risk assessment	When the variances are equal	24,972	,000	13,151	272	0,000	1,21565	,09243	1,03368	1,39762
	Variances are assumed to be not equal			13,787	271,246	0,000	1,21565	,08818	1,04206	1,38925

It is seen that the responsibility factor value equals to 0.00 at Sig.(2-tailed) column. It can be stated that there is a meaningful difference between the enterprise where TQM is applied and the enterprise where TQM isn't applied, because the calculated value is less than 0.05. When the group statistics of factors are examined at table 5, it is seen that the average value (3.6013) of enterprise where TQM is applied is higher than the average value (2.0125) of the enterprise where TQM is not applied. According to these values it can be inferred that the participants think that the responsibilities of the employees and the employer from the enterprise where TQM is applied, is more effective on occupational safety operations than the enterprise where TQM is not applied.

When the results of t test are examined for training and internal factor Sig. (2-tailed) value is seen as 0.00. Because the value is less than 0.05, for this factor it can be stated too that there is a meaningful difference between the enterprise where TQM applied and the enterprise where TQM isn't applied. When the group statistics of factors are examined at table 5, it is seen that the average value (3.8943) of enterprise where TQM is applied is higher than the average value (2.4020) of the enterprise where TQM is not applied. Considering these values training and internal control factor is thought to reduce occupational accidents and diseases more effectively at the enterprise where TQM is applied.

The value at the t-test table Sig. (2-tailed) equals to 0.00 for occupational diseases and risk assessment factor. It indicates that occupational diseases and risk assessment factor differs meaningfully between the enterprise where TQM is applied and the enterprise where TQM isn't applied. Average value at table 5 for the enterprise where TQM is applied is 3.3922 for the enterprise where TQM is not applied is 2.1765. Considering the answers to the questions of the employees from the enterprise where TQM is applied, it can be inferred that this factor is thought to be effective on occupational safety operations.

Conclusions

In this study, the effect of total quality management to the occupational safety has been researched with an application at the machine-manufacturing industry. 74871 occupational accidents occurred in 2012. When the distribution of occupational accidents is examined according to operation groups, some of the accident figures at machine-manufacturing industry are as following; metal goods 7045, main metal industry 4938, machine and equipment manufacturing 2235, motor vehicles and trailer manufacturing 1796, machine and equipment set up and maintenance 1045. The sum of the figures equals to 17.059. This figure indicates that the enterprises at machine-manufacturing industry have the highest accident rate (MMO, 2015). For this reason occupational health and safety emerges as an important issue at the enterprises of machine-manufacturing industry. Occupational safety regulations cover operations that prevent employees, production process as well as enterprise from damage and harm. TQM is one of the elements which has these operations. Measuring the effect level of TQM through perspectives of employees is the main subject of this research.

Through factor analysis that has been applied on the data obtained from employees, viewpoints of the employees who work at 2 different enterprises have been gathered under 3 factors. These factors are as the following; "responsibilities of the employees and the employer at workplace", "training and internal control", "occupational diseases and risk assessment".

In order to find out whether there is a difference between the perception of employees from the enterprise where TQM is applied and perception of employees from the enterprise where TQM is not applied in terms of occupational safety regulations, T test was conducted and for all 3 factors differences between perceptions of employees have been detected.

Despite the fact that there are many researches and studies related to OHS, there are only few studies about the effect of TQM on OHS regulations. This study has generally reached similar findings to the literature. Gungor (2008) deduced that applying TQM principles at enterprises efficiently has a positive effect on reducing occupational accidents and diseases.

Keleş (2005) examined the role of OHS within TQM and remarked that combining TQM with OHS operations would increase the productivity and employees would be more participant. Furthermore it was emphasized that TQM operations could be more effective by conducting risk management and hazard analysis in terms of bringing occupational accidents and diseases under control.

Attempts to decrease the amount of occupational accidents and diseases have a high importance for each enterprise. It is very significant to raise awareness among employees about the risks and hazards at workplace right after conducting risk analysis. In Turkey a new OHS law (Resmi Gazete, 2014) passed with number of 6331 in 20.06.2012 which gives particular responsibilities to both the employees and the employer. By this operation in law, risk analysis became a must at enterprises consequently employees had an advantage of working in a safer environment more productively.

There is a significant correlation between minimizing occupational accidents and diseases and carrying out TQM applications properly and efficiently. Conducting risk analysis in order to determine risks and hazards, eliminating the risks exist or minimizing them to acceptable levels, increasing the number of trainings for staff, improving the performance of OHS operations, taking a proactive approach against occupational accidents and diseases are related to TQM and its principles. Besides it's a necessity to apply the current law, rules and regulations in order to provide a safer working environment.

Managerial staff should have sufficient knowledge about OHS and pay more attention to occupational safety applications. Thus employees are more stimulated to be conscious towards risks and hazards at workplace. In this sense employees should undergo intensive training to avoid insecure operations and actions which cause serious damages and harms at workplace (Demirbilek & Çakır, 2008).

As it is well-known, reducing occupational accidents and diseases or completely avoiding them to happen is of a great benefit to employees and employers as well as state. Furthermore it would boost productivity, effectiveness and efficiency and also support sustainable development.

In conclusion, it is highly important to adopt TQM principles by all the members of an enterprise and embrace it as an aspect of organizational culture, thus it would be much easier to set up occupational safety organisations and bring occupational accidents and diseases under control.

References

- Aydın, U., Karaca, N. G., Özgüler, V. C., Karaca, E. (2013) "İş sağlığı ve güvenliği eğitiminin iş kazaları ve meslek hastalıklarının önlenmesindeki rolü" Çimento Endüstrisi İşverenleri Sendikası, Cilt:27, Sayı:4, 24-45.
- Bayram, N. (2012), " Sosyal Bilimlerde SPSS ile Veri Analizi", Ezgi Kitabevi, 194, Bursa.
- Çelik, Ş.(2012), "Türkiye'de illerin bitkisel üretiminin faktör analizi ile incelenmesi" YÜ Tar. Bil. Dergisi, 22(2): 69-76.
- Ceylan, H.(2011) "Türkiye'deki iş kazalarının genel görünümü ve gelişmiş ülkelerle kıyaslanması", International Journal of Engineering Research and Development, Vol.3, No:2, 18-24.
- Ceylan, H.(2012) "Türkiye'deki iş sağlığı ve güvenliği eğitimi sorunları ve çözüm önerileri" Electronic Journal of Vocational Colleges, No:1, 94-104.
- Demirbilek, T. & Çakır Ö. (2008), "kişisel koruyucu donanım kullanımını etkileyen bireysel ve örgütsel değişkenler" Dokuz Eylül Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi, Cilt:23 Sayı:2,173-191.
- Duran, C. & Çetindere, A.(2012) "Kalite yönetimi uygulamalarında bilgi yönetimi etkilerinin araştırılması: Bursa örneği" Üretim araştırmaları sempozyumu,, Gediz Üniversitesi.
- Güngör, E.(2008), "İş sağlığı ve güvenliği kavramının toplam kalite yönetimi açısından irdelenmesi ve talaşlı üretim sanayisinde iş sağlığı ve güvenliği üzerine bir araştırma", Marmara Üniversitesi Sosyal Bilimler Enstitüsü İşletme Anabilim Dalı, Uluslararası Kalite Yönetimi Bilim Dalı, Yüksek Lisans Tezi, İstanbul.
- <http://www.cwu.edu/~gellenbe/480/assignments/researchProposalElements.pdf> (25.10.2014)
- <http://www.resmigazete.gov.tr/eskiler/2012/06/20120630-1.htm> (25.10.2014)
- http://www.sgk.gov.tr/wps/portal/tr/kurumsal/istatistikler/sgk_istatistik_yilliklari (2013).
- İşçi Sağlığı ve İş Güvenliği Oda Raporu, MMO Yayınları, (2012).
- İşçi Sağlığı ve İş Güvenliği Oda Raporu, MMO Yayınları, (2014).
- Keleş R., (2005 November 09-12) "The role of occupational health and safety in total quality management", 4th Research/Expert Conference with International Participations, "QUALITY 2005", Fojnica, B&H.
- Kılış, İ. & Demir, S.(2012) "İşveren iş sağlığı ve güvenliği eğitimi verme yükümlülüğü üzerine bir inceleme", Çalışma İlişkileri Dergisi, Cilt 3, Sayı 1, 23-47.
- Ofluoğlu G. & Sarıkaya G.(2005) "OHSAS 18001 İş sağlığı ve güvenliği yönetim sistemi", Kamu-İs.
- Polat, Y.(2012), "Faktör analizi yöntemlerinin karşılaştırmalı olarak incelenmesi ve hayvancılık denemesine uygulanışı", Çukurova Üniversitesi Fen Bilimleri Enstitüsü, Zootekni Anabilim Dalı, Doktora Tezi, Adana.
- Zorlu, A.V.(2008) "İnsan kaynakları açısından işçi sağlığı ve iş güvenliği tedbirleri ve konuyla ilgili bir araştırma", İstanbul Üniversitesi Sosyal Bilimler Enstitüsü İşletme Anabilim Dalı, İnsan Kaynakları Bilim Dalı, Yüksek Lisans Tezi, İstanbul.

Commonalities and differences of tax systems in West Balkan countries Comparative analysis

Teuta Balliu, PhD Cand.

Lecturer, Faculty of Economy in University of Elbasan "A.Xhuvani".

Email teuta.balliu@uniel.edu.al

Aida GaçeLlozana, PhD Cand.

Lecturer in the Faculty of Economy in University of Elbasan "A.Xhuvani".

Email aidagacehe@gmail.com

Abstract

Countries of former Yugoslavia and Albania are considered as countries with many common problems as well as changes, which in this context are regarded as insignificant. On their way towards development, these countries are characterized by common problem, among which the most sensitive have been and still remain, unemployment, increasingly compressed public administration, unjustified optimism when planning the budget, mismanagement of public finances and poor fiscal discipline which mostly depends on being or not an election year. In these countries we notice the lack of harmony between economic and fiscal policies and the real needs of the economy. This is seen as other major common of West Balkan countries. This similarity of problems narrows the possibility of competition associated to the foreign investment absorbing capacity. But, which is the macroeconomic picture in the countries of West Balkan? What are their tax systems? How much are the foreign direct investments? Does the tax system serve as a promoter for these investments? This paper represents a comparative analysis of the fiscal systems in the countries of this region. The subject of this paper is the protection with arguments of the economic and fiscal policy which are built for the economic development of a country. This because we are given that there are two types of experiences related to tax system, one of which handles taxes as instruments for revenue collection and the other as a promoter factor for economic development.

Keywords: Fiscal policy, Tax system, economic growth, foreign investments

Introduction

Every state regards the analysis of fiscal policy with much interest, due to the fact that the capital cost does not just include the money cost, given in the form of interest rate for the loan, but also the fiscal cost, shown in the form of a fiscal burden that the investor should pay. A high fiscal burden, which increases the direct cost of the investment, might lead to the investor's discouragement and eventually, the debt searching for financing a project. Often in the public debates, financial authorities claim that their levels are in fact among the lowest in the region in order to legitimate their decisions to increase tax levels. In this paper, we will focus on the comparative analysis of the tax burden. We have made a comparative overview of tax levels in some countries of the region¹. In terms of an investment project's implementation, these countries might also be competitive candidate states with our country, Albania. An investor, who aims to serve in the Balkan market, would consider the implementation of a potential project in one of the countries which are analyzed. In the investors' analysis, the value of cost factors, mainly those of taxing system, would be one of the main indicators in taking the investment decision (De Mooij, R.A and S. Ederveen, 2005). As a consequence, the differences in the fiscal evaluation of investments become instruments of regional competition. Western Balkan countries had a considerable economic growth before the crisis, but the growth was based on a high domestic consumption, related to the fast increase of the loan, and it was accompanied by the extension of the current account deficit and increase in the private

¹ The analyzed countries are Albania, Montenegro, Serbia, Croatia, Macedonia and Bosnia Herzegovina

sector loan. This economic growth was stopped when the global financial crisis was transmitted in the region through trade and financial channels, resulting in the decrease of external demand regarding regional exports, loan crisis, remittances declining and the decrease of direct foreign investments. The crisis caused a general decrease of economic activity, the expansion of budget deficits and the growth of public loan and the foreign one. In 2009, the GDP dropped in Bosnia Herzegovina, Montenegro and Serbia, whereas in Albania and Kosovo, the growth was slow compared to the period before the crisis. The consolidation of economic recovery which started in 2010 led to a moderate growth in every part of the region. While some improvements were noticed in the first half of 2011, the economic activity dropped in the second half and the first half of 2012.

Short-term economic perspectives for the Western Balkan still remain weak, and vulnerability has increased as a result of Eurozone crisis. The weaknesses in the financial sector are part of special concerns, taking into account the fact that the majority of banking system is part of foreign ownership and that most countries rely on funding from abroad, though this is not part of this paper and we are not going to deal with this. The appropriate background for the business is one of the main pre-conditions for the economic recovery and the growth of Western Balkan. Many elements of a healthy business environment- such as efficient and predictable governmental institutions, sustainable fiscal policy, an educated labor force, a well physical infrastructure and access in financing- all have a direct relation with the economic growth. The recent economic crisis has highlighted the fact that a background which supports economic competitiveness is of great importance to better support of national economies to absorb shocks and provide a sustainable economic development. International institutions statistics show that Western Balkan countries have remained behind the countries of the group that includes 10 countries of EU, in a range of background indicators of business, investment and competitiveness, as well as the institutional reform.

Changes in the fiscal policy and their influence in the economic growth of a country. Literature review

If we refer to the literature for determining the trends of the economic thought, we emphasize that there are two trends of economic thought regarding the influence of fiscal policy in the economic growth of a nation, known as Keynes trend and neoclassic theories (Szostak, 2009). According to the **Keynes** theory of aggregate demand, the reduction of governmental cost or the tax increase, reduce that aggregate demand and indirectly to the incomes, transmitting a negative influence into the production (Keynes, 1936). In the full model of this theory, which is shown in the standard analysis of the IS-LM curve, the multiplier of negative effects is partly counterbalanced from the *crowding* effects due to lower interest rates and monetary devaluations. **Neoclassic** models emphasize other transmission mechanisms, through which reductions in the government budget deficit influence the economy, whose positive effects might surpass the negative effects of Keynes multiplier in the aggregate demand. In a country that suffers from severe imbalances of budget deficit, the measures against its reduction are seen as necessary to replace the governmental insolvency. The deficit reduction would influence in the decrease of risk price in the interests norms. This would increase the value of wealth market in the private sector and consequently would increase the aggregate demand. On the other hand, the government's deficit reduction would serve the private sector and consumers as a signal for reduction, in the future, of tax burden and increase in their incomes. The current studies prove that the tax levels have a considerable influence in the establishment of right balances between savings and investments, as a result in the economic growth (Solow, 1956). Taxing decreases not only the purchasing power of the tax obligator¹ but also causes effects of economic, financial, social, and moral type (Nicodeme, 2007). Among the main effects, we can mention the tax transfer, tax transformation, the objection for its pay, evasion, the influence in the accumulation and allocation of incomes, international exchanges, economy etc (Mankin, N.G & Biedeman, D.K 2003). The majority of developed countries use the tax policy as a mean to get a faster development from the point of view. To achieve this, they promote the development in those branches of economy which encourage or bring a faster economic development (Prammer, 2011). These branches were offered tax facilities which are related to the reduction of tax obligation in order to re-invest their profits, which is supposed to bring economic development.

¹ The tax obligator is a physical or judicial person, who based on law, is obliged to pay the tax and complete the tax obligation. Not every person is classified as this. This classification includes those who have an asset or have incomes from their work or capital.

Economic growth for the Western Balkan

This study of Western Balkan includes Albania, Bosnia Herzegovina, Macedonia, Montenegro and Serbia. The region has a population of less than 20 million inhabitants and a relatively low level of development. After the political stabilization and renovation of transition process in the end of 1990s and early 2000s, the region made a considerable economic progress. Western Balkan economies had relatively high rates of annual economic growth in the pre-crises period (2001-2008), an average of 5.7 % in GDP. However, the economic growth in the region before the crisis was based in a high internal consumption, related to the growth of loan and a high increase in real wages. Its model of growth was largely based on a cheap international capital and loans to be indexed to international currencies and liberalization of foreign trade and financial markets. The global financial crisis which began in the second half of 2007, initially as a crisis in the US housing market, spread beyond the financial sector and severely touched the global economy. Until September 2008, the Western Balkan countries did not feel the influence of the financial crisis because they had a low percentage of bad loans. However, the capital markets of countries in this region were shocked when in the autumn of 2008 foreign investors' institutions began withdrawing funds. The end of that year saw also the attraction of foreign currency savings (Bank, 2014). Referring to the table 3.1, it is clearly discerned that the overall situation along 2013 of the region has been positive. The growth of gross domestic product for 2014 is projected to be positive excluding the economies of Serbia and Croatia.

The commonalities and changes of tax systems in Western Balkan

The following analysis does not pretend to illuminate the effects of fiscal policy on investment and economic growth, but if the considerations of placing an investment project in one of the countries of the region, included in the analysis, will be affected to a certain amount by fiscal policy as theory and literature in the field of finance emphasizes, the comparative analysis is very important and can serve as a response to neutralizing and / or competitive policies. (De Mooij, R.A. and Ederveen, 2005). When we take into consideration Western Balkan countries we must consider that we are dealing with small economies and not major markets. Western Balkan countries have signed and have become part of many tax agreements between them and institutions of international rules, the applicability of which, almost from all countries surveyed in this analysis, leaves much to be desired. Although the governments of these countries have agreed to implement several principles, procedures or tax rates, their full implementation seems far away. So, which are the taxes and the tax rates that individuals and businesses face in these countries? Let's see one by one starting with the group of direct taxes passing to the indirect group later.

Corporate tax

Taxation on the companies' profit is one of the most important in the taxing category. The comparative analysis over the companies' profit is of special value as it enables the identification of incentive policies that several states offer in order to encourage the reinvestment of a large amount of capital or a faster development of economic activity in the companies in general. We have made the following analysis for each country in this paper.

Bosnia and Hercegovina

Resident companies¹ are subject to tax on worldwide income, while non resident companies are taxed on income derived from the relevant jurisdiction only. The taxable base is determined by increasing the accounting profits or losses for nonreducible expenses and reducing the accounting profits or losses for allowable items. In Bosnia and Herzegovina the dividends are not taxable until distributed to shareholders. Capital gain is generally taxed as profits, at a rate of 10%. Dividends paid from this state to a non-resident are subject to a 5% withholding tax. For the incentives we can say that Bosnia and Herzegovina offers a full corporate income tax exemption for companies whose exports exceed 30% of total income and companies investing not less than BAM 20 million over five consecutive years in production, provided the investment during the first year is at least BAM 4 million. A company is exempt from corporate income in one year if that year its workforce is comprised more than 50% of persons with disabilities or special needs hired for a period longer than one year. All costs relating to Research and Development are recognized as expenditure.

¹A company is resident if it is registered as a legal entity there.

Macedonia

Resident companies, as in Bosnia and Hercegovina, are subject to tax on their worldwide income. Legal entities which derived profit from a business activity are subject to profit tax, which is 10%. Accumulated undistributed profits are not subject of profit tax until they are distributed. Dividends paid to non-residents are subject to a 10% withholding tax, unless the rate is reduced under a tax treaty. Regarding the incentives we can mention that a 10-year tax holiday is available for companies operating in a free economic zone.

Albania

In Albania a company is resident if its legal place or effective management is in it. Resident taxpayers are taxed on their worldwide income and non-residents are taxed only on Albanian-source income. Dividend income is considered taxable income, unless the participation exemption or a treaty applies. Capital gain is considered taxable income too. Starting from 1 January 2014 for company with turnover is over 8 million ALL the standard rate of tax is 15%. If the total turnover of a company is between 2 million ALL and 8 million ALL the corporate income tax is 7.5%. The companies with a turnover less than 2 million ALL are subject to the simplified income tax on small business at a fixed annual amount of 25000 ALL. Dividends paid to non-resident pay 10% withholding tax, unless the rate is reduced under a tax treaty. Relief from corporate income tax may be granted for projects such as investment related to public sector and infrastructure projects, tourism and oil industry.

Serbia

Corporate taxation related to residence¹ is the same as in Bosnia and Hercegovina, and Macedonia. Taxable income includes both business income and capital gain. The rate is 15%, and the capital gain is subject of a 15% tax for residents and 20% for non-residents. Dividends paid from a Serbian-resident company to another Serbian company are exempt from corporate income tax. Dividends paid by a Serbian resident company holding at least 10% of the shares in a non-resident distributing company for one year are eligible for a credit for foreign tax paid on dividends. The tax treaties are mentioned different times during this analyse, and Serbia as the other countries does not respect all of them. So, even the rate of withholding tax is reduced under a tax treaty in Serbia the dividends paid to a non-resident are subject to a 20% tax. Payments made by a resident in preferential tax jurisdictions are subject to a 25% withholding tax. Regarding the incentives we can mention that a 10-year corporate income tax exemption is available for large investors that invest over 1 billion RSD in fixed assets and hire an additional 100 employees over the period of investment.

Croatia

In Croatia the residents² are taxed on their worldwide income and non-resident are taxed only on Croatia-source income as in Albania and Montenegro. The rate of corporate tax is 20%. The capital gain is included in taxable income and is taxed with the same rate 20%. Dividends are subject to tax in Croatia, except for dividends paid to a resident entity. Dividends paid to a non-resident entity are subject to a 12% withholding tax unless the rate is reduced or exempt under a tax treaty or the individual qualify for an exemption under European parent-subsidiary directive. Deductions are available for research & development (scientific and developmental) expenditure i.e the taxpayer can decrease its taxable base by 100% up to 150% of qualifying expenditure. Investment incentives can reduce the corporate tax rate, depending on the amount invested and the number of employees connected to the investment.

Montenegro

The residents are taxed in the same way as in Albania and Croatia. Even here the capital gain is treated as profits and both of them are taxed with a tax rate of 9%. The withholding tax is again 9%, and it is levied on dividends paid to a non-resident

¹A legal entity is considered resident if it is incorporated in Serbia or managed or controlled from Serbia.

²An entity is resident in Croatia if it is incorporated and registered there or if it is controlled and managed there. An entity may also become resident by carrying out business activities in Croatia that meet the criteria for a permanent establishment.

and on dividends paid to a resident. Regarding the incentives we should say that an eight-year tax holiday is granted to companies engaged in production activities in underdeveloped areas.

Based on the above data we conclude that Albania mostly promotes small businesses. Bosnia and Herzegovina with its tax on companies' incomes clearly seems to promote imports and exports. On the other hand Croatia through its tax system encourages investments and employment, while Macedonia stimulates investments in free trade zones. Montenegro and Serbia through the exceptions and tax incentives that they apply, they promote investments in less developed sectors.

Personal income tax

Personal income tax is part of direct taxes. Countries like Macedonia, Bosnia and Herzegovina and Serbia apply the flat tax as it is shown in the table 4.2 (Business, 2013). In the literatures and empirical studies this kind of tax is considered like a tax which stimulates savings and investment. Albania (starting from 1 January 2014) together with Croatia and Montenegro apply progressive tax rate on personal income. The progressive rate of Croatia starts from 12% up to 40%. The most part of the countries, after the financial crises of 2008, apply the progressive tax as a way for collecting more revenues without taking in consideration the experience of the EU countries and the empirical studies which emphasises that the increased tax rates negatively impact the economic growth.

Value Added Taxes (VAT)

Indirect tax generally plays a crucial role in the budget revenues of West Balkan Countries (Crawford I, M. Keen and S. Smith, 2009). According to the project of Doing Business 2013 indirect taxes are around 14% of GDP and the VAT constitutes the greatest part with 10.8% of it. Which are the main characteristics of VAT in Western Balkan? Do these countries apply tax facilities?

Macedonia applies VAT on the supply goods, the provision of services and on imports. In Croatia VAT is imposed on the sale of goods and on the provision of services and is this country which has the highest rate in the region. The rate of VAT in Albania is also one of the highest rate in Balkan.

What kind of exemption do these countries apply? Macedonia imposes 5% on food products, pharmaceuticals, production equipment, computers and public transportation. Exemptions include the supply of banking and financial services, insurance, health and education and 0% for exports. In Bosnia and Herzegovina certain public services, health and medical services and financial services are exempt. Even in this country the VAT on exports is 0%. In Albania the VAT imposed for exports is 0% too. The supply of medicines is exempt from VAT. Serbia has the preferable rate of 10%, and certain items are exempt or zero-related. In Croatia the standard rate of VAT is 25% with reduced rates of 13% and 5%. In Montenegro is levied a reduced rate of 7% on certain goods and services. Exports are again zero-related and exemptions exist for financial services, the sale of land etc.

Foreign Direct Investments' concentration among Balkan States

The lack of harmony between the system, the integrity of the procedures and the real needs of the economy is a common 'evil' for Western Balkan. All the countries of the region suffer from relatively large sizes of informal economy. It is particularly expanded in Bosnia and Herzegovina (European, 2013). Above, we gave an overview of some part of the tax system, the one which is directly related to investments for each of the countries surveyed in this analysis. Let's see how much were the foreign direct investments (FDI) for each of the countries surveyed in this analysis. As seen from the data presented in Chart 5.1, Serbia is the state which has the highest level of foreign investments, which is then followed by Albania and Bosnia Herzegovina. If we refer again to the profit tax rate we will remind that Serbia, Macedonia and Bosnia and Herzegovina apply 10% of flat tax, while Albania passed on the progressive tax on 1st January 2014. The effects of this tax may be considered as opportunities for future studies.

Summary and recommendations

The growth outlook is positive for most of the Western Balkan countries but at low levels. Most of the tax revenues come from indirect taxes and more precisely from VAT which occupies the major role in tax revenues of GDP report. The three

states which apply the lowest rate of VAT are Bosnia and Herzegovina, Macedonia and Montenegro, while Macedonia, Bosnia and Herzegovina and Montenegro apply the flat tax which is considered more transparent and easily implementable. Albania with its exceptions and references in the field of taxation mostly promotes small businesses, while Bosnia and Herzegovina with its tax on the company's income seems clearly that encourages imports and exports. On the other hand Croatia through its tax system encourages investments and employment, while Macedonia stimulates more investments in free trade zone. Montenegro and Serbia through exceptions and tax incentives encourage investments in less developed sectors. Over the last three years, Serbia, Croatia, Albania and Montenegro were the countries which have absorbed most of the foreign investments. It is indisputable that all the countries of the region need higher economic growth, but the most important thing for them is the sustainable growth. Eventhough Macedonia, Montenegro and Albania seem to have the best trends of the economic growth; it still remains at very low levels. The European Commission's 2013 report, states that "almost all the countries of this region have signed and agreed to apply international procedures and decrees in the sphere of economic and fiscal policies, but they have only partially implemented them". The consolidation and implementation of fiscal policies remains the duty of the governments of this region in order to achieve sustainable development. Switching from a tax system (the cases of changes in the flat and progressive tax) to another is not related to long-term objectives, but short-term ones which have more revenues on the budget. The changes of fiscal policies cannot remain prey of electoral promises, but they must rely on proper empirical studies and the experiences of the countries with sustainable economic development.

Bibliography

- Bank, W. (2014). World Development Indicators. . Washington D.C: World Bank.
- Business, D. (2013). Doing Bussines.
- Crawford I, M. Keen and S. Smith. (2009). Value added tax and excises in The Mirrlees Review: Dimensions of Tax Design. . The Mirrlees Review: Dimensions of Tax Design , 275.
- De Mooij, R.A. dhe S. Ederveen. (2005). Explaining the Variation in Empirical Estimates of Tax Elasticities of Foreign Direct Investment. Tinbergen Institute Discussion Paperb 108 , 150-182.
- Evropian, K. (2013). Brussel: CE.
- Keynes, J. M. (1936). The General Theory of Employment, Interest and Money. . London.
- Mankin, N.G., & Biederman, D.K. (2003). Pricciples of microeconomic tb. . NewYork: Thomson Learning EMEA, Limited.
- Nicodème, G. (2007). Do Large Companies Have Lower Effective Corporate Tax Rates? A European Survey. . Centre Emile Bernheim , 07-001.
- Prammer, D. (2011). QUALITY OF TAXATION AND THE CRISIS: TAX SHIFTS FROM A GROWTH PERSPECTIVE. . Luxembourg:: European Union.
- Solow, M. (1956). A Contribution to the theory of Economic Growth. . Quartely Journal of Economics, Vol 70 , 65-94.
- Szostak, R. (2009). The Causes of Economic Growth. Interdisciplinary Perspectives. Berlin: Springer.

Table 3,1. Real DGP Growth (percent change)

	2012	2013	2014
Macedonia	-0,4	2,9	3,4
Montenegro	-2,5	3,5	2,3
Albania	1,1	0,4	2,1
Bosnia and Hercegovina	-1,2	2,1	0,7
Serbia	-1,5	2,5	-0,5
Croatia	-2,2	-0,9	-0,8

Source: IMF World Economic Outlook. October 2014

Table 4.1. Coprorate tax rate for resident company in West Balkan

Country	Macedonia	B&H	Albania	Serbia	Croatia	Montenegro
Corporate tax (residents)	10%	10%	15%	15%	20%	9%

Source: Doing Buissnes 2014

Table4.2 Income tax rates in West Balkan Countries.

	Macedonia	B&H	Albania	Serbia	Croatia	Montenegro
<i>Income tax rate</i> ¹	10%	10%	Income up to ALL 30000 is exempt, 30000-130000 is taxed at 13% for the amount above ALL 30000, and 130001 and above is taxed at ALL 13000 plus 23% of the amount above ALL 130000	10%	12% up to 40 % depending on gross income.	Progressive tax at rates of 9% and 15%. Gross salary of 720 EUR is taxed at 9%, above this 5% rate.
<i>Capital gain</i> ²	10% levied on 70% of the value of the gain	Not subject to tax	10%	10 for business, 15% and 20% for royalties.	From 25% to 40% depending on the nature of transactions.	9%

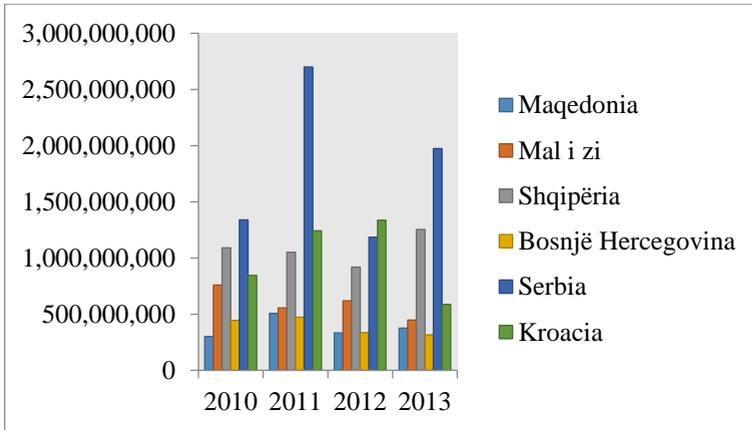
Source: Doing Business 2013

Table 4.3 VAT rate in West Balkans Countries

VAT Rate	Macedonia	B&H	Albania	Serbia	Croatia	Montenegro
	18%	17%	20%	20%	25%	19%

Source: Fiscal law in respevtive country 2014.

¹In this case taxable income includes income from wages, salaries and other forms of employment compensation.²Capital gain derives from the sale of immovable property, securities, equity participation in companies, income from copyright and royalties and interes derived from deposits.

Chart 5.1 Foreign Direct Investments Western Balkan countries

Source: World Bank

The Antitotalitarian Allegories of George Orwell and Ismail Kadare – A Comparative Analysis of the Forms of their Expression

Ervin Xhinaku

MA.: English Lecturer, Faculty of Education & Philology,
“Fan S. Noli” University, Korçë, Albania. Email: exhinaku@yahoo.com

Dr. Olsa Pema

Lecturer of American History & English Communication,
Faculty of Education & Philology,
“Fan S. Noli” University, Korçë, Albania. Email: olsa.pema@yahoo.com

Abstract

The object of this study is the analytical comparison between the antitotalitarian allegories of George Orwell and Ismail Kadare, with a special focus on the similarities and differences in the forms of their expression. With this overall aim in view, from the rich and varied oeuvre of Kadare we have selected “The Palace of Dreams” and “The Pyramid”, as two of his most representative antitotalitarian novels written in a totalitarian environment, and placed them alongside the antitotalitarian classics of Orwell – “Animal Farm” and “1984”. As the many stylistic and structural differences between these novels tend to fall into a consistent pattern, in order to make sense of them, we have directed our attention beyond the texts themselves into matters related to the context in which they were conceived, the history of their publication and the type of readership to which they were primarily addressed. Our critical examination shows that the novels of Kadare tend to be more structurally complex than those of Orwell, while the exploration of their deep allegorical meaning is follows a less straightforward route than the allegorical probing of “Animal Farm” and “1984”. This difference, far from being a blunt literary fact, which should be taken simply for what it is without any attempt at explanation, follows very logically from the great gap that separates the world of Orwell from the closely monitored totalitarian environment in which Kadare’s novels were written and published.

Keywords: allegory, totalitarian, censorship, structure, significance.

1. Orwell and Kadare - significance and method of our comparative approach

One of the most common approaches used by critics to introduce the work of Ismail Kadare to an English speaking audience is by comparing it to the famous antitotalitarian novels of George Orwell. Orwell’s “Animal Farm” and “1984” have long earned the status of classics in the tradition of antitotalitarian and dystopian literature, while the author himself has become a more than literary icon, standing in the eyes of the public as the epitome of the intellectual whose only concern is to find out and promulgate the truth, regardless of the cherished myths that a deluded public might hold close to heart. A comparison with Orwell, therefore, could not but be construed as indicative of great critical esteem for any writer, especially when it is the case that its intended significance goes well beyond mere technicalities (matters related to literary form or style) to denote such fundamental questions as the writer’s ability to disabuse his readership of the false consciousness that comes from the enforced captivity of a closed mindset.

The comparison of Kadare to Orwell gains added significance if we call to mind the harsh fact that the most representative part of the Albanian writer’s *oeuvre* was written and published under one of the most ruthless and despotic regimes in postwar Europe, when a truly Orwellian system of censorship stood in the way of all artistic efforts to say something different from the reigning dogma. Kadare’s work has the rare distinction of being antitotalitarian when totalitarianism was the order of the day. As our analysis will show the setting in which Kadare’s antitotalitarian work were created is invaluable in helping us to decipher its message and understand the code which the writer used to express it. As for the comparative analysis between Orwell’s and Kadare’s novels the difference in the respective social and political environments wherein the two writers operated turns out to be very important in helping us make sense of the different ways in which they treated similar or identical themes in their works. The close relationship which such works bear to the social and political context of the

times when they were written and published should not be lost sight of, if we intend to delve into the root causes of their apparent similarities and differences.

In this paper we shall focus on the comparative analysis of Orwell's famous parables, "Animal Farm" and "1984", with two of Kadare's most powerful and representative antitotalitarian works, "The Palace of Dreams" and "The Pyramid". Our main object is to describe and analyse the artistic means and techniques by which each writer has built up his antitotalitarian allegories. In the process and by way of illustration, we shall also make some observations about the internal anatomy and functioning of the totalitarian societies that the two authors describe.

2. The social and political context behind the antitotalitarian allegories of Orwell and Kadare

"The Palace of Dreams" and "The Pyramid" were written decades after "Animal Farm" and "1984". More importantly, the social context in which Kadare conceived, wrote and published his masterpieces could not have been more different from that of Orwell. Yet, the differences in the respective contexts of the novels, great though they were, seem to have had a bearing only on their formal and stylistic features. Confronted with a censorship always on the alert, the allegorical facade of Kadare is more opaque than that of Orwell, the subversive message it conceals more difficult to fathom. On the other hand, the totalitarian world that emerges behind the necessary allegorical camouflage in the pages of Kadare is no less crushing and inhuman than the nightmarish dystopias of Orwell. The works of both authors, different as they are formally and structurally, share the common aim of tearing away from the face of reality the veil of illusion that keeps people from seeing things as they truly are. By unweaving the various threads and layers that make up the overall pattern of their meaning, we, as readers, are led into the heart of darkness that is modern totalitarianism. In the case of Kadare the morbid world of totalitarian politics comes alive not only in the texts themselves, but also when we follow the tortuous paths through which they came into being. Conversely, these paths remain mysterious and incomprehensible unless we include within our purview the underlying social and political terrain through which the writer had to move in order to speak to his readers.

"Animal Farm", the allegory that made the name of Orwell world famous, was written in 1944 and published in 1945, but it was conceived much earlier, when, in the aftermath of the Spanish Civil War, Orwell returned to England only to witness that public opinion in his home country was being kept in the dark about the severe persecution that the Stalinist authorities were inflicting on the various leftist factions, even though they were all supposed to be comrades-in-arms fighting the evil of fascism. Not only that, but the selfsame potion of lies which the Stalinists had concocted in Spain to justify the elimination of all imagined rivals (chiefly the Anarchists and the Trotskyists) was being served as propaganda fodder to a gullible English public by leftist intellectuals that had deserted the cause of truth and justice for that of political partisanship. It was with the express purpose of combating the Soviet myth and restoring the old ideal of a humane and just Socialist society that Orwell set out to write a book which would serve the public as an antidote to the venom of well-crafted misrepresentations and fabrications that had long been instilled into its mind.

Publishing *Animal Farm* was not an easy thing for Orwell, as the politics of the time - the late stages of WW2 when the war effort of the Grand Alliance was at its peak - were such that anything smacking of anti-Soviet sentiments was considered as inopportune or even downright treacherous. In the process Orwell alienated not a few of his Socialist friends, including his publisher Victor Gollancz, who refused to have anything to do with a book which, in his view, went against the whole history of his career as a promoter of left-wing causes. These obstacles, however, though by no means to be taken lightly, were mainly of a practical nature (*Animal Farm* was eventually published to great critical acclaim and commercial success) and can't stand comparison with the oppressive climate of fear in which writers from totalitarian countries had to produce their works. Living and working in a society like the British, in which the tradition of political debate and enlightened thinking was taken almost for granted by everyone, Orwell felt no need to encode his thoughts in such a way as to bypass censors. Many of his ideas on politics, moreover, had already been forcefully expressed in his essays and other writings. Orwell's allegory, therefore, is almost transparent, its fable form being no more than a literary convention intended to make the book attractive to the widest readership possible. The genre of the beast fable so far from proving an impediment to the reader who wants to get at the core message helps him concentrate his attention on the moral of the story and the ideas and characters behind the conventional animal masks. Anyone even remotely familiar with the history of Stalinist Russia can see through the allegorical facade into the historical personages and inner workings of the Soviet system at its worst.

Orwell's other famous book, the dystopian novel "1984", was likewise intended to ring alarm bells about the totalitarian threat, at a time when the Cold War was just beginning to take shape and many in the West were still under the spell of the Soviet Myth. The apocalyptic experience of WW2 also looms large in the background of "1984", where it serves as an

especially important reminder that gives weight and credibility to Orwell's warning about the catastrophic consequences that might befall mankind if the juggernaut of totalitarianism, aided by the immense power of modern technology, is not stopped in its tracks by the concerted efforts of all civilised people. It is thus no wonder that Orwell's totalitarian society in "1984" is painted in particularly harsh colours. Its vivid gruesomeness is the shock treatment to which the author subjects an apathetic public that needs to be shaken into prompt action if the world should stand any chance of avoiding the gloomy scenario prophesied in Orwell's story. The blunt directness of 1984 is a necessary corollary of Orwell's conviction that if people do not take necessary precautions, the drift of historical inertia is bound to lead them into the global cage of world totalitarianism.

When it comes to the novels of Kadare we find ourselves in a totally different context. The Albanian novelist wrote his most powerful antitotalitarian allegories while living in the most strictly totalitarian of all European postwar societies. Having been written in communist Albania, the novels of Kadare bear the unmistakable mark of totalitarianism not only in their final form as finished products, but also in the remarkable history of how they came into being through successive editions intended to hoodwink the censors. Kadare's complex and almost paradoxical situation in creating and publishing antitotalitarian novels under a totalitarian government that had bestowed on him the highest honours as a writer finds its artistic expression in multi-layered allegorical structures which yield different patterns of meaning to different observers. It is our contention that the intricate complexity of the texts of Kadare, which bear multiple readings, is not to be explained away by such misty categories as the genius of the writer, but, to a great extent, should be seen as a function of the social and political environment in which the Albanian writer had to work and publish.

The story of how "The Palace of Dreams" was published by Kadare in communist Albania is a remarkable example of the complex strategy and tactics that a writer in a totalitarian milieu needs to resort to in order to fool the authorities and communicate with his readers. The "Palace of Dreams" was first published in 1980 as part of a collection of short novels that the author had recently written. The version of the story contained in this collection was not, in fact, a full novel. Though containing the basic structure and many of the ideas and themes that "The Palace of Dreams" has become famous for, it was much shorter and certainly less dangerous than the full novel which superseded it. The intricacies of the allegorical text and the "innocent" historical setting (the novel is set in 19th century Ottoman Istanbul), together with the fact that it was not published by itself, but included in a much bigger volume, lulled the censors into careless inattention, and so the way was paved for the next stage in the publishing operation. By 1981 Kadare had added new chapters to his original work and was now determined to publish the whole thing. To do this he inserted it within the protective covering of another collection of miscellaneous writings (short stories, short novels and even newspaper reports), which was being reissued in a second edition. This well-calculated manoeuvre achieved its purpose of fooling the publishing authorities. It would not be long before Kadare found himself the victim of vicious criticism and downright threats coming from the upper echelons of the Party-State. That most painful chapter in the writer's biography, however, has left no trace in the novel as such, which had already been sold out when the heavy machinery of oppression was set in motion.

The publication story of "The Pyramid", though more straightforward and less interesting than that of "The Palace of Dreams", is no less indicative of external hindrances and lurking threats. Kadare wrote the first sketch of this novel in 1984-1986, but did not dare publish it, as the dictatorship, though without its dictator-god (Enver Hoxha died in 1985), was still vigorous enough to crush any perceived threats to its ideological hegemony. It was only in 1991 that Kadare's text first saw the light of publication, but then the times were different, as the decrepit one-party totalitarian system was giving way to a new pluralistic society.

The above presentation should serve us to form an idea of the great gulf that separates the world of Orwell from that of Kadare. The English writer, living in a free and open society, could proclaim his thoughts out loud, without fearing for anything more serious than the loss of political friendships or publishers' royalties. Kadare, on the other hand, could not but follow a more allusive communicative approach, if he intended to work as a writer rather than as a prisoner in a forced labour camp. In Kadare's work the presence of totalitarianism is not simply to be looked for semantically in what the novels signify behind their seemingly historical facade. It permeates the whole structure of the texts which is built up in such a way as to withstand the stormy winds of totalitarianism.

3. Differences in style and structure between the antitotalitarian allegories of Orwell and Kadare

As we have already had occasion to observe, the great subject of totalitarianism is presented in substantially different ways in the novels of our two writers. It is true that the antitotalitarian novels of Orwell and Kadare fall within the broad category

of allegorical writings, which is to say that they are structured as extended metaphors whose depth of signification goes well beyond the surface level of the text. In all the four novels which we have chosen to examine the text functions like a multi-layered structure whose constituent levels of signification are interrelated systematically by the means of symbolism. This is where the similarities between them end, however, for in the novels of Orwell the transition from the surface narrative and the characters as such to what they allegorically stand for is much more straightforward than in those of Kadare, where the reader finds no easy passageway through which to move back and forth between the various levels of the text. Such levels in the novels of Kadare have also a greater degree of independence, which, in other words, means that the works of the Albanian writer, depending on the background and the perceptiveness of the readers who interpret them, have the potential to generate more alternative readings than those Orwell.

Though it would be formally coherent to read Orwell's "Animal Farm" in a naive way as a fairy story (in fact, children tend to find it a pleasant read), this is not what happens when it falls into the hands of an adult audience. The tale's seemingly trivial surface level, which speaks of pigs and sheep and all the various animal species that one finds in a farm, is simply the conventional framework wherein the writer has chosen to allegorically represent his very serious ideas. The outer coating of the beast fable is in no way intended to camouflage the author's meaning. If anything, it focuses the reader's attention on the ideas and characters below the almost transparent surface, which, as anyone who knows his history can tell, stands in a very close relationship to the well-known historical narrative of the Bolshevik Revolution and the later dictatorship. To take but one example, the resemblance between such characters in the story as Napoleon and Snowball to their real life prototypes – Stalin and Trotsky, respectively – could not be missed by anyone familiar with the political history of communism. Conditioned by such an unmistakable identification, the whole reading of the cutthroat conflict between the two characters, is, then, almost automatically translated into the analogous terms of the vicious struggle for power between Stalin and Trotsky, which remained the prototype for all the internecine conflicts and bloody purges of later Soviet history.

Though first and foremost a satire of the Russian Revolution, "Animal Farm", like almost all allegories, can be interpreted in a more fundamental and generalized manner. Orwell's representation of the Russian Revolution and Stalin's dictatorship by means of his animal story does not necessarily stand as the last station in the reader's interpretative journey. Beyond the concrete historical events which the fable undoubtedly points to, it could be taken to refer in a more timeless way to totalitarianism as such, irrespective of temporal and spatial specifications. Seen from this perspective the world of Animal Farm is not confined within the historical and geographical limits that are suggested by an exclusively nominalistic reading of the text. Situated as it is in the East, if people do not take heed and learn from bitter experience, it has all the potential of metastatizing westward and futurewise. This reading of Animal Farm as a paradigmatic model for totalitarian societies is supported by more than a few passages in the text, which cannot be accounted for if we adhere too closely to the Soviet frame of reference. Thus, to take but two simple examples, Boxer's motto "Napoleon is always right" is a verbatim copy of the Fascist slogan about Mussolini, while Napoleon's disingenuous maxim that "The truest happiness... lay in working hard and living frugally" is reminiscent of the infamous Nazi exhortation, "Arbeit macht frei" (Works makes you free), placed over the gate to Auschwitz. In fact, the text abounds in clues that make for a generalized interpretation, which, especially to a philosophically minded reader, should not be too difficult to fathom.

In the reading of 1984, likewise, we can discern more than one level of signification. Whereas at face value the story seems to prophesy a dystopian future where totalitarianism has been pushed to its logical extreme, it is first of all a satire on present political trends, which, if left to follow their course are bound to end up in the grim world-prison that Orwell imagines as the universal abode of a humanity unable to resist the mighty force of historical inertia. Many of the early readers of the novel, published as it was at a time when the danger of a nuclear Armageddon was becoming ever more alarming, thought of it in plainly literal terms as a dire warning or, even worse, a sinister prediction of the world to come. This popular reading of the novel, however much in tune with the *zeitgeist* of the Cold War, was not generally the one favoured by professional critics, who tended to focus more on the satirical underpinning of the allegory than on its overtly apocalyptic surface. As satire Orwell's novel is very broad indeed, holding up to its remorseless scrutiny not only the usual suspects – in the first place the Soviet Union and its ruthless dictator, which yet again provide Orwell with the blueprint for the totalitarian nightmare he envisions – but also such diverse actors on the world stage as the Catholic Church or the British Government. Also, many of the phenomena that were becoming characteristic of the postwar world, from major political ones like the ubiquitous trend toward bureaucratic centralization to seemingly unpolitical social vices like gambling, become the butt of Orwell's satirical representation in "1984".

In addition to all of the above, 1984 can also be read as a general politological anatomy of totalitarianism in the abstract. Like "Animal Farm", the range of its allusions cannot be accommodated within an exclusively Soviet frame of reference. The inhuman system that is dissected in Orwell's pages is a hybrid monster that, in addition to its communist backbone, has many features, like the organisation of youngsters in a Youth League devoted to a quasi-pagan cult of nature or the Goebbelsian use of television as a major instrument for brainwashing propaganda, that are more readily associated with Nazi Germany. In fact, the composite make-up of Ingsoc shows that the Party in Oceania has selectively chosen from what was worst in past totalitarianisms in order to build up an almost perfect machinery of repression, which, like a *perpetuum mobile*, is designed to work forever. The Oceanic system, therefore, can be looked upon as the final stage in the development of totalitarianism, which stands to the previous historical incarnations of the system like a Platonic idea to its less perfect earthly copies.

The recognition of all these different levels of reference, however, dependent as it is on the background and expectations of the reader, is not intended by Orwell to prove a challenging exercise on one's critical acumen. On the contrary, for each of the various readings potentially contained in the allegory the author provides the reader with all the requisite clues and even, at times, with an almost explicit guide on how to get at them. Thus, Communism, Nazism and even the Catholic Inquisition – the targets of Orwell's withering satire – are mentioned more than once by their proper names in the story. Even when things are not called by their true names, their resemblance to what they allegorically stand for is such that it would be very difficult to miss. A typical case in point is the many-faceted resemblance of Goldstein to Trotsky. Orwell's character not only plays the same role of archvillain in Oceania as Trotsky's in Stalin's Russia, but the two even have the same looks (like Trotsky, Goldstein has the distinctive Jewish face and small goatee beard) and similarly sounding names (the real last name of "Trotsky" was Bronstein).

In Orwell's novel totalitarianism is represented not only as the backdrop to the fictional narrative, but it is also analytically examined in long parts of the text, which, though formally integrated within the overall fictional framework, are written in the discursive style of theoretical treatises. Both Goldstein's "Theory and Practice of Oligarchical Collectivism" and the Appendix on the totalitarian corruption of language ("The Principles of Newspeak") could stand as separate pieces and, if we discount the necessarily fictional elements through which they retain a formal coherence to the rest of the text, be counted as serious contributions to the academic study of totalitarianism. As for the superficial futurological reading of the novel, Orwell went so far in his determination to make things crystal clear to his readers as to personally dictate a press release disavowing any intention to play the prophet on what the future will actually be like, but adding, however, that "...allowing for the book being after all a parody, something like *Nineteen Eighty Four* could happen... The moral to be drawn from this dangerous nightmare situation is: *Don't let it happen. It depends on you.*" (Crick, 1980, p. 395)

If the multi-layered semantic structure of Orwell's novels can be thought of as a necessary by-product of the author's choice to present his message in allegorical garb, in Kadare's novels the complexity of the text is much more the product of intentional thinking. Though by no means uncongenial to the natural artistic genius of the Albanian writer, the complexity of Kadare's allegorical discourse, was to a great extent conditioned by the need to circumvent the censorship. It served, thus, as a fake passport without which Kadare's antitotalitarian novels would never have reached the public.

"The Palace of Dreams" has an intricate semantic structure, which can be broken down to at least three levels of meaning that, whether mainly concrete or abstract, are all completely coherent in themselves and more substantially autonomous than the corresponding levels in Orwell. Thus, whereas the superficial reading of "1984" as a literal prophecy about the future, and even more that of "Animal Farm" as a simple beast fable, can be described as naive or even rather crude, the same description could by no means be applied to the Ottoman reading of "The Palace of Dreams". Its Ottoman mask is carefully prepared by the author in such a way as not to be recognized for what it actually is – a mere mask hiding layer upon layer of hidden meanings – even by experienced censors. As such, it has neither the transparency of the childish mask of Animal Farm, nor the crudeness and roughness of the seemingly prophetic surface of 1984, but is deep and sophisticated enough even for cultivated readers, especially when they are not familiar with the Albanian clues stealthily inserted by the author between the lines of the ostensibly historical text.

In Kadare's novels the exploration of those hidden layers of the text that refer to contemporary society or to totalitarianism as a timeless idea is no easy feat, but requires the deciphering of a code that is meant to function as such in the literal sense of the word. Scholars like Bashkim Kuçuku (2005) have identified many of the building blocks and general architecture of Kadare's intricate novelistic edifice. Both "The Palace of Dreams" and "The Pyramid" are set in a historical past (the late Ottoman Empire and Ancient Egypt respectively), but are primarily allegories of contemporary Communist

Albania. The historical past is, thus, superimposed on the Communist present, which the implied reader of the texts is beckoned to unearth by using the tools put within his reach by the writer.

While Kadare's plot follows in a deceptively realistic fashion, after the manner of historical novels, the excruciating toil of Egyptian slaves to raise the Great Pyramid or the Machiavellian political scheming of Ottoman potentates, the informed and perceptive reader, by following the author's lead between the lines of the text, will translate the historical past into the present of Communist Albania. This latter frame of reference can be seen to break through the thick outer coating of the allegory in words and phrases like *file*, *conspiracy against the state*, *the fundamental principles of Tabir Saray* and many other such similar examples that typically belong to contemporary Communist discourse but have been anachronistically inserted into a past context. Even more substantially, if one learns to look for hidden analogies between the Ottoman Empire or Egypt and Communist Albania, Kadare's allegories will provide him with many instances of social and political phenomena, like the ubiquity of spies and the recurrent purges, which, though dressed up in Ottoman or Egyptian costumes, are still recognizably Communist in their essence. Contemporary Albania can also be discerned in the architectural and functional resemblance between the Pyramid and Palace of Dreams and such landmarks of Albanian Communism as the museum-pyramid of Enver Hoxha and the gloomy Soviet-style headquarters of the Party's Central Committee in Tirana.

The Albanian frame of reference, however, does not exhaust the great potential of Kadare's antitotalitarian novels to speak to readers coming from very different backgrounds and having widely divergent expectations regarding their significance. While the immediate Albanian readership of Kadare's novels, living as it was in a closely monitored social environment and thrilled by the rare encounter with forbidden thoughts on print, was bound to search between the lines for anything suggestive of modern Albania, the same could not be said of the books' foreign audience, who far from being primarily interested in the minutiae of Albanian politics might even be completely ignorant of the Albanian dictatorship. Yet, it is the case that Kadare's novels have enjoyed great international success, even in far off countries where the name of Albania arouses no particular interest. Surely this is a sign that the significance of novels like "The Palace of Dreams" and "The Pyramid" goes deeper and wider than the politics of a particular time and place. In fact, the most important dimension of such many-tiered structures is precisely that which cannot be contained within any particular referential context, but speaks of totalitarianism as an essentially immutable transhistorical phenomenon that underlies the seemingly ever-changing flux of historical appearances.

Unlike Orwell's "1984", though, where the generic tableau of totalitarianism is presented in the language of theoretical analysis, the novels of Kadare follow a subtler approach in their handling of the universal theme of political despotism. The analogy between different historical realities (past despotisms and contemporary Albania), temporal ellipsis which by immediately juxtaposing the distant (or not so distant) past to the present creates the illusion of time standing still, and the cyclical recurrence of phenomena and events (the building of Pyramids does not stop with that of Cheops, but continues along the centuries), all add up to suggest the abstract nature of the ultimate time dimension in Kadare's narratives. In this ultimate time frame the chronological sequence of the surface narrative is relegated to insignificance, as what is important is not the temporal order in which things happen, but their basic transhistorical identity.

In typical modern fashion Kadare's antitotalitarian novels attain universal significance through the symbolical character of the narrative. It is not simply that the author makes extensive use of symbols in order to present his case against totalitarianism – totalitarianism itself is represented symbolically rather than mimetically or analytically. Nowhere in the novels of Kadare will the reader find any direct reference to the anatomy and physiology of totalitarianism. Yet, if he manages to probe into the ultimate significance of their symbols, he will find himself right at the centre of the totalitarian hell. In fact, the hell of totalitarianism is never described as such by Kadare. It can, however, be recognized for what it is if one extends the symbolical mode of interpretation beyond the characters and the events to such inanimate structures like the Palace of Dreams, whose Dantesque architecture stands in perfect harmony to the infernal nature of its function. Likewise, the Pyramid is not only symbolical of the despotic pharaoh, but represents, in its very architecture, the whole totalitarian system which is structured precisely like a Pyramid, from the Pharaoh standing alone at the top down to the broad base of nameless slaves who bear its immense weight on their shoulders.

In Kadare's novels the symbolical representation of totalitarianism through shapes and forms goes hand in hand with other symbolical procedures among which the employment of archetypal characters is especially important in universalising the author's vision. Thus, both the Egyptian pharaoh Cheops and the Ottoman Sultan, beyond their meagre individual features, can be viewed as timeless icons of the despotic tyrant. As such, they stand symbolically not only for the Albanian dictator, but for any ruthless tyrant in any time or place.

Turning back to Orwell, we might note that his novels are very rich in symbols. Their interpretation, however, is relatively simple, while the function which they play in Orwell's texts is ornamental rather than substantial. To take but one typical example: that the telescreens in 1984 symbolize the ever watchful eye of the totalitarian state is pretty obvious, if only because of the very close, almost mimetic resemblance that relates the symbolic signifier to what it signifies. In fact, such a symbol for the system of universal surveillance serves more as an illustration for what is elsewhere very fully described in non-symbolic language, than as an autonomous structural element, whose interpretation is a necessary key to unlocking the deeper meaning of the text. It is, perhaps, because of this secondary external relationship in which the symbols and other "formal" features of Orwell's novels stand to their ideological contents, that they have been conventionally classified as "political novels", a term, which, we think, would be inappropriate to describe the more complex and less explicitly argumentative literary texts of Kadare.

4. Conclusion

The object of this study was the comparative analysis of the antitotalitarian allegories of Orwell and those of Kadare. Our analysis has focused on the way the two writers build their literary structures as a means of communicating their antitotalitarian vision to the public. With the aforementioned aim in view we submitted the texts of the two writers' most representative antitotalitarian novels to close critical scrutiny. Beyond simply finding out the similarities and differences between Orwell's "Animal Farm" and "1984" on one side, and Kadare's "The Palace of Dreams" and "The Pyramid" on the other, our study has pursued the more ambitious object of trying to account for them by putting the novels in their respective social and political contexts. In order to explain the results obtained by the stylistic examination of the four texts we have also relied on what we deem as relevant biographical facts and information. In our view, the reliance on these miscellaneous extraliterary sources, though perhaps somewhat too eclectic for the taste of methodological purists, is indispensable for a study which does not simply aim at the mere identification of similarities and differences, but seeks to understand them by delving into their causes.

Our investigation has shown that the huge gulf between the social and political context in which the two writers lived and worked was bound to leave its mark on the way their allegories were structured and on the manner that their antitotalitarian message was communicated. Granted that all allegorical writings are by definition multi-layered in their significance, those of Kadare, as our comparative analysis clearly indicates, are much more complex in their semantic structure than those of Orwell and, consequently, less transparent with regards to their deep levels of meaning. While the correct interpretation of Orwell's allegories depends primarily on the reader's range of encyclopaedic knowledge (the amount of information he has on the Bolshevik Revolution, Stalin's dictatorship, etc), Kadare's novels are organized in such a way as to hide their implied significance from anyone without the necessary insight and determination to break the writer's carefully built literary code. That the major differences between the novels of our two writers should concern the relative accessibility of their antitotalitarian message, is, in fact, only but logical, given that Kadare had to work and publish under a totalitarian regime, while Orwell in a country where liberal democracy was taken almost for granted.

REFERENCES

- Bassnett, S. (1993). *Comparative Literature – A Critical Introduction*. Oxford: Blackwell.
- Bowker, G. (2003). *George Orwell*. London: Palgrave Macmillan.
- Crick, B. (1980). *George Orwell: a Life*. Boston: Little Brown.
- Davison, P. (Ed.). (2001). *Orwell and Politics*. London: Penguin Classics.
- Fowler, R. (1995). *The language of George Orwell*. London: Macmillan.
- Morgan, P. (2011). *Kadare: shkrimtari dhe diktatura, 1957-1990*. (Ilir Shamenti, Trans.). Tiranë: Shtëpia Botuese 55.
- Norris, C. (Ed.). (1987). *Inside the Myth - Orwell - Views from the Left*. London: Lawrence and Wishart Ltd.
- Kadare, I. (1995). *Piramida*. Tiranë: Cabej MCM.
- Kadare, I. (1999). *Pallati i Ëndrrave*. Tiranë: Onufri.
- Kadare, I. (1996). *Dialog me Alain Bosquet*. Tiranë: Onufri.
- Kadare, I. (2000). *Kohë barbare*. Tiranë: Onufri.
- Kadare, I. (2004). *Ftesë në studio*. Tiranë: Onufri.
- Kuçuku, B. (2005). *Kadare në gjuhët e botës*. Tiranë: Onufri.
- Orwell, G. (2000). *Essays*. London: Penguin Classics.

-
- Orwell, G. (2003). *Animal Farm and 1984*. Orlando: Harcourt Inc.
- Rodden, J. (Ed.). (2007). *The Cambridge Companion to George Orwell*. Cambridge: Cambridge University Press.
- Sinani, S. (2005). *Një dosje për Kadarenë*. Tiranë: OMSCA-1.
- Sinani, S. (2011). *Letërsia në totalitarizëm dhe "Dossier K"*. Tiranë: Naimi.

Energy Security in Balkan and Main Actors in the Energetic Sector in the Region

Fatri Morina, PhD. Cand

Assistant Professor / European University of Tirana

fmorina@uet.edu.al

Abstract

Energy security is one of the main factors that determine the contemporary international relations. Energy is crucial for the development of any society; therefore it occupies an important place in the hierarchy of political and economic agendas of the various governments. Nowadays energy sources are exhausting and the global demand and energy consumption is extremely growing. Such a situation leads right to what is known as 'energy hunger', a problem which affects every country, regardless its position. This is affecting both those who consume energy as well as countries which export energy or even transit countries where this energy passes through. Balkan region cannot bail out to such a situation where its geostrategic position and role or influence of Russia in the energetic sector in this region is determinant of the current situation. These factors also shape their future. The purpose of this paper is to provide an analytical approach on energy security in the Balkan region, identifying and analysing the role of Russia on this regard. Despite the importance of energy security, in contemporary literature there lacks a definition accepted by all actors on this definition. For this reason, in the field of energy security approach there are selected two operational concepts, 'energy dependence' and 'diversification of energy sources' which help in analysing the energy situation in the Balkan region, always taking into account Russia's role in the energy in this region. Data on economic and energy indicators, which refer to 2011 - 2012, have as their primary source the World Bank and the International Energy Agency.

Key words: energy security, diversification of energy sources, energy dependence, Balkan, Russia.

Introduction

Energy security constitutes one of the key factors that define modern international relations. Energy is at the base of the development of each and every society; as such, it fills an important position in the hierarchy of various governments' political and economic agendas. As a natural consequence of development, the request for energy is in a continuous growth, which leads to what is widely known as "energy hunger", situation which we do encounter nowadays in the Balkan region. Such a situation requires an indispensable cooperation with outer actors of the energy sector. In this direction, Russia plays a key role.

Russia's relation with the Balkan countries is defined by the below issues: The issue of Kosovo (Serbia will continue to regard Russia as its main partner in its efforts of non-recognition); the growth of Russian Fleet's presence in the Mediterranean (this shows the Balkan's geo-strategic importance to Russia); Russia's goal to further grow its influence in the Balkan so as to counterbalance the orientation of these states toward NATO and EU; also for geo-energetic reasons, since the Balkan's geographic position is very favourable for the Russian strategy, supply Europe with energy (Smith, 2008).

The purpose of this paper is analysing the energy security situation in the Balkan, focusing on Russia's role in the matter. In view of this analysis raises the question: What's Russia's role in the creation of the energy security situation in the Balkan and how does the Balkan's geo-strategic position affect the issue? The answer of this question formulates the main hypothesis of this paper where; Russia is the main actor that has the decisive say on the energy situation in the Balkan and the geo-strategic position of the latter is the main element that defines Russia's interest for the region. The contribution of this paper is related to the importance of the analysed problematic. Considering that energy security is one of the key components of national, regional and global security, than it's a necessity to acknowledge the situation by identifying the main problematic and actors in this sector, also the analysis of various possible options with the intention to effectively manage the challenges of energy security.

Literature Review and Work Methodology

Despite that there exists a voluminous literature, and despite the many debates made on what is referred to as 'energy security', we still don't have a consensus for the definition of this term. In essence, "energy security means having access to the requisite volumes of energy at affordable prices. There is also an implicit assumption that access to the required energy should be impervious to disruptions—that alternative supplies should be readily available at affordable prices and sufficient with respect to both available volume and time required for distribution" (Ebinger, 2011, Paragraph I). The Energy International Agency refers to energy security as; "the uninterrupted availability of energy sources at an affordable price" (IEA, 2011). Besides 'normal threats' towards energy security, there are other threats like terrorism, geo-political rivalry and the political instability in the exporting countries which directly impact the guaranteeing of energy security (Yergin, 2006).

Thus, in order to withstand the various challenges that the energy security faces, it's a necessity to identify and analyse these threats in a rigorous and systematic manner. This is the only way to overcome the problematic that may arouse. The existing literature on the role and interests of Russia in the Balkan is synthesized in a fundamental common idea according to which "the energy factor is the main reason that explains Russia's growing interest in this region" (Smith 2008; Pascual & Elkind 2010; Cehulic 2013).

This paper uses a combined methodology between quantity and quality approach in the scientific research. Methodology is connected to two main instances, analysed in this paper; the first instance is focused in analysing the situation of energy security, whereas the second instance is focused on Russia's role in the energy security in this region. In the field of energy security approach we have two chosen operational concepts; *energy dependence* and *diversification of energy resources*. These concepts are used to analyse the energy security situation in the Balkan. Whereas in function of the Russian influence analysis, three main issues are identified: the investments level of Russian companies in the Balkan; the energy dependence of this region in importing gas, oil and electricity from Russia; also the Russia's discourse in its relation with Balkan countries. The main focuses in the analysis shown in this paper are the countries in the Balkan Peninsula and Russia. The main source of the economy and energy index data are the World Bank, the Energy International Agency and the International Monetary Fund.

Analysis of the findings

The Balkan Peninsula has a special importance regarding the energy security thanks to its geo-strategic position as a binding bridge of the various regions of the world. As a consequence, the advantages and disadvantages of these countries have direct implications beyond the geographic boundaries of this peninsula. This region has a problematic past (transition and ethnical conflicts) which has left a mark even in the economic development and energy infrastructure of these countries. Based on the World Bank's data, the Balkan Peninsula population is about 137 million inhabitants, with a total GDP of 1.1 trillion dollars and the GDP growing rate is evaluated to be -0.2%. Whereas the average GDP PPP/person is 11.938 dollars, which is way lower comparing with OECD countries. This numbers have a special significance since the energy sector is directly related to the economy.

As a consequence, the wealthier the country, the higher its energy request will be, but in the meantime, so will be its means to guarantee its accessibility in this resources, which is relatively higher comparing to the countries that have a low economic development index. Despite the differences between these countries, there is also some other common problematic, where the need to guarantee the energy security remains a key priority. The obsolete technology, the interdependence and the need to diversify the energy resource are real challenges in guaranteeing the energy supply in various economy sectors in these countries. Since the Balkan states are mainly developing countries, than in the long and medium run, guaranteeing the energy will be another of the problems that these countries will have to face. Their dependence on the energy importation from countries such as Russia will remain an issue with implications in the national and regional security.

Russia has always tried to have a say in the Balkan, but its interest in the region has grown exponentially during 2007-2008. The energy factor is seen as the main reason in the subject. Furthermore, the energy factor is seen as a determining element in today's Russia's position in the international arena. Its unique position in supplying Europe with gas, oil and electricity are "the main factors that serve in understanding how energy has transformed Russia and the nature of its role in the international arena" (Pascual & Elkind, 2010, p. 19). Within this framework, Russia plays a determining geo-political role in the Balkan. Being one of the main oil and gas producers in the world, Russia sees the Balkan region with a special

eye, as a binding bridge for the energy transportation in the European market. In his speech in the Balkan Summit for the Energy in Zagreb in June 2007, Putin stated that *"The subjects discussed at this summit are immensely important for today's world. Energy supply issues have become a primordial part of international economic policy today. The strategic objective of our cooperation in this area is to ensure access to reliable energy supplies for all countries of the region. Our policies take into account the Balkan countries' increasing involvement in the European integration process, and we are ready to develop our relations in cooperation with the European Union"* (Putin, 2007). This clearly shows Russia's importance and role in the Balkan. The Russian Company Gazprom insures about 95% of energy supply in some of the Balkan countries. Moreover, several pipelines run through the Balkan territory and several more are to be constructed in the years to come.

Figure: Pipelines



Another Russian company, Lukoil, controls a considerable part of the oil sector in the Balkan. Within the Balkan countries, Albania is the sole country that has not stipulated any cooperation relation with gas and oil Russian investors. Putin also stated that *"based on these clear and straightforward positions we are ready to develop our cooperation with the Balkan countries in the energy sector. The oil and gas sector is one of the main areas of cooperation. Russian companies are already involved in a number of major projects in the region, in particular projects to increase transport capacity from the Black Sea to the Mediterranean. Russia, Greece and Bulgaria signed an intergovernmental agreement on building and operating the Burgas-Alexandroupolis oil pipeline in March 2007 in Athens. This pipeline will be able to transport 35 million tons, and this capacity can be expanded to 50 million tons. I want to emphasize that this project will use the very latest technology and will conform fully to all the demands set by environmental protection organizations"* (Putin, 2007).

Russia's influence in the Balkan is not only related to the energy supply and transport. In 2007, while revising the debts of former US with some former Yugoslavia's countries, an agreement was made wherein Russia's debt with these countries would be void in exchange of Russian investments in the energy sectors of these countries. Also, Moscow has signed various agreements with some Balkan countries such as Bulgaria, Greece, Serbia, Croatia and Montenegro, for Russian investments in various sectors of the economy.

Conclusions

Energy security is one of the main components of security. This is why it's important for states to build their own energy profile with the intention to identify the political priorities that ought to be undertaken in order to guarantee the energy security. The main characteristics of the energy sectors in the Balkan countries are; the high dependence in import, the necessity to diversify the energy sources, the high dependence in fuel and fossil fuel, the obsolete infrastructure and also the very little investments in this direction. In order to manage these problems, the main priority in the Balkan countries ought to be the diversification of energy resources and the minimization of import dependency. It's important to accentuate that the high dependency has direct implication in the economic, but also in the political sphere of these countries, where Russia's influence is obvious. This influence is linked to three main momentous: the level of investments of Russian companies in the Balkan; the energy dependency of these countries in importing gas, oil and energy from Russia; and also Russia's discourse in Russia's relation with Balkan countries.

In order to minimize the energy dependence of Balkan countries from Russia, a dependence that takes an economic and political form, EU and NATO must regard as a key priority the new energy projects that are to be constructed in the territory of these states. On the other hand, it's necessary for the Balkan countries to know how to make the most from their geo-strategic position as part of the energy transport corridors. This can be achieved through a deepening of regional cooperation and their involvement in the integrated European energy market.

Reference:

- APEREC (2007). A quest for energy security in the 21st century. *Asia Pacific Energy Research Centre*.
- Cross, Sh. (2013). *Shaping South East Europe's Security Community for the Twenty-First Century*. Palgrave Macmillan.
- Ebinger, C. (2011). The Meaning of Energy Security Depends on Who You Are. *Brookings*.
- International Energy Agency Home Page (www.iea.org).
- Jewell, J. (2011). The IEA Model of Short-term Energy Security. *IEA Publications*.
- Morina, F., & Fuga, P. (Spring 2014). Një Qasje Analitike mbi Sigurinë Energetike në Ballkan. *Economicus 11 UET*, ISSN 2223-6295.
- Putin, V. (2007). Speech at the Balkan Energy Cooperation Summit. *Diplomacy and External Affairs*. Retrieved from: http://archive.kremlin.ru/eng/speeches/2007/06/24/1214_type82912type82914_135740.shtml
- Pascual, C., & Elkind, E. (2010). *Energy Security: Economics, Politics, Strategies and Implications*. Washington: Brookings Institution Press.
- Smith, M. (2008). Russian Energy Interests in the Balkans. Advanced Research and Assessment Group/*Balkan Series 08/07*.
- Yergin, D. (2006). Ensuring Energy Security. *Foreign Affairs, Volume 85(2)*, 69-82.
- World Bank Home page (www.worldbank.com).

Foreign Language Teaching in the Net Generation – An Analytical Examination of Contemporary Studies and Attitudes

Dr. Olsa Pema

Lecturer of American History & English Communication,
Foreign Language Department, Faculty of Education & Philology,
"Fan S. Noli" University, Korçë, Albania; email: olsa.pema@yahoo.com

Abstract

The ever-increasing role of Internet tools in everyday life is undeniable in our information society. Their impact has been especially significant in Foreign Language Teaching (FLT). Are virtual environments conducive to the development of foreign language competences among EFL students? The present study has the double aim of raising the awareness of the relevant actors with regards to the potential of IT as a powerful means of enhancing the effectiveness of FLT and of determining the right balance needed for a harmonious integration of IT with more traditional methods and techniques in the teaching process. We attempt to give an answer to such questions as: "Is digital technology needed in FLT? Does the value of using IT depend on the context?" The answers given are grounded on the well-supported pronouncements of the contemporary literature dealing with the subject and on data that have an institutional backing reflecting the experience of some advanced countries. Further on a presentation of the opinions and practice of the high-school teachers of foreign languages in Korca, collected through a questionnaire, will be followed by a critical assessment of the results, together with suggestions on how teachers can avoid some of the pitfalls that attend the application of IT in a foreign language class. A synthesis of the dimensions opened up by the integration of IT in the teaching process will conclude this research, highlighting its importance as a means of relating the language classroom to the modern world.

Keywords: Information Technology (IT), pedagogical tool, integration, technophobia, authentic material, distance learning.

Introduction

In our daily experience and professional routine we hear more and more often expressions such as 'we live in the Net Generation', 'challenges of the information society', 'welcome to the digital epoch', etc., that, to the ear of both scholars and common people, do not sound like metaphors anymore, but represent a living reality throughout the globe.

The Internet technology has hardly left any sector of modern life untouched. The teaching field as well is facing the challenges of IT tool implementation. In this new context, the demand for the application of IT in Second Language Teaching presents a lot of complex issues that need a solution.¹

Within this framework, this research intends to analyze and assess the role of IT in Foreign Language Teaching (FLT) in order to determine a necessary balance for the integration of IT as a pedagogical tool in the FLT process measuring all possible advantages and disadvantages of it in comparison with the traditional FLT methods.

Furthermore, this study aims at raising the social conscience of actors – trainers, teachers, learners, education policy-makers of the potential of ICT and the limitless options it offers to increase the efficiency of foreign language learning.

On a larger scale, this analytical research is meant to contribute to the major goal of intercultural global education perceiving Internet technology in FLT as an enhancer of the harmonious development of learners' and teachers' identity and personality in a dynamic multilingual multicultural social context to promote citizens' cohabitation in a complex information society.

¹ For a more detailed presentation of the technology evolution through decades in FLT see Remi A. van Compernelle and Lawrence Williams, "(Re)situating the Role(s) of New Technologies in World-Language Teaching and Learning", in *Second Language Teaching and Learning in the Net Generation*, edited by Raquel Oxford and Jeffrey Oxford, Honolulu, National Foreign Language Resource Center, 2009, p. 11.

1. A critical examination of ICT role in FLT by recent studies

Contemporary studies on this topic emphasize three major trends that are promoted by the implementation of ICT as a powerful communication tool in FLT as described below:

1.1. Intercultural communication

"The cornerstone of sociocultural/sociocognitive approaches to computer-assisted language learning research and practice is the capacity of technology to serve as a means of facilitating human interaction and communication."¹ Ever since networked technologies became increasingly popularized in the 1990-s, they have helped connect people to information emphasizing people-to-people links. The Internet has expanded the potential for interactive participation through various forms of social networking, (co)authoring, publishing, etc.

But no matter how entertaining such programs may be, or how large their capacity is in mediating intercultural communication, the exploration of the limitless online universe might pose great difficulties to both language teachers and students, who should not merely be familiar with this technology, but also be able to conceive the complicated sociocultural context where it takes place/occurs in order to relieve possible cultural tensions during the teaching process.

In the same research, Steve Thorne supports the view that despite the same functioning of internet technology across different cultures, variations have been identified in their '*cultures-of-use*'² - a term which depicts the manner how technology is used and perceived in various social contexts. Such phenomena occur primarily due to different perspectives of estimating the study of foreign language across cultures, secondly, as a result of the diversity of previous experiences of electronic communication, complicating the intercultural communication mediated by the Internet.

1.2. Sociolinguistic and pragmatic development

A lot of researchers regard communication through technology as a promoter and developer of the sociolinguistic and sociopragmatic features of discourse. More specifically, the free use of 'real information' by students compared to the data offered by the foreign language textbook raises their awareness of the existence of informal language varieties and registers traditionally absent from their text materials. Thus, the number of options of Internet technology-mediated discourse at students' disposal increases significantly. Moreover, learners can be involved in constant and prolonged communication with native speakers. During this type of communication learners also develop their sociopragmatic competence, an example of which are the cases of correct formal and informal addressing forms among second language learners and native speaker peers. Such '*linguistic exchanges*' create a context in which the social consequences of wrong usages enable learners to perceive the respective social meanings of the corresponding form of address.

1.3. Online communication and linguistic accuracy

Beyond developing sociolinguistic and sociopragmatic competence, the new technology promotes linguistic accuracy, a product usually regarded by learners as the main aim of education in a foreign language. From a sociocultural point of view, this dimension has gained a new meaning, which mainly refers to learners' participation in communicative exchanges using online tools. During such sessions native speakers, who provide peer assistance, together with second language learners remark on each-other's language uses, comment on, analyze and evaluate their own language product, etc, which certainly contributes to the improvement of formal linguistic accuracy among foreign language students.

According to recent studies, the use of *Learner Corpus Analysis* (which consists of focusing students' attention on their own errors) is seen as fruitful in enhancing learners' concentration upon their extensive and accurate language

¹ Richard Kern and Mark Warschauer, "Introduction: Theory and practice of network-based language teaching", in *Network-based language teaching: Concepts and practice*, edited by Richard Kern and Mark Warschauer, Cambridge, Cambridge University Press, 2000, p. 1-19.

² Steve Thorne, "Artifacts and cultures-of-use in intercultural communication", *Language Learning and Technology*, 7(2), p. 38-67.
<http://llt.msu.edu/vol7num2/thorne/default.html>

development. Furthermore, the study of Paige Daniel Wave and Robert O'Dowd¹ observed the impact of peer feedback on language development among American learners of Spanish and Spanish learners of English. The survey indicated that all students experienced positive feelings about the corrective feedback from the native e-peer. This finding has broad implications for the further development of linguistic accuracy during collaboration online.

Further arguments and estimates concerning the ever-increasing attention to ICT in FLT come from the American Foreign Service Institute, who advocate the fact that Second Language Acquisition is both an intensive and time-consuming activity. This institute, after years of experience in training field agents, estimates that the FLA at a high level of fluency needs from 700 to 1300 hours of instruction, which means that four years of language study at university do not suffice to achieve functional proficiency.² Still, for those students who started studying a foreign language at high school and continued it at university, the situation is not bright at all, since, first of all, plenty of work done at university level simply revises the knowledge acquired at high school, in addition, high levels of language proficiency need not less than 4-6 years of full instruction depending on the range and nature of the linguistic material obtained.

Another concern of FLA researchers and teachers goes to the inefficiency of the learning process due to poor insufficient information. They believe the language learning process can be made efficient only by raising contacts with the target language. Following this perspective, going to the region where the target language is spoken, 'plunging' in its cultural and social reality is certainly the most favorite but also most expensive option. (Statistics show that less than 3% of students in the world study abroad on academic programs.³) In such a context, FLA theorists believe in the limitless capacities of IT in fostering learners' contacts with FL, which, if used wisely, could well replace the necessity to study abroad. The fact whether ICT fulfils this mission or not, depends on the way it is integrated in the FL curriculum.

The ways how IT tools are used must be governed by a specific theoretical model. In the net generation significant support has been given to the so-called *interactionist model* of FLA (a theory strongly supported by Pica, Kanagy and Falodun)⁴, which relies on the principle that SL is best learned through social interaction emphasizing possible errors during learners' efforts to communicate and comprehend each-other's meanings in the social learning environment. The nature of ICT tools is heterogeneous, meaning that different tools have different benefits. The most ideal and popular one nowadays is the Internet – the icon of IT, which gives students access to authentic materials in the target language or offers them the possibility to virtually travel to the region where the language is spoken only by a mouse click.

This sense of authenticity is further evident since the Internet provides an outlet for everybody to raise one's voice, promote one's self-image and legitimize one's goals. Robert J. Blake, in a recent study, strongly advocates Internet advantages when he identifies IT as a text-based medium that amplifies students' attention to linguistic form, a stimulus for FL production, a safe and nonthreatening form for SL discussions, especially for women and minorities, an expanded access channel with possibilities for creating global learning networks.⁵ Meanwhile, scientific research shows that network exchanges help learners enroll more often in the communicative learning process, experience more pleasure and become more self-confident rather than similar students in traditional FL classes.

The same resource indicates that 84% of teenagers today – the college learners of tomorrow use the Internet primarily as a tool for communication through instant and text messaging.⁶ This shows that such an activity is both a familiar and a favorite tool for them.

From a practical perspective, the American Department of Education observes a few educational benefits of IT extending use in FLT. As figures denote, there has been reported an ever-increasing enrollment pressure (with 25% from 1990-2004) in public schools, they tend to face an additional increase with 15% within a few years.⁷ The high flux of students complicates the normal functioning of school institutions (class teaching), thus, in the future FL instruction is expected to

¹ Paige Daniel Ware and Robert O'Dowd, "Peer feedback on language form in telecollaboration", *Language Learning and Technology*, 12(1), p. 43-63. <http://lit.msu.edu/vol12num1/wareodowd/default.html>

² More detailed figures by the American Foreign Service Institute are quoted in Robert J. Blake, *Brave New Digital Classroom – Technology and Foreign Language Learning*, Washington D.C., George Town University Press, 2008, p. 1-2.

³ *ibid*, p.2.

⁴ T. Pica, R. Kanagy and J. Falodun, "Choosing and using communication tasks for second language instruction, in *Tasks and language learning: Integrating theory and practice*, edited by G. Crookes dhe S. M. Gass, Clevedon: Multilingual Matters, 1993, p. 11.

⁵ Robert J. Blake, *Brave New Digital Classroom*, p. 4.

⁶ *ibid*, p. 5.

⁷ The abovementioned data are quoted in Robert J. Blake, *Brave New Digital Classroom*, p. 5-8.

take place at a distance, which will offer a reasonable solution to the majority of language learners who can't have a seat in the language real classroom (even though class experience won't be diminished).

According to the same department, in higher levels of education, especially professors of literature express a serious complaint regarding their language programs, which are too weak to prepare students to read the original, meanwhile reading them in translation does nothing to further students' FL proficiency.

On the other hand, especially for less-known foreign languages, another curricular problem appears – the need for qualitative pedagogical materials at all levels of proficiency, which remains unsolved due to low commercial profit margins at the publishing houses, asked to produce very limited copies of print materials. Technology can serve as a solution in this case by creating and offering online materials to students at all levels responding to their needs.

Finally, other data indicate that most institutions of higher education are affected by a prevalent student trend to gravitate toward courses that deal with either culture or language rather than literature¹. But such departments can recapture students' interest by integrating technology capacities in FL culture courses supplementing and enriching them with art and literature knowledge available in the form of web materials.

A lot of studies² highlight the constant fear of many people in general and teachers in particular from ICT due to the insufficient information they have about it. With the increasing presence of the Internet the term '*technophobe*' has appeared to describe this category of teachers, a lot of whom have had successful careers with students. It is believed that they misconceive the role and place of technology considering it a methodology detached from the language learning process, and, as such, it is immediately refused. Others hold an incorrect view as if the technology of today is all we need to know, as if it is sufficient for us to face tomorrow's challenges. The fact that technology changes day by day creates another barrier to other teachers, who complain they won't be able to keep up with such rapid and sudden changes. While some others fear the "nightmare" that tomorrow's technology will replace teachers' work. These 'phobias' keep teachers away from technological innovations and from recognizing the benefits of using IT in class.

2. A case study with foreign language teachers in the district of Korça

Following our methodological approach to base the arguments about the use of technology in Albanian schools on a firm empirical basis a survey was carried out in 2012 with 16 foreign language teachers in the high schools of Korça district aiming to examine their attitudes, difficulties and future expectations regarding the possible integration of Internet tools in FLT. The method of collecting the data was through a questionnaire completion (available in the appendix). After closely reflecting upon teachers' comments and concerns, a few recommendations for future work have been made. (A thorough analysis of the questionnaire results, with regard to all issues appearing in it, will be the focus of a new specific article related with the contemporary profile of foreign language teachers facing IT challenges.)

3. A synthetic discussion of teachers' attitudes to IT in FLT

At this stage, it is crucial to examine teachers' attitudes to IT in FLT, since they have a more immediate and concrete perspective on it. It is important not to raise unrealistic expectations regarding the possible contribution of technology in the foreign language curriculum, because, what is encountered in teachers' circles often contradicts theoretical research and statistics. For truth's sake, teachers generally distrust the new technology and are unwilling to learn more about its application and benefits in the FLT process. Why does this happen and do teachers have the right to hold such views?

The results of our questionnaire show that only a small number of teachers result to have expressed promising attitudes, while the majority's attitudes converge with what we have quoted from the resources. Here are the most frequent complaints of the foreign language teachers asked in our survey:

1. I have never had a single English class in the computer room, because the school director has programmed it for the subject of Computer Science only. (18%)
2. I haven't been trained about technology. (82% of the teachers questioned)

¹ ibid, p. 7.

² ibid, p. 8-14.

-
3. I am afraid that I know less than my students and there is a terrible embarrassment when it comes to using IT in class. (22%)
 4. Our coursebook materials are excellent, let's use them, I see no space for ICT in teaching French. (18%)
 5. Technology makes me feel uncomfortable in class, that's why I don't even imagine using it with learners. (22%)
 6. Preparing materials for a class with technology takes plenty of time. You can't do it very often. We have to teach 5 classes each day, it's impossible. (65%)
 7. How can I possibly use technology as I have to teach in classes with approximately 40 teenage students? (80%)
 8. There is a basic need for infrastructural investment in our schools. (42%)

Certainly, such attitudes are real especially in the Albanian society at this time of transition and need to be considered. But there is something basic that these teachers still lack, that would make a big difference – it is the unclear information they have about technology as a socially inevitable supporter helping to increase contacts in the foreign language and culture. We are of the opinion that it is high time our society overcame this barrier if we really want to move forward with the rest of the world. With the good intention to help people become conscious of ICT advantages and encourage teachers to get started with simple technology tools in class, we are trying to respond to the abovementioned concerns expressed in the questionnaire offering some reflective practical solution.

With regard to the first problem, we suggest that teachers' staff must negotiate and plan the use of computer room well in advance to leave scope to all teachers and subjects to design lessons/projects when they need to.

As far as the second complaint is concerned, it is very frequently heard by teachers, but, as a matter of fact, everybody knows how to use the email or the Internet and this knowledge is enough to get started with technology in the classroom.

The third remark is often true for teachers who may have received no instruction in the use of technology. However, having learners in the class who know more about technology than teachers do is something profitable, because teachers can rely on this group of students for help and support, encouraging and motivating such learners to exhibit their skills and knowledge in this area.

In response to the fourth issue, the use of technology in class does not replace using traditional materials (the board, the coursebook), rather, technology tools are used to complement and foster classroom work following the textbook topics of discussion, e.g.: the topic on sources of energy can be supplemented with various online technology-mediated activities, such as: projects, forums discussion, etc.

Fear from technology is often expressed by teachers who have had negative experiences with technology in the past, therefore, the best way to address the situation is to make them aware that they already possess some technical skills by using technology in their own lives, and encourage them to get started by applying simple tools. Their engagement in training workshops or online courses would certainly lead to technology acceptance in the long term. Technical problems with technology are rather frequent and something normal, that is why teachers should always be prepared to come to class with a second teaching plan, to avoid class failure in case of technical setbacks.

Collaboration and discussions among teachers at school and in forums as well as the use of technology resources provided by most coursebooks nowadays are necessary in helping teachers create additional materials more easily.

Finally, a suggestion can be given to those teachers who teach overloaded classes – to divide the class in two, ask one group to work on the computer as the other group does some written task, and then swap activities.

4. Advantages and disadvantages of IT in teaching foreign languages

The following is a summing up of what we consider to be some of the major advantages and disadvantages of using IT in teaching foreign languages:¹

¹ The advantages and disadvantages of the Internet technology in SLT have widely been treated by a great number of researchers. Among various works on this topic, special interest pose the articles of M. Warschauer (see Mark Warschauer, "Computer-mediated collaborative learning: Theory and practice", *Modern Language Journal*, Cambridge, Vol. 81(3), 1997, p. 470-481; also see, M. Warschauer and D. Healy, *Computers and language learning: an overview*, Language Teaching, Cambridge 31, 1998, p. 57-71.

1. The integration of IT in the teaching process provides the teachers and students with a wide range of authentic materials that they can use in class. Such reference sources as online dictionaries, translation programs and encyclopedias are of great help in the process of teaching reading skills. The Internet can be used to provide free of charge access to newspapers, magazines reviews and all sorts of materials that can be of use in the language classroom.
2. The Internet can be used as a most valuable communication network. The advantages that the global network of communication brings to the foreign language classroom as a great opportunity for interaction among students or between students and teachers are almost too obvious to mention.
3. IT provides students with various means and techniques for the development of language skills. Special programs can be downloaded for the improvement of speaking, reading, and writing skills. Using IT as a means of teaching a foreign language enhances the students' communication abilities by situating them in a real communication environment where they can exchange messages with one-another in the language they are studying.
4. The internet has made possible a radically new approach to acquiring a foreign language: teaching/learning at a distance. The value of learning at a distance for those students who can't afford to study abroad and thus gain a first-hand knowledge of the language and culture they are exploring cannot be overestimated.
5. Technology can be used to bring us into a more immediate contact with the culture of the people whose language we are studying. As the learning of a foreign language is a complex socio-cultural phenomenon getting to know better the culture of the native speakers of the language is a great help to the learning process.
6. The Internet can be a great motivation for the achievement of learning objectives. It has been proved that the students who use the Internet with a learning objective are more active and productive than those who don't.

Together with the advantages we should not overlook some of the obstacles that attend the use of IT when teaching a foreign language.

1. Having a free and unlimited access to the Internet is not a matter to be taken for granted in countries like Albania where considerations of a financial character do not allow maximum efficiency in its use by teachers and students (installing the Internet in schools or training teachers on how to make the best use of it in class can be quite costly).
2. Sometimes navigating the net with the purpose of finding what you need for the lesson can be a frustrating experience for a number of reasons, ranging from the inability to read and comprehend what is on the screen to being overwhelmed by an overabundance of information which the teacher or student finds it difficult to swift through.
3. Technical problems, such as the slowing down of the net, can have a very negative impact on the achievement of the objectives planned for the lesson.
4. The extensive use of IT in teaching a language entails a paradigmatic shift in the way the teaching process is conducted and the respective roles that teachers and students assume. In the new environment provided by IT the teacher is no longer a final authority on knowledge but rather a guide and a facilitator of the learning process. The students, on their part, assume greater responsibility by becoming more active and autonomous. These radical changes in the way the whole network of relationships in a foreign language class is conceived can be confusing and unsettling for traditionally minded teachers used to the old teaching/learning stereotypes.

4. Conclusion

As a conclusion, we should assert that with all the obstacles and difficulties involved, the advantages that the use of IT brings to the teaching of foreign languages are too important to ignore its use in the classroom. The challenge is, first, to find the right balance between the new IT based methods of teaching and the traditional ones by integrating into a coherent whole the best things that each approach has to offer. Second, to make it possible for both teachers and students to fulfill the new roles demanded by this new learning environment - the teachers should prepare themselves for a continuous course of technical and professional training, while the students can benefit from technology only if the activities that it is used to serve are congenial to their interests and needs.

The use of ICT as a communication tool provides opportunities and challenges for FLT. These challenges require a more accurate and argument-based perception of ICT role in this process. Considering this approach, we regard technology not as an isolated phenomenon detached from the foreign language teaching practices (this would be nonsense and would have serious consequences upon language learning), but as a pedagogical tool the value of which is determined by the

application of it in response to the concrete pedagogical class objectives. As such, we believe that technology must not be separated from the rest of the classroom, since it forms a crucial part of a broader cohesive multidimensional approach to FLT.

This is what Helena Meyer, teacher of English and specialist trainer for the teaching of foreign languages, says about the use of IT in the foreign language classroom:¹

'Yes, technology is here to stay -- nobody can deny this. Our kids... breathe it, eat with it, sleep with it... And blind resistance will take us nowhere. On the other hand, uncritical adoption of technology just because it's fashionable might lead to unprincipled teaching -- which, in my opinion, is the greatest sin of all...'

As a teacher, I try to use the technology I have available, in a balanced way, but if I'm teaching in a situation where technology is not part of the resources I have, I go back to the 'old ways', with no loss of quality...

As a trainer, I come across teachers who have already jumped in the band-wagon, and won't teach a single class without a fancy technological device. And also deal with those who say: "I'm a good teacher and have done without it all my life, so why bother to change?" To both, I encourage a review of beliefs, and, as you well mentioned, to think about sound pedagogical reasons for using (or not) technology...'

References

- Blake, R. J. (2008). *Brave new digital classroom – Technology and Foreign Language Learning*. Washington D.C.: George Town University Press.
- Dudeny, G. (2007). *The Internet and the language classroom*. Cambridge: Cambridge University Press.
- Kern, R. & Warschauer, M. (2000). *Introduction: Theory and practice of network-based language teaching*. In *Network-based language teaching: Concepts and practice*. Edited by Richard Kern and Mark Warschauer. Cambridge: Cambridge University Press. p. 1-19.
- Sharma, P. (2009, April 8). Controversies in using technology in language teaching. From <http://www.teachingenglish.org.uk/articles/controversies-using-technology-language-teaching>
- Sula, A. (2010, September). Integration of IT in the educational process. *Mēsuesi*. 6 (2552). 1-3.
- Thorne, S. (2003, May). Artifacts and cultures-of-use in intercultural communication. *Language Learning and Technology*. 7(2). 38-67. From <http://llt.msu.edu/vol7num2/thorne/default.html>
- Van Compernelle, Remi A. & Williams L. (2009). (Re)situating the role(s) of new technologies in world-language teaching and learning. In *Second Language Teaching and Learning in the Net Generation*. Edited by Raquel Oxford and Jeffrey Oxford. Honolulu: National Foreign Language Resource Center. 9-23.
- Ware, P. D. & O'Dowd R. (2008). Peer feedback on language form in telecollaboration. *Language Learning and Technology*. 12(1). 43-63. From <http://llt.msu.edu/vol12num1/wareodowd/default.html>
- Warschauer, M. (1997). Computer-mediated collaborative learning: Theory and practice. *Modern Language Journal*. Cambridge. 81(3). 470-481.
- Warschauer M. & Healy, D. (1998). Computers and language learning: an overview, *Language Teaching*. 31. 57-71.

¹ Helena Meyer, in response to Pete Sharma "Controversies in using technology in language teaching", April 8 2009. <http://www.teachingenglish.org.uk/articles/controversies-using-technology-language-teaching>

Theoretical considerations of post communist political elite; on focus Albania

Merlinda Andoni, MA

Lecturer, Faculty of Social Science,
Univeristy of Tirana, Tirana, Albania
Email: merlindaoco@yahoo.com

Abstract

This article provides literature and empirical studies review on post-communist political elite. The most debatable question is if old nomenclatura has reproduced itself and is transformed in new elite, or circulation of new blood occurs. Although post communist political elite typology is different among post communist countries, some common theoretical considerations for analyzing it are noticed. This article aims to point out that legacy of the past and accumulation of political capital coupled with the political economic marketization of post communist political elite and civil society and intelligentsia are beneficiary for a thorough understanding of the topic.

Keywords: *political elite, post communism, reproduction, circulation, political capital*

Introduction

" **Plus ca Change** " means a lot has changed, but yet everything remains the same , may be considered probably the most generalizing metaphor in terms of scholar conclusions of post-communist elite and its identity nowadays . Although it aims to study post communist political elite(after 1990s') from a theoretical point of view and provide philosophical response to questions raised in different assumptions, literature review shows that perhaps not equally, but to a certain degree, old nomenclature presence in all countries of the former communist bloc in the so-called new elite seems to be quite significant. Expressed in theoretical rhetoric, what prevails is the reproduction of old elite rather than its circulation. Another generalizing factor pertaining to the interest on the study of post - communist elite is the fact that large portions of researchers agree on the importance of elites as a decisive factor in smoothly overcoming transition and further consolidating of the democratic system. The character of a political system actually varies to a great extent on the type of relationship between the elites and their main features (Field et al . 1990; Higley / Burton 1998) . This is particularly true in the case of transformation of the system in which elites play a key role in the set up of institutions (Kaminski / Kurczewska 1994.) As differently stated by Pareto and Marks : "**Revolutions are above all, cases of elite transformation , or otherwise put- substitution of an elite by another** " (Vladimir Shlapentokh , Christopher K. Vanderpool , Boris Zusmanovich Doktorov , Croatia Dusko ; Frane Adam / Matev . Tom.ić).

The elites in general are conceived as entities that are found in a stage of self- preservation and self-protection of their interests, but always in ongoing transformation. As mentioned metaphorically by Pareto, they are not static but in a situation of slowly change "It flows on like a river, never being today what it was yesterday" (Pareto 1997/1935, 49). For this reason, it is very important to understand: what happens within elite groups? How open are they with new elites? What kind of relationship is established between them? Is there a reproduction or circulation of elites? To what extent they were part of the old nomenclature and their relationship with it today? What happens with the new bourgeoisie? What is the connection of new bourgeoisie with the positions of new political elites? How deep is the substitution / replacement of old elite with a new elite / or more precisely how deep is the phenomenon of circulation of elites? The question that arises is whether are new qualitative changes with the new elite as compared with the old one, which are its key features in comparison? Meritocratic Selection Process- based on what criteria old elite is part of the new elite? (eg education is a factor) - How strong and visible is the requirement of party membership in elite in our sample years- 1984 and 1989? The circulation and reproduction – to what degree has the unity and disunity of old nomenclature affected the reproduction or distribution of the

elite nowadays? Whats the impact of conditions such as: age, gender, social and geographic origin, national composition and levels of education; Political elites and the quality of democracy – degree of their association and how they affect each other? Political elites and social background – Circulation in term of family background. Political elites with regards to functionality and importance of traditional and organic elites to the public - To what extent are the past communist elite organic and traditional / is there any movement or circulation noticed?

Literature review shows that political elites are described as positional or functional ones. Most of the authors are interested to understand the relationship between political elite and democratization, as well as the socio economic modernization of the transitional societies *per se*. Even though typological differences between post communist societies, types of political elites that they represent, democratic system applied are evident, common theoretical consideration through which elite can be analyzed and give answers to aforementioned questions exist. The most important of these theoretical independent variables are; legacies of the past and accumulation of political and institutional capital; pluralist marketization of economy and civil society and inteligenca.

1. Legacy of the past and accumulation of political capital

In order to understand post communist elite, researches should analyze the correlation between the influence of old nomenclatura in post communist society and it's decision making democratic process. In this perspective, there are two important theories that explain this theoretical consideration: theory of elite reproduction and theory of elite circulation.

Reproduction theory suggests that revolutionary changes have not shaped the social composition of elites. According to this theory, old nomenclatura still occupies the highest hierarchical social levels, becoming nowadays the new bourgeoisie. On the other hand, elite circulation theory, argues that post communist transition, above all be accompanied with the changes on the highest hierarchical levels of society. Based on this assumption, new elite is recruited with new principles on decision making positions. In each of the aforementioned theories, the main question is if circulation or reproduction as phenomenon has happened in a post communist society?

Empirical studies on the topic show that the higher the accumulation of legacy in terms of negative political and institutional capital, the bigger the level of elite reproduction itself will be (P. Nikiforos Diamandouros and F. Stephen Larrabee 1999). Unfortunately, balkanic countries, and especially Albania that has undergone an extreme communist dictatorship regime, are characterized by high levels of negative political capital accumulation. Hiperbolization of lidership cult; centralization and verticalization of power; lack of free election; high levels of corruption; problems with guaranty of human rights; problems with freedom of press, are some of the components of political capital.

Freedom House's latest report in 2014 which combines scores from three subcategories: the legal environment; the political environment; and the economic environment; shows that Albania is still a partly free country (<https://www.freedomhouse.org/report/freedom-press/2013/albania#.VLe8FNLf-Y8>). Albania is listed 98th in 2014, regressing from the position held in 2013 in which it was listed 96th.

Furthermore, 2014 Transparency International Report on Corruption, ranked Albania 110th, out of 175 countries (<http://www.transparency.org/country#ALB>). In the same logic, European Commission 2014 Albania Progress Report in terms of political criteria, reiterate the fact that juridical and public reforms, constructive and pluralistic political dialogue, fight against corruption and organised crime, are some of the thorny issues that Albania needs to tackle immediately. More specifically the report states that:

Additional and sustained efforts will need to be fully compliant with the political criteria. In regards to democracy and the rule of law, it is essential to build on recent achievements and consolidate the reform momentum. Albania will need

to vigorously pursue judicial and public administration reforms. The fight against corruption and organised crime needs to remain as top priority, with sustained and ongoing efforts and enforcement of legislation to fight corruption and combat all kinds of other criminal activities. The legislative framework on fundamental rights and its enforcement will have to be improved in its entirety. A more constructive political dialogue is needed for the reforms to be sustainable (https://eudelegationalbania.files.wordpress.com/2014/10/memo-on-key-findings_eng.pdf)

The aforementioned reports, treat practices that are considered as contributors of “political capital”, (that must be positive) which presence or absence influence the democratization consolidation process and continuous transition of the society. In cases such as Albania, when negative political capital persists, it seems that regime change did not come naturally but was considered as the only solution due to historical, political and economic circumstances at the time (P. Nikiforos Diamandouros and F. Stephen Larrabee 1999).

In their article “*Elite settlements and Taming of Politics*”, Higley and Burton argue that in such cases, transitioning to a consolidated democratic society depends on the role that new political elite accomplish. In transitional societies, political system is a byproduct of political elite activity, mentality and constructive relationship that they establish with each other (Field et al; 1990; Higley/Burton 1998).

In countries such as Albania and most part of the Balkans (excluding here Slovenia and Croatia), even after the communist regime change, old nomenclatura still has the political power inherited from the past (Frane Adam / Matev. Tom.ič 2002). Authors explain that, old nomenclatura survived the regime change and managed to transform in new post communist political elite, using their connections, resources and know how that they had acquired by being associated with communist political forces. This “usage” of political power is not only socio –political capital, but also economical in nature. In these conditions, when socio-political and economic power has changed only the facade, from communist to post communist elite, but not its content and substance it is obvious that the main characteristic of such transition societies is the reproduction of elite (Hankiss, 1990; Stanizkiss, 1991; Wasilewski, 1998; White and Krystanovskaya, 1998).

During regime change, while the communist party modified itself, political elite reproduction was massive, and communist economic elite have reproduced within itself also. Majority of the authors, that have conducted empirical studies, agree to a common diagnosis of the phenomenon: while broadly is pretended and assumed that the socio political and economic system has changed, the hierarchial top levels of society remains the same. In other words, the mentality and how the system in reality works have not changed. What has changed is only the manners that old nomenclatura applies to legitimize itself and its privileges. To summarize it, dominant position of such authors, is ‘reproduction of political elite in post communist societies’ and ‘very strong impact of old nomenclatura legacies’. Besides that the new bourgeoisie that has not only again the political power, but economical also. Simultaneously a new phenomenon of marketization of economy is blossoming. This ‘new post communist political elite’ uses political power in order to enrich itself. Next section explains the relationship between old nomenclatura and new pluralist political economic marketization of post communist society. Through theoretical considerations and referring to empirical studies the following paragraphs aim to stress the importance of yet another common characteristic via which these societies can be analyzed.

2. Political economic marketization of post communist political elite

For sociologists such as Pareto and Marx, their definition for revolution is above all the change of elite class, from an old communist elite (in our case), to a new democratic one. It is normal that in every revolution, changes are not absolute,

which translates that part of old elite continues to hand out its expertise and contribution to the new system. The issue here is relevant to the main question at the same time, which aims to know the degree of transformation and changing of elite. The answer for this question is given from results based on empirical studies performed in post communist societies. According to these studies what happened is that officially, homogeneity and domination of old regime is not visible, but old nomenclature still retains the hold of top positions on decision-making and economic activities.

Whereas for other authors such as Linz and Stepan (1996), the circulation of elite has the highest probability to occur when the regime changes from a close totalitarian to an open one rather than within the same system, for example from democracy to democracy, empirical studies on post communist societies bring to light different interesting facts.

A number of authors argue that while it is true that systems might formally change, the same can not be said for its political elite. In his David Stark, "Path dependence and privatization strategies in East Central Europe" analyzes the relationship between economic power relationships. According to him, the only differentiation the *per se* system change introduced was that of "power usage" from plan to clan in communism, to public for private in post communism regime (1992). Old nomenclature being transformed to a new post communist political elite, "use" their resources and connections for enhancing their political economical assets. Based on this, what most authors contemplate, is that the perspective reproduction of political elite is the main characteristic of post communist societies (Dusko Sekulic and Zeljka Sporer 2002; Andrew G. Walder 2003; Hankiss, 1990; Stanizkiss, 1991; Wasilewski, 1998; White and Krystanovskaya, 1998).

As evidenced in reality, these old political elite and **cadres** are advantaged politically and are transformed nowadays as representatives of large corporations and successful, new entrepreneurs. Since public assets are managed from public representatives or individuals with power, elites have the enormous advantage compared with other groups of interest. Old cadres that are transformed nowadays in new post communist entrepreneurs compete in an unfair political environment with new "fresh of the boat" elite, increasing at the same time the gap between old and new elite (Dusko Sekulic and Zeljka Sporer 2002, 85-87).

Theoretically the perspective that tried to analyze the abovementioned phenomenon, of how old cadres of communist societies take advantage of new, liberal and institutionalized market, is known as "The surviving elite thesis" (Grossman 1989; Oi 1989; Shirk 1989, p. 340; Akos Rona-Tas 1994; Stark 1990, p. 389; Ren 1990, p. 141; Prybyla 1991; Staniszkis 1991, pp. 38-52; Kolosi 1991; Alexeev and Gaddy 1991; Burawoy and Krotov 1992, p. 34; McAuley 1992; Wank 1992; Rona-Tas 1995).

Main assumption of this approach is that old elite take advantage from the transitional process while they reproduce itself. Authors have based this position in two crucial arguments.

First, technocratic continuity, which emphasize that regime change, can happen only through experts that not only can contribute with the required experience on specific expertise field, but also with their education (Szalai 1990, p. 182). In his article "The First shall be last? Entrepreneurship and Communist Cadres in the Transition from Socialism" Akos Rona-Tas, points out that empirical comparative studies on post communist society stratification consider education as the most decisive factor on new post communist elite formation (Akos Rona-Tas 1994). Education helps old elite to adapt faster to the new system. The more educated and experienced people are, the better the chances that they will perform on the open market. In this view, education is combined with know how and connections that old elite possess as part of their inherited power, leading in this way to unmatched advantage against the new elite (Akos Rona-Tas 1994; Zagorski et al. 1984; Haller, Kolosi; Connor 1979; Matras 1980; Simkus 1981).

Secondly, the argument of power changing thesis that reflects the power accumulation during communist system phenomenon of old elite, which is translated in the open market economy as the greatest asset. In the "The Dynamics of the Breakthrough in Eastern Europe: The Polish Experience" article, Staniszkis elaborates the concept of "political

capitalism” which describes the changing of communist regime as a necessity for the economies in transition. According to him, during the transition process to an open market economy, cadres benefit from their current positions in order to acquire for themselves enormous assets. Via informal channels, taking advantage from unsecure and quiescence situations, cadres manage state properties as they were their own private property. Thus, “using” also their personal network of connections and inside market information, this whole inherited valuable capital, was introduced with new entrepreneurs and corporate as the new open liberal system requires (1991).

This new political economic elite produces a serious of deformations in post communist societies , which not only create fertile ground for elite reproduction , but in several extreme circumstances gives life to vicious economic criminal cycles that destroy the pluralism and democratization process altogether. As a result, elite circulation is not viable and once again reproduction of same elite is reinforced.

Social inequality is one of the consequences that are a derivative of the correlation between market in transition and “resource usage” from old nomenclatura (Nee 1998). In its worse application this product encourages criminal activity. Most authors agree that the rate of collaboration between criminal networks, political and economic elite in post communist societies is considerably higher. This is attributable to lack of rule of law, monopolization of natural resources, high level of base corruption, overlapping of functionalities between political and economical elite since their functioning in society is not easily separated one from another (Vladimir Shl and Christopher VI and Boris Doktorov . 1999; Robert Lerner; Althea Nagai; and Stanley Rothman; 1996; Eric Carlton 1996).

Furthermore, in their empirical study “*New Elite in Post Communist Eastern Europe*” Vladimir Shl and Christopher VI and Boris Doktorov ,explain through theoretical concepts of rent seekers and rent givers, oligarchic post communist systems. The role of rent seekers is taken by economic elites, while the rent givers from the political elite. In exchange of financial electoral support , they assist economic elite via implementing friendly taxation law, monopoly- favourable laws , and the exchange goes on further until vicious financial circles are created. Thus political elite take a firm grasp on power and extend their political longevity by “using” public property and legislations in support of economic elite interest who invest large sums of cash for their re-election. (William Mitchell and Michael Manger 1991).The result of such interaction among rent seeker and rent givers does not foster a fair and constructive political and economical competition. (World Bank 1997; John Heller 1997).

The case study “*Krysha*” is one of the investigated examples that can explain the politico-economic criminal activity in post communist countries (more specifically in Russia and Ukraine). Krysha, which means “roof “is the figurative term of the phenomenon. It is used in order to explain how businesses are forced to hand more than 20% of their profits to criminal mafia gang members, in exchange for life protection. (Vladimir Shl and Christopher VI and Boris Doktorov, 1999).

Another impact is the creation of a dangerous society with aggravating unemployment, insecurity and most importantly a passive civil society, which does not trust political processes, is not represented and most of all does not play the role of counter elite. As a consequence, political elite does not feel any pressure of circulation by the new meritocratic political elite class. The last section tries to address the importance and shed light to understand the correlation between civil society, intellectuals and political elite in post communist countries.

3. *Civil society and intelligentsia*

Civil society is considered the catalyst of political elite circulation. In order for a society to give birth and space to healthy and functional democratic institutions, it needs foremost, to have an active and represented civil society. In the end, civil society plays active role in recruiting new political ridership ; encouraging political organization; motivating its citizens on how to face the political challenges (Mesharch W. Katusimeh 2006; 103).

The stronger and more represented the civil society is, the more circulated the political elite will be. Among other criteria, the elite circulation is an indicator of open and pluralist democratic systems. Unfortunately, the majority of authors, point out that in post communist countries democracy and elite circulation are not functioning well because of the: (1) civil society

involvement in political processes ; (2) civil society mistrust towards political reforms; (3) insufficient involvement of intelligentsia in politics (Graeme Grill 2002; Frane Adam and Matev. Tom.ič 2002; Mesharch W. Katusiimeh 2006; Vladimir Shl and Christopher VI and Boris Doktorov 1999).

The authors that analyze post communist elite through the concept of civil society and accept that these societies are characterized from an unorganized and unrepresented civil society, weak institutions and reproductive elite, distinguish two main categories.

Countries such as Hungary, Poland belong to the first category, where circulation of political elite phenomena is more evident, because of a more active civil society (Frane Adam and Matev. Tom.ič 2002). The whole changing regime process was dominated by the philosophy of political elite activity partnering with civil society. Old nomenclatura is transformed to an open and transparent political party in which members of civil society are integral and active participants. Summarizing it, political elite is characterized by the transparency and circulation of new blood within it.

On the contrary, the second category is characterized by a passive civil society and reproductive political elite. Old regime and nomenclatura transform themselves, creating this way the reproduction of the same people. Albania is a vivid example with the philosophy of building the new democratic regime, excluding the contribution of civil society. As a result the product is the creation of an oligarchic system (Graeme Grill 2002).

Oligarchy located in the politico - economic conditions of post- communist countries, as also explained in part on political elite marketization, produces vicious criminal networks, unemployment, and massive accumulation of capital by the political elite. All these factors have as a consequence the creation of a culture of distrust and inactivity of civil society towards political processes.

Mistrust and "lack of patience "towards political, economic and social reforms create situations in which change is considered unattainable. In these conditions of missing values , the influence of civil society upon political elites is reduced significantly. According to Sztompka , who analyzes the Polish post communist society , but also that of post-communist in general "culture of disbelief " prevents citizens from building constructive social, political and economic realities. Is this lack of trust and inactivity that allows political elites to use their raw power naked and not disguised (Piotr Sztompka.1989; 37-59). All this situation of insecurity is compounded if we bring into the picture a mosaic of laws and regulations from the past. The result is political confusion which allows the elite to hide under the pretention by claiming to represent the common good of public, being guardians of the law and the only instruments that can develop society. This kind of political reality disintegration and collapse of society delegitimize any approach which might be brought against the activity of the political elite, which is not challenged in its existence by any possible counter elite force, or strong civil society.

Another factor which explains the passivity of civil society is the inactivity of the intellectuals to organize it. The common reason to all post- communist societies referred by Alex Oushakine , in the article " Wiether the inteligencia " is the withdrawal from the moral basis which a distinctive feature for previous intellectuals . Common interests for universal and shared values , are replaced by interest groups, professional codes and identity of personal policies (Alex Oushakine 2009). Authors bring to the attention the fact that with system change, intellectual fallout from public activities played a major role in weakening the norms and cultural influence in this period. Dilution of norms, values and established practices is accompanied by the disappearance of the intellectuals as an autonomous group. More fragmented and diverse, new classes choose strategies of professional existence and patterns of cultural involvement which have little to do with intellectual class of late socialist. As a result, post - socialist societies seem more concerned with achieving socio - economic restructuring rather than ideological and cultural uniformity and the subsequent criticism towards the political processes that intellectuals have historically been known for.

Fragmentation of the intellectual call and its cultural ethic does not mean it has lost value, just that the intellectuals and its values have become practically unfit for the new market order. The fragmentation of social inclusion and public responsibility influenced also the changing from the pedagogical cultural consumption to a hedonistic one. The activation of *inteligencia* in post communist societies, it is driven from the domination of interest groups.

Furthermore, Elena Gapova in her essay 'Conceptualizing gender, national and class in post –soviet Belarus, explains why *intelligentsia* is dominated in her activity by certain groups of interest. According to her, *inteligencia* has lost its moral, which means that in order to produce ideas and strategies it needs to be financed. Moral support of old regime is replaced by monetary support in post communist societies (Elena Gapova, 2004). As a result, the end product is by default designed not for the common good, but for certain interest. In this way, political elite does not face meaningful or discomfoting challenges to its course and actions. This most often occurs when technocrats' mission is overlapped by the political elite interest. Thus, without *inteligencia* pressure, the level of reproduction is much higher than that of circulation (Szelenyi, Ivan/Szonja Szelenyi 1995. 619-627).

Bibliography

- Alex. Oushakine. 2009 , *Wither the intelligentsia: the end of the moral elite in Eastern Europe* Author(s):: Studies in East European Thought, Vol. 61, No. 4, *Wither the Intelligentsia: The End of the Moral Elite in Eastern Europe* pp. 243-248
- Buchanan, Tollison, and Tullock. 1994. "Toward a Theory of the Rent Seeking Society; Anne Krueger, "Economists' Changing Perceptions of Government", in *Comparative Economic Systems: Models and Cases*, ed. Morris Bornstein (Burr Ridge, Ill.: Irwin,), pp. 86-89.
- David Stark, 1992. "Path dependence and privatization strategies in East Central Europe," *East European Politics and Societies* 6: 17-51; and David Stark, "Recombinant property and East European capitalism," *American Journal of Sociology*.
- Diamandouros and Larrabee. 1996. *Democratization in South-Eastern Europe* ed. Bianchini Stefano and Schopflin George in *State Building in the Balkans*, Long Editore Ravenna, pp. 48-49
- Elena Gapova, 2004. 'Conceptualizing gender, nation and class in post soviet Belarus " (Carol Nechemias, K. Kuehnast eds.), Woodrow Wilson Center Press/Johns Hopkins University Press, 2004.
- Field L., George/Higley John/Burton G., Michael (1990), "A New Elite Framework for Political Sociology," *Cahiers Vilfredo Pareto* 28, 88, pp. 153-162
- Frane Adam / Matev. Tom.ič (2002). *Elites, Democracy and Development in Post-Socialist Transition*, Ljubana, 99-105
- Graeme Grill, 2000. *The Dynamics of Democratization: Elites, Civil Society and the Transition Process*.
- Graeme Grill, 2002. *Democracy and post communism –Political change in the post communist world –New York, Routledge*
- John Higley and Michael Burton , 1998. *Elite settlements and Taming of Politics. Government and Opposition* Blackwell Publishing vol. 33, no. 1
- Hankiss, E. (1990) *East European Alternatives*. Oxford University Press, Oxford. Staniszki, J. (1991) *The Dynamics of Breakthrough in Eastern Europe*. University of California Press, Berkeley, Calif.
- Haller, Max, Tamas Kolosi, and Peter R6bert. 1990. "Social Mobility in Austria, Czechoslovakia, and Hungary." Pp. 153-97 in *Class Structure in Europe: Neë Findings from East-West Comparisons of Social Structure and Mobility*, edited by Max Haller. Armonk: M. E. Sharpe.
- Higley, J. (eds) .1990. *Elites, Crises, and the Origins of Regimes*. Roëman and Littlefield, Boulder, Colo, pp. 125-146. on, Neë York, 47.52.
- James Buchanan 1980. "Rent Seeking and Profit Seeking", in *Toward a Theory of the Rent Seeking Society*, ed. James Buchanan, Robert Teleostan, and Gordian Bullock (College Station: Texas A&M University Press), p. 3.
- Kitschelt, Herbert ,1999. "Accounting for outcomes of Post-Communist Regime Change. Causal depth or shalloëness in rival explanations". Paper prepared for delivery at the 1999 Annual Meeting of the American Political Science Association, Atlanta, September 1-5, 1999

- Nee Victor. 1989. "A Theory of Market Transition: From Redistribution to Markets in State Socialism." *American Sociological Review* 54:663-81.
- Linz, J. and Stepan, A. (1996) *Problems of Democratic Transition and Consolidation*. Johns Hopkins University Press, Baltimore, Md.
- Serguei Alex. Oushakine, 2009. "Introduction: Wither the intelligentsia: the end of the moral elite in Eastern Europe" Springer Science+Business Media B.V. 2009
- Staniszki, Jadwiga. 1991. *The Dynamics of the Breakthrough in Eastern Europe: The Polish Experience*. Berkeley and Los Angeles: University of California Press.
- Pareto, Vilfredo (1997). *Selections from the Work of Vilfredo Pareto*, in: Eva Etzioni-Halevy (ed): *Classes & Elites in Democracy and Democratization*, New York, 47-52.
- Piotr Sztompka, 1989. "Trust and Emerging Democracy", *International Sociology* 11: 37-62
- Vladimir Shl and Christopher VI and Boris Doktorov . (1999). *The New Elite in Post-Communist Eastern Europe*. Texas A&M University Press
- Zagórski, Krysztof, Rudolf Andorka, Nancy Brandon Tuma, and John W. Meyer. 1984. "Comparisons of Social Mobility in Different Socio-Economic Systems." Pp. 13-42 in *International Comparative Research: Social Structures and Public Institutions in Eastern and Western Europe*, edited by Manfred Niessen, Jules Peschar, and Chantal Kourilsky. Oxford: Pergamon
- Wasilewski, J. (1998) *Hungary, Poland and Russia: the fate of Nomenklatura elites*. In Dogan, M. and Higley, J. (eds) *Elites, Crises, and the Origins of Regimes*. Roman and Littlefield, Boulder, Colo, pp. 147-167.
- William Mitchell and Michael Manger. 1996. "Economic Models of Interests Groups: An Introductory Survey", *American Journal of Political Science* 35 (1991): 525; Glenn Parker, *Congress and Rent Seeking Society* (Ann Arbor: University of Michigan Press,), p. 22.
- White, S. and Kryshtanovskaya, O. (1998) *Russia: elite continuity and change*. In Dogan, M. and
- World Bank, 1997. *The State in a Changing World* (New York: Oxford University Press
- <http://www.transparency.org/country#ALB>
- http://europa.eu/rapid/press-release_MEMO-13-574_en.htm
- <https://www.freedomhouse.org/report/freedom-press/2013/albania#.VLe8FNLF-Y8>
- https://eudelegationalbania.files.wordpress.com/2014/10/memo-on-key-findings_eng.pdf

Unified Orthography Rules of the Albanian Language

Aferdita NIMANI, MSc PhD Cand.

aferditanimani@hotmail.com¹

Abstract

Relying on scientific writings and linguistic standard rules , it appears that today students encounter many orthography and spelling problems in Albanian language , because students lack many rules in Albanian language be it in speaking, writing or expressing . These failing, which have their roots in the first learning ever given the phonemes and letters of the alphabet . Their importance in writing , highlighting the phoneme , morpheme formation , changing their form . Since these were not perpetuated or studied properly in the beginning , the consequences are grappling today and our student suffers them , as problematic in the future . And it can not be sure that his writing has reached an orthography and spelling value of unified standard of the Albanian language

Keyword : basic knowledge of phonetics , vowels , consonants and spelling , spelling rules , changing the words

Introduction

The Congress of the Albanian language orthography held on , 1972 in Tirana by eminent representatives and experts from all Albanian territories , has a special historical and language significance. There were set rules and criteria for a unified Albanian language . It was agreed to merging our dialects (Gheg and Tosk) although perhaps not equally , in a single language unique and standard called : unified Albanian language .2

Surely , that this unity of language was and should be necessary and vital . Language , no matter , for which direction or area , it was used , there should be regulations , rules and laws overall everything that is required for life . Language, as an organic part is the only mechanism of human communication and understanding . Conversely speaking through between the language is a very vital and inalienable science. Therefore it is very important and principled , to respect all the principles and rules of a language wherever they are spoken. Fully and rightly so , we have to stop in the first place , in Kosovo .because in the theoretical side all written plans and programs are well designed , and supported by these linguistic principles , but the question is how much are they realized !? Standard Albanian language in particular in Kosovo does not respect as it how should the required language principles or standards. In short , it is surprising , why do not feel it at all , as one apriority , starting from the MEST as the highest scientific body and the State . Neither Inspectorate of Education , whether central or municipal , that should be a permanent scientific and professional supervisor in this field .

They probably are aware, that they carry competences , and supervision. Unfortunately, even in the local environment , as part of the professional language organizing staff in schools , given that the first class of primary school , do not prove such interests , to achieve proper linguistic quality . At this point , the student , for the first time hears his teacher , of what he has to learn or adopt and how perpetuate them more easily , more correctly and in principle which should coincide or necessarily belong to those , as correction : additional normative rules and laws , language , determined , scientifically , professionally and formally , by the nationwide Congress of the unified orthography of Albanian language .

Essential principles and the basis of the standard Albanian language learning

Like all languages, as well as the Albanian language has the alphabet as its basis . The child learns language, without knowing the alphabet. But how can we say that this language is sufficient level of linguistic principles? Therefore , for the retrieved knowledge of the language , at the appropriate level , scientific mechanisms exist in practice , to concretize and provide appropriate required standards of unified Albanian language . In first grade child or student learns letters or

¹ The author is a PhD student at the UET –Tirana and is a teacher of Albanian language and literature, and at the same time is engaged at the college Businessi- Gjakove.

phonemes, so be careful to add to their division vowels and consonants sharing. The union of all these phoneme creates alphabet. The main branch of the language, which deals with the study of these phonemes or letters is: Phonetics. It deals exclusively with voices or sounds of each letter separately. All these phonemes have its own characteristics to be pronounced. It should therefore remain faithful to these principles. Sounds, phonemes, or letters in the base alphabet letters, primarily based on the concrete principles, each phoneme, letter, has its own important characteristics.

.Not only, how is it written, but the aesthetic? Essential part is, how to pronounce it? How is the right pronunciation? How right is its normative emphasis of the sound or phoneme: Is the appropriate level of the pronounced sound? Is it open or closed? What are the bodies or parts of speech apparatus that help or hinder the right speaking of the letter or phoneme? Which letters are vowels, and why are they called vowels? Why say consonants and what interfere with your normal pronunciation? Which body or parts of speech apparatus should engage letter to express it in a more qualitative? The class teacher, here carries a great responsibility. He needs to follow pronunciation principles (laws) of the language. He must, individually act with each student until that letter is convincingly well understood from students. Always the teacher has to be careful when explaining or even when speaking with students. He should pronounce each word in normative principles, as well as explain it. Collaboration with parents, especially in the initial learning with emphasis, on learning of unified native language, is necessary and compulsory

Such precautions, for the student, to be prompted till the last grades of lower secondary school. Is this being achieved? ! Why? Rarely can find a teacher, who has filled in accurately normative standard Albanian language. We can say that even in upper secondary level of education, few signs are, which will testify for Success in proper qualities of this principle language. This deficiency is greatly noticed today, unfortunately, in Kosovo. Unified language here, in large part, does not meet the norms, of the language. This could very well affect university lessons as mandatory classes that are more targeted, as academic teaching in faculties, but how much you can reach it, !? Because doctoral degree is very high scientific title.

So, obviously, how will, a student dare have such irregularity in his native language, whether spoken or written !? Speaking of language in normative aesthetic is a vital need and professional, for all areas of life. A good expert been prepared as scientific intelligent, would be much better when speaking or even when the designing in written in fluent, unified and standard language

What are the causes of this problem?

Reasons and causes of the drawbacks of this problem can be anywhere. But I would apologize to and mentioned the best part: of linguists, journalists or writers, who have excellent skills in their professional directions. But is it worth when they meet and even watch all these irregularities, and still remain silent and not speak out at all, not even for proper correction of these "spelling and writing" whether in electronics, media, learning or in relevant different meetings. Surprisingly, some of these professionals, if speaking unified language, think that the others consider them like feeling proud of themselves. Big mistake! Standard language must be respected, is responsibility of everyone. Even worse, the Gheg dialect, spoken in Kosovo, has three to four types of subdialect used.. So, we either did not like or did not know, that standard Albanian language has also its subsidiaries to be studied. The essential branch of a language is: Phonetics. As a science that deals with the study of different voices, sounds or letters which form the word..It deals with their movements during the analysis and applications, in life generally. Replacement and alternations during the traits of different sounds of words. Changes of phoneme positions or sounds during use.

Grammar is the main branch of linguistics, which covers these subsidiaries: (morphology, syntax) Morphology is the branch of grammar which deals with the wordformation. (Morfologos-word formation) and (syntacsis) art of writing, the order of words in sentences and sentences in the period.

The importance of phonetics in Albanian language

Each of the characters have their own sound. Vowels in unified language, or standard, are written as they are, (fortunately they have been removed, emphasis). While in pronouncing sounds the vowels: a,o,e,ë,i,u,y –differ significantly in speech, as in color, highlighting and pronouncing, as we have: : **i myllur, i ndrydhur, hundak, i zgjatur, i devijuar** etc. In orthography Congress in 1972, derived rules and laws of Albanian unified language. In spoken language, a vowel

phoneme, has only one phonological voice. So without different stresses. example: **a+a+a=a**. There is a word: **katër, çaj, kali, shkalla** etc. So the letter: **a-**, has one sound, one open stress¹.

This also happens with the vowel **ë**, which as a letter that appears different in speaking from stress. The vowel **ë** is a phoneme that in unified language has an important function, in many words it has occupied a place of fonemës **a** (rotation), e.g. the words **nënë(nanë)**, **hënë(hanë)**, means the sound **ë**, is faster and secondary, and comes closer to the sound **a** in pronunciation. This vowel (**ë**) is of particular importance in spelling as: it shows female names of definite and indefinite giving the ending **a**, e **nënë(a)**, **hënë (a)**, **dorë**, **(a)shkollë (a)** etc.. It is used to indicate the plural of many male names, **një profesor – ca profesorë**, a professor - some professors,) **një shkrimtar –shumë shkrimtar** (awriter - some writers, etc) . This phoneme is also used in the natural sex: **plakë (femër)- plak(mashkull** (Granny (female) - oldman (male)). With these female names, as the penultimate vowel is doubled: **plakë-plakë** (granny), **deer-dorë (door)**, **door- dorë(hand)**, **shkollë-shkollë (school)** etc. So even when lengthening its lasts intonation the words in the causative manner².

The subjective and essential absence of phoneme and morpheme orthography

We know that our alphabet was founded in Bitola (Manastire) in 1908, in which it was decided, that the Albanian language has thirty-six letters. Each of them must have its importance which should be used for spelling (orthografi) and pronunciation (ORTHOPIEDIE). Large part of our people adopted this script with all the principles in spelling. Especially in the orthography Congress in Tirana in 1972. Kosovo uses this as well, but surprisingly phonetic and linguistic rules are not much respected, especially in speaking respectively in pronunciation. Here we have the phonemes that belong to different families or groups of letters and they often replace one another, regardless; **example: Ç-Q, and Gj-Xh**, that does not belong to the same family and are used as substitute to each other. When speaking, large parts of Kosovo can not distinguish which phoneme are they pronouncing or perceiving. The consonants: **q** and **d**, are very different, as sounds or phonemes when pronounced: **qumsht** not: **çumsht**, **qen** not **çen**, **çekan** (not **qekan**).. Soft phonemes **q** during pronunciation the tongue as part of speaking apartus, by the two sides makes half the return and lower lip meets in itself, and has a closed and noisy sound, such as: **qeni, qumshti** (dog, milk) etc. Strong **Ç** - is pronunciation almost completely counter, when pronounced the lower jaw of the mouth opens and the tongue withdraws from behind. It has an open stress, example: : **çekani, çanta** (hammer, bag) etc.

Almost the same characteristics (soft -hard) have also phonemes: **gj** and **xh**, but with different place in the alphabet, as well as in speaking. The soft Consonant: **gj**- formed by merging the soft sound: **gj** and joins sonant: **j** and provides: **gj**, these have their place in morpheme: **gjum** (not **xhum**) sleep, **gjarper** (not **xharpër**) snake. While consonant: **xh**, formed by the pretounge **x**, pronounced between the tip of the tongue and the upper jaw and by letter or sound, **h**, gaining letter: **xh**, e.g: **xham** (not **gjam**) (glass), **xhaxha** (not **gjagja**) (uncle) and others. The above mentioned Phonemes, have a special importance for language. because they meet many normatives. There are many other important words, soften more, but still appropriate for the orthography of the words-morphemes, as well as aesthetic spelling, of standard, unified Albanian language³

Phoneme changes to morpheme, during use of traits in time and person

Morphology as a grammar branch studies the formation of words. Here we have some obvious problems in the use of words when they appear in different forms. A form of a word is commonly used by names, adjectives, which during uses changes as well. Tense, has to do with the verb mostly, but also the form that it takes during the use (spelling, writing and pronouncing). Persons of a verb are usually pronouns,

Errors in this respect are very visible, especially in writing. This happens when the suffixes of a word / verb, when used in the wrong place, so it needs special care and dedication, especially when presenting something in writing. e.g : (how to use the verb in its manner, time and person)⁴

¹ Empirical study of Kristo Floqit, with the subject : Ohonetics of Albanian language

² Bahri Beci - „Gramatika e gjuhës shqipe„, Shkodër, 2000

³ Mahir Domi ,, Morfologjia e gjuhës shqipe,,

⁴ Bahri Beci,, Gramatika e gjuhës shqipe,, „CAMAJ-PIPA„, Shkodër, 2000

The perfect tense: Unë punoja, (I Have worked) Ti punoje, (you have worked), Ai punote, (he has worked), Ne punonim (we have worked), Ju punonit, Ata (ato) punonin (they have worked)_(indikative) . Present Tense: Unë punoj- (I work) , Ti punon_(you work-sing.) , Ai-ajo punon. (he/ she works). Ne punojmë, (we work), Ju punoni_(you work- pl) Ata-ato punojnë(they work) (- idicative) Past Simple Tense :Unë punova, (I worked) ,Ti punove, (you worked), Ai-ajo ponoi_(he/she worked), Ne punoam, (we worked), Ju punoat(you worked –pl. Ata(ato)punoan , (they worked)(indic.). Future Tense:Unë të punojt (I will work), Ti të punosh_(you will work), Ai të punojë_(he / she will work) Ne të punojmë_(we will work), Ju të punoni_(you will work-pl) Ata të punojnë, (they will work)_(subjective) ¹

These are some notes which are mostly found with the problems encountered when using them in writing, so, there is require special attention because any error will eventually loses the meaning, The character of our records or data which have a great importance in accurate and fair determination..

Conclusion

Based on the daily problems of the standard Albanian language, during lectures with the students there are some shortcomings noticed on questions about the rules and norms of orthography and pronunciation in Albanian language. I tried, to give them some help through this paper, as the essential basis and principle for the use of letters or phoneme, vowels and their characteristics during use, and some consonants, highlighting a fair way of pronunciation. In Kosovo no importance is given on these matters at all, unfortunately, these are meaningless errors, which are legacies of previous schooling

Literature:

1. Baheri Beci: „Gramatika e gjuhës shqipe,, „CAMAJ-PIPA,, Shkodër,2000
2. Holger Kachelein: Shkrimi akademik (hyrje në shkrimin akademik). Shtëpia botuese albPAPER, Tiranë 2011
3. Kristo Floçi: Fonetika e gjuhës shqipe (skriptë) 1970 –Tiranë
4. Grup autoresh- Kongresi i drejtëshkrimit 1972-Tiranë
5. Mid'bad Shamiq: „Si shkruhet vepra shkencore,, LOGOS-A,2009,Shkup,Prishtinë,Tiranë

¹ Ibidem

European Union Energy Policies and Albania: a path toward a major energy security

Arber Osman Qystri

Abstract

Today, energy represents the main challenge for every country. Given the dynamic and unpredictable form of supply and demand for energy in a global and globalized context, creating long-term policies as well as regional interior is vital to ensure energy security. In this context, the European Union, - as a main global actor- throughout the reform of the energy sector, wants to be on the cutting edge in the use of new technologies and the creation of a single energy market, not only inside the twenty eight member countries. Balkan countries have an important role in this process, which takes place inside the Energy Community. In these conditions, this article aims to analyse the recent transformation on European Union energy policy and provide an analysis of the commitments undertaken by Albania as a member of the Energy Community.

Keywords: energy, global context, long-term policies, European Union energy, Energy Community, Albania energy sector.

1. European Union Energy Policy: toward the implementation of new policies

The European Union is in a critical stage of its energy policy. As the implementation phase of the 20-20-20 targets has already reached its interim point, the 28 member states are now discussing the targets for 2030. However, with an unfinished internal market for gas and electricity and with member states continuing to pursue bilateral energy relationships with supplier countries, the EU is still at the beginning of a common EU energy policy (CEPS, 2014).

The EU is finally accepting that energy is too important to be ignored. Recent years have given us sufficient evidence that energy matters for the economy, for the environment, for social cohesion and solidarity and for local development and municipalities. Citizens care deeply about these areas, and the EU must be seen as addressing them. Energy Union should also be seen – at least from the perspective of the European Commission – as an attempt to infuse a new dynamic into the stuttering energy market and a more complicated climate change debate (S.Kurpas, Ch.Meyer, K. Gialoglou, 2014).

In his mission letter to Arias Cañete, Jean-Claude Juncker asked the designated Commissioner for Climate Action and Energy to focus on further developing EU policy for renewables in order to “be a world leader in this sector” and on promoting the EU Emissions Trading System “to ensure that we reach our climate goals in a cost-effective way”. Furthermore, he would like Alenka Bratušek, the designated Vice-President for Energy Union, to focus on “completing the internal energy market” and on “increasing competition”(F. Genovese, Ch, Egenhofer, 2014).

At the beginning of the year (2014), Energy Commissioner Günther Oettinger said that the European Union wanted strong and stable partnerships with important suppliers such as Russia, but that it must avoid “falling victim to political and commercial blackmail”. He also said that the EU needed to complete the internal energy market, improve the energy infrastructure, become more energy efficient, and better at exploiting its own energy resources. Moreover, the Union needs to accelerate the diversification of external energy suppliers, especially for gas, he said.

In this context, on 23/24 October 2014 the European Council decided on a new set of targets for 2030 by adopting the “2030 Climate and Energy Policy Framework.” This framework includes binding targets for (i) domestically reducing greenhouse gas emissions by 40% until 2030 compared to 1990 and for (ii) increasing the share of renewables to 27%. Finally, there is an indicative target to improve energy efficiency by at least 27% compared to “busi-ness-as-usual” projections of the future energy demand. The framework decided raises several practical questions that need to be addressed in the upcoming legislative process, specifically regarding renewables. The main issues revolve around the need for dedicated support for reaching the renewables target, how to ensure a legally binding character of the EU-target in the absence of binding national commitments and how to share the overall 27% target among individual entities such as single EU member states or groups of EU member states (A. Held, M. Ragwitz, G. Resch, L. Liebmann, F. Genovese, 2014).

2. The Energy Community: the context

The Energy Community is an international organisation dealing with energy policy. The organisation was established by an international treaty in Oct 2005 in Athens, Greece. The Treaty entered into force in Jul 2006. The Treaty establishing the Energy Community brings together the European Union, on one hand, and countries from the South East Europe and Black Sea region. The key aim of the organisation is to extend the EU internal energy market to South East Europe and beyond on the basis of a legally binding framework. Their objectives are to:

- Attract investment in power generation and networks to ensure stable and continuous energy supply that is essential for economic development and social stability;
- Create an integrated energy market allowing for cross-border energy trade and integration with the EU market;
- Enhance the security of supply;
- Improve the environmental situation in relation with energy supply in the region; and
- Enhance competition at regional level and exploit economies of scale.

The Energy Community Treaty provides for the creation of an integrated energy market (electricity and gas) between the European Community and the contracting parties. The members of the Energy Community are the European Community, Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and the United Nations Interim Administration Mission in Kosovo pursuant to United Nations Security Council Resolution 1244. In addition, one or more Member States of the European Union (EU) may participate in the Energy Community at the request of the Ministerial Council. Third countries may be accepted as observers.

The Energy Community *acquis communautaire* comprises the following sectors:

Electricity: The Contracting Parties have committed to implementing the Second Energy Package in 2006 and the Third Energy Package in 2011. The implementation deadline for the Third Package is 1 January 2015. In addition, they have to comply with security of electricity supply rules.

Renewable Energy: Since 2012, the Contracting Parties are implementing the 2009 EU Renewable Energy Directive, including binding national targets for renewables by 2020.

Oil: In the area of oil, the Contracting Parties are implementing the 2009 EU Directive on the minimum stocks of crude oil and/or petroleum products by 1 January 2023.

Competition: The *acquis* on competition rests on three pillars, namely the prohibition of cartels, abuses of a dominant position and State aid.

Gas: As with the electricity *acquis*, the Contracting Parties are implementing the Second Energy Package since 2006 and the Third Energy Package since 2011. The implementation deadline for the Third Package for gas is also 1 January 2015. Security of gas supply rules are also in force.

Energy Efficiency: In the area of energy efficiency, the Contracting Parties implement the EU *acquis* on energy end uses efficiency and energy services; energy performance of buildings, and labeling of the consumption of energy by energy-related products.

Environment: The implementation of rules on industrial emissions from large combustion plants, sulphur content of certain liquid fuels and environmental impact assessment constitute the core of the environment *acquis*.

Statistics: In October 2012, the Ministerial Council decided to extend the *acquis* to include rules on energy statistics

2.1 The Energy Community: energy sector reforms in south-eastern Europe

Most of the countries in the region such as Albania, FYR Macedonia, Montenegro and (partially) Serbia are electricity deficit countries. They are importing electricity and only a few countries in the region have export capacities in place. The lack of transmission capacities has led to high cross-border energy export prices. Some countries in the region still experience power cuts of up to six hours per day. These countries urgently need investments to improve the environmental performance and the efficiency of existent energy generators in order to provide better services to their citizens.

One potential means for increasing energy production in the region is renewable energy. Nearly 30 per cent of the electricity in south-eastern Europe is already generated by hydro but there are other renewable energy sources to be explored. Wind, biomass and solar energy are the emerging new sources of energy. The region has huge benefits to gain by using these sources.

- Key elements of the energy infrastructure were built in the 1960s and 1970s, with standard Eastern Bloc technology.
- Much of the energy infrastructure was damaged during the conflicts related to the break-up of the former Yugoslavia in the 1990s.
- The Balkans are strategically located between hydrocarbon-rich regions (Russia, the Caspian basin and the Middle East) and key energy-consuming regions of western and central Europe.
- All Balkan markets depend heavily on hydrocarbons imported from outside the region.
- Households represent the largest share of electricity consumption in most countries in the Western Balkans.
- Oil and gas production in the Balkans is limited. Oil reserves are located mainly in Romania and some in Albania, whereas gas is mostly located in Croatia and Romania.
- Coal (mostly lignite) dominates the primary energy supply in the Western Balkans.
- The Balkan region is 2.5 times more energy intensive than the average for OECD Europe.

2.2 The Energy Community: Albania holds the function of the Energy Community Presidency in Office from Jan to Dec 2015

Minister of Energy and Industry of Albania, Damian Gjoknuri, attended the 12th session of the Ministerial Council of the member countries of the Energy Community which took place in Kiev. Gjoknuri presented the priorities of the Albanian Presidency and the main objectives:

-treaty reform

Albania's utmost priority will be the reform of the Energy Community and bringing to life the recommendations proposed to improve the functioning of the Community, not only by the High Level Reflection Group. This will be a demanding process, including a public discussion of all the reform proposals, followed by legal drafting of Treaty amendments and, hopefully, their successful adoption at the next Ministerial Council in Albania in autumn 2015. It will be the time of creation of a new Energy Union.

-Third package

Of course, our second priority will be the implementation of the Third Energy Package. While achieving this task will not be an easy one, it is the prerequisite for a stable and coherent regulatory framework as the foundation for an integrated European energy market, which ensures effective competition and empowers consumers.

-new acquis

Policies that ensure secure, competitive and sustainable energy supply are at the top of our agenda. This is why our third priority will be the adoption of new acquis, which will help us address the many challenges we are facing today. This includes Regulation 994/2010 on security of gas supply; Regulation 347/2013 on energy infrastructure, Regulation 543/2013 on transparency on electricity markets; the Energy Efficiency Directive and the first set of network codes.

- Investments

-active participation in the creation of Southern Gas Corridor with the TAP project having the leading role in i.e. very much look forward to working on all these challenging issues with each and every one of you.

3. Energy priority: Southern Gas Corridor

The Southern Gas Corridor is a major component of EU energy policy. TAP's role in realising that vision will not only provide economic benefits. It will also ensure that one of the continent's vital energy routes remains viable for decades to come.

TAP's design offers various connection options to a number of existing and proposed pipelines along its route. This would enable the possible delivery of Caspian gas to destinations throughout Europe:

- TAP will connect to the Italian natural gas grid operated by Snam Rete Gas, from which all Italian gas exit points to European destinations can be reached.
- Austria and Central Europe: natural gas transported via TAP can reach the Central European gas hub in Baumgarten, Austria via the Trans Austria Gas (TAG) pipeline, using swaps and reverse flow.
- Germany and France via Switzerland: using reverse flow through the Transgas pipeline.
- United Kingdom: grid operators Snam Rete Gas and Fluxys have agreed to develop physical reverse flow capabilities between Italy and the UK by interconnecting the gas markets of Italy, Switzerland, Germany, the Netherlands and Belgium, enabling Caspian gas to reach the UK.
- Bulgaria: TAP can provide a new source of gas by linking to existing and planned pipeline infrastructure, including reverse flow through an interconnector to the Kula-Sidirokastro line, and/or a proposed connection with the planned Interconnector Greece Bulgaria (IGB) pipeline.
- South East Europe: Caspian gas could be flowing to growing markets in the Balkans and South East Europe that are currently dependent on a single gas supplier. TAP is cooperating with the developers of the planned Ionian Adriatic Pipeline (IAP) to discuss connection possibilities to markets without gas in Southern Croatia, Albania, Montenegro, and Bosnia and Herzegovina.

4. Conclusions

The events of recent years in terms of issues related to energy have shown that the future will be uncertain if measures and long-term policies are not taken by now. These policies should take into account recent developments and have a more analytical approach and less political, or more political will towards investment in new technologies and less rhetorical. Now, it seems that the European Union has undertaken the right path and the new approach the Commissioner of the European Union shows this. Raising energy policies in the range of European Energy Union demonstrates that there is willingness to change. In this context, the Balkan countries remain on alert. Their involvement in the energy community shows the readiness of the European Union to direct and integrate them following the new path. Albania, of course, has an important role in the Balkans, and this year it has the weight of the energy community presidency. Developments within the country and commitments made in the framework of energy community shows its readiness to be part of the transformation processes of the European Union.

Bibliography

Ch. Egenhofer & F.Genovese : Making the most of Energy Union. 'CEPS', 12, 2014.

A. Held & M. Ragwitz : Implementing the EU 2030 Climate and Energy Framework – a closer look at renewables and opportunities for an Energy Union. 'CEPS', 12, 2014.

F. Genovese & Ch. Egenhofer : Juncker's Mission to the New Energy Team: Avoiding the hard choices. 'CEPS', 12, 2014.

European Commission, 2013: Sustainable, secure and affordable energy for Europeans

IEA, 2014: World Energy Outlook 2014

Energy Community, 2014: Annual report on the activities of the energy community 2014

Websites

<http://www.ceps.eu/>

<http://www.euractiv.com/>

<http://europa.eu/>

<http://www.iea.org>

The penetration of foreings in the terminology of some vital areas in Albania and Kosovo

MA. sc. Shpresa Dorda

Specialists of Curricula into Educational
Regional Directory of Tirana (Ph.D. Candidate)
shpresa.dorda@yahoo.com

Dr. sc. Sindorela DOLI - KRYEZIU

Lecturer at the University of Gjakova,
Prizren and Pristina
sindidol@yahoo.com

MA. Sc. Gentian Muhaxhiri

Lecturer at the University of Gjakova
(Ph.D. Candidate)
gentianamuhaxhiri@hotmail.com

Abstract

Albanian language in its current shape is conditioned by historical factors, social, economic, political, and by internal factors of its development. An important direction of development of language is dealing with borrowings, once they benefited from this mutual enrichment between languages in contact, the times words are superimposed where the consequences are evident in the course of development of the host language. Even the Albanian language has a similar approach as both in Albania and Kosovo. Her relationship with neighboring languages, and not only with them, have made her face be the result and reflection of this phenomenon. The trend/tendence of recent years of Albanian people using foreign words as a result of political and social factors we have observed in Albania and Kosovo. Languages of which we have received most borrowings word are mainly from two countries English, Italian and less from French. Foreign words penetrated many vital aspects of the Albanians people life and in two countries. Given the fact of the establishment of linguistic culture , social, historical , we become aware that the development of technology, many expressions and borrowings have entered our daily lexicon , because , at the moment we have not made any our discovery and we don't have any real name to put to these objects . Even in various fields of science and technology are added borrowings, where the object or phenomenon introduced, along with the name of the language of the country that invented or issue. To further we have selected some areas terminology, such as administrative and legal terminology, language terminology, culinary, sports, information and technology. Examples of borrowings that we received from each area have given the sentence to get a context where there are used, except linguistic terminology for which we did not see it reasonable to give examples in sentences , since the paper work is in this area and only the term is sufficient.

Keywords: penetration, foreings, terminology, Albania, Kosovo

Administrative - legal terminology

The material of collecting foreign words, belonging to administrative, legal terminology is made of the Criminal Code (Kodi Penal) - The updated with judicial practice (I perditësuar me praktike gjuhesore), Tirana 2009, Civil Code (Kodi Civil) , Tirana 2010, The Code of Administrative Procedure (Kodi i procedurës administrative), Tirana 2009, The Code of Civil Procedure , Tirana 2007 , The Code of Criminal Procedure (Kodi i procedurës penale) , Family Code (Kodi i familjes) and legislation on adoption .

Below we have given foreign words into the sentence, so we can take the meaning which they broadcast.

Examples:

- International agreements **ratified** by the Albanian state (Marrëveshje ndërkombëtare të **ratifikuar** nga shteti shqiptar).
- When the offense committed under the **effect of narcotics** (Kur vepra penale kryhet nën **efektin** e narkotikëve).
- The prosecutor asks the court to replace them with another **sanction** (Prokurori i kërkon gjykatës zëvendësimin e tyre me një **sanksion** tjetër).
- Obstructing or concealment of **correspondence** (Pengimi ose fshehja e **correspondences**)
- **Consists** in creating unfair privileges (**Konsiston** në krijimin e **privilegjeve** të padrejta).
- To create unfair **privileges** to third parties (Për të krijuar dhe **privilegje** të padrejta për të tretët).
- When these claims related to the start **pretence** (Kur këto të fundit kanë lidhje me **pretendimet** e fillimit).
- Can extend the deadline decision which is not **preclusive** (Mund të zgjasë me vendim afatin që nuk është **prekluziv**).
- Without court permission and without being **evident** in the file (Pa lejen e gjykatës dhe pa qenë të **evidentuara** në dosje).
- Without disclosing the person who is credited **false** (Pa treguar personin të cilit i **atribuohet falsiteti**).
- The chairman of the appellate court determines **reporter** of the case and the day of judgment (Kryetari i gjykatës së apelit cakton **relatorin** e çështjes dhe ditën e gjykimin).
- When the chairman **consist on** that it is not competent to put in execution request (Kur përmbaruesi gjyqësor **konstaton** se nuk është kompetent për të vënë në ekzekutim kërkesën).
- The buyer called the bidder that has **offered** the highest price (Blerësi quhet **ofertuesi** që ka dhënë çmimin më të lartë).
- Because of preference by other tasks, the **execution** order is returned to the **creditor** (Për shkak **preference** nga detyrime të tjera, urdhri i **ekzekutimit** i kthehet **kreditorit**).
- They have a right to be **compensated** for losses based on legal provisions (Kanë të drejtë të **kompensohen** për humbjet **eventuale** në bazë të dispozitave ligjore).
- It should respect the principle of **proportionality** (Duhet të respektojë parimin e **proporcionalitetit**).
- The purpose of asking to be realized with less **repressive** measures without **compromising** their **effectiveness** (Qëllimi i kërkuar të realizohet me masa sa më pak **represive**, pa **kompromentuar efektivitetin** e tyre).
- Put the **destination** of property that remains after its dissolution (Vendos për **destinimin** e pasurisë që mbetet pas shpërndarjes së saj).
- The day when awarding appropriate by the court or **arbitration** who was born lawsuit **regression** (Dita kur është dhënë vendimi i gjykatës ose **arbitrazhi** përkatës nga i cili ka lindur padia e **regresit**).
- Prediction of discontinued against one **solidary debtors** (Parashikimi i ndërprerë kundër njërit prej **debitorëve solidarë**).
- When a right may be exercised within a **preclusive** (Kur një e drejtë mund të ushtrohet brenda një afati **prekluziv**).
- Ownership of **abandoned** movable thing and equipment (Pronësia mbi sendet e luajtshme të **abandonuara**).
- Specify that in **proportion** to the benefits derived from it to build and maintain other means (Detyrohet që në **proporcion** me përfitimin që nxirret prej tij të ndërtoj edhe mirëmbajtje mjetet e tjera).
- The things can't be below average **quality** (Sendi nuk mund të jetë nën **kualitetin** mesatar).
- **Conversion** should be made at the official rate (**Konvertimi** duhet të bëhet me kursin zyrtar).
- In addition to sue **possessory** can exercise the claim of the **recovery** (Përveç padisë **posedimore** mund të ushtrojë edhe padinë e **rivendikimit**).

- The warranty ineligible for **evinksion** if not proves that there is sufficient reason to stop taking the thing (E Humb të drejtën e garancisë për **evinksion** në qoftë së nuk provon se nuk ekziston arsye e mjaftueshme për të penguar marrjen e sendit).
- The use of the property to another **destination** (Të përdorë sendin në një **destinacion** tjetër).
- **Respect** and mutual understanding, as the basis of unity in the **family** (Respekti dhe mirëkuptimi **reciprok**, si baza e unitetit në familje).
- There are entitled to **regress** to the other spouse for the obligation to repay on his behalf. (Ka të drejtën e **regresit** ndaj bashkëshortit tjetër për pjesën e detyrimit të shlyer për llogari të tij).
- In the absence of proof to the contrary is **presumed** that makes movable property participate in community (Në mungesë të provave të kundërta **presumohet** se pasuria e luajtshme bën pjesë në bashkësi).
- Every **clause** of the **contract** is void if compels them (Çdo **klauzolë** e kontratës është e pavlefshme nëse detyron bashkëshortit).
- Being **related** to the **abusiv** exercise of parental responsibility (Janë të lidhura me ushtrimin **abuziv** të përgjegjësisë prindërore).
- **Confirmation** that the child was not able to adopted (**Konfirmimin** se i mituri nuk ka patur mundësi të birësohet).
- Adoption is **irrevocable** (Birësimi është i **parevokueshëm**).
- Public and legacies **donations** (Trashëgimitë dhe **donacionet** publike).
- Specify to protect the **confidentiality** and reliability (Detyrohet të ruajnë **konfidencialitetin** dhe besueshmërinë).
- They expressed or **evidenced** it in writing (Kanë shprehur ose **evidentuar** atë me shkrim).
- The **interests** of children are a **primary** consideration (Interesat e fëmijëve janë të një rëndësie **prioritare**).
- **Information** about the **background** (Informacion në lidhje me **backgroundin**).
- No security, **obligation** or deposit can't ask for costs of guarantees payment (Asnjë siguracion, **obligacion** apo depozitë nuk mund të kërkojë garanci pagesë kostosh).
- Children victim of **potential** trafficking (Fëmijë viktimë **potenciale** e trafikimit).
- Provision that prescribing the **confiscation** of all objects (Dispozita që paracaktajnë **konfiskimin** e të gjitha objekteve).
- Developing standards for fair and **efficient** collection of information (Hartimin e standardeve për mbledhjen e rregullt dhe **eficente** të informacionit).
- The **existence** of a **fact** can not be inferred from the **indications** except when these are important (Ekzistenca e një fakti nuk mund të nxirret nga **indikjet** përveçse kur këto janë të rëndësishme).
- During the interview the witness makes **contradictory** statements (Gjatë pyetjes dëshmitari bën thënie **kontradiktore**).
- **Infiltration** deadline may be extended by prosecutor (Afat i **infiltrimit** mund të zgjatet nga prokurori).
- Defenders of who have **assisted** in making their choice (Mbrojtësit e të cilëve kanë **asistuar** në marrjen e tyre).
- The witness may make inquiries into **distance** (Dëshmitari mund t'i bëjë pyetjet në **distance**).

The convict shall be subject **persecutory** or **discriminatory acts** (I dënuari do t'u nënshtrohet akteve **presekutuese** ose **diskriminuese**)

Linguistic terminology

We get linguistic terms from the "Glossary terms of linguistics" (Fjalor me terma gjuhësor), Tirana 2011, from the authors Giovanni Belluscio and Shezai Rokaj. Since the Albanian language has a dictionary like this we decided to take some terms to be presented as examples of terms in this field.

Egexamples:

- *adverbalizim – ndajfoljezim (adverbial)*
- *afiks – ndajshitesë (affix)*
- *aglutinim – përngjitje (agglutination)*
- *aklimatizim – përshtatje (naturalization)*
- *akordim – bashkëpërshtatje (accordance)*
- *areal – hapësirë (area)*
- *infiks – brendashtesë (infix)*
- *inkorporim – brendatrupësim (incorporation)*
- *eufoni – bukurtingëllim (euphony)*
- *kakofoni – keqtingëllim (cacophony)*
- *kolofoni – shënim i botuesit (colophony)*
- *cross-over – kapërcim i kryqëzuar (cross-over)*
- *deiks – tregor (index)*
- *deverbativ – prejfoljor (deverbation)*
- *diminutiv-zvogëlues (diminutive)*
- *ekuativ – shkallë krahasore e barazisë (equality)*
- *gradual – shkallëzuar (gradual)*
- *gutural – grykor (guttural)*
- *gjeneroj – prodhoj, (generate)*
- *iterative – përsëritës (iterative)*
- *koaleshencë – shkrimje tinguish (coalescence)*
- *konversion – shndërrim (conversion)*
- *kakuminal – kulmor (culmination)*
- *antecedent – paraprirës (preceding)*
- *kontrastiv – përqsasës (contrastive)*
- *ridondancë – fjalëtepri (wordiness)*
- *singularizuar – njëjësuar (singularized)*
- *translacion – zhvendosje¹ (translation)*

Culinary terminology

As source material for the collection of material culinary we have got two books, "The art of patisserie"(Arti i psticerise) Kosta Koci, Tirana 2005, and "The art of cooking" (Arti i gatimit) Vangjel Kullaj, Mico Garuli, Tirana 1998, as well as programs on the basis of which are delicious cookies.

Egexamples:

¹ Giovanni Belluscio, Shezai Rrokaj, *Fjalor me terma të gjuhësisë*, Tiranë 2011

- Butter, softened by heat in the **banjo – mari** (Gjalpi zbutet duke u ngrohur në **banjo – mari**).
- There are many methods for the **conservation** of meat (.Për **konservimin** e mishit ka shumë metoda).
- ... the **extractive** that melt during cooking ... (**ekstraktive** që shkrihen gjatë zierjes..).
- Heat proof... (**Gradacionet** e nxehtësisë...)
- We will list the flavors before we **serve** them (Kur i **servim**, i radhisim me shije në pjatancë).
- We can get out 2 liters of **concentrated** juice (...mund të nxjerrim 2 litra lëng të **koncentruar**).
- Boil **spaghetti** as usually. Instead of cheese we put on chopped heavy **putargë**. (...ziejmë si zakonisht **spagetat**. Në vend të djathit hedhim **putargë** të grirë në rende).
- fill in **cannelloni** ... (...mbushim **kanelonit**...).
- Cooking **Raviola** ... will take long time (Gatimi i **ravioleve**... do shumë kohë).
- Boil **Lasagne** with salt water (**Llazanjet** i ziejmë me ujë e me kripë).
- The **beshamel** sauces need to be good clotted (...të jetë mpiksur mirë salca **beshamel**).
- **Parmandie Omelet (Omëletë parmandie)**.
- Eggs filled **shemej** (Vezë të mbushura **shemej**).
- **Vellute** dressing (Salcë **vellute**).
- **Ravigot** dressing (Salcë **ravigot**).
- **Remullade** dressing (Salcë **remullade**).
- **Smetana Russian** dressing (Salcë ruse me **smetanë**).
- **Mornej** dressing (Salcë **mornej**).
- **Pikadili** dressing (Salcë **pikadili**).
- Fruits should be used of first **quality** (Frutat që do të përdoren duhet të jenë të **kualitetit** të parë).
- These sauces serves **butinga, Charlotte, croceta** (Këto salca shërbejnë për **butinga, sharlotë, kroketa**)
- Added vanilla syrup, puree, lemon juice, **kirsku** and mix well (Shtohet në shurup vanilje, pureja, lëngu i limonit, **kirsku** dhe përzihen mirë).
- It would be better for them to be **conservate** in terms of home (Do ishte më mirë që ato të **konservoreshin** në kushtet e shtëpisë).
- The best is to fight fruits in metal container stainless steel or **enamelled** vessel (E mira është të zihen frutat në enë metalike prej çeliku të paoksidueshëm ose në enë të **emaluara**).
- Apple dressing **Prevede (Prevede** mollësh).
- Fruit **Jam (Xhem** frutash).
- **Zhelëja** with **agar-agar** is better than the gelatin (**Zhelëja** me **agar-agar** është më e mirë sesa me xhelatinë).
- **Ekler** pasta processing presents different variations (Përpunimi i pastave **ekler** paraqet variacione të ndryshme).
- **Tart** and **tartaletat (Tartat** dhe **tartaletat**).
- **Savaren, brushë (Savaren, brushë)**.
- Fruit **Rag (Zhele** frutash).
- **Milfej (Milfëj)**.
- **Shu** filled with praline cream (**Shu** i mbushur me krem **pralinë**).

- **Kandigjibek** (*Kandigjibek*).
- **Kulture** with oranges (*Kulture* me portokalle).
- **Charlotta** apple (*Sharlot* molle).
- Apple **souffle** (*Sufle* me mollë).
- Different **Tortaletes** (*Tortaletë* të ndryshme).
- **Carina** Oranges (Portokalle të *carinës*).
- **Almina, Carmen, Muritanie** Pears (Dardha *almina, karmen, muritanie*).
- **Santigji** Cream (Krem *santigji*)

Sports terminology

For sports terminology we have selected "Panorama" newspaper ,different days and sports television shows. Some examples of terms that belong to this area are:

- Pirlo **refuses** Milan (Pirlo *refuzon* Milanin).
- **Renovate** with Juventus (*Rinovoj* me Juventusin).
- I have been **contacted**, but I have a contract (Më kanë *kontaktuar*, por kam kontratë...).
- The Reds look more **advantageous** (Të kuqtë duken më të *avantazhuar*).
- To **intensify** talks with the player (...të *intensifikojnë* bisedimet me lojtarin).
- For his **transfer** to Partizan (Për *tranferimin* e tij tek Partizani...).
- Remains to be seen how many will continue this **resistance** (...mbetet për t'u parë sa do të vazhdojë kjo *rezistencë*...).
- Will be at evacuees **contingent** (... do të jetë në *kontigjentin* e të larguarve).
- There are Tirana two objectives for winter **merkaton** (.. janë dy objektivat e Tiranës për *merkaton* e dimrit).
- Lika **confirmed** that there have been contacts (Lika *konfirmoi* se ka patur kontakte).
- Magani projects removals and **avoids** interference (Magani projektton largime dhe *eviton* ndërhyrje).
- The process will be open and **transparent** (procesi do të jetë i hapur dhe *transparent*).
- Muçollari was not in **optimal condition** (..Muçollari nuk ishte në *kondicion optimal*).
- To be more **complete** in the second half (...të jemi më të *kompletuar* në pjesën e dytë).
- I expect the preparatory **destination** phase (Po presin *destinacionin* e fazës përgatitore...).
- Have made **immediate** entry of leaders in merkato (...kanë bërë *immediate* futjen e drejtuesve në merkato).
- France is qualified in every **competition** (Franca kualifikohet në çdo *kompeticion*).
- All have **boycotted** training (të gjithë e kanë *bojkotuar* stërvitjen).
- We had placed an unspecified **premium** (... kishin vendosur një *premio* të papërcaktuar..).
- Will probably **start** on January 6 (..do të *startojnë* me datë 6 janar).
- **Treatatives** to bring **quality** players (.. *tratativat* për të afruar lojtarë *kualitativë*).
- With a **predominance** of the losses columns (... me një *dominancë* nga kolonat e humbjeve).
- The teams are composed of **amateur** players (...skuadrat kanë në përbërje lojtarë *amatorë*).

- To activate the **formation** firstly to Dinamo (duke e aktivizuar në **formacionin** e parë të Dinamos).
- There was not much time available to **consolidate** the team ("... nuk pati shumë kohë në dispozicion për të **kolauduar** skuadrën..).
- **Negotiate** with the Celsi, but I want to stay (**Negocioj** me Çelësin, por dua të qëndroj).
- Two strongest **offensive** forces of the championship (...dy forcat **ofensive** më të fortat e kampionatit....)
- **Recovered** after knee fissure (...i **rikuperuar** pas çarjes në gjuo)
- To support team without **reservation** (...e mbështesim skuadrën pa **rezerva**).
- Given the **performance** of kosovar talent (duke u nisur nga **performanca** e talentit kosovar).

Information -Technology terminology

Foreign Words in the field of information technology terminology have been selected from two textbooks ,from secondary education, namely "Informatica 8" and "Informatic" the authors Lediana Bardhi and Anduela Lile. Since the number of foreign words for each sentence is the minimum 2, there are select to distinguish, since it would have to underline about the whole sentence. The words in bold are unchangeable in many different languages as well as in Albania language too.

- **Boot-In** Instructions have a limited memory **chip ROM**, so generally are written in **assembler**.
- Data are stored on the **hard- drive** in the computer
- It includes a **Desktop** background-in a screen background in a **screen saver** .
- Click **Personalize**.
- **Start** Menu operates as a management center .
- It is valid to the **Start** menu as well as for the **Taskbar**.
- This procedure does not remove the program from the **All Programs** list and don't uninstalls the program.
- Thumbtack serves to place a document in the **Start** menu
- name "**Picture Tools**" appears at the beginning of ribbon after we entered and selected a painting
- Click the **Office** button and insert the option **Save as**
- When inserting an image into a workbook in **Excel** , formatting tab of the image displayed a ribbon
- Click the button Cut to **Clipboard** group.
- **Word** removes the selected text and places it in the **clipboard**
- Choose **Page Layout** tab .
- Space "**default**" appears fields "**Space Before**" and "**Space After**" in **Paragraph** group
- **Smart Art** Graphics - different diagram
- In Ribbon adding two temporary tan-of **Desing** and **Layout**, under the label **Table Tools**
- You can delete using the **Backspace** or **Delete**
- To delete columns click **Delete Sheet Columns**
- Commands **Cut, Copy and Paste** are executed in the same way as in **Word**
- The **Insert** tab, **Charts** group select the type of schedule that suits your purpose,
- Navigate between the pages by clicking the buttons **Next Page** and **Previous Page**
- In the menu **Customize Quick Access Toolbar** "select the option" **Show Below the Ribbon**

- Click the tab **Layout Rows** and **Columns** group, and select **Insert Right**
- **Save** in box displayed folder in the **My Documents**
- Commands in groups **Alignment**, **Number** and **Style** are gray, so inactivated
- in **Desing** tab, **Data** group, click **Switch Row Column**
- the display panel double click **Blank Document**
- images **Clip Art in Word**
- You can change its style by commands **Bold and Italic**
- Select **Word Art** clicking once
- In the **Format** tab, **Text** group, click Edit Text
- You can add a total row in table contact, which provides access to some functions, such as: **Avarage**, **Count**, **Sum**, etc.
- in the first group **Desing** tab, **Properties**, in the table name field, enter the name of your table
- **PowerPoint** is part of the **Office** , a package of products that combines different types of software
- to open **Power Point**-in click the **Start** button and the folder in **Microsoft Office** find and click the program **Microsoft Office Power Point 2007**
- Click **Power Point Presentation** to maintain pptx presentation format," default "program **Power Point**", "page work called **slide**
- **Office** button opens the menu that contains commands related to the presentation as a whole, as **New**, **Open**, **Save**, **Print**, etc.
- Click the **Delete** button in the group **Slide tab Home**
- The group **Background**, **Desing** tab, click **Background Styles**
- All of the above formatting achieved through dialog **"Bullets and Numbering**
- Click **Costumize Bulleted** tab, open the **Symbol** dialog,
- Other objects that you can insert the areas of operation include tables, graphs, diagrams **Smart Art**, **Clipart** and video
- Each of these items varies depending selection in the options menu **Aling Slide** and **Aling Selected Objects**
- Many **SmartArt** diagrams you come prepared with special effects animation
- opens the **Custom Animation** task bar. Notice the buttons are not enabled. Select the text. **Add Effect** button activated
- **Handouts**, this option prints some **slide** on a page.

Bibliography

Gazeta, "Panorama sport", 26 dhjetor 2013, Tiranë

Gazeta, "Panorama", 25 dhjetor 2013, Tiranë

Kodi penal – I përditësuar me praktikë gjyqësore, Tiranë 200

Kodi civil, Tiranë 2010, *Kodi i procedurës administrative*, Tiranë 2009

Kodi i procedurës civile, Tiranë 2007

Kodi i procedurës penale, Tiranë 2012

Kodi i familjes dhe legjislacioni për birësimet, Tiranë 2007

Giovanni Belluscio, Shezai Rrokaj, *Fjalor me tema të gjuhësisë*, Tiranë 2011.

Lediana Bardhi, Anduela Lile, *Informatika 8*, Tiranë 2012

Lediana Bardhi, Anduela Lile, *Informatika 9*, Tiranë 2012

Vangjel Kullaj, Miço Garuli, *Arti i të gatuarit*, Tiranë 1998

Kosta Koçi, *Arti i pastërisë*, Tiranë 2005

A Discussion on Sovereignty through World Society Concept

Dorina Ndoj, PhD. Cand.

European University of Tirana

dndoj1@uet.edu.al

Abstract

Nowdays sovereignty is a very intensely contested and controversial concept. The changes in international realm had an increasing impact upon the sovereignty of states. For more than two decades scholars have shown a growing interest to address the emerging challenges to sovereignty concept. After all, the question about how could genuinely be possible to respond to challenges toward sovereignty is still vibrant. This paper aims to discuss the challenges to state sovereignty within the English School Theory, particularly focusing in the debate between society of states and world society concepts. The main English School paradigm argues that society of states is the most effective social construction that promotes friendly coexistence between political communities, and therefore its main principles are already worldwide accepted. New events on international realm, such as humanitarian interventions, globalization and the growth of the international institutions and organizations, have affect the activity of the society of states, which is mainly based on respect for the principle of sovereign equality. Contemporary theorists of the English School have responded to challenges to state-centrism through the concept of world society, which emphasizes the importance of individual and transnational actors in world politics. The thesis of this paper argues that there is an overlapping between society of states and world society caused by impact these changes has on the sovereignty of states. In order to address the challenges to sovereignty, the paper seeks to provide a new theoretical framework through world society concept to a better explanation the current international practice and the need to redefine sovereignty. World Society is very helpful concept in addressing the issues of human rights agenda, globalization, non-state actors and deterritorialization, which have undeniable impact on sovereignty of state.

Keywords: Sovereignty, Society of States, World Society, Globalization, Non-state Actors, Humanitarian Interventions.

Introduction

The principle of sovereignty has defined contemporary understanding of international relations. Since the Treaty of Westphalia it has remained the primary and overriding principle upon the organisation of the modern world has been based (Held & McGrew, 2002:11). It recognizes states as key and autonomous actors of international relations. Sovereignty entitles states to independence in their internal affairs. It is because it has served as such a fundamental principle upon which the modern world is organised that recent questioning of state sovereignty, both as a legal principle and a normative claim, has caused such controversy within academic and foreign policy debates (Barkin & Cronin, 1994: 107-130). In recent decades the concept has been changed by various sources, so nowadays sovereignty is a highly contested and intensely controversial concept. The changes in international realm had an increasing impact upon the sovereignty of states. New events, such as humanitarian interventions, globalization and the growth of the international institutions and organizations, have challenged the traditional sovereignty. Sorensen suggests that "processes of globalisation making the world hang closer together; humanitarian intervention in weak states and attempts to create democracy and human rights on a global scale; new forms of intense co-operation in Europe and fresh attempts at regional integration elsewhere; the emergence of a large number of newly independent states; all these developments have helped spark new considerations about the possible implications for sovereignty" (Sorensen, 1999:590-604).

For more than two decades scholars have shown a growing interest to address the emerging challenges to sovereignty concept. However the question about how could be possible to respond genuinely challenges to sovereignty is still vibrant. Furthermore, taking into account the new world dynamics it is undeniable not thinking about its re-conceptualization. Addressing the main challenges to sovereignty this paper aims to conceptualize an answer on how it could be possible to explain the changing nature of state sovereignty. This paper discusses the challenges to state sovereignty within the theoretical framework of the English School Theory, particularly focusing in the debate between society of states and world

society concepts. It seeks to provide a better explain to the current international realm and the need to redefine the traditional notion of sovereignty by introducing a new concept such as world society.

Discussing the Concept of Sovereignty within the English School Theory

The English School Theory has developed the idea that society of states [international society] is the most effective social construction throughout human history that promotes coexistence between political communities based on mutual respect to sovereignty. The concept of society of states is the most developed concept within the English School Theory. "A society of states (or international society) exists when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions" (Bull, 2002). Society of states is an expression of socialization of states in the international arena. Socialization means the existence of certain principles and institutions, inter-subjectively accepted, that serve to conduct relations between states. It is the principle of sovereignty that leads to the socialization of states. States respect each other claims for independence that means a state or a governing body has the full right and power to govern itself without interference from outside sources or bodies. At the same time, they collaborate to build common institutions and share common interests. Bull argues that the society of states assumes relationship in conditions of anarchy, that means the lack of an supreme authority over the states. Relations in a society of states are organized on the basis of three principles: (a) sovereignty; (b) reciprocity; (c) the balance of power (Bull, 2002:52). Whilst the Society of States has gained a continuous growing interest, the concept of world society has been one of the most neglected concepts within the English School Theory. "World Society is most problematic features within the theoretical framework of the English School" (Little, 2000:411). According to Buzan "world society is understood in terms of individuals, non-state actors or organizations and global population as the focus of global agreements and social identities" (2004:07). The idea of world society emphasizes the individual and transnational element.

The English School is often understood to be split into main wings: the pluralist and the solidarist. The pluralists argue that the essence of society of states is the preservation of international order, which itself maintain the sovereignty of member states. In general, pluralists oppose engagement in matters of human rights, interference in the internal state affairs and interest in individual and transnational terms considering as a violation of state sovereignty and therefore violation of the international order provided by the society of states. They support the activities of society of states focused on a minimal set of issues, which only guarantees the functional aspect of the society of states. It is all about the principles of sovereignty and non-interference, which makes possible the existence of international order. The solidarists claims that society of states should do more to promote human rights. According to them the international community is responsible to intervene when states fail to fulfill their responsibilities in the preservation of their citizens human rights. In solidarist perspective society of states's engagement should be expanded in a wider number of norms, rules and institutions, which reinforces international order and their commitment to promote and protect human rights.

New events, such as humanitarian interventions, globalization and the growth of the international institutions and organizations, have challenged the traditional sovereignty and had an increasing impact upon the state international engagement. The debate between pluralists and solidarist represents the convenient theoretical framework to incorporate the relationship between international society and world society and thus the issues challenging the concept of sovereignty. The society of states is experiencing a growing solidarity between states, not only in areas where states have traditionally cooperated, but also about issues that are regarded to undermine traditional sovereignty. The focus on individual unit through an intensive discourse on human rights and transnational agents provides evidence of a *de facto* world society. Thus world society should not be seen as undermining the existence of the society of states, cause states continue to exist and to enjoy the legitimate right to govern, but the society of states already moved towards a more solidarist side, where the focus of international society is not only an orderly coexistence and competition, but also collaboration on a scale of norms, rules and institutions shared between states. As researcher Thomas Hall presentes "Sovereignty should be reinterpreted as being conditional upon states acting responsibly to ensure the human rights and well-being of their citizens. Furthermore, given that in reality, decisions are made at levels above and below the state, sovereignty, and the legitimate right to rule should be dispersed to those levels" (Thomas, 2004:02). In order to explain the need for sovereignty reconceptualization this paper analyzes some of the issues that challenged the concept through lens of world society. The

concept of world society provides arguments to support the thesis that society of states is moving towards a world society, where the latter does not threaten the first, but expands the scope of its activity. This means that state unit is still existent, but sovereignty definition has undergone changes. To elaborate these arguments the following parts cover the issues of humanitarian intervention and human rights, as well as economic relations and virtual territoriality.

Human Rights and Humanitarian Interventions

The issue of humanitarian intervention addresses one of the most widely examined phenomena under the umbrella of the concept of world society, focusing on the human rights pressure on changing the principle of sovereignty. In early 1990s through so-called humanitarian intervention the society of states used military force on a number of occasions to stop systematic and widespread human rights violation. Humanitarian intervention means the use of force by a state, group of states or an international organization with the specific aim to prevent or reduce the massive suffering and death of human beings (Evans & Newnham, 1998:231). After the Cold War, the issue of humanitarian interventions has become part of the discourse and the international agenda. Humanitarian interventions have raised many discussions and doubts about their legitimacy. Despite the success or failure of these interventions, they have caused debate and contradictory attitudes towards them. The dominant discourse was that interventions aimed to protect human rights have violated the sovereignty of states. Thus humanitarian interventions are considered as an attempt to disregard the principle of sovereignty. These issues have been addressed focusing on the debate between pluralists and solidarists within the English School Theory. The two approaches offer different explanations. Pluralist approach opposes the practice of humanitarian intervention because it regards as a violation of state sovereignty where intervene had occurred and as well as a violation of the international order of society of states. Interventions practice goes beyond the principles on which is based society of states. According to them states agree to cooperate only on a minimum of purposes, mainly mutual recognition of sovereignty and the principle of non-interference in the internal affairs of a state. The core of the society of states according pluralist approach is the preservation of international order, which itself provides the sovereignty of society of states members. Consequently opportunities for joint actions among states in matters of human rights are minimal. Sovereignty is referred in minimal terms, only as sovereignty over a particular territory. Pluralists concern that states in the absence of an international consensus on the governing rules of humanitarian intervention practice, will act based on their morality thus weakening the international order built on the basis of the principles of sovereignty, non-interference and restriction of force (Bull, 1984:193). Jackson stressing the importance of the state in international society, reinforces the idea that the weakening of the principle of non-intervention to achieve goals such as the protection and promotion of human rights risks conflicting states with each other, because such purposes are unacceptable and not fully understood (Jackson, 2000:249-93).

Whilst solidarist approach provides arguments in support of interventions for humanitarian purposes. The issue of humanitarian intervention arises when a government has directed state machinery against its people, or when the state has collapsed due the lack of law (Wheeler, 2000:27). According to this perspective, society of states should engage in matters of justice, such as intervening to protect human rights when a state fails to meet responsibilities towards its citizens. When a state systematically and massively violates human rights it is a duty of the international community to undertake humanitarian intervention (Vincent and Watson, 1993:126). Solidarist argue that this is the only way to maintain international order. According to solidarist branch, when it comes to the principle of sovereignty, it should be conceived in minimal and maximal terms. In minimal terms sovereignty means ruling over the territory, where states should respect the territorial boundaries of each other. Unlike pluralists, solidarists emphasize that society of states consists on states and sovereigns (nations). Therefore it is important to consider the concept of sovereignty in maximal terms, which means the sovereignty of the people. Sovereignty means primary responsibility regarding the preservation of lives of people living within the state. Solidarists have developed a human rights agenda. The commitment of society of states to protection and promotion of human rights makes possible the development of world society, since its focus expands on human rights and solidarity dimension that should exist between countries referring the individual level, which in this context means the rights of citizens within a state. Focusing on individual level it is possible to move from society of states to world society.

Economic Relations: Interdependence, Globalization and Deterritorialization.

This part of paper addresses interdependence and globalization processes, as challenges to territorial sovereignty and as an excellent opportunity to explore the potentiality of the world society. The idea of world society is widely used to bring non-state actors in the social structure of the international system (Buzan, 2004: 63). The early English School thinkers have not shown interest about economic aspect referring to the in the activity of a country. The English School, especially in its classical form, is obviously a state-centric approach (centered in the state) and has been highly criticized for failing to take in account the implications of international economy (Williams, 2001). In his work Bull has dedicated little space to factors and forces economic, and has shown little interest in formal international institutions in this regard. In the view of Andrew Hurrell, Bull has minimized the dynamic forces in global politics and failed to recognize the extension to which the system was shifting towards a post-vestfalian reality (Hurrell, 2002:xv). For many scholars Bull's focus in the society of states is totally inadequate and obsolete due to factors such as the impact of economic globalization and political democratization, the growing importance of transnational civil society, the increase in density, scope and scale of international institutions, as well as the multiple problems of disintegration and ethnic conflicts in some countries (Hurrell, 2002:xv). It is incomprehensible the lack of attention to economic dimension within the English School, cause it plays an important role in discussions on international society and world society (Buzan, 2004:19). The idea of world society is the key to connect the theory of English School and debates about globalization (Buzan, 2004; Weller 2000). Globalization is defined as deterritorialization of social life, which has created new actors and networks alongside existing ones, where the territoriality and supraterritoriality coexist in a complex interaction (Scholte, 2000:8-9, 59-61).

Interdependence and international economic cooperation are the main features of modern international relations. The concepts of interdependence and globalization are often used interchangeably. Most studies refer to globalization as the intensification of economic, political, social and cultural relations across borders (Holm & Sorensen, 1995). Virtually every country in the world is now part of international agreements, which in some way affect their formal authority to make and implement free economic policies from external interference and involvement (Petrie, 2009:11). Such agreements include a wide range of areas, the market, monetary cooperation, investment, regulatory norms, etc. In the framework of the economic cooperation and integration between countries, the biggest concern is about the impact of integration on the sovereignty of states. Despite its central role in international relations, the state is facing challenges from globalization processes based on transnational movements. In external dimension, the state was hit by globalization, increased integration in terms of political, economic, and cultural communication, a process that is increasingly undermining the traditional sovereignty of states (Mingst, 2004:129). In political terms, the state is facing diverse global threats from environmental degradation and disease to security threats, which government can inevitably not manage alone. These issues require unprecedented political cooperation among states since in most cases national authorities have not the capacity to address them alone. Such cooperative actions increasingly force states to make compromises that affect their sovereignty. In economic terms, countries and financial markets are closely related to each other. For example the global financial crisis of 2010 had long-term implications that went beyond the realm of global finance by influencing social and political dynamics around the world. International financial organizations, multinational corporations and the internationalization of production and consumption are making it even more difficult for states to regulate their economic policies (Mingst, 2004: 130). Also in cultural terms, new technologies are shrinking state control over the information and thus giving rise to the creation of a global civil society or the "global village" in McLuhan term.

In a structural perspective and in terms of globalization, identity and interests of states may be expressed by means of transnational cooperation rather than territorial defense (Streeck, 1996:299). The emerge of a transnational civil society has become inevitably by globalization processes. Only after the Cold War period, the terms of civil society and global transnational civil society have been used in the academic literature of international politics. Mary Kaldor (2003) argues that meaning of these terms is subject to widely different interpretations (Kaldor, 2003). However, they are referred to as non-governmental and non-profit voluntary collective action around common interests, values and goals (Scholte, 1999:2-3). While global civil society includes activities that expand and have effect throughout the world (Keane, 2003:8), the concept of transnational civil society refers to collective actions of non-governmental and non-profit organizations that overcome national boundaries, but not necessarily have global impact. The main actors of non-governmental transnational civil society, which are not profitable, not serve as instruments of government (Salamon & Anheier, 1997). One of the important factors that influence the creation of transnational civil society is the development of the global economy. The existence of transnational civil society emphasizes the transnational element that characterize the world society concept.

Much has been written about the challenges that globalization poses upon sovereignty, but the fact that economic integration weakens the sovereignty of states is not at all something new (Hoffman, 1997:54). However, there is a need to explain the interconnection between globalization and sovereignty. First, neither globalization and nor interdependence do not challenge the formal legal sovereignty of states, cause only other states can do that (Reinicke & Witte, 1999). Globalization challenges operational sovereignty of the government, which has to do with the ability to exercise sovereignty public policy making. Second, according to John Hoffman, states make "double life" on sovereignty which has two dimensions, one internal and one external (Hoffman, 1997:54). Internal dimension concerns the relationship between the state and civil society, where the state has the monopoly of legitimate power in a various areas, including the economy. Economic aspect of internal sovereignty is exercised by government when it collects taxes and regulates the activity of the private sector. The external dimension of sovereignty refers to the relationship of states in the international system. States exercise their external sovereignty in economic terms, for example when setting fees or change exchange rates. So economic interdependence is challenging external dimension of sovereignty. Responding to this challenge governments largely follow the principles of economic liberalism, thus reducing their external sovereignty on economic approval or determination of the international regulatory norms. Such a reduction is structured around a set of international norms and standards rooted in international mechanisms such GATT, IMF, WTO, etc., (Krasner, 1983). The concept of external sovereignty loses much of its significance when analyzing the impact of globalization (Reinicke & Witte, 1999). Global corporations pose a challenge to the internal sovereignty by modifying spatial relationship between public and private sectors. Organizational logic of globalization promotes corporations that seek integration of the national markets into global one. International markets are not dependent of the presence of boundaries. Although governments continue to be limited by the territoriality, they can not project their power over the total area where production and consumption organize themselves (Reinicke & Witte, 1999).

Any discussion on society of states that goes beyond state should take into account the transnational activities of individuals, social groups, firms or corporations. These social actors have significant effects on the movement of material resources and ideas around the world, and thus can not be completely ignored in international relations. They coexist and interact with states. In this sense, understanding of world politics depends on understanding the different types of social actors who operate different transnational relationships that may exist between them and states, and on the ways they influence states. Discussing the challenges of globalization process, many scholars have focused on the growing importance of non-state actors and international organizations in the so-called new structure of global governance, thus breaking the tradition of the state monopoly on legal grounds (Mathieus, 2011). Meanwhile, others argue that the new world order does not imply a change from state to non-state actors. They argue that states exist though being demolished in their functional and cooperating parts with corresponding structures in other countries, thus creating a dense network that constitute a new intergovernmental rule (transgovernmental) (Slaughter, 1997:197). Non-state actors play a transformative role in changing interests, identities and thus incentives state actors in making part of the global legal obligations. As Wendt says when states interact with each other happens more than realists and rationalists accept (Wendt, 1992).

The proponents of "new sovereignty" (re-conceptualization of sovereignty) claim that society is being meaningfully transformed thus paving way for a re-conceptualization of the principle of sovereignty. Democratic governance coerce social response to growing demands. Once states were relatively autarkic, but nowadays interdependence and globalization make impossible for states to act alone ensuring desirable policy results to their citizens. Traditional sovereignty is challenged due major changes in the international system as well as the demands and needs of citizens within states. The development of the principle of sovereignty has occurred over the past four centuries throughout ongoing controversy about its meaning. What has remained constant in the understanding of sovereignty is that it has been connected and constantly interpreted as final and absolute political authority within a defined territory (Hinsley, 1986; Philpott, Ruggie, 1993). Philpott claims that in more specific definition sovereignty has the meaning of "supreme authority within a territory" (Philpott, 1997). This understanding of sovereignty dates back to Bodin discussions in 1576, where he defined sovereignty as "higher, absolute and uninterrupted power upon citizens" (Bodin, 1962:86). Also, both Hobbes and Hegel defined sovereignty as a supreme and absolute power claiming that sovereignty rules free from any restrictions (Lapidoth, 1992:326). By the Treaty of Westphalia in 1648, the concept of sovereignty was not related to the territorial state (Jackson, 1999:438-441). Philpott claims that this treaty brought not only the beginning of the modern state system, but also a revolution against sovereignty (Philpott, 1993: 579-582). Whilts today is increasingly suggested the movement to a post-sovereign world where absolute and legitimate state authority is not territorially defined (Thomas, 2004:04). The tension between pluralists and solidarists is rooted in someways in the meaning of territorial sovereignty of international society. In the pluralist perspective, territorial sovereignty of society of states has a significant importance. Despite

discourse on deterritorialization the boundaries separating the states in the international system determinate power and sovereignty in the modern world (Newman & Paasi, 1998). Under Vestfalian system of states territorial boundaries are determinants to provide the maintenance of interstate order through mutual recognition of territorial integrity and territorial sovereignty. In recent decades a "supraterritorial" global society vision created partly by the economic, political, financial and social dynamics of globalization and partly by international society itself, provide an agenda to include its potential expansion beyond the society of states. Due the challenges to territorial sovereignty posed by globalization processes have been an increasing discourse on global society (Newman, 2005). The impact of globalization on resilience, flexibility and permeability of borders is significant, as it allows greater movement of people, goods, information and cultural exchanges (Shapiro & Alker, 1996). However the impact of these changes remains highly differentiated, it has contributed in better understanding of the concept of world society. World society is aimed at capturing the interplay amongst states, non-state actors and individuals, and in the sense that all actors in the system are aware of their interconnection and some shared values (Dunne, 2001).

Conclusions

This paper aimed to provide a better explanation to the current international realm and the need to redefine the traditional notion of sovereignty by introducing a new concept such as world society. The English School Theory is ideally suited to address the discussions on challenges to traditional sovereignty concept through world society concept. Given the fact that sovereignty is the essential principle of international society the debate among pluralists and solidarist within the English School Theory represents the convenient theoretical framework to incorporate the relationship between international society and world society and thus explaining the changing nature of state sovereignty. The changes in international realm had an increasing impact upon the sovereignty of states. Drawing evidence on humanitarian interventions, globalization and the growth of the international institutions and organizations, traditional sovereignty is challenged due major changes in the international system, as well as the increasing demands and needs of citizens within states. The thesis of this paper claims that world society concept provides explanation to the challenged external dimension of sovereignty. The society of states is facing a increasing solidarity among states, not only in areas where states have traditionally cooperated, but also about issues that are regarded to undermine their sovereignty. The focus on individual unit through an intensive discourse on human rights and transnational agents provides evidence of a *de facto* world society. Thus world society should not be seen as undermining the existence of the society of states, cause states continue to exist and to enjoy the legitimate right to govern, but the society of states already moved towards a more solidarist side, where the focus of international society is not only an orderly coexistence and competition, but also collaboration on a scale of norms, rules and institutions shared between states. This paper examined some of the issues that have challenged the sovereignty concept, such humanitarian interventions, globalization, economic interdependence and virtual territoriality, cause they are challenging external dimension of sovereignty.

References

- Buzan, B. (2004). *From International to World Society? English School Theory and the Social Structure of Globalisation*. Cambridge: Cambridge University Press.
- Bull, H. (2002). *The Anarchical Society: A Study of Order in World Politics*. London: Palgrave Macmillan.
- Bull, H. (1984). *Interventions in world Politics*. Oxford: Clarendon Press.
- Barkin, J., & Cronin, B. (1994). The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations. *International Organisation*, Vol. 48(1), 107-130.
- Dunne, T. (2001). New Thinking on International Society. *British Journal of Politics and International Relations*, Vol. 3, No. 2, 223-244.
- Evans, G., & Newnham, J. (1998). *Dictionary of International Relations*. London: Penguin Reference.
- Held, D., & McGrew, A. (2002). *Globalisation/ Anti-Globalisation*. Cambridge: Polity Press.
- Hoffman, J. (1997). Blind Alleys. Can We Define Sovereignty? *Politics*, Vol. 17, No. 1, 53-53.
- Hinsley, F. H. (1967). *Power and the Pursuit of Peace: Theory and Practice in the History of Relations Between States*. Cambridge: Cambridge University Press.

- Holm, H., & Sorensen, G. (1995). *Whose World Order? Uneven Globalization and the End of the Cold War*. Boulder: Westview.
- Jackson, R. H. (2000). *The Global Covenant: Human Conduct in World of States*. Oxford: Oxford University Press.
- Jackson, R. (1999). Sovereignty in World Politics: A Glance at the Conceptual and Historical Landscape. *Political Studies*, Vol. 47, 431-456.
- Keane, J. (2003). *Global Civil Society?* Cambridge: Cambridge University Press.
- Kaldor, M. (2003). *Global Civil Society: An Answer to War*. Cambridge: Polity Press.
- Krasner, S. D. (2004). Sharing sovereignty: new institutions for collapsed and failing states. *International Security*, 29(2), 85-120.
- Little, R. (2000). The English School's Contribution to the Study of International Relations. *European Journal of International Relations*, 6(3), 395-422.
- Mingst, K. (2008). *Essentials of International Relations*. New York: W. W. Norton & Company.
- McGrew, A. (2004). Cosmopolitanism and Global Justice. *The International Studies Association of Ritsumeikan University*, Vol.3, 1-17. Retrieved from: <http://www.ritsumei.ac.jp/acd/cg/ir/college/bulletin/e-vol.3/mcgrew.pdf> (January 2015).
- Newman, D. (2005). *World Society, Globalization and a Borderless World The Contemporary Significance of Borders and Territory*. Department of Politics and Government, Ben Gurion University.
- Philpott, D. (2001). *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations*. Princeton: Princeton University Press.
- Petrie, M. C. (2009). Jurisdictional Integration: How Economic Globalisation is Changing State Sovereignty. *Doctoral Dissertation*, Victoria University of Wellington.
- Reinicke, W. H., & Witte, J. M. (1999). *Interdependence, Globalization, and Sovereignty: The Role of Non-Binding International Legal Accords*. Oxford: Oxford University Press.
- Sorensen, G. (1999). Sovereignty: Change and Continuity in a Fundamental Institution. *Political Studies*, Vol. 47, 590-604.
- Scholte, J. A. (1999). *Global Civil Society: Changing the World?* Coventry: Centre for the Study of Globalization and Regionalization (CSGR), University of Warwick.
- Salamon, L. M., & Anheier, H. K. (1997). *Defining the Nonprofit Sector: A Cross-National Analysis*. Manchester: Manchester University Press.
- Streeck, W. (1996). Public Power Beyond the Nation-State: The Case of the European Community. In Boyer, R., & Drache, D. (Eds.). *States against Markets in The Limits of Globalization*. London: Routledge.
- Thomas, H. (2004). *Cosmopolitan Sovereignty*. Refereed paper presented to the Australasian Political Studies Association Conference University of Adelaide. Retrieved from: https://www.adelaide.edu.au/apsa/docs_papers/Others/Thomas.pdf (January 2015).
- Vincent, R. J., & Watson, P. (1993). *Beyond the non-intervention: Political Theory, International relations and the Ethics of Intervention*. London: Macmillan.
- Williams, J. (2009). *Pluralism and World Society: Accepting the Normative Challenge*. School of Government and International Affairs, Durham University.
- Wheeler, N. J. (2000). *Saving Strangers: Humanitarian Intervention in International Society*. Oxford: Oxford University.

Spiritualism in Raymond Carver's Work

Viola Kita, PhD Cand.

University of Tirana

kitaviola@yahoo.com

Abstract

Raymond Carver's work provides the opportunity for a spiritual reading. The article that offers the greatest insight into spirituality is William Stull's "Beyond Hopelessville: Another Side of Raymond Carver." ¹ In it we can notice the darkness which is dominant in Carver's early works with the optimism that is an essential part of Carver's work "Cathedral". A careful reading of "A Small Good Thing" and "The Bath" can give the idea that they are based on the allegory of spiritual rebirth which can be interpreted as a "symbol of Resurrection". Despite Stull's insisting in Carver's stories allusions based on the Bible, it cannot be proved that the writer has made use of Christian imagery. Therefore, it can be concluded that spirituality in Carver's work is one of the most confusing topics so far in the literary world because on one hand literary critics find a lot of biblical elements and on the other hand Carver himself refuses to be analyzed as a Christian writer.

Keywords: spiritualism, allegory, rebirth, Christian imagery, darkness.

1. Spiritualism in Cathedral

The spirituality in Raymond Carver cannot be defined very easily as it is not based on any specific religion or doctrine. If we take into consideration one of the best works of Raymond Carver "Cathedral" the spiritual characteristics become clear especially by focusing on the concept of God but not in the traditional sense but on the way Carver understood God. For example, in the story, a blind man who happened to be an old friend of the narrator's wife comes to pay a visit, the narrator confronts his prejudices regarding blindness. "He was no one I knew. And his being blind bothered me. My idea of blindness came from the movies. In the movies the blind moved slowly and never laughed. Sometimes they were led by seeing-eyed dogs. A blind man in my house was not something I was looking forward to".²

In fact, the narrator is an aloof person, somebody who has no friends and who has broken up all the connection with his wife and probably with the whole world. Strange as it may seem, the narrator depends on the blind man whose vision can go much further than expected. One evening, the narrator and the blind man are watching a program about the church and the Middle Ages. In a particular moment, the blind man leans toward the TV screen in order to hear it better since he cannot see what is going on. He listens to the presenter who describes cathedrals and their symbolism. At this time the narrator understands that the communication between the two is not working. Then, the questions that continue reveal the truth. "Do you have any idea what a cathedral is? As it can be imagined the blind man does not know that because he has never seen one before. Moreover, the narrator cannot describe in words what a cathedral is like something that could be really easy for people who see. Since he fails to find the right words he just says that: "in those olden days, when they built cathedrals, men wanted to be closer to God. In those olden days, God was an important part of everyone's life."³ The blind man's following questions say a lot about the philosophy behind the story: "Hey, listen. I hope you don't mind me asking you. Can I ask you something? Let me ask you a simple question, yes or no. I'm just curious and there's no offense. You're my host. But let me ask if you are in any way religious? You don't mind me asking?" I shook my head. He couldn't see that, though. A wink is the same as a nod to a blind man. 'I guess I don't believe in it. In anything. Sometimes it's hard. You know what I'm saying?' "Sure, I do," he said. 'Right,' I said".⁴

¹ Stull, William L. "Beyond Hopelessville: Another Side of Raymond Carver." *Philological Quarterly* 64 (1985): 1-15.

² Carver, Raymond. *Cathedral*. New York: Vintage, 1989

³ Carver, Raymond. *Cathedral*. New York: Vintage, 1989.

⁴ Carver, Raymond. *Cathedral*. New York: Vintage, 1989.

2. Silence as an Important Element of Spiritualism

By focusing on this dialogue one can definitely notice a kind of silence that is frequently broken. This should not be interpreted as a technique used by Carver rather than as a spiritual element. According to Martin Buber: "It is not necessary for all who are joined in a genuine dialogue to actually speak; those who keep silent can on occasion be especially important. . . . No one, of course, can know in advance what it is that he has to say; genuine dialogue cannot be arranged beforehand. It has indeed its basic order in itself from the beginning, but nothing can be determined, the course is of the spirit, and some discover what they have to say only when they catch the call of the spirit".¹

Again, there is silence between the two of them but it does not last for a long time because the narrator feels that he has to clarify his ideas and therefore adds: "The truth is, cathedrals don't mean anything special to me. Nothing. Cathedrals. They're something to look at on late-night TV. That's all they are. It was then that the blind man cleared his throat. The blind man begins directing the narrator to gather up some heavy paper and a pen. After they clear a space to draw, the blind man closes his hand over the narrator's and politely orders, "Go ahead, bub, draw . . .

Draw. You'll see. I'll follow along with you. It'll be okay. Just begin now like I'm telling you. You'll see. Draw".²

The fact that the blind man uses the word "see" twice is really ironical. The blind man cannot see. "You'll see"³ in the given context means that he will see how things work. Despite this, the final part of the story tells us that though the narrator does not believe in cathedrals or religion or God near the end he starts seeing something. He does what he is told to do, he draws. This continues even after the program was finished. The blind man continues to instruct the narrator that does what he is told without questioning, just like an obedient student. The dialogue continues like this: "Put some people in there now. What's a cathedral without people? . . . Close your eyes now"⁴ At this moment he sees something he cannot define. The story continues:

So we kept on with it. His fingers rode my fingers as my hand went over the paper. It was like nothing else in my life up to now. Then [the blind man said] 'I think that's it. I think you got it,' he said 'Take a look. What do you think?' But I had my eyes closed. I thought I'd keep them that way for a little longer. I thought it was something I ought to do. 'Well?' he said. 'Are you looking?' My eyes were still closed. I was in my house. I knew that. But I didn't feel like I was inside anything. 'It's really something,' I said.

The narrator remains silent, with his eyes closed claiming that he sees something without being able to define it. It can be interpreted that this "something" that is repeated so frequently can be a "supreme force" and therefore it can be concluded that here there is another moment of elements of spirituality. This can take us to an early moment in the story. When the narrator was asked if he had any religious conviction or if he believed in anything, he replied that he didn't believe in anything. However, towards the end the narrator admits that he really can see something.

The narrator, while trying to draw the cathedral actually draws a box which can be interpreted as the symbol of an icon. It encourages reflection and meditating since it bears the qualities of an icon. And this "something" illustrates a spiritual reality. This idea is further developed if we take into consideration the way characters are treated. In certain cases it looks like Carver is judging his characters. However, due to Carver's tendency to revise his characters they have continuously developed.

3. Other Elements of Spiritualism

¹Carver, Raymond. *Cathedral*. New York: Vintage, 1989

²Carver, Raymond. *Cathedral*. New York: Vintage, 1989

³Carver, Raymond. *Cathedral*. New York: Vintage, 1989

⁴Carver, Raymond. *Cathedral*. New York: Vintage, 1989, pg.(227-228)

Language has a certain spirituality which is not an excess but it is a way to introduce the reader to a new world, a world that passes all the limits of our real world. This is obvious especially in "The Cathedral" in which the narrator for some moments is placed in another world

Carver has written "Meditation on a Line from Saint Teresa" in 1988 which is the last published work he left to the world. It starts with a quote by Saint Teresa: "Words lead to deeds.... They prepare the soul, make it ready, and move it to tenderness"¹. Not only does Carver make a comment about the great truth of the quotation but he also states that unfortunately these words will not have any significance to the young generation who do not consider words as bearing any particular meaning. He is able to admit that the words "tenderness" and "soul" have a tremendous effect on him. According to Carver: "There is something more than a little mysterious, not to say – forgive me – even mystical about these particular words and the way Saint Teresa used them, with full weight and belief". Then, he provides a concluding passage that gives the impression of a benediction that reminds the one of Apostle Paul's charge to "work out your salvation with fear and trembling":

"Long after what I've said has passed from your minds, whether it be weeks or months, and all that remains is the sensation of having attended a large public occasion. . . try then, as you work out your individual destinies, to remember that words, the right and true words, can have the power of deeds. Remember too, that little-used word that has just about dropped out of public and private usage: tenderness. It can't hurt. And that other word: soul – call it spirit if you want, if it makes it any easier to claim the territory. Don't forget that either. Pay attention to the spirit of your words, your deeds. That's preparation enough. No more words." The power of words in Carver's works is profound and based on Geoffery Wolff: "that Ray believed in the power of language, it was so sacred to him, that he understood, as few people understand, that words are loaded pistols. Sometimes to say something, to name it, is to enact it. So there were certain words he would not say".

Since the language has such a mystical power it can be concluded that Carver's spirituality depends more on symbols rather than words. The majority of these symbols are related to nature and this leads the author as well as all his characters in a state of transcendence. According to Tess Gallagher rivers in Carver's short stories have lost the meaning that the word in itself has and has acquired a new one which is very spiritual as Carver perceives them as "places of recognition and healing". For instance, in "Twelve Steps and Twelve Traditions" water is presented as a healing power:

"the persistent use of meditation and prayer . . . did open the channel so that where there had been a trickle, there now was a river which led to sure power and safe guidance from God as we were increasingly better able to understand Him". Another meaningful example can be found in "Where Water Comes Together With Other Water" in which Carver pays special attention to the water of the springs, creeks, rivers and seas: "The places where water comes together / with other water. Those places stand out in my mind like holy places." For Carver, the river is "like" a holy place. Though it is a poem and not a short story it captures the idea of the author perfectly.

The water becomes a guiding symbol for Carver's characters. This is especially obvious in the story "Kindling" in which a nearby river is more than mentioned. The character, Myers is a man whose existence is becoming a futile one and a man who desperately needs to be inspired and brought back to life again. At this particular moment *The Little Quilcene River* which "rushes down through the valley, shoots under the highway bridge, rushes another hundred yards over sand and sharp rocks, and pours into the ocean"² There is something mystic about that river and this becomes obvious when it speaks to Mayers. If we recall a moment from the story, we will understand that the river has a spiritual value. At the very beginning of the story Myers rents a room in the town. While the owners are showing the room to him he hears the sound

¹ No Heroics, Please, Uncollected Writings: New York, Vintage Contemporaries

²Carver, Raymond. Call Me if You Need Me: The Uncollected Fiction and Other Prose. William L. Stull, ed. New York: Random House, 2001.

of the water. "Was it his imagination, or did he hear a stream or a river?"¹ Being not so eloquent he just says "I hear water"² The owner answers that the sound comes from the Little Quilcene River but Myers remains silent. Later on he pays full attention to that sound.

"He opened the window all the way and heard the sound of the river as it raced through the valley on its way to the ocean".³ Myers shifts the furniture in his room and moves his desk in front of the open window, then stares at a blank page and writes: "Emptiness is the beginning of all things." Cursing his own foolishness, he turns out the light and stands in darkness – listening to the river's purposeful movement. It is a purpose that he needs. And he finds it in the most unusual place and in the most unusual way. He cuts wood. The owner, Sol teaches Myers how to do it by explaining how to use a saw and everything else. At the end of the day he writes: "I have sawdust in my shirtsleeves tonight . . . It's a sweet smell".⁴ That night he couldn't sleep and at one particular moment he hears the sound of the water and jumps out of bed. "When he raised the window the sweet, cool air poured in, and farther off he could hear the river coursing down the valley"⁵. Here, water is not a symbol used alone but in combination with the wind, which is a renowned symbol of spirit it can be concluded for a certain kind of spirituality. It is spirituality because it surpasses the limits of this world. It is something related to nature while the cool air pours in he feels that he is being healed. He writes about the recovery: "The country I'm in is very exotic. It reminds me of someplace I've read about but never traveled to before now. Outside my window I can hear a river. . . ."

At this point, Myers experienced something that is indirectly related to transcendence. He admits that he feels as if in an "exotic" place, a kind of Eden, a Paradise. Just like people who have read the Bible and know about the existence of the Paradise but have never experienced it, Myers has read about this place, even about the river but never seeing it until then. This is the reason he stays another night in such a place, not because he is in need of it but simply because it feels so good to be there.

Conclusions

Carver has paid certain attention to spiritual elements which are worth an analysis. However, spiritualism in his work is not so evident. It is rather hidden in his stories, rather implied than stated. However, the opportunity for a spiritual reading is there. One needs to focus on stories such as "Cathedral", "A Small Good Thing" which are based on the allegory of spiritual rebirth in order to fully understand them. Several critics have noted that in Carver's stories, the allusions are based on the Bible. Despite these claims, it is really difficult to prove that he has made use of Christian imagery.

What makes carver's spiritualism difficult to be defined is that it is not based on any religion or doctrine. For instance, in one of his best works "Cathedral" God is present. In it, the narrator says: "In those olden days, when they built cathedrals, men wanted to be closer to God. In those olden days, God was an important part of everyone's life." However, god is described as a power, a feeling and sometimes even a sensation. It appears as a revelation to the most non-religious character, who still can't define it but feels it all over his being though incapable of naming the source. In fact, instead of God, the word "something" is used with all its indefiniteness.

¹Carver, Raymond. Call Me if You Need Me: The Uncollected Fiction and Other Prose. William L. Stull, ed. New York: Random House, 2001.

²Carver, Raymond. Call Me if You Need Me: The Uncollected Fiction and Other Prose. William L. Stull, ed. New York: Random House, 2001.

³Carver, Raymond. Call Me if You Need Me: The Uncollected Fiction and Other Prose. William L. Stull, ed. New York: Random House, 2001.

⁴ Carver, Raymond. Call Me if You Need Me: The Uncollected Fiction and Other Prose. William L. Stull, ed. New York: Random House, 2001.

⁵ Carver, Raymond. Call Me if You Need Me: The Uncollected Fiction and Other Prose. William L. Stull, ed. New York: Random House, 2001.

Silence is one important spiritual element in Carver's works. It is frequently broken as in dialogues quite unexpectedly the characters decide not to speak and this silence at cases is more important than words. During those moments, the characters try to look inside their souls and discover who they really are and to find out what connects them with a divine source as well.

Language is the other significant spiritual element in Carver's work. The spirituality in the language is not farfetched but it is a way but it is a way to introduce the reader to a new world, a world that is different from the one we live in. According to Carver, "*Words lead to deeds... they prepare the soul, make it ready, and move it to tenderness. Unfortunately, these words have no importance at all to the young generation who don't even consider words as bearing any particular meaning.*" However, in Carver, the power of words is so profound because the writer believed that language is sacred and that words are loaded pistols.

Since language is so important in Carver's works it can be concluded that Carver's spirituality depends on symbols rather than words. The majority of these symbols are related to nature, therefore leading to a state of transcendence. For instance, rivers in Carver's short stories have lost the meaning the word itself has acquired a new spiritual one since Carver perceives them as "*places of recognition and healing*". The water becomes a guiding symbol for Carver's characters. However, it is very rarely used alone. It is usually combined with other meaningful symbols that create the harmony that accompanies Carver's work.

In "A Small, Good Thing" can be noticed the presence of spiritualism which is very different from the one defined by other religious people. Even though Carver might have never aimed to be somebody who tries to influence his readers positively, his work actually conveys a message of hope. Therefore, Carver can be seen as a humanist more than a religious writer.

Bibliography:

- Reid, David (July 19, 1992). "*A Dirty Realist : NO HEROICS, PLEASE*: Uncollected Writings By Raymond Carver". "CALL IF YOU NEED ME: The Uncollected Fiction and Other Prose by Raymond Carver, edited by William L. Stull". *Kirkus Reviews*. June 20, 2010.
- Ebert, Roger (October 22, 1993). "*Short Cuts*". *Chicago Sun-Times*.
- "*Prose as Architecture: Two Interviews with Raymond Carver*".
- Carver, Maryann Burk (2006). *What It Used to Be Like; A Portrait of My Marriage to Raymond Carver*
- Carver, Maryann (July 11, 2006). *What It Used To Be Like: A Portrait of My Marriage to Raymond Carver*.
- Tess Gallagher (December 2006). "*Instead of Dying*".
- Wiegand, David Wiegand (December 19, 2009). "*Serendipitous stay led writer to Raymond Carver*". *San Francisco Chronicle*.
- King, Steven (Nov 19, 2009). "Raymond Carver's Life and Stories". *The New York Times*.
- Wiegand, David (December 19, 2009). "*Serendipitous stay led writer to Raymond Carver*". *San Francisco Chronicle*.
- "*The Real Carver: Expansive or Minimal?*". *New York Times*. October 17, 2007.

Corporation – its Way of Performance and its Presence in some Transition Countries - with Specific Focus in South Eastern European Countries

Mirjeta DOMNIKU

Lecturer of Business and Management Courses

Peja – Kosovo

Abstract

Corporation is the most and complex business and legal form, no matter for which country we take it in consideration. SME's, of course remains the most powerful economic weapon of each country, but, sometimes our mind do separate that some of especially medium business are registered and operates like corporations. Ownership, profit, management structure, etc., have a different look and structure if we relate and compare with business that are not corporations. But, in this paper we will be focused more on the presence of corporation in transitioning countries, their ranking level on economic based activities, and of course the focusing on using their natural resources in developing the corporation's activities. How important are corporation in economy of a country? Of course they employ a large number of employees and make a higher rate of production, but in other hand they are a great chance for individuals who have less entrepreneur skills and possess less characteristics, it a great chance to make an investment in financial assets of a company, by making their own business, respectively owners of corporate. We need do mention also that corporate performance has its impacts on the effective leadership, or as it is known the democracy corporate governance, in the present paper we will treat one part of this aspect.

Keywords: corporate, performance, structure, transition countries

JEL qualification: G00; G3; D4; Y1

1. Introduction

There are some factors which have been argued by researchers to be having a role in determining the disclosure level of corporation and environmental information related to firms' activities. The guidelines regarding the corporate and corporate governance and its performance definition are divided into two categories. On the one hand, it is envisaged the actual behavior of corporations regarding growth performance, efficiency, financial structure, relations with shareholders and stakeholders. On the other hand, there are concerns regarding the rules, respectively the regulations which are influencing the corporate activity. Corporate definition varies from country to another one, but what remains most important is that, owner's role in corporation relating with other business legal forms, rest passive in aspect of managerial or operative level. In our paper we will show some most usual concepts of a corporation, and of course we will remain by showing that how does corporation matches to fulfill at the higher degree their level of performance, with specific focus in some small leadership effects and indicators. Because this paper is a kind of a short paper based, we will introduce some of the most successful corporate that operates in some of transition countries, we specific focus in South Eastern European Countries (*Kosovo, Albania, Serbia, Montenegro and Croatia*). Except of the brand names of the companies, it will be explained the nature and the type of business activity they do, and of course relating their activities with the position of the country in aspect of potential of natural resources they possess. The level of profitability, growth, efficiency, productivity, and most is reached and increased sustainability and credibility of a corporation are manager's responsibility, but not even negligence of owners when it comes to make decisions in politic of dividend. This means that owners should think also to share and dedicate more money on investments and spending, because, if we want to have a well trained employees, with a great level of productivity, working effectively, and doing works with new IT and innovations, then owners should take more consideration on this. Hypothetically, this can be one of the main reasons that why corporate operates effectively, or better say they with better or constant performance. Corporate governance deals with the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment" (Shleifer, 1997), in the U.S.A. being one of the best corporate governance systems from all over the world, with the U.K., Germany, and Japan, even if the last two have a different type of corporate governance system than the first ones.

2. Literature review

If we start to count the key characteristics of a Corporation, especially when we want to focus and to treat their impact in performance of Corporation, or at any medium sized Firm's at all (that usually have bigger numbers of employees), we need to make a separate literature review and of course followed at least at quantitative research. But, we will shortlist some of the key indicators that improve corporate efficiency and its performance, and some of main definitions that are used for corporation all around the Globe.

Profitability

One of the main objectives of each corporate, is to increase their level of profitability, and of course it can be done by reducing production costs, *ex. lower cost of supply, reducing the working force cost (reorganization of duties in firm, etc.), or investing in new technologic equipment, etc, etc.* For several reasons, profitability is found to be a reason for disclosing more information pertaining to the effects of corporation's activity on society and environment (Workthington A. C., 2014). In addition to this possible explanation, costs expected to be imposed- in case of achieving high levels of profitability- by some external groups such as

Trade unions (in form of calling for increasing workers' wages for example) might be an impetus for emphasizing the social and environmental role of the firm (employee's issues in the case of the example). Self-interest, such as keeping their positions, can be also taken into account by managers in their decisions with respect to social and environmental disclosure, since enhanced social image has increasingly become preferred by information users (Haniffa C. R., 2005).

2.1. Efficiency

Efficiency is related as mention above, as one of the crucial indicator's that can help profitability. Efficiency is explained in various ways from different authors, but can be understood in a very simple way: If a firm manages to produce at least 5% with lower expenditures in any kind of matter, then when can conclude that a firm is performing better. Efficiency is one of the most important indicators that affects the credibility and performance of an organization (SME or Corporate). Through efficiency, all the firms that operates in a specific location, market, or whatever, creates a specific advantage relating other competitors, because one of the main reasons is that, through efficiency, firms achieve to create better offers, better products, and of course operates with a better relative advantage.

2.2. Corporation and Corporate governance used in different ways (languages, importance, etc.) in different countries

A corporation is a company or group of people authorized to act as a single entity (legally a person) and recognized as such in law. Early incorporated entities were established by charter (i.e. by an *ad hoc* act granted by a monarch or passed by a parliament or legislature). Most jurisdictions now allow the creation of new corporations through registration. Registered corporations have [legal personality](#) and are owned by [shareholders](#) (Pettet, 2005) whose liability is [limited](#) to their investment. In [American English](#) the word corporation (CollinsDictionary.com, 2012) is most often used to describe large [business corporations](#). In [British English](#) and in the Commonwealth countries, the term company is more widely used to describe the same sort of entity while the word corporation encompasses all incorporated entities. In American English, the word company can include entities such as [partnerships](#) that would not be referred to as companies in British English as they are not a [separate legal entity](#).

There are two types of studies regarding the investigation of the relationship between corporate governance and firm performance, which used corporate governance ratings (Georgeta Vintilă, 2012). There are two of Corporate Governance types that are related with a firm's performance. Thus, the authors who have made the research in various countries (Australia (James-Overheu, 2009), Germany (Drobetz, 2004), Greece, etc.), developed an investment strategy which consisted in purchasing the shares in the lowest-G firms ("Democracy" firms, identified through strong shareholder rights) and selling the shares in the highest-G Firms ("Dictatorship" firms, identified through weak shareholder rights). Corporate that has higher in Democracy, or Dictatorship, are related directly with the ways and the level of effective leadership scale, for ex.

In 1945, *Ohio State University* made a research for determining the most effective leadership style (Lussier, 2008). According to a study based on the survey, managers had given answers based on two distinct dimensions (Likert, 1961):

- a) *Initiating structure*. The principle is in which a manager plans, organizes, lead and supervise its employees in order to complete goals and objectives of a company.
- b) *Consideration*. The principle is in which a manager achieve to develop a proper communication, confidence, friendly environment and respect.

Approximately at the same time when studies started in *Ohio State University*, the *University of Michigan* began studies on identifying the most appropriate leadership styles. Even at this University, were identified two main styles of leadership which they named with different terms (Domniku S. , 2012):

- a) *Work orientation*. This resembles with Initiating structure, i.e., Managers are highly obliged in dedication to achieve higher performance in the enterprise.
- b) *Orientation towards workers*. It also resembles with Consideration. These include concern and engagement of managers for needs and concerns of the employees.

But, let's focus a little bit on what or how corporation is defined or classified in Kosovo? Corporate in Kosovo are defined and may be considered in two main categories, which are (Mustafa, 2006). It is anticipated that the corporation may be Joint Stock and Limited Liability Companies.

a) Corporation as a Joint Stock Company is characterized as follows:

- Owners can transfer their shares without the consent of other shareholders of the company
- Joint stock company may conduct a public offering of its shareholders under the conditions provided by law

b) Limited Liability Company has the following characteristics:

- Shares are distributed only among its founders.
- The company may conduct a public offering of its shares or to offer these shares to an unlimited number of subjects
- In this society the number of shareholders cannot be greater than 50 .
- Shareholder of this company can sell its shares to other persons only with the consent of the company.

3. Corporate - in some of transition countries

In follow, we will make an introduction of some of the most important indicators that will make this data research more compatible and should clarify the real situation about some subscription that have to deal with corporation (structure, most successful ones, etc.)

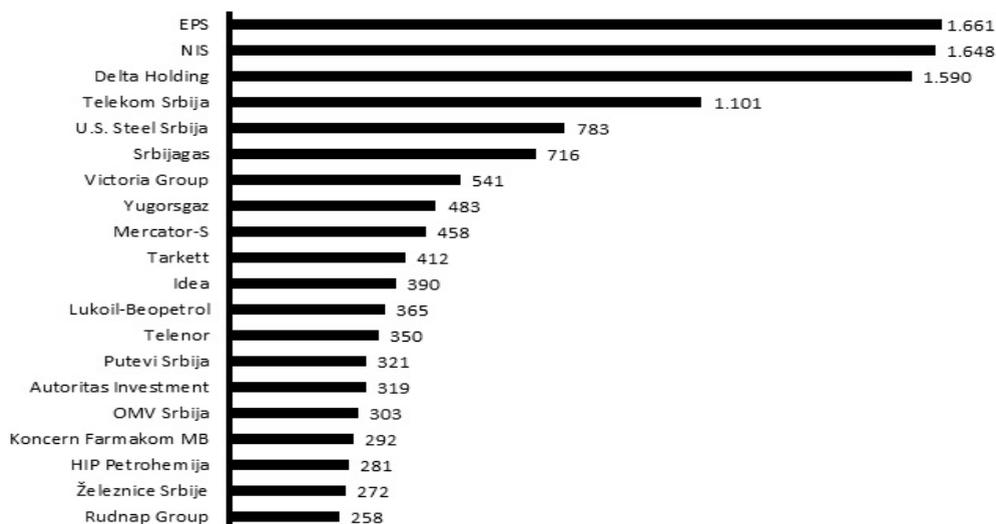


Table 1 – Some of most successful corporation in Serbia

Source: <http://www.mcb.rs/blog/2011/12/04/20-najvecih-kompanija-u-srbiji-za-2010-godinu> (last seen 15. 11. 2014)

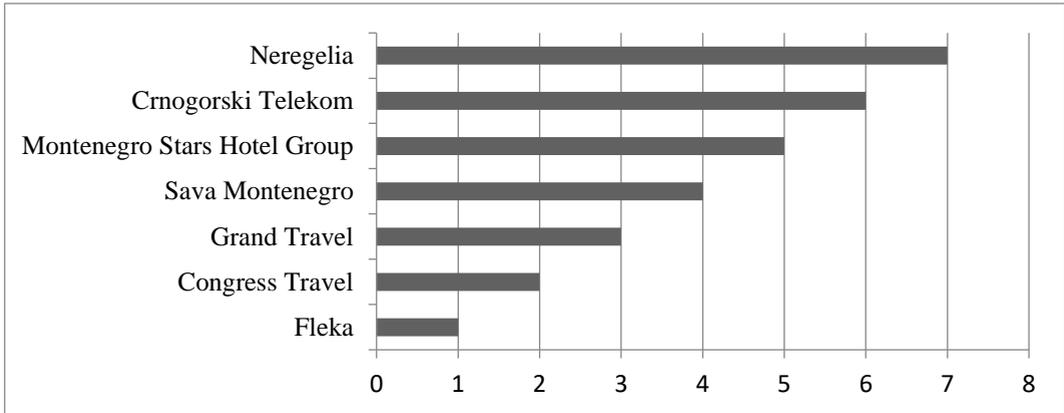


Table 2 – Some of most successful corporation's in Montenegro

Source: <http://www.cdm.me/ekonomija/siutra-priznanja-za-naibolje-kompanije-u-crnoj-gori> (last seen 19.11. 2014)

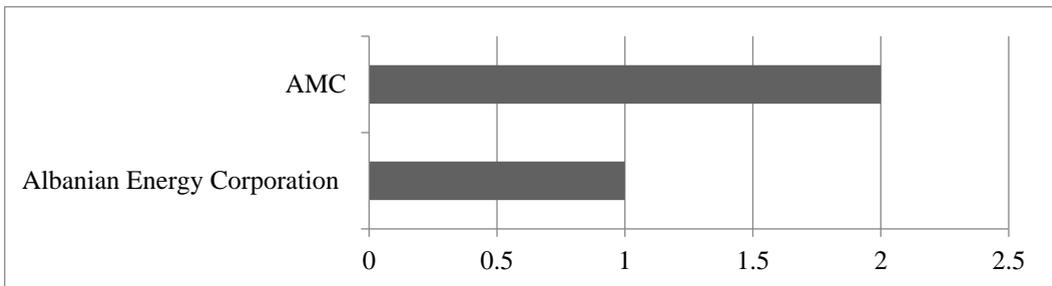


Table 3 – Two of most successful corporate in Albania

Source: <http://www.noa.al/artikull/shpallen-kompanite-me-te-medha-ne-shqiperi-nder-shteteroret-kryeson-kesh-nga-privatet-amc/15107.html> (last seen 20. 11. 2014)

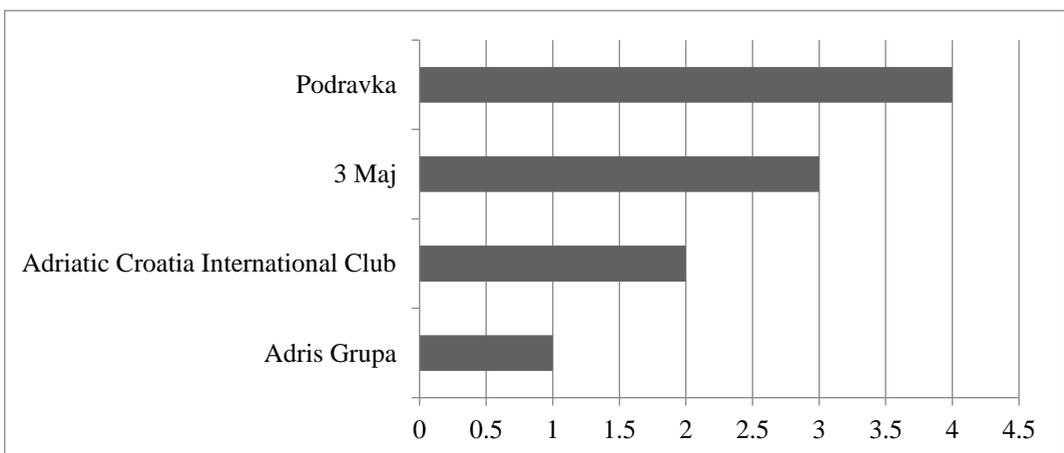


Table 4 – Some of most successful corporate in Croatia

Source: http://en.wikipedia.org/wiki/List_of_companies_of_Croatia (last seen 21. 11. 2014)

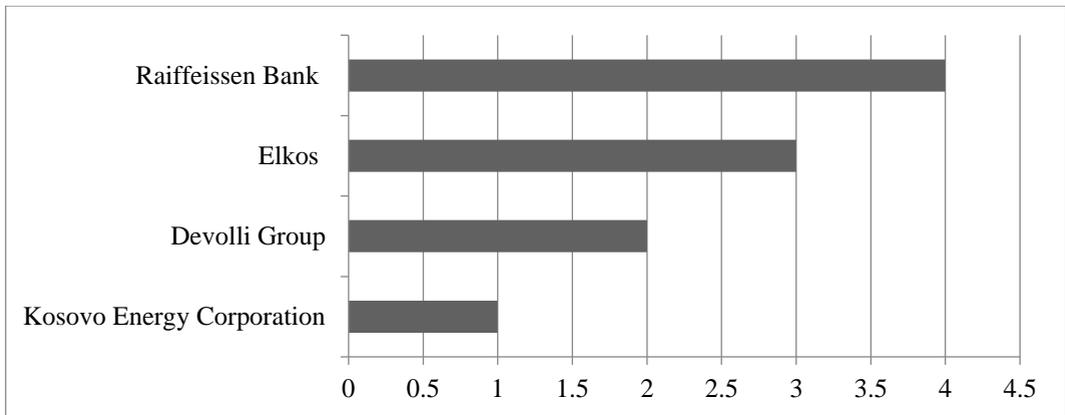


Table 5 – Some of most successful corporate in Kosovo

4. Discussions and Conclusions

Our main goal of this study was the examination of the relationship between presence of corporation in some of south eastern countries, and it way of performance in a specific fields of economy.

In the tables showed above, we see some names of companies, but in fact, there is a huge variety of them, in aspect of their economic activity. For example, in one country, corporate are focused more in tourism, but in other hand some of them in trading and energy of telecommunications. We will make some comparing between countries we will get to some important conclusions below:

1. If we compare Albania and Kosovo, we can see that in Albania, there is still a need for the process of transformation of the property to be changed, since, still one of the country's leading corporations, to say the most powerful, are still owned by the public sector. While in Kosovo, in relation to Albania, we can see that in Albania corporations that dominate in this territory belongs to the scope in telecommunications, while in Kosovo, we can observe the corporations that have shown success in the field of trade and production. This does not exclude the possibility that in Albania are not developed these last two aforementioned such as in Kosovo, but mostly perhaps in non- corporate form.

2.

3. If we compare Serbia with Kosovo, we can see that in Serbia there are corporations that their business activity support in the field of construction, trade, product manufacturing machinery (slopes, etc.), Pharmaceutical products, but even the phone, etc. In other words, we see a much wider range of economic activities that rely on corporate structure or form.

4. Comparison of Montenegro with Kosovo, in terms of economic activities focused on corporations, even in this country can see a certain number of corporate and abundant, especially if we compare the population of Kosovo. But the main activities of businesses - Corporate, based mainly on tourism and hospitality, without ignoring the activity of cultivation and development of marine products, whether semi-product form or complete products.

5. Croatia, can be seen as presented (Table 4), the economic activities focused on corporate businesses, is significantly broader, if the resources that are offered, pore and if we are to thoroughly analyze each corporate to and explore the data source associated with economic activities in businesses form - corporation, are more extensive in other business area, including; marine operations, manufacturing, aviation, pharmacy, multi-dimensional production (including various products or service). This is probably one of the reasons why Croatia may consider to be a serious competitors in the EU market, which is now also a member with full rights.

In general, when we observe that the difference of a country to another that businesses that have decided to operate as corporations, their activity mainly paved in absolute advantages to their own countries. The use of this advantage automatically creates the possibility that each corporation to have the relative advantage, since according to sources in his possession, can create such an advantage, whether produces better or lower cost.

Kosovo needs to use this advantage, that in my opinion are not used enough, especially advantage of the agricultural sector, through which this country can affect firstly the reduction of import, as we know that that in Kosovo import about 25% to 90% of total imports comprise consumer goods, but also in parallel supported employment growth in productivity, not only in numbers and statistics.

Like the other Balkan countries, their productive potential need to make the most rational, and that the form of business development corporation, is a good model that can serve not only business, but also individuals who are confused about where to place their investments, or on the other side are afraid to open any individual business, or either, do not possess the necessary tools to create a sustainable business and genuine. So investing in financial assets, in this case the shares of a corporation, it would be very appropriate and would affect the benefit in general.

The purpose of this conclusion, but also of this paper, not never misses the opportunity for businesses to develop and occur in two other legal forms (individual and partnership), but in some cases, is more than necessary, especially in the difficult situation that going through Kosovo, to organize seminars, conferences, etc., from institutions, NGOs, etc., and provided professional guidance as business experts and researchers in order Corporation, creation her and operation, to the benefit of all entities, including individuals, businesses, and also economy as a whole.

Bibliography

- CollinsDictionary.com. (2012). Collins English Dictionary – Complete & Unabridged.
- Domniku, S. (2012). "Values of effective leadership in organisation" - Effects of Global Risk in Transition Countries , 120-118.
- Drobetz, W. S. (2004). Corporate Governance and Expected Stock Returns - Evidence from Germany. *European Financial Management* , 267-293.
- Drucker, P. (2006). *Managing for Result*. Harter Collins Publisher.
- Georgeta Vintilă, Ș. C. (2012). An Empirical Examination of the Relationship between Corporate. *Canadian Center of Science and Education* , 7.
- Haniffa C. R., C. T. (2005). The impact of culture and governance on corporate social reporting. *Journal of Accounting and Public Policy* , 391-430.
- James-Overheu, C. (2009). Corporate Governance, Sustainability and the Assessment of Default. *Asian Journal of Finance & Accounting* , 34-53.
- Liden, R. C. (2000). Servant leadership: Development of a multidimensional measure and multi-level assesment. *The Leadership Quarterly* , 161-177.
- Likert, R. (1961). *New Patterns of Management*. New York: McGraw-Hill.
- Lussier, R. N. (2008). *Human Relations in Organisation*. New York: McGraw-Hill/Irwin.
- Mustafa, I. (2006). *Udhëheqja - efienca dhe efektiviteti* - Prishtinë: RIINVEST.
- Pettet, B. G. (2005). *Reading the above, makes it possible to forget that the shareholders are the owners of the company*. USA: Pearson Education.
- Shleifer, A., & Vishny, R. (1997). A Survey of Corporate Governance. *The Journal of Finance*, 52(2), 737.
- Workthington A. C, S. O. (2014). The Impact of Corporate Characteristics and Corporate Governance. *International Journal of Business and Management* , 9-12

The Adaptation of the Albanian Legislation on Entry and Residence of Foreign Citizens within the Integration Process

Ervis Moçka

Lecturer at "Ismail Qemali" University, Vlorë

ervis.moçka@univlora.edu.al

Abstract

In March 2013, Albania adopted a new law on foreigners which repealed the law of 2008. The aim of the new law is to guarantee the treatment of foreigners entering or seeking to enter, stay or work in the territory of Albania according to the criteria and norms of the European Union. The law in question brings innovation about travel documents when for the first time is recognized the group passport, a standard set by the European Union legislation. Also for the first time it establishes a residence permit for voluntary workers and researchers. Regarding the residence permits, there is a change to their labeling and in accordance with the EU legislation it is provided the "blue card" residence permit, which is issued to highly qualified workers. The new law also harmonizes the criteria for entry and stay in the territory of Albania with those of the Schengen Code. In this paper will be analyzed the European Union legislation on entry and residence of third-country nationals, which will be followed by the analyses of the provisions of the Albanian law of 2013 that discipline the entry and stay of foreigners in the territory of Albania, in order to identify the level of harmonization of it with the European Union legislation.

Key words: Schengen Border Code, third-country nationals, immigration, Albania legislation.

1. EU legislation on the entry and movement of third-country citizens

With the entry into force of the Treaty of Amsterdam on 1 May 1999 the measures regarding immigration, in entry, residence and return of third-country nationals were included in Title IV called "visa, asylum, immigration and policies regarding the free movement of people" by entering the community competences. The Treaty of Amsterdam will communitarise even *acquis* Schengen, which turns in this way as part of Community law.

The Articles 62 and 63 of the Treaty of Amsterdam provided Community competence to adopt acts regarding to visa policy, border crossing, the entry, residence and procedures to be followed by Member States to issue long-term visas and residence permits, including residence permits for family reunification. It will be exactly the Article 62 that will serve as a legal basis for Regulation 562/2006 which has created a community code relating to crossing borders ending the existing fragmented framework in this discipline. The Article 63 has served as a legal basis for the adoption of all acts regarding the entry, residence, movement and repatriation (item 3 b) of third-country nationals, and more specifically to: Regulation (EC) no. 1030/2002 which was later modified by Regulation (EC) no. 380/2008 regarding the establishment of a uniform system on the issuance of residence permits for third-country nationals. This article has served as the legal basis even for acts regarding the entry and residence for certain categories third-country nationals as: Directive no. 2003/86 on the right to family reunification, Directive no. 2003/109 in relation to long-term residents and Directives no. 2004/114 and 2005/71 regarding the conditions of admission of third-country nationals who enter the territory of the Community for study, practice or research.

Regulation 562/2006¹ which establishes a Community code relating to the regime of border crossing by persons, known as "Schengen Border Code" has somehow simplified the existing framework of secondary norms about crossing borders, which resulted quite fragmented. Before the adoption of the Regulation, the entry into Community territory was disciplined by several norms of the Convention of application of the Schengen Agreement, by several decisions of the Executive Committee set out in Decision 1999/435 / EC² of the Council and the regulations adopted by the Council concerning visas.

Regulation 562/2006 has repealed the provisions of the Convention concerning the conditions for short term entry (Articles 2 to 8) and some decisions of the Council (inter alia Regulations 790/2001 dhe 2133 / 2004) and of the Executive Committee³, while have remained in

¹ REGULATION (EC) No 562/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) in Official Journal of the European Union L 105/1 date 13.04.2006.

² COUNCIL DECISION of 20 May 1999 concerning the definition of the Schengen *acquis* for the purpose of determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the *acquis* in Official Journal of the European Communities L 176/1, 10.07.1999.

³ LICASTRO, «Il "Codice frontiere Schengen"», in Diritto comunitario e degli scambi internazionali, 2006, p. 587.

force the norms of Convention of implementing the Schengen Agreement concerning visas and some Council Regulation adopted to implement the provisions of Article 62.2, letter b) even these regarding visas discipline.

European discipline on third-country nationals does not create a homogeneous legal status on immigrant. This discipline created by a derived effective body does not disciplines the immigrant in general creating a unitary legal status, but creates differentiated regimes for certain categories of immigrants. Besides the primary rates, there is also a set of derived norms on privileged categories of nationals of third countries. It is noted that besides the norms that discipline the legal immigrant resident, who can be called common discipline regime, there are recognized even these special or privileged regimes: the family norms, the norms on foreigners provided by the association agreements with third countries, norms on long-term resident immigrants and recently the norms on immigrants which are highly skilled workers. Another category of norms create a special status for asylum seekers and foreigners seeking asylum or temporary protection. This separation is reflected in recent Albanian legislation on immigration, which is harmonized with the EU.

2. The entries for short- term residence in the discipline of the EU

Regulation 562/2006 provides the lack of controls for every person that crosses internal borders and determines the manner, conditions and controls which are levied when crossing the external borders of the European Union territory. The regulation in question was applicable to all persons who cross internal or external borders of a Member State without prejudice to the rights of the persons enjoying from the right to freedom of movement and the rights of refugees and those seeking international protection (Article 3).

As a "person enjoying of Community law on free circulation" regulation identifies:

- All Union citizens within the meaning of Article 17(1) of the Treaty, and third-country nationals who are members of the family of a Union citizen exercising his or her right to free movement (Article 2 paragraph 5.a)
- third-country nationals and their family members, whatever their nationality, who, under agreements between the Community and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens (Article 2 paragraph 5.b).

As noted the Regulation reflects the duality between different categories of third-country nationals: ordinary regime and privileged regimes.

Regulation 562/2006 in its Article 5 (as modified by section 1 point 5 of Regulation (EU) no. 610/2013¹ of 26 June 2013) sets out the conditions of entry for a stay in the territory of the Member States not exceeding 90 days within a period of 180 days. The conditions that must be met are as follows:

- a) the interested person must be in possession of a "valid travel document or documents authorising them to cross the border";
- b) to be in possession of a valid visa, if required pursuant to Council Regulation (EC) No 539/2001², except where the interested person holds a valid residence permit;
- c) "to justify the purpose and conditions of the intended stay, and to have sufficient means of subsistence, both for the duration of the intended stay and for the return to their country of origin or transit to a third country into which they are certain to be admitted, or are in a position to acquire such means lawfully";
- d) not to be a person for whom an alert has been issued in the SIS for the purposes of refusing entry;
- e) "not to be considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States".

The obligation to possess a visa on entry to the Schengen area, applies to nationals whose States are listed in Appendix 1 of Regulation 539/2001 recently amended by Regulation (EC) no. 259/2014. Article 1 bis based on changes made by Regulation (EU) 1289/2013 of the Parliament and Council dated December 11, 2013, regulates the functioning of a mechanism, which provides emergency situations suspension of exemption from visa obligation for nationals of third countries. In the end, letter b) of paragraph 1 of Article 5 provides for an exemption from the visa obligation for those nationals of third countries who hold a residence permit.

The evaluation of "sufficient financial means" should be based on the time and purpose of stay as provided in paragraph 3 of Article 5, which determines how to value the necessary financial means. Simultaneously Article 34 of the Regulation stipulates the obligation for

¹ REGULATION (EU) No 610/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council, in Official Journal of the European Union L 182/1 datë 29.06.2013.

² COUNCIL REGULATION (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, in Official Journal of the European Union L 081, datë 23.03.2001.

Member States to communicate to the Commission the reference amounts required for crossing the external borders, fixed annually by the national authorities. Such a specification leads to non-uniform application of this criterion because the amount required may vary considerably between Member States. Besides the amounts of money and credit cards, the letters of guarantee issued by a person who invites a third-country national can serve as proof of financial availability.

The border guards also under the provisions of paragraph 2, may require third-country nationals supporting documents which are provided in a non-exhaustive list (Annex 1), to verify the respect and purpose and conditions of the visit.

The last condition required by article 5, paragraph 1 of Regulation 562/2006 which must be met by the third country national to enter the Schengen area is that the person "should not be considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States. In terms of public order it should be noted the lack of a definition at Community level which would enable a material approximation of legislation of the Member States.¹ The one-sided character of this notion has found support from the community jurisprudence, under which the discipline in question is necessary "to leave the competent national authorities a discretion within the limits specified in the Treaty" and that in consideration of the fact that "the notion of public order varies from one State to another and from one era to another"². The control exercised by the Court of Justice has allowed the determination of certain limitations facing the notion of public order. The threat to public health was not provided by the Schengen Agreements and it is an additional prediction made by Regulation 562/2006 which in paragraph 19 of Article 2 provides the definition of the used term.³

Paragraph 4 of Article 5 of Regulation 562/2006 provides for cases where States can avoid the conditions set out in paragraph 1 of Article 5 and to allow third-country national to enter their territory despite that does not meet all the laid conditions. In this way, a third-country national who, despite that does not meet all the requirements but who possesses a residence permit or a long-term visa to a State Party shall be allowed to enter in order to attain it transit to the territory of the State which issued a residence permit or visa. It can also be issued a visa at the border on the basis of Regulation 810/2009 and in this way to allow the entry of third country nationals who meet all other requirements except that spells of possession of a visa obligation specified in letter b) of paragraph 1. At the end it is provided that a member States for humanitarian reasons, national interest, or fulfillment of international obligations, may authorize the entry into its territory to nationals of third countries who do not meet one or more of the conditions of paragraph 1.

3. Entry for stays over three months

The Community law does not disciplines entry for stays over a three-month term of third-country nationals. Section 2 of Chapter 3 of the Convention on the implementation of the Schengen Agreement which seeks visa for long term stays contains only Article 18 which provides that " visas for stays exceeding three months shall be national visas issued by one of the Contracting Parties in accordance with its national law ". Such a visa recognizes to its holder the possibility of transiting the territory of other Contracting Parties if it meets the conditions required for issuance of a short-term visa and does not result in a list of persons signaled by the State in whose territory requires to transit. It can be seen clearly that this type of visa is not considered a uniform visa.

After the repeal of Regulation no. 1091/2001 which modified the Article 18 of the Convention of implementation, the latter will be amended by Regulation (EC) no. 265/2010⁴ of the European Parliament and Council of 25 March 2010. Visas for stays over three months remain permanently national visas are issued under domestic law or European Union legislation. Despite these visas remain national visas, meaning that Member States themselves decide the terms of issue of such visas, the Regulation in question brings harmonization as regards their format. Article 18 of the Convention of implementation after the modification by the Regulation stipulates that long-term visas are issued on the basis of uniform model provided by Regulation (EC) nr. 1683 / 95 of the Council and should be supplemented by provisions set out in Annex VII to Regulation (EC) no 810/2009 of the Parliament and the Council which has created a visa Code.

4. EU legislation concerning the movement of third country nationals

The movement of nationals of third countries is not disciplined by Regulation 562/2006. This regulation regulates only the removal of controls at internal borders, conditions of entry into the Schengen area and controls at external borders. In anticipation of a reform in the discipline, the circulation of third-country nationals in the Schengen area is disciplined by articles 19-25 of the Convention implementing the Schengen Agreement.

¹ CONDINANZI M, NASCIMBENE B., "Libera circolazione delle persone: Profili generali", in "Trattato di Diritto Amministrativo Europeo", Parte speciale, Tomo II, fq. 837.

² Court decision of 4 dicembre 1974, case 41/74, Van Duyn, in European Court reports 1974 Page 01337.

³ 'threat to public health' means any disease with epidemic potential as defined by the International Health Regulations of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to nationals of the Member States.

⁴ REGULATION (EU) No 265/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa, in Official Journal of the European Union L 85/1, 31.3.2010.

Based to Article 19 of the Convention, "aliens" who hold uniform visas and which fulfil the entry requirements provided for in Article 5, paragraph 1, letters a), c), d) and e) and have legally entered the territory of a Contracting Party, "may move freely within the territory of all Contracting Parties for the period of validity of the visa".

Article 20 provides that in the same conditions can move freely even "the aliens" who do not have the obligation of possession of a visa when crossing the border. These persons fulfilling the conditions of Article 5 can move for a maximum period of three months within a period of six months from the date of first entry. For this category of foreigners, the provision in question provides the possibility of an extension beyond the three months period of residence in its territory by one of the signatories.

Freedom of movement for a period not longer than three months is allowed even to foreigners who possess a residence permit, a temporary residence permit and a travel document issued by a signatory party, if it meets the conditions set out in paragraphs a), c) and e) of Article 5 paragraph 1 of Regulation 562/2006 and it is not on the national list of persons signaled by the Member State concerned.¹ This provision conforms with the Charter of Fundamental Rights of the European Union which in Article 45.2 provides that "*freedom of movement and residence may be granted, in accordance with the Treaties, to nationals of third countries legally resident in the territory of a Member State*".

To article 21 of the Convention after the change undergone by Regulation (EU) no. 265/2010 of European Parliament and Council of 25 March 2010 has been added a paragraph 2-bis, which provides that the freedom of movement provided for in paragraph 1, shall be applied to aliens who hold a valid long-stay visa issued by a Member State in conformity with the provision of Article 18 of the Convention. The latter one after modifications by the Regulation no. 265/2010 provides that the term visa over three months (long-term visas) are national visas and are issued based on a uniform visa model established by Regulation (EC) no. 1683/1995 and are completed by the provisions of Regulation (EC) no. 810/2009 (Visa Code).

5. The development of Albanian legislation on foreigners

Until the beginning of the 1990s, Albania had been the least known and the least accessible country in the world for more than four decades². After 90 years, Albania will return to a country of emigration (country of origin). For this reason the policies will be more oriented to an immigration regulation and protecting the interests of Albanian nationals living abroad. The immigration found adjustment by law no. 7939, 1995 "On Migration" that summed up in a single text provisions to regulate emigration, immigration, asylum and refugees. The objective of the law was to regulate the entry of persons in the Republic of Albania, and their exit from it, as well as regulate the issuance of visas, residence permits and work, conditions and procedures for admission and deportation of immigrants (Article 1). Subject of the law were Albanian citizen and "foreign". Law 1995 in Section 5 provide definitions of terms: the migration understood simultaneously two terms: emigration and immigration. Law of 1995, is credited for the first time, regulates the regime of foreigners in the territory of Albania. This law based on important principles international conventions but not observed the impact of Community law.

After the adoption of the Constitution of 1998, and due to developments migration phenomenon, the 1995 law was repealed and divided discipline was conceived, where regulated by special laws: emigration³, asylum and foreigners⁴. The immigration will be regulated from law "On Foreigners" of 1999, and from normative acts in accordance with it, such as the Council of Ministers Decision no. 439/2000, "the entry, residence and treatment of foreigners in the Republic of Albania"⁵ and Decision of the Council of Ministers for issuing work permits to foreigners nr.262/2002.

The European Union, at the Zagreb Summit of November 2000, launched the Stabilisation and Association Process for five countries of Southeast Europe, including Albania. The process of integration sets clear obligations for States that have made the membership request. The approximation of legislation with the Community *acquis* is one of the conditions to be met by these countries and this obligation is expressly defined in Article 70⁶ of Stabilization and Association Agreement between Albania and European Union. Article 80 and 81 of agreement determines an obligation of collaboration in the field of migration, respectively, article 80 determines "*The Parties shall cooperate in the areas of visa, border control, asylum and migration and shall setup a framework for cooperation,...* Cooperation shall be based on mutual consultations and close coordination between the Parties and shall include technical and administrative assistance for: the drafting of legislation; the security of travel documents and detection of false documents and the border management. The collaboration should be focused in the field of asylum, in the field of legal migration, on admission rules and rights and status of the person admitted. Special procedures for the reacceptance of nationals, nationals of third countries and persons without nationality, are determined in the

¹ Article 21.1 Convention implementing the Schengen Agreement of 14 June 1985.

² Blejer, M., Mauro Mecagni., Ratna Sahay., Richard Hides., Barry Johnston., Piroska Nagy., and Roy Pepper (1992) 'Albania: From Isolation Towards Reform', Occasional Paper No. 98, Washington: International Monetary Fund.

³ Law no. 9034/2003 "On the immigration of Albanian citizens for employment purposes", Constitution of Republic of Albania

⁴ Law no.8942 date 27. 09.1999 "For foreigners"

⁵ Changed with the decision of 532/2001, 669/2001, 253/2002, 220/2003, 670/2004,146/2005.

⁶ Article 70 ASA: "The Parties recognize the importance of the approximation of Albania's existing legislation to that of the Community and of its effective implementation. Albania shall endeavor to ensure that its existing laws and future legislation shall be gradually made compatible with the Community *acquis*. Albania shall ensure that existing and future legislation shall be properly implemented and enforced".

framework of agreement between European Community and Albania on the readmission of persons residing without authorization, signed on April 14, 2005¹.

Regarding the discipline of immigration law nr.8942 of 1999 and other normative acts in pursuance of his own present major deficiencies as noted in the Stabilisation and Association Report 2003 for Albania². In this report the Commission has suggested possible harmonization of legislative changes, institutional strengthening, in particular, through a clear definition of main institutions roles and appropriate training regarding migration issues. The Albanian law nr.8942 in 1999 did not comply with the Community *acquis* not only in the aforementioned cases but present deficiencies in all discipline areas (visa, entry, exit, acceptance, and attitude of foreign citizens)³.

In an effort to aligning the legislation with European and international standards, and the implementation of Migration Strategy and its Action Plan (approved in 2005), is designed New Law on Foreigners on July 17, 2008⁴ that would invalidate the law of 1999 and all existing bylaws and will bring a new normative basis for foreigners. Law no. 9959 divided into 11 chapters has 153 articles and has as its object the regulation of entry, residence, employment regimes, and treatment and exit of foreigners in the Republic of Albania⁵. With the approval of the legal basis, Albania intends to fulfil required standards provided in the framework of the European Union *acquis*. Law no. 9959 respectively approximates Albanian legislation is in accordance with Council Directive 2005/71/KE⁶, Council Directive 2004/82/KE⁷, Council Directive 2004/81/EC⁸, Council Directive 2004/114/ EC⁹, Council Directive 2003/109/ EC¹⁰, Council Directive 2003/86/KE¹¹, Council Directive t 2000/78/ EC¹² and Council Directive 96/71/ EC of European Parliament and the Council¹³. The law came into force in December 2008 while in 2009 the EU *acquis* will be enriched with three Directives¹⁴ and the Regulation of European Parliament and Council no. 810/2009¹⁵.

For fully approximation of Albanian legislation with the aforementioned acts and other acts adopted after 2008 by the EU and by following the suggestions of Experts on the EU and international organizations as PAMECA and OIM on March 28, 2013, Albania adopts new law no. 108 "On foreigners"¹⁶. The new law repeals the law 9959 of 2008 and all acts that were contrary to it and brings a comprehensive approach to legislation with community acts and filling some deficiency or discordance that were from law no.9959.

¹ Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorization in Official Journal L 124, 17.5.2005, p. 22–40.

² Commission of the European Communities, "Report from the Commission - The Stabilisation and Association process for South East Europe - Second Annual Report." COM/2003/0139 final, Brussels, 2003.

³ For a full analysis of the gaps, see report prepared by independent consultants of the International Organization for Migration (IOM). "Analysis of the Albanian Legislation and Practice of Immigration compared with EU and those International standards" Tirana, January 1, 2004.

⁴ Law.no. 9959, date 17. 7. 2008 "Për të huajt", në Fletoren Zyrtare nr. 124, datë 1 Gusht 2008, faqe 5479.

⁵ Article 1, of Law no. 9959/2008.

⁶ COUNCIL DIRECTIVE 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research. CELEX 32005L0071, Official Journal, L 289, 3.11.2005, p. 15–22.

⁷ COUNCIL DIRECTIVE 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data CELEX 32004L0082, Official Journal, L 261, 6.8.2004, p. 24–27.

⁸ COUNCIL DIRECTIVE 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. Official Journal L 261, 06/08/2004 P. 0019 – 0023.

⁹ COUNCIL DIRECTIVE 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service. CELEX 32004L0114, Official Journal L 375, 23.12.2004, p.12–18.

¹⁰ COUNCIL DIRECTIVE 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents CELEX 32003L0109, Official Journal L16, 23.1.2004, p. 44–53.

¹¹ COUNCIL DIRECTIVE 2003/86/EC of 22 September 2003 on the right to family reunification CELEX 32003L0086, Official Journal L. 251, 03.10.2003p. 12–18.

¹² COUNCIL DIRECTIVE 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. CELEX 32000L0078, Official Journal, L 303, 02.12.2000, p.16–22.

¹³ DIRECTIVE 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. CELEX 31996L0071, Official Journal L 018, 21/01/1997 P. 0001 – 0006.

¹⁴ DIRECTIVE 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals".

¹⁵ REGULATION (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), Official Journal L. 243, 15.9.2009, p. 1–58.

¹⁶ The text of Law in:

http://www.punetebrendshme.gov.al/files/documents_files/13-11-14-04-05-08ligji_per_te_Huajt.pdf.

6. Entry and residence of foreigners under Albanian legislation

The objective of the Law no. 108 of 2013 is the regulation of regimes of entry, residence, employment and exit of foreigners from the Albanian territory. From the first articles, the law distinguishes between categories of foreigners in the ordinary regime and those in privileged regime, using in this way the same dualism that uses the community law. Article 1 provides that for nationals of countries that have reciprocal agreements with Albania, can be applied a special regime more favourable provided in these agreements. In determining subjective field of application, the law also states that its provisions regarding the residence are not applicable to diplomatic personnel and their families.

Regarding the term "foreigner", such is any person, with or without citizenship, who, under the law, is not an Albanian citizen. Community legislation is applying a differential regime from the usual for third-country nationals who enter the territory of the Community for family reunification and the Albanian legislation makes this differentiation by putting them in a privileged regime.

Chapter II of the Law 108/2003, divided into two sections, regulates the entry of foreigners into Albanian territory. Section I (Articles 6-13) regulates the general conditions of entry, while Section II (Articles 14-19) determines provisions on travel documents.

Article 6 defines the criteria that a foreigner must fulfil to enter the Albanian territory. The foreigner must: a) possess a passport with a validity of at least 3 months prior to its completion; b) be equipped with an entry visa if required, or a valid residence permit; c) not constitute a threat to public order and safety, national security and international relations not to affect Albania with other countries; d) not have records in the national electronic register for foreigners to limit his entrance; e) not pose a risk to public health in the Republic of Albania; f) not be a debtor to administrative measures imposed on him under the provisions of this law.

Despite the term of stay, short- term stay or long- term stay, foreigners wishing to enter the territory of Albania must fulfil the above conditions of stay. Section 6 provides an exemption from fulfilling these conditions only for asylum seekers and nationals of countries with which Albania has agreements and when in these agreements is provided otherwise. It's a logical exception, because it cannot be refused the entry of the person whose life or his freedom may be threatened because of race, religion, nationality, membership of a social group or political opinion. If this were to happen then Albania violates the international norm of non- *refoulement*, a principle of general international law but also provided by Article 33 of the 1951 Convention on the Status of Refugees, but as interpreted by the Strasbourg Court and Article 3 the European Convention of human Rights, to which Albania is a party.

According to conditions of entry it is noted that the law No. 108 in general defines the same conditions provided by Regulation (EC) no. 562/2006 of the European Parliament and the Council. Normally there are differences as the regulation in question regulates only the entries for short- term residence in the territory of the Community, while the Law No. 108 regulates the entries for any reason as well as for long term residence, highlighting that Community law does not discipline visas for long- term stays, because it remains within the competence of the Member States.

The first condition to be met by a foreigner to enter the territory of Albania is the possession of a travel document with a validity of at least 3 months prior to its completion. This is a defining condition and Article 5 of the Regulation. Regulation no. 562/2006 in June 2013 has undergone a change of Regulation (EC) no. 610/2013¹ which in addition to 3-month period before the date of completion has also added the requirement that the document must be issued no earlier than 10 years. This condition was not reflected in the Law no. 108, which entered in force in March, while the modifying Regulation entered in force in June 2013.

According to the second condition, the possession of a visa if required, Albanian law as well as community legislation make division of foreigners into two categories: those that need a visa to enter and foreign nationals who are exempt from obligation of issuing visas for stays not exceeding 90 days within a period of 180 days. Article 30 of the law provides that the list of countries, whose nationals can enter without a visa in the Republic of Albania, is approved by the Council of Ministers. It is approved the decision of the Council of Ministers no. 513 dated 13.06.2013², which defines the countries whose nationals are exempt from the obligation of issuing visas, to the implementation of the law. The method used is that of the two lists, the same used by Regulation (EC) no. 539/2001³. On the one are listed the countries, whose nationals have the obligation of possession of a visa on entry, and the on the other list are listed the countries whose nationals do not have the obligation of possession of a visa for entry to 90 days within a period of 180 days. Article 30 also provides that it can be avoided the 90-day deadline for those foreign nationals whose countries have reciprocity agreements with Albania which provide for different periods of residence. As provides the Regulation (EC) no. 810/2009, which creates community visa code, there are exempted from visa possession the diplomatic passport holders and members of the crew of the aircraft, as well as Albanian law exempts these two categories.

The provisions of items c), d) of the law along with item d), that determine that the foreigner should not have records that limit his access to the national electronic register for foreigners, are in function of maintaining the public order. This register is created and works since 2010 by a jointly instruction of the Minister of Interior, Minister of Foreign Affairs and the Minister of Labour, Social Affairs and Equal Opportunities and consists of several modules, one of which is dedicated to the treatment of foreigners irregularly staying in the territory.

¹ REGULATION (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013, in Official Journal L 182, 29.6.2013.

² Vendim i Këshillit të Ministrave nr. 513 datë 13.06.2013, në Fletoren Zyrtare nr. 110, datë 07/12/2013, fq. 4783.

³ COUNCIL REGULATION (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, in Official Journal L81/1, 21.3.2001.

In fact, this condition has replaced two conditions set by the previous law no. 9959 of 2008 under which a foreigner should not be subject to a removal order, forced removal, deportation or prohibition to enter or stay in the Republic of Albania and should not have been declared *persona non grata*. In fact it is only made a substitution after these people can be marked in the national electronic register in order to limit their entry.

The condition set out in paragraph c) of Law No. 108, is provided by Community legislation Article 5 paragraph e) of Regulation 562/2006. It should be emphasized that this provision leaves a large space of discretion to responsible authorities, because they are themselves which make assessment of the threat of a foreigner person. Also item e) of Article 5 of the Regulation provides that the foreigner shall not constitute a threat to public health, a provision used in item d) of Article 6 of the Law no. 108. This was not predicted by previous law no. 9959 of 2008 which regulated the discipline. Regarding the definition of the term "public health threat" it exists a pronounced difference between the Albanian legislation and the community law. In fact, Article 2 of Regulation 562/2006 states that it is considered a "threat to public health" any disease considered as a potential for epidemic spread by international regulation of health and the World Health Organization, or other infectious diseases that are subject to the provisions safeguards applicable to nationals of member countries. While the Albanian law does not provide a definition of this notion but in Section 4 is limited only to the determination of the state authority responsible for assessing the risk to public health, which identifies the Ministry responsible for health. By not giving a definition of the notion, the law no. 108 leaves discretion to responsible authority to determine when a foreigner can be considered as a threat to public health.

Finally it should be noted that based on the provision of item e) of Article 6 of the Law no. 108 to foreigners, based on a case by case assessment, may be required submission of additional documents, the type of which are approved by the Council of Ministers. In fact this is a provision made even by the Community legislation, which clarifies that these additional documents enables the verification of compliance of the conditions of entry. The Decision of the Council of Ministers no. 513 dated 13.06.2013 has defined additional documents that may be required, listing a series of documents that are found in Annex I of Regulation 562/2006 of Community legislation. In fact, Community legislation stated expressly that the foreigner must possess the necessary financial means for the period of stay and return to the country of origin. Albanian law has used this provision in Article 13 dedicated to financial guarantees, while its Article 12 provides the possibility of invitation from an Albanian national, who goes on this way guarant to meet the financial costs of foreign nationals.

The Law no. 108 differently from the law no. 9959 of 2008 which regulated the discipline previously, has been significantly adapted to Community legislation concerning the conditions of entry.

On the other hand regarding travel documents and visas Law no. 108 in contrast to the previous law is fully accommodated to the community legislation and in particular to Regulation no. 810/2009 dated 13 June 2009 "On the establishment of the Community Code on Visas". The new law defines in this way the same procedure and fulfillment of dissimilar conditions for issuance of a visa. While on the other hand it provides different types of visas, according to the purpose of stay, same as Regulation no. 810/2009. Thus visas issued for entry and stays in Albanian territory are three types: type A visa which is aereoportual transit visa. Unlike the law no. 9959 which provided that it was an entry visa, the new law provides that with the fulfillment of certain conditions specified in Article 20, the visa can be multiple entry and valid for 6 months, being thus fully conform with Article 26 of Regulation no. 810/2009; Type C visa which gives a right of entry and residence in the territory of Albania for 90 days within 180 days from the date of first entry. This visa can be single entry or multiple entry when the conditions of Article 21 are fulfilled. Visas with multiple entry may be valid for a period ranging from 6 months to 5 years. Article 21 calls the same conditions defined by Article 24 of Regulation no. 810/2009; Type D visa, which is given to foreigners seeking to stay in Albania for a period of 90 days within the superior 180 days. Community legislation does not discipline the conditions of issuance of such visas once considered national visas as competence of the Member States. Albanian legislation on the basis of the purpose of entry visas divides in these visas: a) economic activity "D / AE"; b) professional activity "D / AP"; c) commercial activity "D / AT"; d) employment activities "D / APU"; e) study purposes "D / ST"; f) family reunification "D / BF"; g) charitable or religious activities "D / VHF"; h) diplomatic visa or service visa "D / DS"; i) visa for seasonal employment purposes "D / SP"; j) visa for humanitarian reasons "D / H".

Law no. 108 is fully adapted to Regulation no. 810/2009 (visa code) not only in terms of the type of visas, but also in terms of procedures and conditions of their release. In fact one of the purposes of adoption of the new law, as defined in its entrance, was the total adaption to this Regulation and Community legislation in force.

Law no. 108 of 2013 has amended the discipline of residence permits in Albanian territory. Previous Law no. 9959 of 2008 provided permits of only three types: a) within 3 months, 6 months or 1 year, which may be renewed no more than 5 times in a row; b) 2 years time, which may be renewed not more than once; c) permanent, if the foreigner has legally resided for five consecutive years in Albania and has relations or activity in the country. As noted the discipline differed greatly from that of community. The new law has changed the discipline and Article 33 defines the types of residence permit: a) type "A" permit, non-renewable, which entitles the holder to stay in the Republic of Albania within the period of time for which it issued; b) type "B" permit, renewable, and issued with fixed term and entitles the holder to enter, stay and exit to / from the Republic of Albania within the time specified therein; c) type "C" permit, which may be for permanent term and entitles the holder to enter, stay and exit to / from the Republic of Albania; d) type "S" permit, renewable after a 6-month break, which is issued for seasonal workers and gives the holder the right to enter, stay and exit to / from the Republic of Albania within the time specified in to it; e) "Blue Card AL" permit, renewable, which is issued with fixed term only for highly skilled employees and entitles the holder to enter, stay and exit to / from the Republic of Albania in terms set in; f) "AL-C Blue Card" permit, which is issued to permanent term only for highly skilled employees and entitles the holder to enter, stay and exit to / from the Republic of Albania. Law no. 108 of 2013 is adapted completely with the community legislation and more specifically with: Council Directive 2009/50 / EC, dated May 25, 2009 "On the

conditions of entry and residence of third-country nationals working order highly qualified; Council Directive 2005/71 / EC dated 12 October 2005 "On the specific procedure for admitting third-country nationals for the purposes of scientific research"; Council Directive 2004/81 / EC dated 29 April 2004 "On the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities; Council Directive 2004/114 / EC, dated 13 December 2004 "On the conditions of admission of third-country nationals for the purpose of study, student exchange programs, free training or voluntary service"; Council Directive 2003/109 / EC, dated 25 November 2003 concerning the status of third country nationals who are long-term residents; Council Directive 2003/86 / EC, dated September 22, 2003 "On the right of family reunification.

Conclusions

The immigration discipline in Albania has developed only recently, for almost 20-years. After an initial period which starts with Law of 1995 where the Albanian legislation had no minimum influence from Community legislation and the aim of the first norms of the immigration discipline was the setting of certain international standards on immigration and asylum, with the law of 2008 starts the period of the harmonization of Albanian legislation in the discipline of immigration with *acquis* communitarian, and this came as an obligation of integration process that had begun, and obligations arising from SAA. The law no. 9959 of 2008 marked progress on harmonization with Community legislation, however, as discussed in the paper and it still remains far away especially in the sectors of entry, residence and visa.

To fulfil the obligations and owing to the development of the *acquis* of the European Union on March 28, 2013, Albania will approve a new law (nr. 108/2013) on immigration discipline. This law, which replaced the previous law, has regulate the whole discipline on entries, visas and stay in the territory of Albania, performing an almost complete harmonization and making Albania one of the countries with the most advanced legislation in immigration discipline. However, if it can be concluded that it is a full harmonization related to the discipline of residence and visa, it can still be observed some material changes concerning the conditions of entry of foreign nationals, which basically does not create a difference in application, but require intervention of the legislator to perform material changes that would bring the law no.108 / 2013 in a complete adaption with community legislation and with the discipline regarding the entry of foreign nationals.

References

- BLEJER, M., MAURO MECAGNI., RATNA SAHAY., RICHARD HIDES., BARRY JOHNSTON., PIROSKA NAGY., and ROY PEPPER (1992) 'Albania: From Isolation Towards Reform', Occasional Paper No. 98, Washington: International Monetary Fund.
- CONDINANZI M, NASCIBENE B., "Libera circolazione delle persone: Profili generali", in "Trattato di Diritto Amministrativo Europeo", Parte speciale, Tomo II.
- CE. (2013). *Le politiche dell'Unione europea. Migrazione e Asilo.* . Bruxelles, : Commissione Europea.
- LANG. A. (2003, p. 698). *La politica comunitaria in materia di immigrazione*, in *Diritto Pubblico Comparato ed Europeo.* . Milano: Milano.
- LICASTRO, «Il "Codice frontiere Schengen"», in *Diritto comunitario e degli scambi internazionali*, 2006, p. 587.
- INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM). January 1, 2004. "Analysis of the Albanian Legislation and Practice of Immigration compared with EU and those International standards" Tirana, Albania, IOM
- NASCIBENE B., (1995). *Libertà di circolazione delle persone, diritti dei cittadini dell'Unione europea e dei Paesi terzi*, in *Da Schengen a Maastricht*, Milano.
- Agreement between the European Community and the Republic of Albania "On the readmission of persons residing without authorization" in *Official Journal*, L 124, 17.5.2005, p. 22–40
- Commission of the European Communities, "Report from the Commission - The Stabilization and Association process for South East Europe - Second Annual Report." COM/2003/0139 final, Brussels, 2003.
- Council Directive 2003/109/EC of 25 November 2003 "Concerning the status of third-country nationals who are long-term residents" CELEX 32003L0109, Official Journal L16, 23.1.2004, p. 44–53.
- Council Regulation (EC) No 2317/95 of 25 September 1995 determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States in Official Journal L 234 , 03/10/1995 P. 0001 – 000.
- Law no.8942 date 27. 09.1999 "For foreigners"
- Law.no. 9959, datë 17. 7. 2008 "Për të huajt" hyri në fuqi në 1 dhjetor 2008.
- Law nr. 108/2013 date 28.3.210 "For the foreigners", në Fletoren Zyrtare nr. 48, datë 5 prill 2013
- Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), Official Journal L. 243, 15.9.2009, p. 1–58.
- REGULATION (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) in Official Journal of the European Union L 105/1 date 13.04.2006.

REGULATION (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa, in *Official Journal of the European Union* L 85/1, 31.3.2010.

REGULATION (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013, in *Official Journal* L 182, 29.6.2013.

The Role of Central and Regional Government in the Regional Development of Albania

Alma Marku

European University of Tirana, Faculty of Economy

E-mail: alma_marku@yahoo.com

Tirana, Albania

Tel: +355674096551

Abstract

Albania is a country in the Southeastern of Europe that has gone through many obstacles since its independence (1912) until the fall of communism regime or "the dictatorship of the proletariat" in 1991. After the fall of communism regime and the change of economy from a centralized one to an open economy, Albania is structuring its legal framework, institutions and agencies, policies, etc., in order to be a member of European Union. Due to its undertaken reforms and required ones from European Union, Albania is in a crossroad regarding the policies and institutional bodies of regional development. One of the latest reforms recently presented and approved in the Albanian Parliament is the new Territorial Reform, which has defined a new organization of the local government. Such reform has not yet been accompanied with a legal revision of respective existing laws. In this context, the lack of a legal framework which would define the roles and responsibilities of the local and government structures, makes things more difficult. Even though there is a financial instrument in place such as Regional Development Fund to eliminate disparities between regions, it is often object of mutual debate of the government and opposition because of the way of funding the projects. This paper tries to review the role of central and local/regional government in Albania with regards to regional development. Firstly, I will present the context of legal and institutional framework of the local and central government. Afterwards, I will try to explain the policy and financial framework of the regional development in Albania. In conclusion, Albania has to define by law the role and responsibilities of its bodies in local and regional levels. The new strategy on regional development should be more integrated with other sector and crosscutting strategies. Also development of capacity building of local and central government in the area of regional development is a key issue, follow the European integration process.

Key words: regional development, local and central government, European integration.

Introduction

Albania is a country in the Southeastern of Europe that has gone through many obstacles since its independence (1912) until the fall of communism regime or "the dictatorship of the proletariat" in 1991. During this long-lasting regime (47 years) the Working Party was the only political governing party in the country¹ and the private property was forbidden by the article 16 of the Constitution. After the fall of the communism the main challenges of the country was switching from the one party government to a series of democratic institution, and to open its planned economy to a democratic system of "free market".

After 23 years of democracy, Albania now is a member of NATO and has finally gained a candidate status in the European Integration process. This means that Albania has undertaken a series of reform in different areas. Regarding the reforms in the area of decentralization and division of power, governments have not done so much. If we study these processes we will see that in some cases they decentralize power to local level and in other cases they centralize some of the services that deliver the local government.

Nevertheless, in July 2000, the government of Albania approved two important laws: the territorial division of the country and the functioning of the local government. With the new government in place in June 2013 the law on territorial division was changed again by reducing the number of local units.

On the other hand there is not a clear definition on institutional responsibilities of regional development. Furthermore the lack of a law and integrated regional policies between central and local government make the picture darker by arising many question marks regarding the future of regions and the way they will be governed.

1. Brief history of regional development (territorial division)

¹ Article 3, Law no. 5506, date 28.12.1976 "Constitution of People's Socialist Republic of Albania"

While studying closely the history of governance in Albania, we could encounter the consequences legacy left by the centralized government of dictatorship where the main principle of governance was centralization of the power and economy. This concentration of power led to the extinction or elimination of the concept of regional governance and thus "killed" the balance between the levels of the governance, which by the way suffers even today despite the reforms undertaken in the field of decentralization.

Until 1960 administrative division consisted of nine regions which included several districts and councils village advice. Under the ruling ideology of Marxism - Leninism and proletarian dictatorship after the 1960 reform, any previous form of regional and local government was gone. It was eventually eliminated the term "region" and state power was represented by Parliament which constitute the central government and the People's Councils that represented the local level.

After the democratic changes in the early '90s, the reform of central and local government took place. The administrative division under the 1993 reform brought 12 prefectures, 36 districts and municipalities/communes which are the first level of local government. The territorial division of Albania done through Law no. 8653, dated 31.07.2000 divided the territory into two levels: counties and municipalities/communes. While the new Law on administrative-territorial division of local government units in the Republic of Albania divides the country into two units of local government, municipalities and counties.

2. Legal and institutional framework

a. Central government level

In relation to the hierarchy, Constitution is the highest law of the Republic of Albania. According to Constitution (Article 100), Council of Ministers defines the principal directions of general state policy. In order to do that, Council of Ministers adopts decision and instructions (Article 100/5).

The organization and functioning of the Council of Ministers, Prime Minister, Ministers etc., are regulated by the Law no. 9000, date 30.01.2003, "On the Organization and Functioning of the Council of Ministers". A directly elected organ of a local government unit may be dissolved or discharged by the Council of Ministers for serious violations of the Constitution or the laws (Article 115/1). Council of Ministers appoints a prefect as its representative in the counties of the territory (Article 114). He or she supervises controls and coordinates the activity of the central institutions at the local level; directs the activities of state administrative structures, etc.¹.

The minister, within principal directions of general state policy, directs the activities under his responsibility. He or she pursuant to its powers issues orders and instructions (Article 102/4). Inter-ministerial committees are consultative bodies of the Council of Ministers where policies and other executive issues and important activity are discussed. Regarding the regional policy, the Committee for Regional Development identifies all the issues of the regions. The establishment of this committee aims a more powerful support from the state budget for the regions/counties. It coordinates projects between regions and balances the distribution of financing between them.

b. Local government

Territorial reform

According to the Articles 108/1 of the Constitution, communes or municipalities and counties are the units of local governments. They perform all the duties of self-government, with exception of those that are given by the law to other units of local government. Communes and municipalities are the basic units of local government (article 108/3).

A county consists of several basic units of local government with traditional, economic and social ties and common interests. The county is the unit where regional policies are made and implemented and where they are harmonized with policies of the state². The Article 113 of the Constitution regulates the constitutional powers of the communal, municipal and regional councils.

There are several laws that regulate the division of power and responsibilities between different levels of local government. A new political debate has appeared with the new territorial reform by the government since it reflects the units of the local government. In this regards, opposition is against this law with the main argument that it falls down under some provisions of the Constitution.

The territorial division of Albania is done through Law no. 115, dated on 31.07.2014 "On administrative-territorial division of local government units in the Republic of Albania". According to this law, local governance in our country is organized in two levels:

- Municipalities – 61; and,
- Counties – 12³.

¹ Article 6 of the Law 8927, daten on 25.7.2002

² Article 110 of the Constitution

³ Article 1

Local government units enjoy certain rights such as the right of governance, property, the right of collecting revenues and making expenditures, the right of conducting economic activities, etc.

Counties/Regions	Population	Area (km ²)	Density (people/km ²)
Berat	145.236	1.798	81
Diber	138.45	2.586	54
Durres	275.471	766	360
Elbasan	303.12	3.199	95
Fier	318.102	1.89	168
Gjirokaster	73.627	2.884	26
Korçe	226.282	3.711	61
Kukes	86.555	2.374	36
Lezhe	138.349	1.62	85
Shkoder	221.459	3.562	62
Tirana	789.129	1.652	478
Vlore	183.002	2.706	68
Total¹	2.898.782	28.748	101

Table 1. Population according to regions. Source: INSTAT, Albania in figures 2013.

According to the definition of the Law no. 8652 dated on 31.07.2000, as amended (Chapter II, Article 5): "Commune" represents an administrative - territorial and community residents usually are in rural areas and in certain cases even in urban areas. Its subdivisions are villages and towns in special cases. Changes have to be done since the new law on territorial reform does not include this term or territorial division.

"Municipality" is an administrative - territorial and community residents are usually in urban areas and in certain cases also includes rural areas. Meanwhile, its subdivisions in urban areas called wards (established in territories with over 15 000 inhabitants by the decision of the municipal council); when the municipality includes rural areas, subdivision called village (established in an area with over 200 inhabitants). A city is a residential center, which has an urban development perspective plan approved.

"County" is an administrative – territorial unit consisting of several communes and municipalities with geographic, traditional, economic, social and common interests. Its boundaries coincide with the boundaries of municipalities and communes that comprise it and its center is placed in one of the municipalities involved.

Representative bodies of local government are: municipalities/communes councils which are elected directly by the people; and counties councils are representative bodies of local governments. Under the provision of the law 8652, dated on 31.7.2000, the County has to prepare and implement the regional policies and harmonize their national policies at the regional level. The most important thing in the adoption of this law and its normative acts is switching the authority and responsibility for the functions of local authorities to counties. Transference of public property and financial independence are two important issues of local autonomy.

Regional development

There is no Law on Regional Development in Albania which will make a clear definition on the principles, objectives, division of power, tools and management of institutional framework for regional development. This law would complement the legal framework of regional and local government in the Republic of Albania.

¹ Albania in Figures 2013, INSTAT, Tirana, 2014. Pg.11

There was a draft law formulated during the implementation of the National strategy of Regional Development but it was not approved or sent for approval. Some of the objectives of this draft law were: promoting sustainable and balanced development between regions of Albania; strengthening the competitiveness of the economy throughout the country in accordance with the principles of sustainable development and evaluation of local and regional disparities; continuous improvement of quality of life in all regions of the country; continuous reduction of economic and social development disparities by promoting the integrated development of rural areas and a balanced development between regions of the country; revitalize disadvantaged areas highlighted (isolated from development; promoting inter-regional domestic and international, cross-border cooperation within the framework of Euro regions as well as participation in organizations and European structures, etc.

But what do we understand by the term "region"? In terms of this draft law, the region is the territorial integrity, which includes a number of territorial administrative local units of government. Meanwhile, regional development is a long process enhancement of sustainable social and economic development which will be achieved through the identification, stimulation and management of potential development of individual regions.

The draft law also provides the principles of regional development policy like: partnership and cooperation (between the public, private and civil and particularly between central state administrative bodies and local administrative bodies); solidarity and concentration (directed particularly towards additional support to areas that have lagged the national average); equal opportunities (the necessity of creating living conditions for all citizens in order to have equal opportunities to develop their potential); mutual fund and co-financing (through co-financing local budgets, national budget, donors, etc.); monitoring and evaluation (in order to increase the effectiveness, efficiency and impact on development); sustainability; information and transparency; and local autonomy.

3. Policy framework of regional development in Albania

In November 2005 the Albanian government for the first time introduced a general government policy called Integrated Planning System, which was a set of operating principles to ensure the implementation of the government policy in a harmonized and efficient way.

Integrated Planning System had its focuses on 6 government processes focusing in the two main ones: National Strategy for Development and Integration (2007-2013)¹, which is a document that defines the medium and long term objectives of the government and strategies for all sectors based on a national vision; Medium Term Budget Plan which requires each ministry to develop a 3-year plan for achieving program goals and policy objectives within the ministry's expenditure ceiling, determine the government's fiscal plan.

The National Strategy for Development and Integration 2007-2013 identified regional disparities that exist in the country a very serious problem, as well as the need for a new coherent and integrated regional policy. The vision of the government in the field of regional development was the development of sustainable and equilibrated regions of Albania, in general, focusing on the mountainous and remote areas with the aim of supporting the rapid development of the entire country.

In the draft of the new National Strategy for Development and Integration 2014-2020 the main challenge is to ensure a balanced development between regions of the country, and to increase the cohesion of the country's development in relation to other EU countries, through the consolidation of an effective system of regional planning and development.

The concrete steps in the field of Regional Development in Albania began in 2007. Ministry of Economy, Trade and Energy in the role of leading institution, had an extensive process of consultation with various interest groups which concluded with the crosscutting strategy of Regional Development 2007-2013. The document summarized policies, legal and institutional framework to be implemented, in order to fulfill the main objective of the government, that of sustainable growth and balanced socio- economic regions of Albania. Two main directions of this strategy were to reduce social and economic disparities across the country and create an efficient management framework for regional development. Unfortunately this strategy did some progress in the first direction and failed the second one since the law was not approved. The law would clear the role of each institutional structure to manage regional policies.

4. Financial framework of regional development

The financial support of the central government for rural, local and regional government has always been a subject of debate between local and central government, government and opposition and so on. In 2005 the government of Albania introduced a financial mechanism in order to support the development of certain rural, local and regional areas called Competitive grants. This mechanism identified the priority projects to be financed by the central government. The focus of these projects was infrastructure, health, education, sewerage, etc.

Counties/Regions	Amount in milliard ALL
------------------	------------------------

¹ NSDI 2014-2020 is not approved yet

Berat	1.32
Diber	2.59
Durres	1.87
Elbasan	2.22
Fier	2.14
Gjirokaster	1.82
Korce	1.82
Kukes	1.19
Lezhe	1.88
Shkoder	2.2
Tirane	2.73
Vlore	2.26
Total	24.04

Table 2. Financial support for the regions, period 1993-2010. Source: Albanian Development Fund

But the implementation of this financial mechanism was seen as a support that government gave to those communities that were in the same political direction as the government. Furthermore, this mechanism has not made the region more competitive, so the government realized that the national budgetary policies should be harmonized with local budgetary policies.

To encourage the development of the smallest unit of the local government such as communes but also municipalities and up to the regional level the government decided to change its philosophy. In this frame, it is necessary to integrate the central level sectorial policies into the regional level. A new mechanism called the Regional Development Fund took the place of competitive grants scheme. The new philosophy introduced by this fund were the regional and local development, poverty reduction and avoiding the maximum fragmentation of the budget.

Another positive aspect of this instrument is the decision making process. There is a committee entitled the Committee on Regional Development, chaired by the Prime Minister, main ministers of the Government, the Chair of the Rectors' Conference, the Chair of the Association of Communes, the Chair of the Association of Counties and the Chair of the Association of Municipalities that approves the projects to be financed.

Year	Regional Development Fund in ALL
2010	8,893,428,786
2011	5,678,924,000
2012	5,618,683,000
2013	7,601,398,561

Table 3. Regional development fund allocations for the period 2010-2013. Source: Department of Strategy and Donor Coordination

5. Conclusions

In June 2014 Albania granted the candidate status of EU. This means that there are a series of new implications for Albania. From an economic point of view, candidate status will encourage foreign investments in the country and as a result the units of the government should be prepared to make their locality or region more competitive. In order to do so they have to develop the capacity building in order to enhance their ability to identify and meet development challenges under the EU framework.

The new Territorial Reform, approved lately (July 2014) should be complemented with sublegal acts and revision of the law on organization and functioning of the local government. Furthermore the approval of the law on regional development in Albania will complement the legal framework of the roles and responsibilities of the local and central government structures.

Another important aspect is the integration and coherence of the policies in the area of decentralization and regional development. The overall government policies on these fields should be integrated with those of the local and regional level. Beside the fact that the new framework of the National Strategy for Development and Integration and sector and crosscutting strategies for the period 2014-2020 are not approved yet, they should be in compliance with EU principles and recommendations.

Finally, the government should not be limited only by financing projects from regional development fund. It should help the remote and undeveloped areas with specialized projects in order to make them more competitive with other areas or regions.

References

- Boldrin, M. and F. Canova (2001), "Inequality and Convergence: Reconsidering European Regional Policies", *Economic Policy*.
- Bachtler, J and Michie, R., 1997. The Interim Evaluation of EU Regional Development Programmes: Experiences from Objective 2 Regions. *Regional Studies*.
- Boldrin, M. and Canova, F., 2001. Inequality and Convergence in Europe's Regions: Reconsidering European Regional Policies. *Economic Policy: A European Forum*, (32), pp. 205-245.
- European Commission and UNDP ISD Project, (2010), Towards a Revised Regional Development Policy Framework for 2010-2020.
- Regional Policy Inforegio, (2010), Structural Funds Regulations 2007-2013
- McClements, C, (2010), Cross-cutting strategy for regional development Albania, Review
- European Commission, (2009), Albania 2009 progress report.
- European Commission and UNDP ISD Project, (2010), Regional Disparities in Albania.
- <http://eur-lex.europa.eu> (2006), Implementing Council Regulation (EC) No 1085/2006, Establishing an instrument for pre-accession assistance (IPA).
- www.Publications.eu.int, (2004), European Union Regional Policy – working for the Regions.
- <http://www.dsd.gov.al>
- http://www.dsd.gov.al/dsd/Regional_Development_Fund_485_2.php
- Constitution of the Republic of Albania, Law no. 8417, date 21.10.1998 (last changes approved with law no. 88/2012 date 18.09.2012)
- Constitution of the People's Socialist Republic of Albania, Law no. 5506, date 28.12.1976, repealed
- Law no. 115/2014, date 31.07.2014 on "Administrative territorial division of the local government units in the Republic of Albania"
- Law no. 8653, date 31.07.2000 on "Administrative territorial division of the local government units in the Republic of Albania" repealed
- Law no. 8652, date 31.07.2000 on "Organization and function of local government"
- Law no. 9000, date 30.01.2003 on "Organization and function of the Council of Ministers"
- Law no. 8927, date 25.07.2002 on "Prefect"
- INSTAT, Albania in figures 2013. Tirana 2014
- National Strategy on Development and Integration 2007-2013
- National Strategy on Development and Integration 2014-2020 (draft)
- Decentralization and Local Government Strategy 2007
- Regional Development Strategy 2007-2013

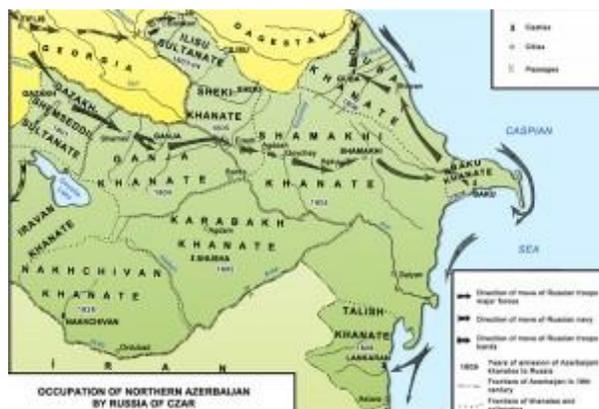
How the Karabakh Khanate Joined to the Russian Empire: Historical Myths and Realities

Tarana Amiraga Shirvanova

Abstract

With the arrival of Russia in Karabakh at the beginning of the 19th century, a new political situation arose. The policy of Russia, directed toward the establishment of a social-ethnic base in the form of Armenians, led to the strengthening of the Christian element in Karabakh. The essence of the disputes observed today, have roots that reach precisely to those times. Having finally conquered Georgia in 1801, Russia moved toward the borders of Azerbaijan. General P.D. Tsitsianov, who commanded Russian forces in the Caucasus, laid siege to Ganja, the largest of the cities of Azerbaijan, in March 1803. Having overcome the serious resistance of the population led by Javad-khan, Russian forces entered the city on January 3, 1804. In order to strengthen his position in the Transcaucasus, Tsitsianov had to conquer the Karabakh, Sheki, and Shirvan khanates, which were considered the strongest in this region. During the course of long negotiations, Tsitsianov threatened these khanates, demanded that they consider the sad experience of Ganja and, taking into consideration the military might of Russia, accept its protection without resistance. In doing so, Tsitsianov understood perfectly well that Iran had interests in the region and therefore did not push events. Moreover, he had to consider the far from small military potential of the Muslim khanates themselves.

Keywords: Karabakh Khanate, Russian Empire, Historical Myths, Realities



Annexation of Northern Azerbaijani khanates by Russia Empire

Introduction

Finding himself constantly "between the hammer and the anvil" (Russia in the North and Iran in the South), Ibrahim Khalil-khan, the ruler of Karabakh, decided to conclude with Russia "a solemn promise," a treaty which in fact became the first legal document on the path of the joining of Karabakh to Russia. The treaty between the Karabakh Khanate and the Russian Empire about the transition of the khanate under the power of Russia was signed on May 14, 1805 in the military encampment at Kurakchay, and therefore it passed into history as the "Kurakchay Treaty." The document consists of 11 articles and gives Russia a one-sided primacy. From then on, the Karabakh Khanate passed under the protection of Russia and rejected any attempt at independent international ties with third countries. More than that, it was especially noted that the Karabakh Khanate lost the right of independent communication with the neighboring khanates. And the Karabakh khan was also obligated to contribute to the Russian treasury every year 8,000 *chervontsy* (24,000 Russian rubles) and also to pay for the expenses of his grandson who was kept in Tiflis in the residence of the commander in chief as a hostage. One of the most difficult conditions of the treaty was an agreement on the dislocation in the [Shusha](#) fortress of 500 Russian soldiers with cannon.

The only article of the Kurakchay Treaty, which could be considered as favoring Ibrahim Khalil-khan, was the obligation by Russia not to interfere in the internal affairs of the khanate. It is interesting to note that immediately after the signing of the treaty, Ibrahim Khalil-khan by a decree of Aleksandr I on July 8, 1805, was given the rank of general and from that time forward as a lieutenant general he was forced to subordinate himself to the commander-in-chief of Russian forces in the Caucasus. This treaty, being a diplomatic document, testifies that the Karabakh Khanate became a protectorate of Russia precisely as a Muslim state. [1]

The seizure of the strategically vital Karabakh Khanate, in fact, meant the beginning of the complete subordination of all the khanates of northern Azerbaijan. The mountainous part of the khanate allowed for the exercise of real control over all the western districts of Azerbaijan. Subsequent actions did not represent a major problem for Russia. At the same time, while considering each in his own way the historical fates of the people, the khans could not create a single union. Justly assessing the importance of the joining of Karabakh to Russia, Prince P.D. Tsitsianov after the conclusion of the Kurakchay Treaty on May 22, 1805, reported to the Russian emperor that Karabakh by its geographic location is the gate to Azerbaijan and that Karabakh brings Georgia closer to Baku, the seizure of which was planned for the fall. [2]

The Azerbaijani khans followed with interest the course of the first Russian-Iranian war (1804-1813). While they desired the victory of the southern neighbor, they were also afraid of it and did not cease to hope that by the results of the war they would be able to increase their own independence. In its turn, the Russian Army did not especially trust the local Muslims. In 1806, when Iran attempted an attack on Shusha, Major Lisanevich, the chief of the fortress garrison, wary of the unexpected actions by the Karabakh khan, slaughtered the entire family of Ibrahim Khalil-khan with the exception of one son, Mehdi Guli-aga. This event only confirmed the symbolic nature of the appointment of the Karabakh khan to the rank of lieutenant general of Russian forces. At the same time, having dealt summarily with Ibrahim Khalil-khan, Russia did not change the status of his khanate. Mehdi Guli-aga by order of the Emperor Aleksandr I of September 10, 1806, was named ruler of Karabakh in place of his father. [3]

As a sign of Mehdi Guli-aga's status as the administrator of the khanate, Emperor Aleksandr I presented him with a banner and sword set with precious stones. And just as in the Kurakchay Treaty, so too in the emperor's appointment of Mehdi Guli-aga as ruler of Karabakh, there is reference to the Javanshir family as the rulers of Karabakh, both mountainous and lowland, and to the fact that all strata of the population of these regions are subordinate to Mehdi Guli-aga. The new khan was filled with hatred to the Iranians and distrust to the Russians who had slaughtered his family, but in the end, the anti-Iranian attitudes came out on top.

The victory over Napoleon led to a toughening of the Eastern Policy of Russia. General A.P. Yermolov, who was appointed governor of the Caucasus in 1816 from the very first days did not trust the Muslim people, seeing them as a potential enemy. For this reason, he sought the opportunity for the formal liquidation of the khanates, which he thought at any moment could become the nucleus of a movement for independence. The representative of Yermolov in Northern Azerbaijan, an Armenian General V.G. Madatov, actively helped him in this. Slowly, but faithfully, they realized their plan. In 1819, they liquidated the Shaki khanate. Not being able to resist Russian pressure, Mehdi Guli-aga fled to Iran, and the Karabakh khanate was converted into a Russian province. A. Griboyedov wrote that together with the khan, three thousand Muslim families moved to Iran. And, thus, in spite of what had been written in the various treaties, the process of the liquidation of the khanates reached its logical conclusion.

In 1826, the second Russian-Iranian war began. And again, the main events developed in Karabakh. For 48 days, the Iranian forces laid siege to Shusha, but they were not able to take the city. On February 10, 1828, in the settlement of Turkmanchay near Tabriz, the two sides concluded a new peace treaty, according to which all the khanates of Northern Azerbaijan, including Karabakh, Nakhchivan and Irevan khanates finally became part of the Russian Empire.

There were many interesting moments in the process of uniting the South Caucasus to Russia. In recent times, a number of Armenian and Russian historians, as well as certain political circles, have been asserting the Karabakh was joined to Russia as an Armenian district. Certain contemporary Russian and Armenian scholars insist that in the course of the entire 18th century, the Armenians of Karabakh made up 97 percent of the total population of this region. A question arises in this case: if this was really so, why then wasn't it an Armenian state that arose in Karabakh in the middle of the 18th, but it rather was the Karabakh khanate, which was headed by representatives of the famous Turkic tribe of the Javanshirs? Indeed, there is no single case in history where three percent of the population could create a state on the backs of the other 97 percent.

However, a careful study of the international legal documents of this period raises some interesting questions concerning the form of the inclusion into Russia not only of Karabakh, but also of Armenia itself. Thus, Georgia, according to the Georgian treaty of 1801 and the Azerbaijan khanates by the Gulistan (1813) and Turkmanchay (1828) treaties were included in Russia. A reasonable question arises: According to what treaty, agreement or declaration did Armenia and the territories to which it makes claims pass into Russia? Well-known Armenian historians have found a very easy answer to this question. Not observing scholarly ethics and historical evidence and not being restrained by long established historical truth, they write that "According to the Gulistan Treaty of 1813 which ended the Russian-Persian War of 1804-1813, along with other northeastern provinces of Eastern Armenia (Lori-Pambak, Shamshadin, Zangazur, Kafan and Shoragel districts), the Ganja and Karabakh khanates were transferred to Russia as well ... According to the terms of the Turkmanchay Treaty (February 1828), which ended the second Russian-Persian War (1826-1828), the Yerevan and Nakhchivan khanates and Ordubad district passed to Russia. This completed the final unification of all eastern Armenian lands to Russia." [4]

In an effort to support their falsification of history, they cite the collection of documents published by G. Yusefovich in Petersburg in 1869. [5] They do so even though they know perfectly well that neither in the Gulistan nor in the Turkmanchay treaties published in Yusefovich's collection, there is no reference to any Armenian lands—neither eastern nor Western; nor is there even a single reference to Christian lands. There is only reference to Muslim khanates and their unification with Russia. The absolute majority of the population of the Irevan khanate consisted of Muslims and this was reflected in Russian sources. In 1828, for example, when the "Armenian oblast" was created within the borders of the Irevan and Nakhchivan khanates, three-quarters of its population consisted of Muslims. This is confirmed by a letter of General Paskevich to the chief of the General Staff, in which he expresses his dissatisfaction with the actions of General Krasovsky, who was named chief of the "provisional administration" of Irevan and of Archbishop Nerses, a member of this administration. Paskevich

criticizes Krasovsky for allowing Nerses to exercise unlimited influence over all affairs and in the harmful protection of Armenians, when "three quarters of the population of the oblast consist of Muslims." [6]

The khanates' loss of their special status meant the transformation of Karabakh into a colony, and this process lasted for decades. Over the course of this period, the administrative division of the Trans-Caucasus was frequently changed and only had finally formed by the second half of the 19th century. Following the liquidation of the khanates, the *comendant* system of administration was introduced in Northern Azerbaijan. All of Karabakh with a center in [Shusha](#) was included in the Military-Muslim District. However, such distribution certainly did not correspond with the ethnographic, historical, and religious peculiarities of the local population. In Karabakh, this took place in a particularly sharp way.

Demography was gradually converted into an instrument of policy. At the dawn of Armenian resettlement into these areas, a document of July 19, 1811—one that was prepared for the Ministry of Internal Affairs of Russia—noted that there lived 12,000 families in Karabakh oblast, of which 2,500 were Armenian and the remainder were followers of the religion of Muhammad. [7] In 1823, the Russian administration prepared "A Description of the Karabakh Province," which contained statistical data about the population of this district and its ethno-religious composition. Judging by the statistical data prepared by Russian institutions and included in this valuable source, there were 600 settlements in the Karabakh oblast at that time, of which 450 were Muslim and only 150 registered as Armenian. [8] According to this reliable source, 20,095 families lived in Karabakh oblast in 1823, of whom 15,729 were Muslims and only 4,366 (21.7 percent) were Armenians.

According to the 1832 census, the number of families in Karabakh reached 20,456, but the number of Armenian families over these very same ten years rose to 31.6 percent. [9] In [Shusha](#), which was considered the center of Karabakh, of the 1,532 families in 1823, 1,111 were Muslim (72.5 percent), 421 were Armenian (27.5 percent), but already by 1832 because of Armenian re-settlers, this figure reached 44.9 percent. The Russian military historian V. Potto notes that the first major resettlement of Armenians to Karabakh took place in 1828. He writes that on March 16, 1828, 40,000 Armenian families left Persia for Irevan oblast. However, because of a shortage of bread, 5,000 families—the first group of re-settlers—were forced for a long time to wait on the shores of the Araz, but were eventually sent to Karabakh. [10]

The Russian writer S.N. Glinka provides some interesting data on the movement of Armenians from Iran to Karabakh. The political character of the resettlement of Iranian Armenians in Muslim lands just seized by Russia is clearly evident in the appeal to the Persian Armenians by an active participant of this resettlement, G. Lazarev: "Christians! According to reliable rumors which have reached me, badly intentioned people are trying to disseminate not only foolish and false news, but even to sow fear in those seeking resettlement about Russia's good intentions and thus to change the desire of their hearts." [11] He writes further that "Armenians from various settlements, emboldened by Turkmanchay, moved toward Karabakh," [12] and in the course of three and a half months, "more than 8,000 families crossed the Araz." [13] In the spring of 1828, when the flood of Armenians moved toward the Araz, a directive from Paskevich was issued to resettle the poorest in Karabakh, and this also found reflection in the Russian literature of that time. [14] As a result, in 1832, Armenians formed 31.6 percent of the population of Karabakh, with Muslims still retaining their majority of 68.4 percent. [15]

After 1828, the resettlement of Armenians into the Muslim provinces of the South Caucasus was regulated by Paragraph XV of the Turkmanchay Treaty. [16] By a decree of Emperor Nikolay I on March 21, 1828, "an Armenian oblast" was established on the lands of the former Irevan and Nakhchivan khanates. [17] The Russian general and Georgian Prince A. Chavchavadze was named the head of "the Armenian oblast." [18]

In the second volume of the historical novel of Catherine's time, "The Favorite" by V. Pikul, the well-known author of historical novels, there is an interesting conversation between Count G. Potemkin and Catherine II, in which the former advises that the appearance of new Armenian communities in the Transcaucasus will create problems if not now then in the future. When he was creating his historical works, Pikul scrupulously worked in the archives and strictly guided himself on the basis of historical documents. At the moment of the formation of this oblast, 75 percent of its population consisted of Muslims. If during the period of the Russian conquest, 49,875 Muslims lived with 20,073 Armenians, then immediately after the formation of "the Armenian oblast" 45,200 Armenians were resettled from neighboring countries. [19] The situation in Nakhchivan oblast evolved in a similar way. At the moment of the completion of the Russian occupation, 17,138 Muslims and only 2,690 Armenians lived there. With the liquidation of the khanate, 10,670 Armenians in a short interval of time resettled there. In an analogous way, in the Ordubad part of Nakhchivan, where initially 7,247 Muslims and 2,388 Armenians lived, 1,340 Armenians were resettled in order to change the balance between them. [20]

The Russian researcher N.I. Shavrov in 1911 published a book in which, basing himself on documents, he noted that 40,000 Armenians from Iran and 84,600 from Turkey resettled in the Caucasus in 1828-1830, and they were settled in Yelizavetpol and Irevan guberniyas, where before this, the number of Armenians was almost equal to zero. N. Shavrov wrote that "of the 1.3 million Armenians who are living in the Transcaucasus, more than a million are re-settlers. We resettled them here." [21]

Apparently, the desire to completely Christianize the Transcaucasus was strong. But the specific features of the situation led the Russians to act carefully, and A. S. Griboyedov, the Russian ambassador to Persia, warned that the Armenians would remain permanently in the lands to which they were resettled, something that could trigger problems with the indigenous Muslim population. [22] Such concerns, which were shared by the Azerbaijanis, were justified. The Armenians settled down on Azerbaijani lands and a little later began to display hostility toward the masters of these lands. I. Chavchavadze justly noted in his appeal to Armenians seeking to settle in Georgia that they must not view those accepting them as enemies. [23]

In the course of the entire 20th century and especially in the last two decades, Azerbaijan and the Azerbaijani people have experienced and are experiencing pain and suffering for their "hospitality" in relation to Armenians, one which A. Griboyedov and I. Chavchavadze so precisely predicted.

Bibliography, References, Notes

- [1] "The Treaty between the Karabakh Khan and the Russian Empire concerning the transfer of the khanate under the power of Russia of May 14, 1805," State Historical Archive of the Azerbaijan Republic, f. 130, d. 14, ll. 245-248.
- [2] "Akty Kavkazskoy Arkheograficheskoy Komissii," Arkhiv Glavnogo Upravleniya Namestnika Kavkaza, in Russian, ed. by A.D. Berzhe, Tiflis, 1868, vol. 2, p. 698.
- [3] "Akty Kavkazskoy Arkheograficheskoy Komissii," Arkhiv Glavnogo Upravleniya Namestnika Kavkaza, in Russian, ed. by A.D. Berzhe, Tiflis, 1868, vol. 2, pp. 336-337.
- [4] *Nagorny Karabakh: Istoricheskaya Spravka*, in Russian, Yerevan, 1988, pp. 14-15.
- [5] *Dogovory Rossii s Vostokom, Politicheskiye i Torgovyye*, in Russian, assembled and published by T. Yusefovich, St. Petersburg, 1869, pp. 208-214.
- [6] See Potto, V.A. (1993) *Kavkazskaya Voyna. Persidskaya Voyna 1826-1828 gg*, in Russian, Stavropol, vol. 3, pp. 594-595.
- [7] *The Unification of Eastern Armenia to Russia*, Yerevan, 1972, pp. 560-561.
- [8] "Opisaniye Karabakhskoy provintsii, sostavlennoye v 1823 gody, po rasporyazheniyu glavnoupravlyayushchego v Gruzii Yermolova, deystvitelnym statskim sovetnikom Mogilevskim i polkovnikom Yermolovym," in Russian, two volumes, Tiflis, 1866.
- [9] *Grazhdanskoye Upravleniye Zakavkaz'iem ot Prisoedineniya Gruzii do Namestnichestva Velikogo Knyazya Mikhaila Nikolayevicha*, in Russian, Istoricheskiy Ocherk, p. 146.
- [10] See Potto, V.A. (1993) *Kavkazskaya Voyna. Persidskaya Voyna 1826-1828 gg*, in Russian, Stavropol, vol. 3, p. 591.
- [11] Glinka, S. N. (1831) *Opisaniye Pereseleniya Armyan Adderbidzhanskikh v Predely Rossii*, in Russian, Moscow, pp. 107-111.
- [12] *Ibid*, p. 48.
- [13] *Ibid*, p. 92.
- [14] *Ibid*, pp. 90-91.
- [15] *Obozreniye Rossiyskikh Vladeniy za Kavkazom v Statisticheskoy, Etnograficheskoy, Topograficheskoy i Finansovoy Otnosheniyyakh*, in Russian, Tiflis, 1836, p. 267.
- [16] *Polnoye Sobraniye Zakonov Rossiyskoy Imperii*, in Russian, St. Petersburg, 1830, vol. 3, p. 130.
- [17] *Polnoye Sobraniye Zakonov Rossiyskoy Imperii*, in Russian, St. Petersburg, 1830, vol. 3, pp. 272-273.
- [18] "Akty Kavkazskoy Arkheograficheskoy Komissii," Arkhiv Glavnogo Upravleniya Namesnika Kavkaza, in Russian, under the editorship of A.D. Berzhe, Tiflis, vol. VII, p. 487.
- [19] *Obozreniye Rossiyskikh Vladeniy za Kavkazom v Statisticheskoy, Etnograficheskoy, Topograficheskoy i Finansovoy Otnosheniyyakh*, in Russian, Tiflis, 1836, p. 229.
- [20] *Ibid*, p. 229.
- [21] Shavrov, N. I. (1911) *Novaya Ugroza Russkomu Delu v Zakavkaz'ye: Predstoyashchaya Rasprodazha Mugani Inorodtsam*, in Russian, St. Petersburg, pp. 59-60.
- [22] Griboyedov, A. S. (1971) *Sochineniya v Dvukh Tomakh*, in Russian, Moscow, vol. 2, pp. 340-341.
- [23] Chavchavadze, I. (1902) *Armyanskiye Ucheniya I Vopiyushchiye Kamni*, Tiflis, p. 123.

The Impact of Economical Transition in Human Resources Development in Kosovo Enterprises

Ariana XHEMAJLI, PhD

UNIVERSITY "Haxhi Zeka" Peje Kosovo

Alma SHEHU LOKAJ, PhD

University "Haxhi Zeka" Peje/Kosovo

Abstract

During the globalization process, countries in transition have faced with different challenges in terms of adaptation in an open economy and as well as in the preparation of human resources to overpass such challenges. The innovations that brought the open economy like foreign direct investments, bringing of new technologies, new management methods, etc, have cause also problems like those in privatization process and in the management of human resources, in order to create the necessary capacities and create competitive advantages in a dynamic market. Kosovo, as one of newest countries in the world, with a centralized economy until 1999, is facing many challenges to successfully pass the long and troublesome process. The companies in Kosovo even after so many years has not find the right solution to be competitive in local and international market and one of the disadvantages is the importance that these companies give to their human resources. Another challenge is the reform in education. The new economy brings challenges that should be faced by knowledge people and this is achievable with the right and appropriate education for Kosovo market. The transition economy in Kosovo requires maximal efforts from the central government and entrepreneurs to succeed in the local and international market challenges. In this paper we will try to give some recommendations for human resources managers in Kosovo and the way they should follow to improve their skills in managing the people and face the challenges of their companies. The preparation of the new working force is depended, in a big part, from the universities and this paper will deal also with some issues regarding the problems presented in the university's program on human resources management.

Keywords: *transition, globalization, human resources management, education*

Introduction

In transition economies or in transformation economies are those changing from a centralized to an open economy. After this process of economic freedom the countries previously centralized, especially Kosova, started to make the first steps toward the new economy very often without taking into consideration the difficulties.

According to Svetlik (2010) generally speaking, HRM activity in most East European countries, including the countries of the former Yugoslavia - prior to the changes that took place at the end of the 1980s, was very tightly controlled by the state. Personnel (meaning management-) related issues were under the close control of the party and of heads of state, whilst the key positions in companies were closely monitored by the party and by the state bureaucracy.

The institutions of Kosova started to establish the legislation and the right infrastructure trying to give the right direction to country's economic activities. Although the legislation and the infrastructure, even after 15 years, Kosova is not achieving the expected results. Is a part of the fault to government policies? This is a question to which we find the answer why some in transition countries are developed and succeeded in this process and some other are not. If we can call it "the economic revolution" in Kosova has made that many privatized companies and the new established think about the development of their businesses in way to create profit. One of the key points of these companies are the human resources. The companies started to be aware of the importance of human resources and that without these well prepared resources the companies can't achieve the their objectives.

Human resources management in Kosovo companies is presented as a very complicated process because of:

- Lack of preparing the managers to respond to the transition changes;
- Domination of bureaucracy and administrative issues in managing the company;
- Frequent changes in managerial staff;
- Lack of experience in managing;
- Change of ownership
- Problems of recruiting the right staff

These are only some of the problems facing the companies in Kosovo for managing the human resources during this transition period.

Academic debates

Haslinda (2009) states that human resources are an organization's greatest assets because without them, everyday business functions such as managing cash flow, making business transactions, communicating through all forms of media, and dealing with customers could not be completed.

According to Bool and Hooijberg (2001) effective leaders are essential to good human resources management system. Effective leaders articulate the need for sound HR practices and skillfully sail through organizational process for these practices to develop and sustain. For Law, Tse and Zhou (2002) this is especially salient to firm management in transitional economies where uncertainties and risks would imply business failure and massive layoffs.

Ahmeti (2014) state that what and still is the most crucial change that needs to happen is that individuals had to familiarize themselves to a new, rather different reality economic environment, compared to the former socialist state where that state was the warrant and planner for every economic action.

Gary Dessler (2009, 2) defined that human resource management refers to the practices and policies that managers need to carry out the personnel aspects of the management job which includes acquiring, training, appraising, rewarding. Besides, managers need to provide a working environment with safety, ethic and fairness for the company's employees.

According to Thi Hoe (2013) as well as the rapid change in the organization system and other external factors (economic, technology), the managing human resource also changes to be able to adapt to the new trends and compete to other competitors.

This evolution in education patterns should continue towards the transition from the coal- to the knowledge-based economy and society (see Kukliński, 2001).

One of the important pillars of the knowledge-based economy is human capital. This may be enhanced by education, which nowadays is an important element of socio-economic life and a key factor for success.

A particular justification according to Garavan, Heraty & Barnicle, (1999) for HRD posited within the literature relates to competitive advantage. It is argued that sustainable competitive advantage can be achieved through continuous investment in HRD at the level of the individual firm.

Transition and Human Resources in Kosova

According to a report of RIINVES (Institute for Development Researches) the economic growth process is followed by wide spectrum of policies: development financing, public infrastructure, regulatory framework, industrial policies, government intervention. The serious reforms oriented toward the construction of the economy based to the market and the creation of the economic stabilisation and policies which are the key factors for the economic growth in economies in transition. The challenge of countries in development, as an economy involved by the globalization and growth, must be focused in exceeding the problems in these fields:

- Savings, respectively inadequate investments
- Inadequate workforce
- The worsening of conditions for trade
- Weak institutions

In this report inadequate workforce is listed the second and as one of many problems in developing and the performance of businesses in Kosovo and for its economy in general. This lack is noticeable from the education of human resources to recruiting process in the Kosovar companies. This problem is noticed in preparing persons able to manage and direct the companies now and in the future. In Kosovo this is another weakness and only 2 years ago in one of the universities is opened a master program of Human Resources Management, the only of this kind in Kosova.

Exiting from the transition and gaining of a kind of independence in doing business has pressed some companies to invest in their human resources, by training them for different works within the company. Some other companies hesitate in doing this because of training costs.

According to Kumar (2014) training presents a prime opportunity to expand the knowledge base of all employees, but many employers find the development opportunities expensive. Employees also miss out on work time while attending training sessions, which may delay the completion of projects. Despite the potential drawbacks, training and development provides both the company as a whole and the individual employees with benefits that make the cost and time a worthwhile investment.

Is clearly seen that preparing of human resources is one of the principal factors for companies' development and especially when talking about the economies of in transition country as Kosova is. Preparing the right people for specific jobs is largely depended on their education.

The way of managing the people is important, especially when these people are facing with big changes as the transition is. According to Siengthai & Bechter (2005) the changing management approach emphasizes productivity enhancement through methods that provide employees with both intrinsic and extrinsic rewards. Therefore, today, far from being marginalized, the HRM function becomes recognized as a central business concern. In practice, performance and delivery are integrated into line management for the aims shift from merely securing compliance to more ambitious ideals of winning commitment. Human resource investment has become one of the main business strategies of firms in creating their competitive advantage. These initiatives are associated with, and perhaps are even predicated upon, a tendency to shift from a collectivist orientation to an individualist workforce. Accordingly, management inspects for 'flexibility' and seeks to reward performance differentially.

According to Mrak (2000) human resources development, if countries in transition would like to increase international competitiveness of their companies, they will have to significantly strengthen their human resources capabilities. This implies that education and especially rehabilitation of R&D capacities in the region will have to get much more prominent place in the next phase of transition.

Another problem encountered during this transition period in Kosova is the phenomenon "Brain gain". Many of Kosova youth have study abroad and only a small percentage of them are returning to give their contribute in economic development of the country.

Conditions as trade liberalization, growing emphasis on the knowledge economy, development of advanced ICT services, etc., has encouraged international labor mobility (Knight, 2005). One distinctive pattern of this mobility is the migration of skilled personnel from developing- to developed countries, often termed as 'brain drain'. The main concern, from a developmental perspective, on the outward flow of skilled people from the developing world arises from the negative consequences on growth and income levels back home.

According to Zenelaga and Sotirofski, (2011) in addition to the unaffordable loss of the considerable investment undertaken in generating these skills, already poor source countries lose their potentially most enterprising and ambitious young population, limiting future leadership and stifling the development of a more dynamic private sector.

Conclusion

There are numerous and still unresolved problems of transition in Kosova. In our case as in transition country is not difficult for companies to find the workforce because the work market, due to the high level of unemployment, is overflowed. What is difficult for Kosova businesses is to find employees that are able, skilled and have the qualities needed to perform the works. Since Kosova is country that with difficulties is exceeding the transition problems the companies must do maximum efforts to train and develop the human resources in way to be competitive in the market and to achieve their objectives.

The leaving of the youth from the country to study or other reasons presents a negative phenomenon for our country. The emigration of this important group as the talented and successful youth will have negative impact in economic and social development of the country. For this reason the government and the relevant institutions should take care in doing policies that will keep these precious resources within the country.

The reforms in education must be effective in way to prepare professional staff for the market needs. The companies' managers or leaders should take care in organizing trainings for their human resources in way to enhance the performance of the company and to succeed and be competitive in the market.

References

- A, Haslinda. (2009). Evolving terms of human resource management and development. *The Journal of International Social Research. Volume 2 / 9*
- Knight J. & L. Song. (2005): Towards a Labour Market in China, Oxford. UK: Oxford University Press.
- Kumar, Roopesh. (2014) Importance of training in organizational development. *International Research Journal on Management Science and Technology, Volume 5, (Issue 1), 287*
- Mrak, Mojmir. (2000) Globalization: Trends, Challenges and Opportunities for countries in transition. United Nation – Industrial development organizations, pg.7
- Pham Thio He, 2013, Human Resource Management in transitional economy in Vietnam

Siengthai, S. & Bechter, C. (2005). Human Resource Management in Thailand: A Strategic Transition for Firm Competitiveness, *Research and Practice in Human Resource Management*, 13(1), 18-29.

Svetlik, I., Barisic, A., Kohont, A., Petkovic, M., Aleksic Miric, A., Slavic, A., ... Poor, J. (2010). Human Resource Management in the Countries of the Former Yugoslavia. *Review of International Comparative Management*, Volume 11(Issue 5), 808

Zenelaga Brunilda & Kseanela Sotirofski, (2011), The 'Brain Gain Hypotheses' of Transition Countries Elites and Socioeconomic Development in Their Home Country. Almalaurea Working papers No.46

"Programming" an Entrepreneur**Elona Garo, PhD Cand.**

Career and Management Consultant

Vasilika Kume, Prof.

School of Economics, UT, Albania

Suada Basho

Economics and Law Major, UNYT, UT, Albania

Abstract

During last decades new education practices has been developed in Albania targeting university students. Many programs are offered to foster entrepreneurship, such as business plan competitions, incubator centers, and related education programs. Students at the senior level are the one to found companies and innovate businesses so they have been targeted. The belief is that this effort will result on self-employment, effecting economic growth and employment opportunities in the country. While implementing new initiatives, policy makers are not clear on how effective they are. Many studies are undertaken on entrepreneurial intent among students and the influence of education. The empirical evidence is tackling the challenging question addressed worldwide: Are educators "the programmers" of self-employment? The conclusion drawn from the review of the research evidence shows that entrepreneurship education as well as other entrepreneurship activities impacts positively the intention of students in such matter. Inspired by the positive results, further empirical study in the area of entrepreneurship intention will be conducted in Albania.

Keywords: entrepreneurship intention, entrepreneurship education, self-employed, Albania.

Introduction

On the last two decades the promotion of entrepreneurship has emerged in the developing countries. This issue has become a highest priority for the public institutions and particularly universities. Courses are implemented in university and high schools. Outside education system there are programs initiated by donors and nonprofit organization. Recently, in the time of economic crises and highest rate of unemployment, entrepreneurial activities are becoming important for tackling all challenges. The public institutions with long experience in education as well as successful private institutions in Albania are promoting entrepreneurship activities. Many success stories are reported from these institutions where a considerable number of companies are founded by alumni and faculty.

The observation over seven years experience, leading the career center at the University of New York, Tirana showed that students at bachelor level often see the founding of a company as an attractive alternative. The preferences and behaviors of students are influenced by a number of personal, social and economical conditions. Reasons such as the dream to be rich in a short period of time, the opportunity to freely make decisions, the desire to innovate and change the world consist to influence the decision to become entrepreneurs. On the other hand, fewer opportunities in the market, higher unemployment rate, low wages, lack of competition, and poor career development influence entrepreneurial intention to many others. Due to the recent economic crises, the social and economic conditions such as cost cutting, downsizing, and restructuring are very relevant. Important issues such as security in the work place, stability and loyalty are far from the discussion.

Meanwhile technology plays a tremendous role on the creation of start-ups with low cost and innovative solutions. The role models like Mark Zuckerberg, inspire young people not only for financial success, but also for the impact on the life of people in a short period of time. "Zuckerberg wired together a twelfth of humanity into a single network, thereby creating a social entity almost twice as large as the U.S. If Facebook were a country it would be the third largest, behind only China and India. It started out as a lark, a diversion, but it has turned into something real, something that has changed the way human beings relate to one another on a species-wide scale. We are now running our social lives through a for-profit network that, on paper at least, has made Zuckerberg a billionaire six times over" (Person of the Year, Time 2010).

While many researches are undertaken on the determinants of entrepreneurship, few are focused on entrepreneurial intent among students and the influence of education in different cultural contexts. In Albania this field is almost untouched. Still researchers are facing the classic question "traits or conditions?" drive students towards self-employment. For policy makers the findings would be very significant. If the related conditions are the key factors, a change in this direction should have an effect on the entrepreneurial intent. If this is a case, policy makers in legislative and executive bodies as well as in the education institutions would try to improve conditions through tackling

the education curricula, the legal infrastructure and will offer financial support to promote young entrepreneurs. This paper attempts to review the research findings and tackle the following question: Are specific university programs "programmers" of entrepreneurship intentions among university students? The findings of this paper support the idea that the positive influence exist. Are thus education, experience, attitude and social norms actually programming the entrepreneurial intent?

Objectives

The purpose of this paper is to examine the impact of the education programs on entrepreneurship intention serving as "programmers" of new ventures. The key objective of this paper is to review the entrepreneurship education through the lens of entrepreneurial intention. First is to understand the intention models and to review the entrepreneurship programs and they specific roles in the matter. Later is finding evidence on the positive influence of entrepreneurship education on students' entrepreneurship intention in Albania.

Research Questions

1. Does entrepreneurship **education** have an impact on entrepreneurial intention?
2. Does previous entrepreneurship **experience** increase students' intention to become entrepreneurs?
3. Does students' **attitude** toward entrepreneurship effect the intention to be involved in such activities?
4. Does the Albanian **society value** positively entrepreneurship activities and does the culture effect students' entrepreneurship intention?

Literature Review

Over the years many studies are conducted, using very different methodologies. One of the strongest perspective supported by Ajzen showed that the intention to carry out a given behavior will depend on the person's attitudes towards that behavior (Ajzen 1991).

Two important contributions of the intention models have influenced the research in the field. Firstly, Shapero and Sokol's theory (1982) of the "entrepreneurial event" and secondly the theory of "planned behavior" (Ajzen 1991).

The theory of the entrepreneurial event is focused on contextual factors that influence an individual perception on creating a venture. The perception are: perceived desirability-the attraction to become an entrepreneur and perceived feasibility-the ability to carry out the behavior towards venture creation (Figure 1, see Appendix).

On the other hand Ajzen created the planned behavior theory, which explains a relationship that exist between the intention for a given behavior and the performance. This concept is very similar to self efficacy-the perception of how easy or difficult is the fulfillment of the behavior of interest (Ajzen 1991). There are some elements part of the model: attitude towards behavior, subjective norms and perceived control (Figure 2, see Appendix). Attitude is the degree of positive or negative valuation of the behavior; subjective norms is the social pressure to carry it or not, and the perceived control help to understand how feasible is a person to carry the behavior.

Other authors have contributed through adding other elements to the model mentioning here the presence of role models (Scherer et al., 1991) or a greater knowledge of the entrepreneurial environment (Linnan 2004).

Further studies are undertaken to understand the role of education. While the first entrepreneurship course was offered at Harvard University in the year 1947, when Professor Myles Mace (MBA 1938) first offered a course to returning World War II veterans titled, Management of Small Enterprises. Fifty years later, entrepreneurship was a vital component of the MBA Program (Harvard Business School). From that first class in 1947, an American infrastructure has emerged consisting of more than 2,200 courses at over 1,600 schools, 277 endowed positions, 44 English-language refereed academic journals and over 100 centers (Katz, 2003). Since the first attempts numerous courses and teaching programs have occurred in United States and Europe.

Various studies have been conducted to understand if Entrepreneurship Teaching Programs (ETPs) and relevant activities have an influence on the entrepreneurial intention. For example, a study by Kolvereid and Moen (1997) has shown that students with a major in entrepreneurship have a higher intention to engage as entrepreneurs and are likely to initiate business. Noel (2001) attempted a survey on three groups of individuals from different education backgrounds (business, entrepreneurship and the third group from various different schools). The study showed a difference in their career. According to Noel the graduates from entrepreneurship schools launched a greater number of business than the ones from two other groups. Similarly, Varela and Jimenez (2001) study has shown that there is a correlation between a university's investment in the promotion of entrepreneurship and the percentage of students becoming entrepreneurs.

A study conducted by Franke and Luthje showed that the academic tradition of entrepreneurship in German-speaking countries is very short. Until recently, fostering innovation and new product development through entrepreneurship has not been regarded a primary task of universities. Through comparing entrepreneurial intention of students at two German-speaking universities (Vienna University of Economics and Business Administration and the University of Munich) and students of Massachusetts Institute of Technology (MIT).

Researchers found very distinct patterns of entrepreneurial spirit in these universities: lower level in German-speaking universities might be attributed to less distinctive entrepreneurship education (Franke and Luthje, 2004).

The study by Autio, Keeley, Klofsten, & Ulfstedt, (1997) through investigating entrepreneurial intention of university students in various cultural contexts showed clearly that the university environment affects the entrepreneurial confidence of university students. The educational programs at universities effected deeply knowledge about entrepreneurship. Similarly, Tkachev and Kolvereid (1999) on their findings reassured that entrepreneurship education and training influence students' entrepreneurship intentions.

Empirical evidence of a study that enrolled participants from the Young Achievement Australia enterprise program reported that after finishing the program significantly higher perception of both desirability and feasibility to become entrepreneurs were evident (Peterman & Kennedy, 2003).

Researchers Souitaris et al. based on the theory of planned behavior tested the effect of entrepreneurship programs on the entrepreneurial attitudes and intentions of science and engineering students. The results showed that the programs influence positively students' attitudes and the overall entrepreneurial intention. The findings contributed further to the theories of planned behavior (Ajzen 1991) and to the practice of teaching entrepreneurship (Souitaris et al, 2007).

Another impressive evidence showed that approximately 4,000 MIT-related companies exist today, with total employment exceeding 1.1 million people and annual sales of \$232 billion. "If the companies founded by MIT graduates and faculty formed an independent nation, the revenues produced by the companies would make that nation the 24th largest economy in the world," (Ayers 1997). Similar success stories are reported in different European regions where the entrepreneurial universities showing that the impact is widespread.

A study conducted in Asia examined the level and determinants of interest in entrepreneurship among university undergraduate students in Singapore based on a large sample survey conducted in 1998. Three background factors such as gender, family experience with business and educational level, are found to affect entrepreneurial interests, but not family income status, ethnicity and citizenship. The empirical findings strongly suggested the need to provide students in engineering and science with educational programs that convey business knowledge (Wang and Wong).

The research is not limited to only developed countries as mentioned in the cases above. In a study conducted in Iran, where 320 students and 6 universities were involved, the entrepreneurship education programs have shown a significant impact on the students' entrepreneurial intentions. The findings strongly suggested that participation in education programs positively influenced students' entrepreneurial intentions and perceived behavioural control conforming that universities can shape and foster entrepreneurial intentions.

Methodology and Study Results

The key objective of this study is to examine the students' entrepreneurship intention through analyzing the phenomena among undergraduates. The instrument used is "Entrepreneurial Intention Questionnaire" (Linnan at al, 2006). This questionnaire is used in a series of work by Linnan and Chen (2009) in different countries and culture contents. It is an instrument created to study entrepreneurial intention of young people through collecting data related with entrepreneurial activity, social norms, education and experience, abilities, knowledge, entrepreneurial objectives, and creation of a new venture. All factors are measured using Likert scale from 1-7.

The data was gathered by conducting a survey at the University of New York, Tirana, being the oldest and one of the most successful private university in the country. The total number of observations is 64. All of the respondents were undergraduates, majored in business or related studies. Specifically, 31% were studying finance, 22% business administration, 13% marketing, whereas the others were studying accounting, economics, and management. Students were selected to be mostly in the last year of studies because they are the first to have the necessity of making career decisions.

Out of all respondents 66% (n=42) were female and 94% (n=60) were aged between 21-24. It is observed that as for the place of birth there is a variation among students, where 37% (n=24) were from Tirana (capital city), 16% (n=10) were from Dures, 9% (n=6) from Fier, and the rest were coming from cities such as Elbasan, Pogradec, Vlora, and Saranda (see Graph 1 and Graph 2, Gender and Age Distribution).

The curricula used in business related majors brings students closed to knowledge and skills on entrepreneurship. Students were involved in internship programs, they participated frequently in workshops and study visits, where they were exposed to information given by professional guest speakers and prominent business leaders. Part time professors working in key positions in the Albanian market through teaching have shared valuable practical lessons to students. The study was focused to observe this phenomena of knowledge sharing among students (see Graph 3, Level of knowledge about business associations, support bodies and other measures that support firm creation).

Regarding knowledge about entrepreneurship that education offers to students we focused our study on the aspects described in Graph 3. The findings are summarized in the Table 1. The valuation coming from respondents for all these measures that support firm creation as it is shown in the Table 1, highlight the idea that the University is healthy on knowledge sharing.

The results of the questionnaires show that the importance of career opportunities to choose their major (degree) is 93%, meaning this reason is valued from University students as highly important. In addition, they have been asked to what

extent it is possible to offer entrepreneurship education courses which develop aspects related to entrepreneurship. Their valuation is shown on Table 2, for each aspect that they have been asked.

The data of Table 2 show that students value the University's role into entrepreneurship education to be quite good. Through its programs students have been challenged to know the entrepreneurial environment, to recognize and respect entrepreneurs' role in society, to have skills on entrepreneurship, and shape the intention to be an entrepreneur.

The findings of the questionnaire show that 62% of respondents (n=40) had working experience and specifically for 30% of them the working experience was a self-employment one. The observations positively answer to the question of knowing on entrepreneur amount to be 58, which means 90% of participants have been close to an entrepreneur or/and entrepreneurial activities. Students that have been exposed to such experiences is believed are influenced by them.

The level of interest in entrepreneurship is valued from n=60 respondents, which means that 94% of students answer positively into having the entrepreneurship intention. Out of them 81% answered to be determined into starting a firm in the future. To the Likert scale from 1-7 students valued 5.1 their professional goal to be, becoming an entrepreneur. In general participants show that they are able and they have enough skills to undertake entrepreneurial activities. The result of the study shows that the participants believed that they are 54% capable to undertake such activities now. This result included their attitude towards creative skills, problem solving, communication and leadership skill, and networking needed to become a successful entrepreneur (see Table 3 and 4).

Overall the perception coming from this study is that students questioned for the purpose of measuring the entrepreneurial intention is positive towards being able and willing to become an entrepreneur.

The Albanian society gives value to the entrepreneurial activities according to this sample. This point is support from the data that shows that the social valuation of entrepreneurial activities from family according to the respondents is 76%, from friends is 64%, and among colleagues this social valuation amounts 66%. Focusing on family, these students part of the survey come from families with entrepreneurial experiences. Regarding their answers 60% of their fathers were self-employed compare to 52.5% of their mothers (see Graph 3). As a result the findings coming from this sample answered positively the research questions addressed in this study.

Conclusion

The review of empiric evidence in this paper retrieved from studies undertaken in different cultures and in Albania showed a significant relationship between entrepreneurial programs and the propensity of fostering entrepreneurship. Knowing that Entrepreneurship Training Programs can change entrepreneurial intention is fascinating if one considers the economic prosperity mentioned by various authors. The findings included in this paper are very optimistic showing the positive influence towards entrepreneurship. Besides practical reasons, intentions have been identified as being the best predictors of planned behavior. Therefore, entrepreneurship can be declared as a type of planned behavior which can be analyzed with the help of intention models. Additionally, understanding the antecedents of intentions implies understanding the behavior.

Recently in Albania studies are undertaken on entrepreneurial intent among students. The empirical evidence from the study undertaken by Kume et al., "Entrepreneurial Characteristics amongst University Students in Albania" showed that among other factors, entrepreneurship education impacts positively the entrepreneurial intention of students.

Intention models seem to be a solid starting point for the analysis of entrepreneurship. In particular, the best solution is the integrated Ajzen's (1991) and Shapero & Sokol's (1982) theories into an entrepreneurial intention model.

For the case of Albania the research findings show a positive correlation between entrepreneurial programs and entrepreneurial intent as it was expected. Besides education, experience, attitude and social norms are also observed and the results support the expectation that these consist to shape entrepreneurial intent, too. As a result "programming" an entrepreneur is a possible process. The selected sample coming from University of New York, Tirana highlights that the entrepreneurial intention these students have is a result of family background (involved in the entrepreneurial activities) and a fully entrepreneurial education.

The findings of this paper can serve as a best practice for higher education institutions and policy makers in the country. Firstly, as long as the influence of education programs is proved from evidence in this specific case, then university curricula overall should be revised in order to solve the issue of preparing and supporting possible new entrepreneurs. Secondly, education institutions should pay attention to expose young students to knowledge about possibilities and resources that would help them build an enterprise. Finally, findings about the situation of entrepreneurs and entrepreneurship in Albania should be source for public institutions to orientate their policies towards being supportive on this matter.

The positive correlation between entrepreneurial programs and entrepreneurial intent in the case of University of New York, Tirana, and the great importance for the country are the inspiration for a natural extension of the work, the use of intention models to test results in the Albanian context.

Limitation of the study

The authors accept that the observations are undertaken in a limited setting, a small private university in the country. As a result, the limitation in the sample size is obvious. The access to a larger size of observation in this institution is not a case considering that the sample fully represents the target group in focus. This case shows the positive effect of education into programming entrepreneurs, but definitely it does not represent the case of Albania. Answering this question will be inspiration for further scientific studies. Future research must include students from other universities, public and private, aiming to cover the whole country.

The survey is relied on self-reported data as a result taking into account what students said on questionnaires creates the base of information. Potential sources of bias could be noted in this case including students' memory- the ability to remember or not remember experiences that occurred in the past. Another bias is the attribution of entrepreneurial intention to only some factors without valuing others. Exaggeration on responses as a result of personal family entrepreneurial experiences- most of respondents being the second generation of entrepreneurs in the country- might have resulted in a more significant outcome (positive entrepreneurial intention) than suggested from other studies undertaken recently in the public university in Tirana (Kume et al., 2013).

While many researches are undertaken worldwide, Albania missed this opportunity. Limited number of research are noted in the last years in this area of study. The need for further research in this field is necessary.

References

- Ajzen, I., (1991) "The theory of planned behavior", *Organizational Behavior and Human Decision Processes*, vol. 50, p. 179-211.
- Ajzen, I., (1991) "Nature and operation of attitudes", *Annual Review of Psychology*, vol. 52, p. 27-58.
- Autio, E., Keeley, R.H., Klofsten, M. & Ulfstedt, T. (1997). Entrepreneurial Intent Among Students: Testing an Intent Model in Asia, Scandinavia and USA, *Frontiers of Entrepreneurship Research, Babson Conference Proceedings*, www.babson.edu/entrep/fer
- Ayers, W.M. (1997) MIT: The impact of innovation, *BankBoston Economics Department Special Report, Boston*.
- Cruikshank J., (2002), "A Half-Century of Teaching Entrepreneurship", *Entrepreneurship, Harvard Business School*, www.hbs.edu/entrepreneurship/newbusiness/history.html.
- Franke N. and Luthje Ch., (2004), Entrepreneurial Intentions of Business Students-A Benchmarking Study, *International Journal of Innovation and Technology Management, Volume 01, Issue 03*.
- Grossman P., (2010) "Person of the Year", *Time Magazine*.
- Karimi S., (2012), The Role of Entrepreneurship Education in Developing Students' Entrepreneurial Intentions, *Social Science Research Network*
- Katz J., (2003), "The Chronology and Intellectual trajectory of American Entrepreneurship Education 1876-1999", *Journal of Business Venture* 18, p. 284.
- Kolvereid, L. & Moen, O. (1997). Entrepreneurship among business graduates: Does a major in entrepreneurship make a difference? *Journal of European Industrial Training*, 21 (4), p.154.
- Kume, A., Kume V., & Shahini B., Entrepreneurial Characteristics amongst University Students in Albania, *European Scientific Journal*, ISSN: 1857-7881, 2013
- Linan F. (2004), Intention Based Models of Entrepreneurship Education, *IntEnt2004 Conference, Naples, Italy*.
- Noel, T.W. (2001). Effects of entrepreneurial education on student to open a business. *Frontiers of Entrepreneurship Research, Babson, Conference Proceedings. Babson College*, www.babson.edu/entrep/fer.
- Peterman N. & Kennedy J., (2003), Enterprise Education: Influencing Students' Perceptions of Entrepreneurship, *Entrepreneurship Theory and Practice, Volume 28*, p. 129-144
- Tkachev, A. and Kolvereid, L. (1999), "Self-employment intentions among Russian students", *Entrepreneurship and Regional Development*, 11, p. 269-280.
- Souitaris V., Zerbini S. Al-Laham A. (2007), Do Entrepreneurship Programmers Raise Entrepreneurial Intention of Science and Engineering Students? The Effect of Learning, Inspiration and Resources, *Journal of Business Venturing* 22 (2007) 566–591, www.sciencedirect.com
- Scherer, R.F., (1991) Brodzinsky, J.D. & Wiebe, F.A., "Examining the relationship between personality and entrepreneurial career preference", *Entrepreneurship and Regional Development*, vol. 3, p. 195-206.
- Varela R., Jimenez J.E., (2001), "The effect of entrepreneurship education in the universities of Cali", *Frontiers of Entrepreneurship Research, Babson Conference Proceedings*, www.babson.edu/entrep/fer.

Wang C. and Wong P., (2004), Entrepreneurial Interest of University Students in Singapore, *Technovation*, Volume 24, Issue 2, p. 163-172.

Table 1 Level of knowledge about business associations, support bodies and other measures that support firm creation

	Knowledge on/about					
	Business associations	Support bodies	Specific trainings for young entrepreneurs	Loans in specially favorable terms	Technical aid to start the business	Business centers
Mean	52.3%	53.4%	53.9%	45%	51.25%	55.06%
Mean	4.34	4.47	4.43	3.9	4.28	4.53

Table 2 Entrepreneurship education

	Knowledge about the entrepreneurial environment	Greater recognition of the entrepreneur's figure	The preference to be an entrepreneur	The necessary abilities to be an entrepreneur	The intention to be an entrepreneur
	68.1%	76%	62.8%	56%	75.5%
Mean	5.28	5.8	5.03	4.5	5.68

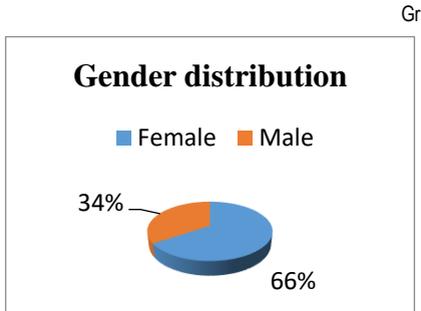
Table 3 Measuring entrepreneurial intention

	Mean	
I'm ready to make anything to be an entrepreneur	53%	4.28
My professional goal is becoming an entrepreneur	63.6%	5.1
I will make every effort to start and run my own business	73%	5.5
I'm determined to create a firm in the future	81.2%	5.84
I have very seriously thought in starting a firm	75.8%	5.65
I've got the firm intention to start a firm some day	77.9%	5.62

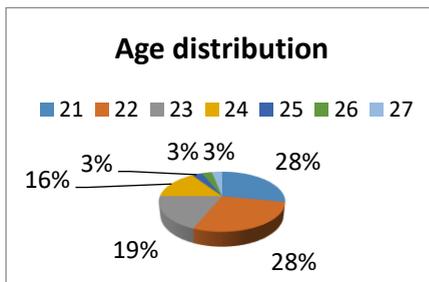
Table 4 Entrepreneurial capacity

Respondents' agreement with the following statements:	Mean	
Start a firm and keep it working would be easy for me	45.5%	4
I'm prepared to start a viable firm	44%	3.87
I can control the creation process of a new firm	56.4%	4.6
I know the necessary practical details to start a new firm	48.6%	4.1
I know how to develop an entrepreneurial project	54.5%	4.5
If I tried to start a firm, I would have a high probability of succeeding	63.75%	5.03

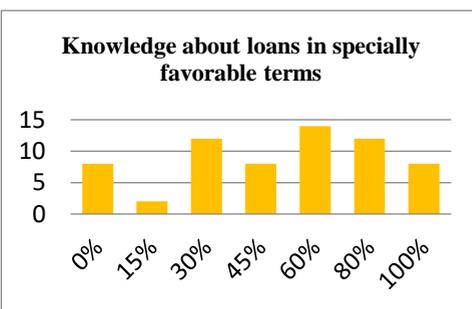
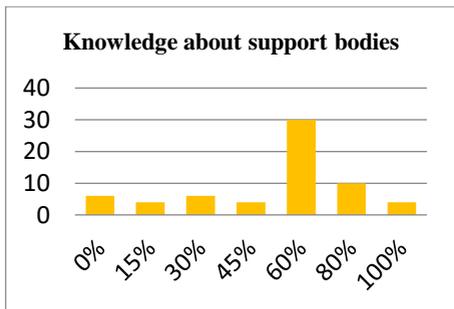
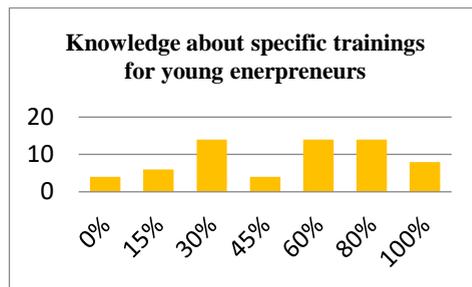
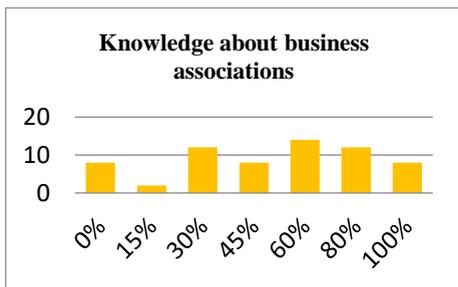
Graph 1 Gender distribution distribution

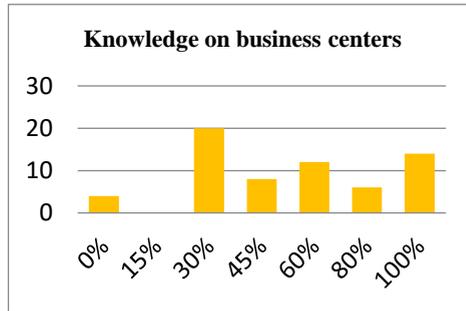
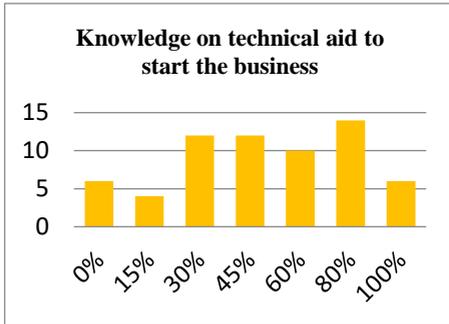


Graph 2 Age

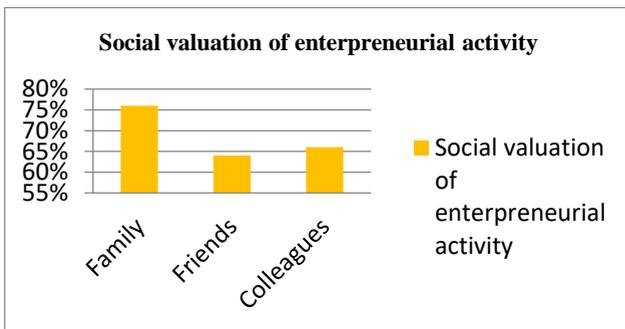


Graph 3 Level of knowledge about business associations, support bodies and other measures that support firm creation



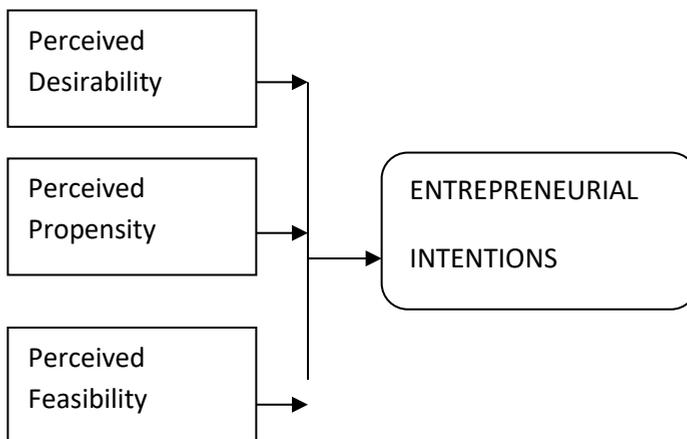


Graph 4 Social valuation of entrepreneurial activity



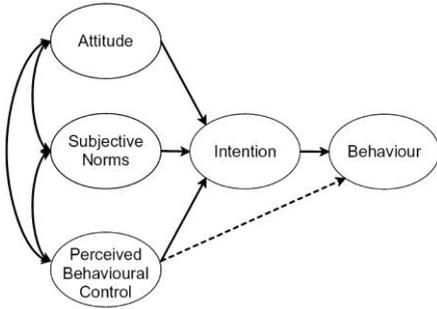
Appendix

Figure 1 Shapero's Model of Entrepreneurial Intentions (1982)



Source: Van Auken, Fry and Stephens (2006).

Figure 2 Theory of Planned Behavior, Ajzen (1991)



Source: Adopted by Ajzen (1991)

Choice of Employment as a Category Differentiating Peripheral Employees

Małgorzata Dobrowolska

Silesian University

Institute of Psychology, Faculty of Work and Organisational Psychology

malgorzata.dobrowolska@us.edu.pl

Abstract

Some people deliberately choose alternative employment due to its flexibility, freedom and variety of tasks offered. Individuals preferring this type of employment mainly due to the said characteristics are referred to as voluntary employees. A coercive flexible employee is someone who perceives his/her employment as unattractive and undesirable, and it is only inability and lack of chances to find a permanent or a different type of employment that makes them choose this type of employment for a specified period of time or on short-term basis. Given the choice between a flexible form of employment and "permanent" job, assuming that conditions offered are acceptable, they do not hesitate to choose the latter.

Keywords: autonomy of employment, flexible forms of employment, peripheral employees

Introduction.

Attitude to work depends on the personality of an individual. Banka divided personalities with respect to attitudes to duties performed (1996). He described two types: professional personality and compelled personality. A professional personality is a personality of individuals for whom work has an important psychological meaning and is an integral part of their personality. Work is a part of one's life, an individual identifies and integrates with it strongly. The second type of personality is people bored with their jobs, who treat their work as a necessary duty, a monotonous part of life allowing to earn one's living. An attitude to work creates a division of a personality. One can speak of a work time producers (like for example workaholics) and work time consumers (individuals alienated from work). This translates very often into an attitude to perception of employment itself - one's own choice or coercion.

The research conducted so far points at significant differences that characterise reasons for choosing a non-traditional form of work. Some people deliberately choose alternative employment due to its flexibility, freedom and variety of tasks offered. Individuals preferring this type of employment mainly due to the said characteristics are referred to as voluntary employees. A coercive flexible employee is someone who perceives his/her employment as unattractive and undesirable, and it is only inability and lack of chances to find permanent or a different type of employment makes them choose this type of employment for a specified period of time or on short-term basis. Given the possibility to choose between the flexible and "permanent" job, assuming that conditions offered are acceptable, they do not hesitate to choose the latter.

Presentation of the author's research

A group of analysed variables, which affect the functioning of an individual in flexible forms of employment are personal characteristics. One of them is *autonomy of the choice of employment*. This is the willingness or reluctance that guides an employee in his choice of employment, a sense that he is employed with a certain form of employment by his own choice (voluntarily) or compulsorily (due to certain circumstances), in accordance with the research by J. E. Ellington, M. L. Gruys, P. R. Sackett, (1998). In this study it has been diagnosed with the set of 3 questions.

The results of the test for n=2118 peripheral employees show that the vast majority of flexible employees treat their form of employment as their conscious choice. 80.1% of all the respondents claim that they are currently employed, because they want to work this way and they would not change their work for anything else. Only one out of every five respondents treats his work as coercion and claims that he was forced by circumstances to choose it and therefore he would be willing to change it. The vast majority of patients (90.4 %) also argues that the present form of employment suits them. Only 9.6% of the respondents is of the opposite opinion. Analysed flexible employees are also overwhelmingly satisfied with their employment conditions. 89.2% of the respondents claims that they are generally satisfied with the terms and conditions of employment, whereas 10.8% of the respondents is of the opposite opinion.

Analysis of the answers to the questions (I am currently employed, because this is the way I want to work/because I was forced to by the circumstances; I am satisfied with the form of employment/I am not satisfied with this form of employment; I am/ I am not satisfied with the terms and conditions of my employment) with respect to the forms of employment showed that there is a statistically significant relationship between a form of employment and a sense of autonomy of employment. Dependency analysis was based on chi-square statistics using Kramer's V: for the first question: Kramer's V = 0.132; p<0.001.

The highest percentage of individuals declaring their present employment was a conscious choice has been identified in the group of employees working in the social economy (88.1 %) and among part-time employees (85.3 %). Whereas the biggest number of individuals for whom work in flexible forms of employment is coercion has occurred in the group of seasonal workers (29.4 %) and among those working for a specified period of time (27.4 %). In case of the latter it may be the case because the work for a specified period of time is the form of employment the most similar to work for an indefinite period of time (permanent job) - a traditional form of employment, and accompanying longing for certainty of employment undoubtedly contributes to the sense of coercion. Seasonal workers are the group that can easily be interpreted by temporariness of employment, due to an undefined period of employment with lack of a possibility to extend a job contract due to characteristics of seasonal employment.

Also the answers to the second question, if the form of employment is satisfactory, are significantly correlated with the form of employment. Kramer's $V = 0.143$; $p < 0.001$. The value of the ratio indicates that the relationship is weak. The most satisfied with the existing forms of employment are businessmen working part-time, while the least satisfied are seasonal workers. The results are the same as in the case of the first question concerning coercion or choice of employment.

Also in the case of the third question concerning the terms and conditions of employment, when it comes to individuals with flexible forms of employment a statistically significant correlation with the form of employment has been observed. Kramer's $V U = 0.165$; $p < 0.001$. The value of the ratio indicates that the relationship is weak. In this case also the most satisfied group are the respondents working part-time, and the least satisfied are seasonal workers.

For the record: the variable *autonomy of the employment* was diagnosed using a set of three questions: = 1. I am currently employed, a) because I want to work like this and I would not change this work for any other; (b) because circumstances force me to choose it and I would like to change it for some other work; 2. I am satisfied with the form of employment: (a) yes, (b) no; 3. My employment terms and conditions: (a) I am generally satisfied with them; (b) generally I am not satisfied with them. Correlations with social-and-demographic variables are presented in the following paragraphs.

In the case of the first question: I am currently employed, a) because I want to work like this and I would not change this work for any other; (b) because circumstances force me to choose it and I would like to change it for some other work; a significant correlation with the the following variables: education, occupation, sector, industry, has been identified. There is no relation with the other social-and-demographic variables.

Education significantly differentiates responses of the respondents to the analysed question, Kramer's $V = 0.136$; $p < 0.001$. The higher education, the higher the rate of responders who declare that the work in flexible forms employment was their deliberate choice. In the group of the respondents with education below secondary school the percentage of individuals claiming that this was the case is 64.0%. In the group of the respondents with secondary education the percentage is 79.1%, and in group of people with a university degree = 83.2%.

A correlation of the responses of the respondents with an occupation has been identified: Kramer's $V = 0.121$; $p < 0.001$. The highest percentage of individual who claim that they want to work under flexible forms of employment and would not change it has been identified among professionals and freelancers (84 %). The same response has been obtained among 80.5% of individuals in the group of trade and services employees. In the group of managers autonomy is declared by 78.9 % of the respondents, whereas in the group of technicians and civil service officers the rate is 75.6 %. The smallest group of individuals who chose their form of employment consciously are workers - 71.6 %. The responses to the questions concerning autonomy of the choice is affected by a sector in which individuals operate: Kramer's $V = 0.082$; $p < 0.01$. In the group of the respondents working in a social sector 86.6% made a conscious choice concerning their form of employment. Among those working in the public sector the ratio is 81.8 %, and in the group working in the private sector the ratio is 77.2 %.

Correlations between the second question concerning satisfaction with the form of employment has been identified with the following variables: sex, education, number of employers, number of children. there has been no other correlation with the other analysed variables.

Sex of the respondents affects the assessment of the form of employment - Kramer's $V = 0.095$; $p < 0.05$. Men (93 %) more often than women (87.4 %) declare that the present form of employment suits them well. Education significantly differentiates responses of the respondents to the analysed question, Kramer's $V = 0.139$; $p < 0.001$. People with secondary school education (91.8 %) and a university degree (91.6 %) declare more frequently that their present form of employment suits them well, than people with primary school education (77.7 %). The response to the test is also affected by the number of former employers: Kramer's $V = 0.102$; $p < 0.01$. The more employers, the less individuals satisfied with the current form of employment. In the group of the respondents with only one employer so far 93.2% declares that the current form of employment suits them well. In the remaining groups the result is as follows: 93.1% in the group of the respondents who already had 2 employers; 90.7% among the responders who had 3 employers and 86.3 %, among the responders who had 4 or more employers. A correlation between the number of children and satisfaction with a form of employment has been identified as well. Flexible forms of employment are more likely to be preferred by individuals with children (94.4% in the group with 2 or more children and 89.4% in the group with 1 child) than by childless couples (87.6 %).

When it comes to the third question, whether the terms and conditions of employment are satisfactory for the respondents, a significant correlations have been identified between this variable and age, education, occupation, sector, number of employers, and duration of contracts.

Assessment of the terms and conditions of employment is correlated with the age of the respondents: Kramer's $V = 0.075$; $p < 0.05$. Older employees are more satisfied with the terms and conditions of employment than the younger ones: In the age group 41-65 years the percentage of the satisfied is 92.5%; in the age group 31-40 years = 88.8%, and in the age group 18-65 years = 86.4%. Education significantly differentiates responses of the respondents to the analysed question, Kramer's $V = 0.115$; $p < 0.001$. In the group of the respondents with education below secondary school the percentage of individuals claiming that this was the case is 78.0%. In the group of the respondents with secondary education the percentage is 90.0%, and in group of people with a university degree = 90.4%. A correlation of the responses of the respondents with an occupation has been identified: Kramer's $V = 0.119$; $p < 0.001$. The more prestigious occupation, the more positive evaluations of flexible employment. The responses to the questions concerning autonomy of the choice is affected by a sector in which individuals operate: Kramer's $V = 0.126$; $p < 0.001$. In the group of the responders working in the public sector, 93.7% said that the terms and conditions are generally satisfactory for them. Among those working in the social sector the ratio is 92.1%. In the group of individuals working in the private sector the ratio was 85.5%. Assessment of the conditions of employment depends also on the number of employers so far: Kramer's $V = 0.100$; $p < 0.001$. The lowest percentage of the respondents who are satisfied with employment terms and conditions occurred in the group of individuals who had already worked in at least 4 places (84.6%). In the remaining groups these ratios are 91 - 92%. Duration of employment contracts affects the assessment as well, Kramer's $V = 0.109$; $p < 0.001$. The longer one works for a current employer, the more satisfied with the terms and conditions one is.

Conclusion

Summing up, more educated employees declare that their choice of a form of their employment was their informed decision, individuals with lower education are experiencing coercion with respect to execution of flexible works. Similarly, when it comes to their posts, the further down the organisational hierarchy, the more coercion and lack of other options is experienced. The most conscious and informed choice of this form of employment was declared by individuals working in the social sector.

When it comes to individuals who are the most satisfied with this form of employment, they are mainly males, persons with primary and secondary education, relatively small number of former employers and bigger number of children (more than two).

The terms and conditions of a flexible form of employment are more satisfactory for older employees, individuals with university degree, employed in the public sector, with a relatively big number of former employers, with longer validity periods of employment contracts.

The research carried out has had an exploratory character. It regarded a new domain of knowledge concerning functioning of an individual in new working conditions, where a characteristic feature is temporariness affecting all aspects of the work, namely "temporary" occupation, "temporary" professional relations, "temporary" parties of a work contract, status of a "temporary" worker, etc. This changes completely the perspective of looking at one's professional future and his further existence, quite different from a permanent employment. A temporary form of employment is becoming increasingly popular in present times. This is due to significant changes in requirements of the labour market and changes in the character of work itself. However, in my opinion, it shall never replace and eliminate the longing for a permanent job. Temporary work is its complement, a different, not necessarily worse form of employment and making ones living for selected groups of employees. It is related to a new style of work and the functioning on the market. While remaining one of the tools in the fight with unemployment, it is still only an alternative for a permanent job.

References:

- Banka, A. (1996). *Psychopatologia pracy*. Poznan: Wydawnictwo Gemini.
- Ellingson, J. E., Gruys, M. L., Sackett, P. R. (1998). *Factors related to the satisfaction and performance of temporary employees*. *Journal of Applied Psychology*, 83, 913-921.
- Fieldman, D., Doeringhaus, H., Turnley, W. (1994). *Managing Temporary Workers: A permanent HRR Challenge*. *Organizational Dynamics*, 23, 913-921.

Environmental Injustice: Exploitation of Sindh's Natural Resources in Pakistan

Abdul Hadi, Ph.D Cand.

Ankara University, Faculty of Letters,

Department of Sociology,

Sihhiye, 06110, Ankara, Turkey.

Tel.: +90 5074164720.

E-mail: hadijarwar@gmail.com

Abstract

Immediately after the creation of Pakistan, attempts were started to obliterate the proven history of Sindh as its being a separate state and nation, having its own creed, heritage, culture, language and traditions. Sindh is enriched with oil and gas resources but people of Sindh are living in pathetic conditions. The majority of people who resides in natural resource-enriched regions find difficulty to meet their basic needs. The surrounding area of oil and gas fields are polluted, local people bear the burden of this pollution. The aim of this paper was to understand that why natural resource-enriched soil of Sindh's people live in abject poverty and lag far behind in human development indicators. The prevalence of internal colonialism has been noted in this study where a dominant ethnic group Punjabi in control of a government systematically exploits resources of Sindh people. This is an environmental injustice with Sindhis resulting from their subordinate and colonial status in Pakistan.

Keywords: Environmental Injustice, Internal-colonialism, Oil and gas, Resource exploitation, Sindh

Introduction

Pakistan is not one country composed of only one Nation but is a conglomeration of socio-cultural different nationalities. The 'ethnic minorities' that basically comprise the smaller nations of Pakistan never supported the creation of Pakistan. Unlike Baluch and Pashtuns, Some Sindhi reluctantly did support the Lahore resolution of March 23, 1940. According to Lahore resolution, the Muslim-majority areas to "be grouped to constitute independent states in which the constituent units shall be autonomous and sovereign". But in the Delhi session of the All India Muslim League held in 1946, the original wordings were changed to "A sovereign state of Pakistan"(Syed, 1989). Seeing the changing attitude and act of betrayal of All India Muslim league, Few Sindhis who supported the Lahore resolution, withdrew their support to any future political set up called Pakistan and stood against the All India Muslim League. "The election of 1946 were a kind of virtual referendum on the partition, in which the anti-partition Unionist Party won in Punjab; Congress won in NWFP (Now KPK); the all India Muslim league (AIML) lost in Sindh, giving lead to Indian National Congress (INC) and Sindhi nationalist forces. Thus, the idea of Pakistan was rejected by the Sindh, Balochistan and Khyber Pakhtunkhwa provinces. Balochistan was not part of Pakistan in 1947 and Sindh rejected AIML in the 1946 elections, i.e. both aspired to reclaim the status of sovereign countries, which they lost after Britain's 1843 invasion (Shah, 2014). But British imperialists decided to divide up India for strategic reasons and purposely set out to create a new state called Pakistan against the wishes of Sindh and other minority ethnic groups.

Narendra Singh Sarila, a retired Indian diplomat, gives detailed and clear-cut evidence showing that in March, 1945 then British Prime minister Churchill and the British general staff took decision to divide up India for strategic reasons and purposely set out to create a new state called Pakistan. Thus, Pakistan came into existence. The Pakistani state was created by putting together ethnic groups that had never before been united in the same polity before British. Sindhi, Baluch and Pashtuns resisted Punjabi invasions for centuries. After the construction of Pakistan, Sindhi, Baluch, and Pashtuns feel that they are trapped in a political set up which is run by dominant province Punjab since Punjab controls armed forces and key political institutions (Harrison, 2009).

Historically Sindh remain a sovereign country. Since the creation of Pakistan, Sindhi lost their political autonomy which has eventually threatened their distinct culture and language (UNPO, 2012). Sindh is enriched with oil and gas resources but they alleged that their resources are used for the benefits of Punjab. Sindhis are living in pathetic conditions despite these natural resources. Thus, Sindhis are subjected to environmental injustice.

Environmental Injustice: Exploitation of Sindh's natural resources in Pakistan

Environmental injustice takes place when some people or communities bear environmental burdens disproportionately, like those of hazardous waste dumps, or has unequal access to environmental good, like clean air, or has less opportunity to participate in environmental decision-making process (Shrader-Frechette, 2002: 3).

Sindhis have been complaining about growing injustices to them since the inception of Pakistan. Be it the distribution of resources, apportionment in budget, water rights, share in economic development, expenditure in social sectors, education, health and infrastructure development, their involvement in the decision making process, they are ignored everywhere (Narejo, 2011). The majority of people who resides in natural resource-enriched regions find difficulty to meet their basic needs. The vast majority of Sindhis are jobless, hungry and impoverished. Despite the richness of Sindh in oil and gas, it is lagging far behind in human social indicators. Sindhis live in abject poverty. Since the inception of Pakistan, Sindh has virtually turned into a colony. A series of injustice and miseries of Sindh will be analyzed and evaluated through internal-colonialism perspective.

Internal-colonialism and Sindh

Colonialism is a process in which more powerful nations exploit other nations and show their economic and sociopolitical dominance over them. In contrast, internal colonialism is a condition in which both the dominant group and subordinate groups co-exist as natives of the same society (Adeola, 2000).

The prevalence of internal colonialism has been noted in studies of ethnic problems. Internal colonialism results where an ethnic group in control of a government systematically exploits resources of the regions occupied by minority ethnic groups. Typical results include an inequitable distribution of national wealth and of access to employment and educational opportunities. With local resources and income used primarily to serve the interests of the dominant ethnic or religious group, the resemblance to traditional colonialism is strong (Somarajah, 1981).

Sindh, the second largest province in Pakistan, is richest in the natural resources like gold, gas, oil, coal and uranium. Sindhi scholars and Sindh rights activist claim, according to Sindhi newspapers of Pakistan, that Punjabi being a dominant ethnic group abused its absolute power to usurp and transfer resources from the periphery (Sindh) to develop the core areas (Punjab), while creating immiseration and increased inequality among the subordinated resource-dependent ethnic periphery Sindh.

Oil & Gas Resources in Sindh

Catching a glimpse of scruffy towns and villages of Sindh where oil and gas produced, one would not believe that the areas overlay the wealth of hydrocarbons worth several billion dollars.

Pakistan Energy Year Book 2013 shows that Sindh contribute 40.6 percent of oil in the total national oil production. Recent oil discoveries of in KPK dwarfed Sindh's share from 56 percent till only two years back. See the below table for details.

Province	Oil Production (Million Barrels)	% Share
Sindh	11.37	40.63
Punjab	5.26	18.90
KPK	11.24	40.4
Baluchistan	0.2	0.07
Pakistan	27.84	100

Source: Pakistan Energy Yearbook 2013, Ministry of Petroleum and Natural Resources, Government of Pakistan

Pakistan Energy Year Book 2013 shows that, share of Sindh contribute 68.65 percent of gas in the total national gas production. See the below table for details.

Table. Province-wise Gas Production: 2012-13

Province	Total (MMCF) Million Cubic Feet	% Share
Sindh	1,033,794	68.65
Punjab	69,220	4.6
KPK	126,234	8.38

Baluchistan	276,593	18.37
Pakistan	1,505,841	100

Source: Pakistan Energy Yearbook 2013, Ministry of Petroleum and Natural Resources, Government of Pakistan

These tables highlight that Sindh is the largest oil and gas producing province of Pakistan and largest contributor in national energy basket.

Table. Province-wise Gas Production and Consumption Trend, 2012-13

Province	Total Gas Produced (Million Cubic Feet)	Total Gas Consumed (Million Cubic Feet)	Ratio (Consumption vs Production in %)
Sindh	1,033,794	576,519	55
Punjab	69,220	542,185	783
KPK	126,234	65,179	51
Baluchistan	276,593	84,097	30

Source: Pakistan Energy Yearbook 2013, Ministry of Petroleum and Natural Resources, Government of Pakistan

The table shows that Sindh consumes only a part of its production and much of its production is utilized in Punjab. Punjab consumes 783 percent against its production in the national output of gas. The highest utilization of gas by Punjab produced by other provinces, indicates that Punjab is the center of much of the development in Pakistan.

The employment of local people is another major issue. Fields of oil and gas are chiefly in far-flung and under-developed areas of Sindh. Whereas the head offices of operating companies are located in big cities in oil where Sindhi speaking staff hardly makes a small fraction of their human resource. Sindhi speaking are to some extent, recruited in field staff as low paid unskilled labor owing to non-feasibility of recruiting people from other provinces. It must be kept in mind that Directorate General of Petroleum Concessions (DGPC) of the Federal Ministry of Petroleum and Natural Resources is responsible for overall employment regime of these companies (Memon, 2014).

State of Human Development in the Oil and Gas Producing Sindh

Sindh is facing injustice with the day when Pakistan came into existence. Its own resources are usurped by the rulers of Pakistan and utilized for the development of dominant province Punjab; whereas Sindhis are facing miseries .50 percent of its population live below the poverty line (Kazmi, 2008).

Sindh produces 40.63 and 68.65 percent of oil and gas respectively. Estimated value of oil produced from Sindh at the rate of US\$ 100/barrel comes around 113 billion rupees per year. Estimates of gas are difficult to establish as different companies have different rates. However the income from gas is much higher than that of oil. Though Sindh is the largest oil and gas producing province in Pakistan, its people are living in abject poverty. The larger part of oil and gas producing areas of Sindh lags far behind in (HDI) human development indicators. In the oil and gas producing areas of Sindh, human development indicators are very dismal with most of the people living below poverty line. These areas are mostly under-developed and people surrounding the oil and gas fields live in primitive ages. Some credible research reports corroborates the fact (Memon, 2014).

According to Human Development Report of UNDP (2003) Badin, the major oil producing district ranked at 60th out of 91 districts in the country (Memon, 2014). The Millennium Development Goals Report 2005 issued by the government shows the ranking of three major oil and gas producing districts of Sindh against key development indicators. A New Deal in Pakistan" by Dalrymple (2008) said that Sindh is one of the most under-developed areas in Asia. It lags far behind in all index of development. A leading English newspaper in Pakistan, "Dawn" wrote in its editorial that in spite of Sindh's largest share in the production of oil and gas in Pakistan, people surrounding the oil and gas fields are forced to cut down trees for their survival. In the 16 districts producing oil and gas, the socioeconomic indicators are dismal with most of the people living below the poverty line, without basic health and education facilities or even clean water. Local inhabitants complain of neglect, deprivation and injustice (PDI, 2010).

Sindh Provincial assembly in 2008 passed a resolution in which it asked the federal government of Pakistan to implement regulations which can compel gas and oil companies operating in Sindh to invest in social development of areas where oil and gas fields are located. However, Federal government in collusion with the gas and oil companies refused to implement these regulations. It must be noted that federal government has made a set up to ensure that much of gas produced in Sindh can be diverted to Punjab (Hashmani, 2009). Economy of Sindh has been weakened since many years because it is used to meet the development targets of Punjab and fulfill federal and military demands (Rahman, 2009).

Instead of being beneficial for Sindhis, oil and gas have harmed them. Sindhis bear the burden of pollution due to the operation of oil and gas companies. People surrounding the oil and gas fields often make complaints about the pollution caused by the companies operating in these areas. The operation of companies have degraded the environment (Memon, 2009). Thus, they are subjected to environmental injustice due to the political set up in which their status is mere colony.

Conclusions

It is crystal clear that Sindhs are deprived of benefits from natural resources being extracted from their own soil. Punjab being a dominated ethnic groups is exploiting all these resources for the development of its own people and province.

Instead of being beneficial for Sindhis, oil and gas have harmed them. Sindhis bear the burden of pollution due to the operation of oil and gas companies. People surrounding the oil and gas fields often make complaints about the pollution caused by the companies operating in these areas. The operation of companies have degraded the environment (Memon, 2009). Furthermore, they make complaints that specific chemical used by companies during the extraction of oil and gas process, has contaminated the underground water causing health concerns. People of Sindh has also paid the prices of oil and gas in shape of the degradation of their fertile lands. Thus, they are subjected to environmental injustice due to the political set up in which their status is mere colony.

References

- Adeola, F.O. (2000). Cross-National Environmental Injustice and Human Rights Issues, a Review of Evidence in the Developing World.
- Dalrymple, W. (2008). A New Deal in Pakistan. The New York Review of Books.
- Dawn Editorial. (2009). Dawn Newspaper. Retrieved From. <http://www.dawn.com/news/1071958/dawn-editorial-february-02-2009>.
- Harrison, S.S. (2009). Pakistan: The State of the Union. Special Report. Center for International Policy.
- Hashmani, K. (2009). Poor People in Resource Rich Sindh! Indus Asia Online Journal (iaoj).
- Kazmi, E. (2008). Ameer Sindh Jo Ghareeb Awam. Published by Sindh United Party.
- Memon, N. (2014). Oil & Gas Resources and Rights of People (Case of Sindh). Center for Peace & Civil Society.
- Memon, N. (2009). Sharing oil and gas resources. Daily Dawn. Retrieved from <http://www.dawn.com/news/337328/sharing-oil-and-gas-resources>
- Narejo, A. (2011). Injustices in Pakistan: Startling Disclosures of Federal Employment Figures. Indus Herald.
- Pakistan Energy Yearbook. (2013). Ministry of Petroleum and Natural Resources, Government of Pakistan.
- PDI. (2010). Poverty in oil-rich districts of Sindh. Participatory Development Initiatives. Retrieved from <http://pdipakistan.blogspot.nl/2010/03/poverty-in-oil-rich-districts-of-sindh.html>
- Rahman, H. (2009). Ethnic Tensions and the Future of Pakistan: The Case of Sindh. Pakistan: The State of The Union. Special Report. Center for International Policy.
- Sarila, N.S. (2009). The Shadow of the Great Game: The Untold Story of India's Partition.
- Shah, Z. (2014). Speak out: Sixty Seven Years of Pakistan. Published by Truthout. Retrieved from. <http://truth-out.org/speakout/item/25582-sixty-seven-years-of-pakistan>.
- Shrader-Frechette. (2002). Environmental Justice: Creating Equality, reclaiming Democracy. Oxford University Press.
- Somarajah. (1981). Internal Colonialism and Humanitarian Intervention M., Ga., J., Int'l & Comp., L. [Vol. 11:1.
- Syed, G.M. (1989). Sindhudesh: A Study in Its Separate Identity through the Ages. (Translation of "Sindhu Ji Saanjah" in Sindhi).
- UNPO. (2012). Report of The General Secretary to the 11th UNPO General Assembly May 2010 – November 2012. UNPO International Secretariat. Unrepresented Nations and Peoples Organization.
- UUDP. (2003). Poverty, Growth and Governance. Pakistan National Human Development Report. United Nations Development Programme.
- UNDP. (2005). Pakistan MDG Report 2005

The Management of Operational Risk in the Microfinance Sector Looked through Albanian Reality

Alma Delija, PhD Cand.

Agricultural University of Tirana / Albania

amadeliija@gmail.com

Abstract

The Albanian economy, as an economy of a developing country characterized by a positive trend upward despite the restraining effects caused by the global crisis. Macroeconomic indicators are demonstrating consistency, the financial system is healthy and economic activity making progress. At the same time, the diversification of the local economy to respond to the demands of the free market, increased competition, and untapped potential in agriculture necessitates the strengthening of relations and cooperation structures for financing sustainable development in the country. Experience has shown that microfinance has been a powerful tool for the development of small- and medium agribusiness, playing an ever more crucial in improving the living conditions and welfare of the population, especially in rural areas, the creation the creation of new work by contributing to the economic development of the country. The rapid growth of this sector is expected to continue as a result of increased funding needs, especially in rural areas. But this intensive growth has changed and risk profile microfinance institutions. These institutions looking constantly expanding, often did not pay sufficient attention to risks. One of these is and operational risk. Different authors give numerous definitions about operational risk, often with overlapping similar. This paper does not pretend to provide solutions to gold in relation to operational risk avoidance, but will be followed up in a structured form as suggested by theoretical analysis of this field study authors.

Keywords: Operational Risk; IMF; Risk; Risk Control; Credit Risk.

INTRODUCTION

Risk is an integral part of financial intermediation why risk management should be a key priority for microfinance as well as a challenge to be achieved in conditions of uncertainty. In the microfinance sector, systematic risk management is not yet in the right.

2012 and 2013 were relatively difficult for the Albanian economy affected most financial and economic activities of the country. Consequently, the banking sector is faced with a drop of his portfolio and a deterioration of quality indicators of borrowing in place.

In this context extremely challenging for financial organizations of micro-credit, had the objective to enhance the quality of their management of the existing portfolio to strengthen and improve further risk assessment and management of the loan portfolio.

This work is guided by two main purposes:

Firstly, the theoretical decomposition of the concept of operational risk and its management, particularly in microfinance institutions relying on modern literature in this area.

Secondly, the investigation of this phenomenon in the Albanian reality through practical illustration of a case study where I selected Albanian Savings and Credit Union as one of the leading microfinance institutions in Albania.

↵ Critical review of the literature

The management of operational risk by most authors defined as a decision-making tool to help systematically identify operational risks and to determine the best courses of action for any given situation. Globalization and technological development have provided new opportunities for profit banking sector in general but at the same time has become more tangible operational risks (Bloom & Galloway, 1999). It seems that risk control capabilities have not advanced at the same pace with these rapid developments. According to Williams (2000), the definition of operational risk depends on the nature and type of organization. Meanwhile, the author also stresses that the identification of risk, as the first step of the risk management process provides an important basis for the organization for the support towards the future. Two other authors, Crouhy and Mark (2000) find that an organization should analyze the causes and effects of an operational loss. A typical due to operational losses can mention human errors or inaccuracies. The effect of this risk could cause a financial loss, although this may be the final result of a chain of effects.

A summary of the cause-effect relation to each risk factor is given below:

Table 1. Causes and Effects

Risk Factor	Causes	Effects
Human Resources	Loss of key staff due to movements of the staff to competitors	Reduction of profits, increased recruitment and training costs, disruption of existing staff
Process	Productivity outdated while the value increases	The difference in the costs of the process with the projected (excluding malfunction of the process)
Technology	Increased costs, increased demand	The difference in operating costs of new technologies with the projected

Crouhy & Mark (2000)

Another author of the field, Laycock (1998) lists six categories of causes that can lead to operational risk dazbles us. Causes and operational risk events classified by Laycock given in Table 2.

Table 2. Causes and Events

↳ Staff / Employees	↳ Technology
Errors	System failure
Violation	Inviolability of the system
Internal regulations	System obsolescence
Employee Responsibility	System adequacy
Lack of key staff	Compliance System
Organizational structure	Risk Model, Data quality
Wrong actions	↳ Assets
↳ Relations with customers	Obstacle to business
Suitability with customers	Loss / destruction of assets
Capacity of clients	Third party Theft
Power of customers	Fraud
Money laundering	
↳ Memos	↳ Others
~ Legal risk	~ Project Risk
~ Changes in regulatory standards	~ Reputational Risk

Laycock (1998)

The risk is among the most discussed phenomena in today's world economy. Increasing the level of risk in financial activity is an inevitable process. He dictated the opening of the economy and the gradual integration into regional and global financial markets. Theorists claim that the connection with the acquisition risk is in most cases a straight connection, which means that looking for a higher profit entities should face a higher risk. While risk increases, organizations need to think about strategy and techniques that afford it. This means that all management be financial and economic units in developing their management strategies and throughout the process of decision-making for directing the activities of units should consider not only the existence of various types of risks that arise in financial markets but should have the necessary ability and professional. They need to diagnose the causes of birth of these risks and should possess the necessary instruments for taking the time appropriate measures to cope with these financial risks by eliminating their influence fully or partially on the results of economic activity direct financial units.

Often the negative consequences of risk offset or prevented by strengthening internal control mechanisms. A part of the requirements to meet the risk is even located in the necessary way through regulations and normative acts. This is true especially in the case of economic sectors of particular importance as banks and wider financial institutions.

What is the financial risk?

Risk is uncertainty or probability that something bad will happen. That something bad in financial terms translates loss. Financial risk is conceived as a negative influence on the outcome of the entity because of some uncertainties financial nature.

Operational risk is the risk of negative effects on financial performance and capital of the bank caused by negligence at work of employees, procedures and inadequate internal processes, inadequate management information systems and external events unpredicted.

In some other literature operational risk is defined as the organization's exposure to potential losses as a result of lack or failure to properly execute its operations. These losses may be incurred as a result of failure or lack of internal employees, processes and systems and their inability to cope with the adverse effects of external factors. According Rachlin (1998), the operational risk factors than people, processes, and systems should take into account the external environment. These include criminal actions, legal risks, risks from third parties, etc. According to the same author, management practices available to reduce operational risk, can be divided into three categories:

Reduction of risk - management should diminish risk in products and processes;

Risk Control - to consider ways to control risk

Limiting risk - appropriate precautionary arrangements.

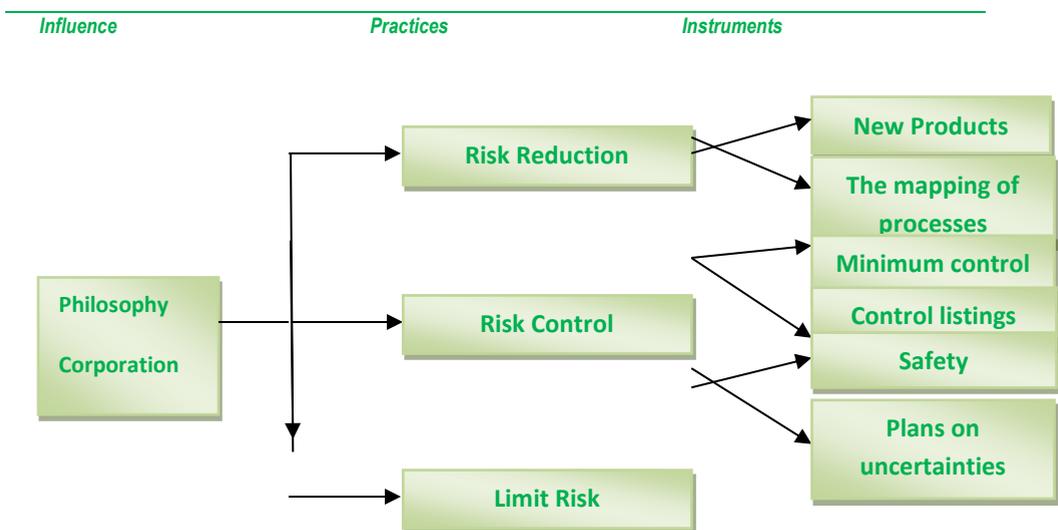


Figure 1. Practices operational risk management (1998)

Rachlin

The authors Schwartz and Smith (1997), propose a structure with three columns, for the construction of a function effective operational risk management properly set policies, methodologies and infrastructure. Methodologies refer to the appropriate application of analytical models to measure operational risk, while explaining the structure of the control policies designed to ensure the existence, completeness, accuracy for all actions through proper separation of duties. They emphasize that have efficient infrastructure in order to make use of policies and methodologies.

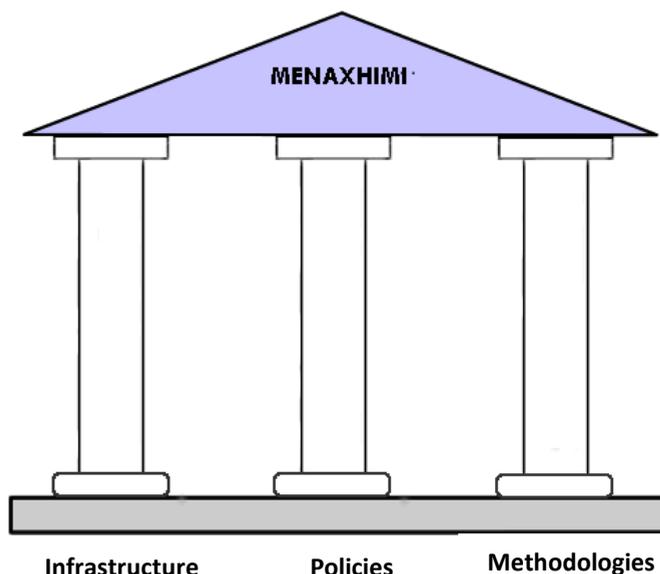


Figure 2. The three pillars of operational risk management, Schwartz & Smith (1997)

As noted in the literature, it is evident that operational risk management is an important subject that requires attention in the banking and microfinance sector in particular. Most authors emphasize that the main exposures to a decline or bankruptcy of the company may come as a result of human resources, processes, systems and external factors. Downstream operations management, should provide in-depth and timely response to the need to protect the organization's network from significant financial losses or in case of occurrence of adverse events.

Operational risk in microfinance institutions includes vulnerabilities facing a microfinance institution (MFI) in its daily operations that may result to the loss of its assets. At its core, operational risk is a concern that an MFI will lose its money through bad credit, fraud and theft. The following describes the controls and monitoring activities to reduce three types of operational risks (Table 3).

Table 3. Types of operational risk

Type of risk	Type of loss	Source of loss
Credit risk	The poor quality of the portfolio	Customers
The risk of fraud	Loss of fraud	Staff
Insurance risk	Loss by theft	External

Churchill & Coster

(2001)

To reduce vulnerability to operational risks, microfinance institutions shape policies and procedures that make up the core of the system of internal control organization. These checks usually include preventative and investigative aspects. Preventive controls are used to prevent the occurrence of undesirable events. Examples of preventative controls include:

- || Hiring reliable employees who can make good decisions credit;
- || Ensure that loans are backed by collateral eligible;
- || Clear definition of duties of staff to prevent deliberate violation;
- || Authorization required to use resources to prevent the use of their inadequacy;
- || Reporting, keeping proper records procedures and records to prevent transactions 'improper' for profit;

|| Installation of sufficient security measures (guards, safes) to protect their assets.

To achieve the best possible preventive controls and investigative judgment is necessary. Preventive controls avoid problems before they occur, but investigative controls are generally easy to implement. For example, it is easier to make monthly bank reconciliations how to prevent the employees from the acquisition of payment. There are also important implications associated with the cost to be taken into consideration.

Microfinance institutions can not eliminate losses due to operational risks. Some loans are meant to go bad. Controls designed to minimize losses from operational risks should be carefully analyzed to assess their cost-effectiveness of this because some controls can be more expensive than the value that they have.

Organization of Microfinance Institutions (Case ASC Union)

i. ASC Union recognition and its mission

Albanian Savings and Credit Union is a voluntary union of Savings and Credit Associations (SCA), established on 25 January 2002 on the basis of the Law on Savings and Credit Societies and licensed by the Bank of Albania. ASC Union is the product of the first microfinance program in Albania. Inspired by the cooperative financial models, ASC Union is based on Savings and Credit Societies, which have strong social roots in local communities. ASC Union clients are residents of rural areas who are also members of Savings and Credit Societies operating in that area.

ASC Union mission is to support financially and technically Savings and Credit Societies, which are financial institutions of the village, established and managed by the members and whose objective is the promotion of productive activities in rural areas.

ii. The legal framework and some definitions

The activity of the institution conducted in accordance with Law no. 8782, dt. 03.05.2001 "On Savings and Credit Societies" and Licensing issued by the Bank of Albania. Under the law loan savings are self-controllable and self-management by members. Assembly members elect a Board of Directors and Supervisory Committee.

- Savings and Credit Associations (SCAs) are legal entities consisting of voluntary unions of individuals, natural or legal persons who deposit their money in society, first used by the company to grant credit to society members. In late 2013, the network results in 98 districts of ASC Union member.

- "Members of the savings and loan" are individuals, natural or legal persons who wish to deposit their savings and borrow through society and to accept the bylaws approved by the Savings and Credit Society. Currently, the network consists of 36.090 SCA member (Annual Report 2013 ASC Union).

- 'Contribution' is the amount paid in capital of an SCA or the Union by any person becomes a member of a SCA or member SCAs Union, at the time of affiliation.

iii. Institutional Developments over the years and Governing Bodies

It is now known as ASC Union was born from a World Bank pilot project for rural poverty alleviation. Cash loans were given in Gjinjar, mountainous area of Elbasan. Gradual development over the years brought increased demand from local residents for loans of this type. After the first areas of intervention, the project was expanded to new areas, and hence took the track and was developed Loan funds as a harbinger of Village Savings and Credit Societies operating in the country today. SCA Union emerged as a necessity to support financially and professionally SCAs, since their nature are small societies with limited managerial capacity.

Table 4: Institutional Developments in years

	1992	1993-1995	1995-1999	1999-2005	2005-and on
Central Structure	World Bank Pilot Project	Rural Development Fund	Albanian Development Fund	Rural Development Fund	Albanian Savings and Credit Union
Structure Field-Branches		Rural Credit Fund	Rural Credit Fund (Association Rural Development')	Savings and credit societies	Savings and credit societies

Legal support	Civil Code	Civil Code	Civil Code	Civil Code /Bank of Albania
---------------	------------	------------	------------	-----------------------------

Under the law "On Savings and Credit and their unions' governing bodies of the Union / SCA are:

- || General Assembly
- || Board of Directors
- || Supervisory Committee

The General Assembly is the decision making body. It is convened once a year by the Management Board or the Supervisory Committee.

The Board of Directors of Union / districts elected by secret ballot by the General Assembly of the Union, from the members of savings and credit societies. He is the executive body of the Union / districts and consists of no fewer than three persons, for a period determined in-laws. The Board of Directors elects its chairman and vice chairman.

Supervisory Committee of the Union / SCA is monitoring body for financial and administrative operations of the Union / districts. His object, under the statute of SCA is to oversee all financial operations carried out, to ensure that the Board of Directors to make decisions under the statute and by the decisions of the General Assembly, and to evaluate the actions of the Board of Directors risk.

iv. Market share and scope of activity

ASC Union credit applies a methodology based on group and individual. Underlying methodology ASC Union is lending through savings and credit society. So, for an individual to apply or get a loan should become or be a member of a group of licensed and specifically, a member of a Joint Savings and Loan, to the ASC Union methodology is based on the principles of operation of Financial Cooperative. Albanian Savings and Credit Union works in 16 districts: Tirana, Durres, Elbasan, Peqin, Gramsh, Lushnje, Fier, Berat, Vlora, Saranda, Shkodra, Malesia e Madhe, Kuçova, Pogradec.

ASC Union is committed to and has worked intensively to extend the zone of intervention as one of the main objectives of its activity in 2013. During the third quarter, was undertaken feasibility study process for intervention in a new circle (of Lezha) and specifically in 7 villages in Dajç's commune. In fulfillment of the goals for expanding the scale of intervention during 2014, ASC Union aims expanding network of SCAs as Përmeti and Korca district, areas which possess strong potential for development of the farm, and districts will to create more opportunities of this area farmers to finance their productive activities. On 12/31/2013, Union SCA's Group results in 98 affiliated, operating in 1,080 villages in 17 districts with a total of 36.090 members in the network SCAs.



v. Microfinance sector and market positioning of ASC Union

In late 2013 ASC Union turns out to be a stretch in 17 districts with 13 regional offices supported by central office. The focus of the institution is a very specific market: financial services in rural areas served little or no other financial institutions. Other facilities like NOA or ProCredit Bank are trying to penetrate into rural areas with their services but their presence remains limited. This situation differs from

rural to urban and semi-urban areas where the pressure of competition between financial institutions is greater through institutions such as NOA, BESA, ProCredit Bank and Intesa Sanpaolo lately. Competition is strong especially for SME loans and the expansion of SCAs in Tirana and more urbanized villages. We emphasize the fact that the rural market at large financial services not covered by traditional banks are not willing to lend to private small entrepreneurs in these areas.

Savings and Credit Union and the network of SCAs rely on these competitive advantages to differentiate from other institutions to micro-lending in rural areas:

- ☺ lower interest on loans, combined with higher interest savings;
- ☺ extensive experience in services in the rural sector and long-term relationships with villages;
- ☺ work on a voluntary basis in the network of nearly 800 elected members of the SCA, allowing to be closer to the customer;
- ☺ support members with technical assistance.
- In competitive disadvantages can mention:
- ⊗ Compared with banks, there is room for improvement in terms of creating a name known to attract depositors (Union marketing and financial products it offers);
- ⊗ rigidity of interest rates applied to financial products;
- ⊗ number of relatively limited services.

Operational risk faced Microfinance Institutions (Case ASC Union)

Microfinance industry has grown rapidly in scope over the last decade. The rapid growth of this sector is expected to continue as a result of increased funding needs, especially in rural areas. But this intensive growth has changed and risk profile microfinance institutions. These institutions constantly seeking expansion of their financial activity, often do not pay proper attention risks, where one of them is operational risk. Different authors provide numerous definitions about operational risk, but concisely operational risk can be defined as the possibility that subjects suffer financial loss as a result of ineligible or failed internal processes, systems, human errors or adverse events. Need for recognition of operational risk and its management procedures, MFIs must look like a rather important internal functions of management lines.

✓ Credit Risk

Credit risk, leading to serious weaknesses a microfinance institution, and consists in the deterioration of the quality of the loan portfolio resulting in credit losses and higher costs of management violations. The loan portfolio is the main item in the statement of financial position ASC Union. A special attention during 2013 was paid careful management of the loan portfolio, increasing the volume of lending and maintaining credit quality. Although given around 5,000 new loans to finance agricultural activities (greenhouses, vegetables, vines, fruit trees, olive trees), livestock (bovine breeding, petty, pigs, poultry), trade and services (agricultural inputs, commercial premises, machinery agricultural, transportation, commodity turnover), the loan portfolio in the SCA found to have a stagnant during 2013. Among the factors that have contributed to distinguish the effects of the economic crisis, credit tightening measures, campaigns in rural areas, adverse weather beginning of the year etc. In the process of lending, the priority of the Union remains the proper selection of the client, his moral evaluation, recognition by the Board to his reputation and other features located in the internal regulations of districts.

~ Maintaining the quality of the loan portfolio. A good quality loan portfolio constitutes a solid basis for sustainability and stability of the institution in continuity. As such, protecting the quality of the portfolio should always be at the core of ASC Union. Continuous monitoring and control his will ensure acceptable levels of risk, and taking appropriate measures to improve problems in any particular SCA or about. Among the measures to be taken to keep control of credit risk and improve the quality of the portfolio can mention:

~ Careful selection of borrower clients;

Financial depth analysis of the activities funded by loans;

~ Functioning of the task force groups by ASC Union to support some SCAs that present difficulties and problems of localized mainly in Tirana and Shkodra;

~ Contracting execution companies licensed to collect loans.

✓ Credit risk control

Management of credit risk can be divided into preventive measures taken by the lenders before granting a loan and the use of incentives and penalties after giving credit to encourage timely repayment of the loan. Before the disbursement of a loan, a lender reduces credit risk through controls that reduce the potential for loss, such as the preliminary evaluation in bringing the document required time, financial

analysis of the client's income by lending specialist in inspections necessary in the business center to review the investment plan. Once a loan is disbursed, a lender for risk management procedures extends through continuous controls that reduce the potential for loss to controls that reduce actual losses. As such, the procedures of credit risk management is a key component for MFIs. Four key controls credit risk:

- ❖ Loan product design;
- ❖ Review of the client;
- ❖ Credit Union Committee of SCA;
- ❖ Credit Monitoring and management of violations.

Requests Eligibility	Many MFIs require that applicants meet certain criteria which are known as reducing credit risk. For lending to small entrepreneurs, expected to have a commitment to their business experience (minimum 6 months). Other requirements include documentation necessary adaptability of business, throughput books, bills paid taxes etc.) and a business plan.
Amounts loan	Should ensure that the loan amount is within the capacity of the client to repay. One product design mistakes is to increase the size of the loan. The second issue, although less common, is issuing multiple loans where the customer has credit from multiple sources), being overcome client's ability to repay.
Terms Loan	One way to address the issue of capacity is to extend the term of the loan by making small installments. This approach, however, must be balanced with the fact that the possibility for another loan is a primary incentive loan repayment. If the prospect of a loan else is too far, some clients may lose an important incentive to continue repaying this loan.
Frequency repayment	Frequency of payment (for example monthly instead of quarterly payments of six) allows institutions to control credit risk. The more frequent repayment installments, the more likely the institution to control the quality of the portfolio. Discipline frequent payments allows the exercise of control by stronger. However, repayment frequency must be balanced with transaction costs for the client and the institution.
Requests collateral	Collateral is the primary mechanism used to reduce the risk of credit. However, microfinance clients often do not have traditional collateral, such as property because of the informality and real undocumented. Instead, MFIs use non-traditional collateral (for example personal security, household assets, forced savings, motorized vehicles or vehicles) and substitutes collateral to reduce credit risk.
Interest rates and commissions	Credit price reflects a balance of different issues, including the cost of delivery and the level of risk. Generally, loans that are more costly and more risky require higher rates of interest. If the price for these products is very low institutions will not be able to cover their expenses.

Figure 3. Reduce credit risk through product design

✓ Examination of customers

An important element of limiting credit risk of customers includes examining, on specific analysis is needed to ensure that they have the willingness and ability to pay for a regular loan repayment. When analyzing the customers credit, microfinance institutions usually use the technique of five C-s (character, collateral, capacity, conditions, capital). If any of these components is poorly analyzed, credit risk increases. To limit this risk, institutions develop policies and procedures to analyze each component.

- Character -an indication of the applicant's readiness to repay the loan and the ability to run the business.
- Capacity - If the family business cash flow could afford the repayment of the loan. To assess the applicant's capacity to repay the loan, loan officers perform assessments for business.
- Capital - assets and liabilities of the business or family. This allows the loan officer to determine whether the business is viable and how much capital already invested in the business.
- Collateral - Access to an asset that the applicant is willing to give up on the failure.
- Conditions - A business plan that considers the level of competition and the market for the product or service, legal and economic environment.

✓ **Monitoring of credit risk and financial indicators ASC Union**

To monitor the quality of the loan portfolio, it is recommended that the lending entity to monitor the quality of the portfolio according to reports on a monthly basis. These include the risk of loan, credit report lost (writte-off) and the ratio of provisions. In addition an important subject is monitoring the number and value of loans rescheduled (restructured).

- Portfolio at risk: This report should be used primarily as an indicator for monitoring the quality of the portfolio.
- Lost credit report (writte-off): This report shows the degree of unrecoverable loans during the last period.
- Provisions Report: Shows the adequacy of reserves in relation to the portfolio.
- The ratio of restructured loans: Shows the extent of loans that were rescheduled in the last period.

For reasons microcredit financing, microfinance portfolios are not typically exposed to concentration risk as traditional big banks, where individual loans do not represent a significant part of the portfolio. However, microfinance institutions should monitor their loan portfolio composition, quality, areas of operation, business sector etc.

A special role in monitoring the credit risk of the risk plays sector, where its activity is concentrated mainly in credit risk management, consistently enforcement field verification procedures, implementation of set standards and verification credit facility. Part of credit risk management are the identification, measurement, monitoring and reporting of risks to which the Union and the SCAs are exposed.

The process of credit risk assessment included evaluation CAMEL network method, the assessment of SCA in the process of lending by the Union as asset quality, capital adequacy, earnings, liquidity and KCS management and monitoring borrowers. The focus of risk management is the completion and analysis of collateral placed as security for loans granted by the Credit Committee at the district level and the Union. Assessing network and comparative statistical evaluation SCAs and districts with common characteristics performed each quarter for credit risk situation, evaluate and trend of total credit risk to the whole organization and for certain categories according to the type of activities (agriculture, livestock, trade, services, etc.) and by branches of the districts in order to take appropriate measures.

Table 5: Rating ASC Union

Rating ASC Union/ 31.12.2013		STANDARD	ACCOMPLISHMENT
RATE OF ASSESSMENT			
I	Asset Quality	21	12
II	Capital Adequacy	15	13
III	Income	24	20
IV	Liquidity	17	17
V	Management	23	23
X	The total amount of points	100	84

The table shows that the network SCA evaluated 84 points and classified in the "Administer very good" (82-91 points).

~ Asset Quality assessed with 12 of the 21 points which is the standard. In this group recorded decline in index points PAR's report and deposit him in SCA to total assets.

~ Capital adequacy assessed with 13 of 15 points which is the standard. In this assessment affects the indicator of equity to fixed assets that appear satisfactory compared to other indicators of the group. However, capital adequacy continues to impact positively on the development and normal functioning of SCA network being one of its strengths.

~ Revenue assessed 20 out of 24 points which is the standard. The three indicators that constitute the revenue as percentage of income from portfolio loans to average total income to total average assets, and net financial margin to total average assets valued at maximum limits of the standard set.

~ Liquidity evaluated all of the standard points, 17 points. The two indicators that make up liquidity, as the ratio of current account deposits Union to SCA, loans over 5 years as 100% of the total long-term liabilities, estimated the upper limit of the standard set. Liquidity indicator pursuant to Regulation Supervision Bank of Albania shows consistency.

~ Management assessed with standard maximum score, 23 points, where management indicators liquidity condition in the coffers and bank accounts SCA network and Union, deposit portfolio growth, high level of receivables write-offs balance (write-off) and % satisfactory returns on loans loan installment affecting achievement of this standard.

As shown by the indicators taken into consideration results in ASC Union and the network of SCAs are organically related, not only in legal perspective oversight and audit functions, but also in view of institutional support, managerial, financial and administrative. ASC Union's strategy and policies pursued is in full support of the SCA network, facing numerous risks that arise in the development of network activity ASC Union thanks ability to maintain its financial viability expressed in indicators of the degree of intervention and those financial.

All microfinance institutions have had the experience of fraud carried out by members or individuals representing financial activity credit savings. Wherever there is money, there is the possibility of fraud. Microfinance institutions should not assume they can completely eliminate fraud. However, through proper controls they could significantly reduce this aspect.

Management of credit risk in Albania

In Albania credit risk management realized based on regulations issued by the Bank of Albania and its Oversight Council.

The purpose of credit risk management by banks is to minimize possible losses from loans and other assets related to them and sensitive to movements in interest rates. This regulation defines the criteria, categories and methods of classification of loans and other assets of the bank to calculate an appropriate level of reserves to cover potential losses from the impossibility of restoring their full value.

✓ Credit rating

Banks classify their loans in one of the following five categories:

1. Standard loans,
2. Credits in pursuit,
3. Substandard,
4. Doubtful
5. Credits lost.

Category 1 represents the highest quality of credit, while category 5, represents the lower quality of the loan.

Loans classified in categories 1 and 2, constitute the quality loans. Loans classified in categories 3, 4, 5 constitute the "bad loans".

In the same category with the loan (principal and interest) that is classified, classified other accounts associated with it, which represent loans given by banks to people associated and dependent financially by the lender.

Supervision Department of the Bank of Albania has the right to request the amendment of the credit rating category when:

- judged that the interpretation of the above criteria by the banks is not fair;
- judged that other elements in addition to the above characteristics that justify changing the classification category.

✓ General requirements for the quality control of the credit portfolio

Banks approve the Board, policies, procedures and internal rules for monitoring and control consistently quality of loan portfolio and other assets of the bank. These should include at least:

- a. Lending strategy by periods, including realistic goals about expanding loan portfolio, its composition by sector, geography, currency, type of loan, etc.;
- b. Policy interest rates, terms, repayment and loan amount;
- c. Established rules for recognition and analysis of the borrower and/or credit of the guarantor;
- d. Procedures for documentation needed to be met for the granting of loans, as well as credit approval, according to the hierarchy. Bank takes measures analysis processes and loan approval to be separated, to ensure control and quality in the decision, as well as sets the structure for credit monitoring in line with the size and diversity of lending activity;
- e. Risk management policies for the entire portfolio and for each client in particular, lines of credit to a customer credit concentration by sector, monitoring under the credit facility and type, sensitive analysis of variances between credit portfolio and funding sources his

regarding the terms and currency type, in terms of assessing the relationship between credit risk and other risks (exchange rate changes, interest rate changes, etc.);

f. Procedures on the ongoing progress of loans and their identification by groups of loans with similar characteristics, for tracking priority loans, continuous reevaluation of guarantees or collateral as well as for assessing the adequacy of provisions for potential loan losses.

Banks have as their aim not only continuously assess the quality of loan portfolio and other assets, but also the risk assessment of the impairment loss as their resulte.

Rates of reserve funds to cover loan losses

Depending on the classification of loans, banks establish reserve funds to cover potential losses from loans. Rates of calculating provisions are:

A. The fixed rate for the group of quality loans:

1- For "standard loan" rate is 1 percent.

2- To "chase credit" rate is 5 percent.

Provisions for loans above calculated on the common value of principal and interest and are considered provisions to cover the statistical risk.

B. Variable rate for the group of non-performing loans:

- The principal:

3- "Substandard loans" not less than 20 percent;

4- "Credit questionable" not less than 50 percent;

5 "Loan loss" not less than 100 percent.

- The interest rate is 100 per cent in each case.

The provisions calculated for loans considered provisions to cover the risk of impairment of loans.

As a result, the Board of Directors of each bank periodically, but not less than once a year:

a. Review the strategies, policies and regulations of the bank for lending and credit risk management, in line with changes in market conditions and the rules of supervision,

b. Analyzes and evaluates especially the implementation of strategies, policies and actions of the bank on lending and its risk management, including the risks of lending in foreign currency (foreign currency) and/or indexed in foreign currency (currency foreign).

NECESSITY OF NEW METHODS FOR CREDIT RISK MANAGEMENT

Over the past few years noted that technology and new ideas have emerged from the financial engineering professionals who increasingly are applying their skills to build new models of credit risk analysis. The question is: Why now? There are at least seven reasons for this sudden wave of interest.

1. Increase the number of bankruptcies of financial institutions

In the context of increasing global competition, the number of bankruptcies has increased. It has that attention to credit risk increases even more by giving more weight to the risk analysis.

2. Margin more competitive

Almost paradoxically, despite the weakening of credit quality, interest margin and spreads have become lower. In short, risk return curve is deteriorating. Can you mention a few reasons, but the most important factor has been the increased competition for borrowers with lower quality, mainly by financial companies.

3. Values of volatile weak collateral

Previous banking crises have market, as crucial to property values or real assets are very difficult to predict how much more to return to liquidity. This constitutes the largest uncertainty in the lending process. Current issues about global inflation, have stressed the importance of well-determination the value of real assets such as property and for other physical assets.

4. Increased off-balance sheet derivatives

Increased exposure to loans due to a strong expansion of the derivatives market has increased the need of credit analysis. This increase in credit risk was one of the major reasons for the introduction of the Bank for International Settlements capital requirements by banks in 1993. Based on the system of the Bank for International Settlements (BIS), banks must maintain a level certain of their capital to cover the market value of derivatives contracts OTC (over the counter) plus an additional capital for potential exposures Future contracts therefore reserves to cover losses from loans not return in time.

5. Technology

Advances in computer systems and information technology, such as the development in the credit database, has given banks and other financial institutions the opportunity to test their models and techniques for measuring and managing credit risk and the ability to modeling techniques proved more powerful and safe.

6. Capital requirements set by BIS

Notwithstanding the above reasons, the main purpose of banks to develop new models of credit risk management has been discontent with the imposition of BIS and central banks after 1992 for capital requirements for loans. Politics Today the BIS described as "a move that fits all". Under this policy all loans are subject to a fixed rate of 8% of the capital, this rate independent of the size of the loan, its maturity and most importantly independent of the quality of the borrower. In this way, loans granted to firms close to bankruptcy treated the same as those issued to a borrower AAA class, described as trustee bank borrower. For more current requirements for additional capital is above all loans, not allowed a lower demand for capital due to a higher degree of diversification of the loan portfolio.

7. Stress testing

These tests designed properly, can provide information that typical statistical models can be omitted, for example, deviations or abnormal movements of the market, extension of periods of market risk or structural market changes. Stress testing can serve as complementary tools for measuring other risks. For banks and other financial institutions, it is important to conduct stress tests in some markets, while some clients can achieve their financial activities in more than one market, and their inability to settle the obligation can be seen in any of them. According to the governor of the Fed, effectively use stress testing can be very profitable for banks. For example, based on the results of stress tests, banks can ensure their participation in some markets and can exercise more attention calculating potential risks to better protect themselves during periods of market crises. Given the additional risks that reveal stress tests, one of the first things that banks can do is increase their internal needs for capital to these activities.

Among the factors that currently protect the Albanian financial system from adverse developments in international financial markets, mention:

- Exposure quite limited and the direct and indirect Albanian financial institutions, particularly banks, other institutions and financial products, whose value is negatively impacted by the liquidity in international financial markets;
- Good financial performance in recent years of financial institutions and the European banking groups, which has created a sound financial protection through the creation of necessary reserves and buoyant business capitalization to absorb such shocks.

On the other hand, the prolonged and possible deterioration of the situation in international financial markets may have a reduced impact on the Albanian financial market through several directions, where we distinguish:

- Worsening of risk characteristics that carries lending quick and especially the currency, as a result of increased exchange rate volatility and the frequent change of interest rates. These are two important factors that can determine the solvency of borrowers in the case of foreign currency loans. Bank of Albania will pass several regulatory measures, which aim to mitigate this risk for banks and their customers and show that it is important Pee economic agents to finance development needs in the same currency in which secure income them;
- Exposure of the financial system to sectors of the economy that are negatively impacted by the decline of regional and global economy;
- The combination of difficulties in international financial markets with the unfavorable dynamics of the prices of energy and raw materials to food products on a global scale.

Insufficiency of financial market development, can serve as a natural defense mechanism against transmission of financial difficulties among different market segments and in relations with international financial markets, but this effect will be temporary. Within the above developments and referring to the banking sector, emphasizing the requirement for commercial banks' governing structures generally follow market developments closely, strengthen control systems in their institutions to take action to better diversify financial resources and their investment directions, develop a consistently well-capitalized activity and continuously monitor its risks. Bank of Albania should strengthen measures to enrich and implement the regulatory framework in terms of overall improvement of risk assessment systems in commercial banks, and should cooperate with the Financial Supervisory Authority to promote the full implementation of these principles in the rest of the financial market.

Conclusions



Operational risk cannot be avoided. This 'hidden risk' can be controlled, measured and provision by financial intermediaries.

- ☞ Line management actions need to provide in-depth and timely response to the need to protect the organization's network from significant financial losses as well as maintaining the potential penalty in case of occurrence of adverse events.
- ☞ Client careful selection of borrowers by management boards loan specialists should be the focus of the analysis of credit to guarantee a good performance of loan repayment.
- ☞ The expansion of the area of intervention credit savings versus maintaining quality loan portfolio.
- ☞ The loan disbursement process, should be paid a great attention to strictly follow the use of credit, to ensure that it goes to the destination stated in the credit analysis.
- ☞ The performance of banks or other financial institutions is closely linked to the process of credit risk management. This is because lending is one of the main activities not only for banks, but also serves as a stimulus to economic development. For this it is important forecasting and accurate measurement of credit risk.
- ☞ The business environment is constantly changing and every new day can appear threats and vulnerabilities. For this reason risk management process should be a process that is repeated to infinity. The choice of countermeasures that will be used to manage risk, should be put in balance with productivity, cost and efficiency of these measures. Therefore, risk management should be more of a managerial function than a technical function of banking activity.
- ☞ Taking into account developments in global financial markets and their impact on our market, especially those last months of the year supervisory authorities have undertaken changes in the regulations on "Credit Risk Management" to improve the lending process starting from borrowing capacity analysis to the correct classification of the loan portfolio. These changes serve to strengthen the continuity of the measures taken by the supervisory authority to minimize the risk of lending.

Recommendations

- ☞ In order to increase the effectiveness of microfinance institutions plays an important role further improvement of network and computer programs in SCA offices which would provide real-time tracking of all financial transactions.
- ☞ Cultivation and dissemination of organizational culture on operational risk and intolerant attitude towards him.
- ☞ The completion of the full documentation and credit of members in full compliance with regulations and operating procedures of a SCA.

References

- (GARP), G. A. CREDIT RISK MANAGEMENT.
- AMMANN, M. (2001). CREDIT RISK VALUATION: METHODS, AND MODELS applications.
- CHURCHILL, C. (2001). Microfinance Handbook management RISK.
- Duffin, K. S. (2009). CREDIT RISK: PRICING, Measurement, AND MANAGEMENT.
- G Loeffler, P. P. (2011). CREDIT RISK AND Modeling Using Excel VBA.
- WISH JC, G. G. (2005). ON THE EQUIVALENCE OF THE KMV AND METHODS FOR STRUCTURAL likelihood MAXIMUM CREDIT RISK MODELS.
- LEDGERWOOD, J. (1999). "Microfinance Handbook: AN INSTITUTIONAL AND FINANCIAL PERSPECTIVE".
- M CROUHY, D. G. (2000). A Comparative Analysis CREDIT RISK OF CURRENT MODELS.
- M ZELLER, R. M. (2002). THE TRIANGLE OF Microfinance: FINANCIAL Sustainability, OUTREACH, AND IMACT.
- Mark, C. &. (1998). "KEY STEPS IN BUILDING CONSISTENT AND OPERATIONAL RISK MANAGEMENT Measurement, IN OPERATIONAL RISK AND FINANCIAL INSTITUTIONS".
- R FREY, A. M. (2002). Expected DNA VaR portfolio SHORTFALL IN CREDIT RISK OF dependent.
- Siddiqi, N. (2005). CREDIT RISK Scorecards: Developing Intelligent IMPLEMENTING AND CREDIT Scoring.
- TW DICHTER, M. H. (2007). WHAT'S WRONG WITH Microfinance? ACTION PRACTICAL PUBLISHING, Rugby.
- KCS lending regulations Member Savings and Credit
Newsletters, annual reports 2005-2013 (Albanian Savings and Credit Union)
Annual Reports of the Bank of Albania

Tables

Table 1: Causes and Effects

Table 2: Causes and Events

Table 3: Types of operational risk

Table 4: Institutional Developments in years

Table 5: Rating ASC Union

Figures **Figure 1: Practices operational risk management**

Figure 2: The three pillars of operational risk management

Figure 3: Reduce credit risk through product design

Characteristics of Value Added Tax in Bosnia and Herzegovina

Branka Topić-Pavković, MSc

University of Banja Luka,

Faculty of Economics,

branka.topic-pavkovic@efbl.org

Abstract

In every national economy primary role of the fiscal system is to provide public revenue to finance public needs. In addition, fiscal system has also the task to achieve appropriate economic goals such as export promotion, investment growth, and development of SME. Taxes represent one of the most important instruments for achievement of these goals. Introduction of Value Added Tax in Bosnia and Herzegovina has caused slight inflation on the one hand, while on the other hand has helped increase export, increase collection of tax revenues, regulate economic area creating more favorable legal and economic environment, which improved the basis for further economic development. Indirect Taxation System of Bosnia and Herzegovina has conducted successful introduction of new tax system, which replaced sales tax applicable at that time. This step was rated as one of the key steps for the establishment of single economic area, reduction of the grey economy, and promotion of foreign investments and reduction of the foreign trade deficit. First part of this paper analyzes the concept of value added tax, followed by short history of origin of this form of tax. Further we elaborate basic characteristics of Value Added Tax in Bosnia and Herzegovina, explaining in more details the essence of the term VAT, types of VAT rates, as well as the influence of this measure of fiscal policy to the economic growth and development of Bosnia and Herzegovina. We will overview all the advantages and disadvantages of single VAT rate being applied in our Country.

Keywords: fiscal policy, indirect taxation system, value added tax, the rate of value added tax

INTRODUCTION

The tax system does not arise as a result of pre-defined, based on scientific principles of the plan, but on the basis of a compromise of different political forces, under the influence of socio-economic planning, economic development, the degree of openness of the economy, historical development and tradition, the need to find new sources of funding public expenditure. (Pavlović and Popov, 2003)

Value Added Tax in Bosnia and Herzegovina has replaced Sales tax on goods and services on 01.01.2006. The common feature of both taxes is that they tax consumption. On the basis of information obtained from IBRD, VAT has been introduced in more than 140 countries around the world and is considered to be the most widely used form of tax.

VAT is a multi-stage tax that is calculated and paid at all stages of production and supply of a product and service to the end consumer. This implies that only new value is taxable which is being added at each stage of production. VAT is collected successively into the state treasury as partial payments at every stage of production and supply. When products reach end consumer, state collects full amount of tax.

Basic principles of the introduction of VAT in Bosnia and Herzegovina are:

- Sales tax which was collected at the entity level is replaced with single VAT system at the state level
- Indirect Taxation **Authority** is the only institution responsible for the calculation and collection of VAT.
- VAT is being paid to the single account opened at Central Bank of Bosnia and Herzegovina
- Law on VAT in Bosnia and Herzegovina is in accordance with 6th EU Directive on VAT.

There are two types of VAT as follows:

- Output VAT – business entities registered for VAT calculate VAT to the taxable supply of goods and services.
- Input VAT – business entities deduct VAT which was calculated by the supplier.

From the aforesaid it is clear that business entities pay VAT only to the new value added to their goods and services.

Process of taxing added value is carried out in following manner:

1. Each company selling its products and services indicates on the invoice as a separate item VAT at the statutory tax rate. This rate is being calculated on the sales value of invoiced products and services.

2. Buyer of these products and services pays calculated VAT together with the invoiced value, but VAT charged in the supplier's invoice is not included in the cost but is entered within prepayments and accrued income, account – Advance paid VAT.
3. When buyer sells its products and services, VAT is calculated on the invoiced value and entered to the accruals and deferred income, account – Collected VAT.
4. On a maturity date for payment of VAT, balances of accounts Advance paid VAT and Collected VAT are compared:
 - Balance of Advance paid VAT < Balance of Collected VAT – difference is paid to the state.
 - Balance of Advance paid VAT > Balance of Collected VAT – request is submitted to the state for the refund of excess tax, or tax credit is granted.

Fiscal regulations on VAT stipulate deadline for payment of this tax to the state and usually this is once every 30 days, regardless of the moment of collection of receivables from the buyer, or payment of liabilities to the suppliers. This means that payment deadlines of receivables and deadlines for payment of payables and thereby VAT indicated in the invoice do not coincide with deadlines for payment of a difference between the collected and paid VAT to the state, which may cause additional financial stress to companies.

VAT AS AN INSTRUMENT OF FISCAL POLICY

The IMF is committed to the reform of the tax system towards a larger share of consumption tax in relation to the taxation of labor and capital, considering spending less variable tax base in relation to employee wages and profits, which affects the stable public revenues. The recently published OECD studies are based on theoretical and empirical indicators, ranking established forms of taxation according to economic efficiency.

Recurrent taxes on the (fixed) assets are ranked as the most economically efficient form of taxation, while the second is the taxation of consumption. Labour taxation is ranked in third place, while the taxation of capital occupies the last place, as a tax form that has the most negative impact on economic growth as increasing burdens on the economy through taxation of labor and capital reduces the possibilities of the economy for new investment and new jobs. (Johansson, Brys and Vartia, 2008)

Fiscal policy measures may help overcome the short-term problems caused by disturbances in the economy, but also influence the long-term increase of GDP and income per capita. Fiscal policy measures are intended for the achieving optimum rate of economic growth and not the maximum. VAT represents one of these instruments that can help achieve adequate economic growth. Influence of VAT to the economic growth and development may be shown from the perspective of its:

- Allocative,
- Redistributive, and
- Stabilization function

Allocative function – VAT may influence improvement of efficiency of resource allocation, i.e. resource allocation can be made more efficient. Certain products and services by nature appear as goods of general public importance, and may not be submitted to the market mechanisms, and require state intervention. Exemption from payment of value added tax of services in the field of education, culture and health-social protection indirectly influence economic growth and development, because these activities contribute overall development of a society as a whole. Exemption of export activities from payment of VAT improves balance of payments with foreign countries. Exemption of banking services from payment of VAT leaves savings exempted from tax, which is stipulated by the law. Non-taxation of savings, as an accumulation sum, creates precondition for investments which may contribute economic development and growth.

Redistributive function – affects the most arrangement of the structure of VAT. Redistributive function does not represent a serious problem if a mechanism of progressive income tax of has been successfully built-in, so the lower income group of taxpayers accomplish relatively acceptable standard of living. Regressivity of value added tax for the purpose of redistribution can be alleviated by combining effects of this tax with other taxes within fiscal system. This possibility for mitigation of regressivity provides higher taxation of certain products and services with selective consumption taxes (excise). In such manner, Law on Excises of Bosnia and Herzegovina states stipulates of goods subject to payment of this type of tax (coffee, petroleum products, cigars, alcohols).

Stabilization function of VAT – fiscal policy has become one of the basic instruments of stabilization policy which influences development and stability of the economy: establishment of savings, the movement of investments, relations within foreign trade exchange, redistribution of national income. One of VAT factors influencing the increase of prices is the chain length of the multistage taxation of supply. If the number of supply stages is higher in certain branch, this leads to the greater number of taxation of added value. End effect of longer supply cycle is expressed in the increase of tax amount, and consequently the increase in retail prices of such products. Basic question in the implementation of VAT is referred to the stabilization function of this tax. If you take into account that stabilization function portrays fiscal

effects of tax, impact on the level and pricing policy, as well as the practical applicability of certain tax structure in order to provide stable tax revenues, the activity of this vital function reflects efficiency of value added tax.

Concept of Single VAT Rate

Among European countries, only Bosnia and Herzegovina and Denmark apply single VAT rate to all products without reduced rate for the essential goods. The Law on Value Added Tax in Bosnia and Herzegovina has established single tax rate of 17%, while the rate of 0 % is applied only on exports. In this manner country stimulates export-oriented companies. The single tax rate of 17%, was not changed since its introduction on January 1st, 2006, and there are no signs or concrete initiatives for the introduction of differentiated VAT rates.

Many politicians, citizens and tax experts consider single VAT rate as being regressive, i.e. that it burdens more poor who save little, and spend majority of their income. In order to solve this problem, introduction of differentiated VAT rates is being proposed or introduction of zero rate for the essential goods. In the background of all this criticism, several questions emerge: Is single VAT rate really regressive? Should this problem be solved with introduction of differentiated rate? Does VAT represent threat to a growth and development of the economy? We will try to provide answers to those questions in the following text.

There is ongoing debate about the concept of regressivity, because many experts perceive regressivity differently. The concept is questionable, because the base for calculation is essential– consumption or income, and to which time period these observations refer. Single VAT rate has proportional effect when consumption is base, and regressive effect when calculated by income. The reason lies in the fact that the savings (as a part of income) are being increased when the income rises, and it's necessary to underline base for calculation of VAT. Understanding of regressivity is changed when you perceive it over a long-term, because then burdening income with VAT may become proportional. Namely, consumption taxes tax only consumption, but not the savings. Since the savings represent deferred consumption, at the moment it converts to consumption it shall be subject to VAT. In such manner rich individuals are not exempted from VAT, because they pay VAT when they start spending their savings. This observation significantly changes concept of regressivity. If the income is regarded as income realized during the entire life, then, with assumption that the entire income is spent until the end of life, it is equal to consumption. Then, rich and poor are equally burdened with VAT, because share of VAT in the income is proportional. Finally, we must admit that regressivity is linked to the annual income, and single VAT rate burdens more poor who save less.

Empirical studies on VAT regressivity often support the fact of its uselessness in narrowing of social inequalities. Studies have shown that in Ireland, rich spend their income on food twice as much than poor, although poor spend majority of their income solely on food. Therefore, zero tax on food in Ireland provides two times higher allowance to rich than poor.

Introduction of multiple rates requires some kind of differentiation of taxable products. If vegetables are subject to lower tax rate, does this mean that fresh, canned and frozen fruit is subject to equal or different tax rates? Process of defining products for different rates is very complex and requires professional and intelligent tax administration, which would clearly and strongly explain its decisions to the public. Therefore, introduction of multiple rates is complicated and includes higher costs of tax administration compared to the single rate system.

Introduction of differentiated rate increases administrative costs of tax collection. Country applying VAT with multiple rates must have more officers for processing complex tax returns than country with single VAT rate. Also, costs of calculation and payment of VAT increases for the companies. When switching from single to two rates, costs of tax administration increase five times. Switching to three rates costs increase ten times.

Lower VAT rates do not guarantee lower prices. Namely, lower VAT rates for medicines or food does not automatically mean lowering of prices of these products. Prices are created on free market according to the supply and demand. Traders form their prices depending on the elasticity of demand, i.e. according to what the market will bear, regardless of the determined tax rate. Therefore, lower VAT is no guarantee that poor shall pay lower price for these products.

Previously, we have stated several facts in favor of single VAT rate, but we are aware that in spite of these facts, single rate has its downsides. One of them is that VAT provides great potential for corruption in tax practice, i.e. VAT frauds. Carousel fraud is a synonym for one of the most famous and largest VAT frauds. Carousel or so called tax carousel is a financial fraud caused by abuse of VAT system, leading to the reduction in public revenues of the country which was supposed to collect VAT or the country that has made refund of VAT, when there was no trade. This type of fraud is connected to the sale of goods and also to the supply of services. How this type of fraud actually functions? In so-called carousel fraud scheme, most often phantom company – fraudster imports goods in Member Country without VAT, but he latter charges VAT to its customers. While traders – importers regularly disappear before settling their tax liabilities in favor of competent tax administration of their country of residence, while customers have right to deduct VAT paid from their total taxable income. These activities of importers and subsequent sellers cause losses in the state treasury. The most specific feature of this tax fraud is power to repeat the fraud, almost as many times as the perpetrator of fraud wants it.

In order to prevent and to deter individuals, business entities or chain of taxpayers prone to tax frauds from participating in activities which are contrary to the tax laws, and in order to establish system which will provide adequate response of tax authorities of Member Countries, European Commission has in the mid-2013 adopted amendments to the Directive 112, whose implementation started in January 2014. Adopted amendments to the Directive intend to respond promptly to the emergence of new types of tax frauds, which are reported to all

Members of the EU. Each Member, which deems it should undertake special measures of protection, may request from the Commission approval of such measures.

The effects of tax frauds within the country are usually significantly higher in value than the frauds related to international transactions, but domestic frauds are more numerous and with smaller amounts. Violation of law and evasion of VAT payment or reduction of tax liability is generally associated with following activities of taxpayers:

- Issuing of false tax invoices with indicated values of deliveries that are lower in value than actual trade, and which are addressed to the non-existing customers, with the aim of reducing the output VAT
- Obtaining of input invoices from the non-existing suppliers in order to increase input VAT
- Inclusion of fictive company into the sales chain between the two existing companies of which one is buyer and other is supplier, so the fictive company serves for reduction of VAT liability, because the seller sells to that company goods at lower prices than actual, which reduces his output VAT, while the buyer receives the invoice with prices that are higher than the market prices and in such manner is entitled to higher input VAT than the actual.
- Inaccurate representation of prepayment/credit in monthly VAT returns for the unfounded request of VAT refund.
- Inaccurate and incomplete bookkeeping that results in a higher input than output VAT, so the taxpayer is not obliged to pay VAT.
- Fictive company without any turnover submits VAT returns showing tax credit and large amount of receivables from Indirect Taxation Authority, and then requesting refund.

Differentiated Vat Rate

There were numerous discussions about introduction of differentiated VAT rates in Bosnia and Herzegovina even during the period of drafting of the Law on VAT. However, initiative for differentiated rates has become main topic again because of the influence of the economic crisis on social status of population.

Namely, studies conducted by IMF experts suggest that application of differentiated tax rates create adverse effects. When making decisions on multiple VAT rates, focus is mostly on support to the lower income population, and costs of taxpayers and tax administration are out of focus. IMF economists believe that introduction of differentiated VAT rates brings number of negative effects: (Tait, 1988)

- Multiple rates distort both consumer and producer choices;
- Producers always intend to adjust their price with „what the consumer will bear“, i.e. in line with what the market will bear. In that manner, traders will try to transfer increased rate to consumers, which would prevent any reduction in prices of lower rate products;
- Favorable treatment of certain goods having substitutes in terms of purpose makes room for constant complaints of the part of a business community producing or selling substitutes;
- Defining goods and services with favorable treatment, especially „essential goods“, books, medicines and etc., represents problem considering wide range of products and „grey zone“ which exist with such range of goods, and is expensive, because it requires engagement of special staff within tax administration, which must have excellent knowledge in production technologies of goods under favorable treatment, substitutes and all other products and brands which are part of „grey zone“ and additional human resources which will communicate with taxpayers and respond to their inquiries in connection to the taxable status of product, provide binding opinions and supervise implementation of rules and definitions. On the other hand, taxpayers who find themselves in this zone of products have additional expenses associated to their classification and communication with tax administration;
- Lower rates of VAT due to technical problems in application and inability of tax administrations to effectively supervise the implementation of new rules and definitions, definitely leads to tax evasion. Given that tax revenues are part of the total revenues of country, it is clear that tax evasion leads to the reduction in the volume of total revenues of the country, i.e. reduction in total amount of money that state has at its disposal during the budget year;
- The experience of countries show that scale of VAT rates does not contribute changes in preferences of consumers and redistribution within the consumption structure of households and governments, which shows considerable inelasticity of consumption and reflects local character of the goods having favorable tax treatment.

In addition to all aforesaid, it is hard to estimate effects of differentiated rate of VAT to population, tax payers and tax administration, since each of these groups is structured, and the information itself is not representative since there is no dynamic component of long-term development of the economy.

Consumption structure is not only differentiated with regard to the income level, but also with regard to the household age, tendency to saving and investing. When we look at the regressivity of VAT on lower income population, which is one of the main reasons for the introduction of differentiated VAT rates, we must consider net budgetary effects of such measure, weighing the costs incurred by administration and taxpayers due to administration of multiple VAT rates.

However, when it comes to the rate of VAT being reduced, benefits of such rate will have not only the lower classes, but also middle and upper classes. However, practice have shown quite different effects, e.g. reduced rates on baby equipment, baby clothing, shoes or food did not lead to the increase of birth rate. Namely, level of effects of reduced VAT rates depends on:

- Consumer preferences;
- Price elasticity of demand for certain goods and services;
- Level of competition within the sector;
- Level of „gray economy“, and etc.

It is possible to achieve many positive effects by lowering VAT rate if this is limited to the sectors that have been affected by „grey economy.“ If rates are reduced on goods or services that many produce or use, there will be a greater demand for such goods or services supplied by registered suppliers. This leads to better work at formal economy, instead of employees working on principle „do it yourself.“ Growth of productivity leads to the economies of scale, while moving consumption towards regular market leads to the increase in demand for goods and services, which inevitably leads to the employment growth in this field and development of the economy, which all together leads to the growth of tax revenues. Lower rate of VAT influences lower unemployment if applied to luxury goods, i.e. goods and services with elastic demand. On the other hand, lower rate of VAT applied to essential products shall not lead to higher demand and growth in employment. But we should not forget that market is quit rigid and depends on many factors, and it takes a lot of time for the change of VAT rate to show targeted effects.

Practice has shown that lower rates of VAT have greatest impact on products of final consumption, locally delivered. If the rate is lower for regional goods, and if we take into account movement of population and labor market, effects of lower rate shall become invisible. Higher consumption of such products will create price that is above desired sales price. We cannot forget the intermediate products and raw materials, where VAT is not an element of cost and does not affect selling prices in the sector.

Value Added Tax in European Countries

At the beginning of 2014, VAT was increased in three countries within the European Union. In Croatia reduced rate was increased from 10% to 13%, in *France* from 7% to 10%, and standard rate from 19,6% to 20%, while in *Cyprus* reduced rate was increased from 8% to 9% since 13.01.

When new VAT rate was announced in *Croatia* since 2014, this meant that for the next three months higher VAT should have been applied to edible oils and fats, white sugar, baby food, water supply, catering and tourist services, certain newspaper and magazines, tickets for concerts and culture and art magazines. New tax change brings further tensions into economy and sends message about unstable tax environment. With the increase of reduced VAT rate to 13%, Croatia is again among the recorders in the European Union, because this brings Croatia to fourth place, after Hungary (18%), Finland (14%) and Ireland (13,%).

When we talk about *Montenegro*, there are two tax rates (meaning that Montenegro has a system of differentiated VAT rates):

- Standard rate of 19%, and
- Reduced rate of 7%.
- Zero rate applies to: export transactions and delivery of medicines and medical devices financed from funds of the Republic Health and Insurance Fund.

Reduced VAT rate of 7% is applied to:

- essential food products (milk, bread, fat, oil and sugar);
- medicines, including medicines for veterinary use, except prescription medicines covered by the Republic Health and Insurance Fund;
- orthotic and prosthetic devices, as well as medical devices surgically implanted into body, except prescription medical devices covered by the Republic Health and Insurance Fund;
- school books and teaching aids;
- books, monographs and serial publications;
- accommodation in hotels, motels, apart hotels, resorts, guest-houses, camps and villas;
- drinking water, except bottled water;
- daily and periodic newspapers, except press containing mainly or completely advertising content;
- public transportation services and accompanying personal luggage;

-
- public hygiene services;
 - funeral services and products related to such services;
 - copyrights and services in the field of education, literature and art;
 - copyrights in the field of science and artifacts, collections and antiques;
 - services charged through tickets for cinema and theater plays, concerts, museums, fairs, amusement parks, exhibitions, zoos and similar cultural and sport manifestations, except those which are exempt from payment of VAT;
 - use of sport facilities for non-profit purposes;
 - animal food, fertilizers, plant protection products, seeds for reproduction, planting and breeding stock.

Unlike Montenegro, in *Macedonia*, we have standard VAT rate of 18%, and 15% tax rate on some products. Contributions rate remains unchanged and is 10%. Please note that *Macedonia* is the only country which did not increase taxes and contributions during the economic crisis. *Macedonia* did not raise retirement age, salaries and pensions remained the same, and there were no layoffs of administrative workers.

VAT of 20% is applied in *Serbia, Bulgaria, Estonia, Austria, the Netherlands and Slovakia, and in France since 2014*.

When we talk about *Serbia*, where VAT rate is 20%, and reduced rate 10%, which is mainly applied to essential products such as bread, gas, books and etc., in case of inadequacy of general taxation regimen of VAT, it is possible to introduce in accordance with EU Directive, special tax regimes, which are used in case of:

- Small taxpayers;
- Taxpayers with annual income below 8 million RSD cannot enter VAT system;
- Farmers—if farmers deliver products to VAT payers, they are entitled to compensation in amount of 5 % (8% since 2013) of the value of received goods and services;
- Tourist agencies, and
- Sale of second-hand goods, arts, collection pieces, tax base is determined as a difference between the sale and purchase price, with deduction of VAT contained in the difference.

However, countries have the right to apply in certain circumstances super reduced VAT rates or even tax exemptions. Many countries within European Union apply these measures to the newspapers and books that because of this have better tax treatment, than, for example in *Serbia*.

According to the EU regulations, VAT rate must be at least 15% and reduced 5%. (Vukmirica and Spiric, 2005) However, Member Countries which due to regulations in the EU had to increase their tax rates by more than two percentage points in 1993 may also apply the reduced rate of 5% to permitted products and services.

Conclusion

VAT is the most widely used system of taxation of goods and services in the world, enabling higher public revenues. *Bosnia and Herzegovina* and *Denmark* are the only countries in Europe using single VAT rate, which means that the same rate is applied to all products and services, while other countries use differentiated VAT rates, i.e. different rates for different products and services. Introduction of single rate is quite easy and does not require higher costs. However, reduction of VAT rate, does not necessarily mean that poor will pay lower prices, because traders shall continue to form the price according to what the market will bear. Implementation of differentiated rates going down, although the prices will be lower for the essential products, will not lead to the increase in employment. Differentiated VAT rates create higher costs and require more time before the start of implementation and for monitoring of implementation. However, introduction of VAT in *Bosnia and Herzegovina* should keep the same food prices.

The Law on Value Added Tax is being applied in *Bosnia and Herzegovina* since 01.01.2006. Indirect Taxation Authority of *Bosnia and Herzegovina* has promptly and successfully introduced new tax system, which replaced then applicable sales tax. This was rated by relevant international institutions as one of the key steps for establishment of single economic area, reduction of grey economy, encouraging of foreign investments and reduction in the foreign trade deficit. The Law on Value Added Tax in *Bosnia and Herzegovina* has established single tax rate of 17 %, while the rate of 0 % is applied only on exports. In this manner country stimulates export-oriented companies. Introduction of Value Added Tax in *Bosnia and Herzegovina* has resulted in significant increase in collected revenues. When deciding on introduction of VAT, we must also take into account disadvantages of value added tax, such as high costs of introduction into the tax system and implementation, then, due to the high number of taxpayers, calculation and collection technique is expensive, and in the end, is paid by the economy in each stage of supply before the consumer, which means that the economy is crediting the country.

However, since Bosnia and Herzegovina aspires joining European Union, introduction of VAT state level is one of the fundamental conditions for accession to the European Union, so the existence of this type of tax substantially contributes tendency of Bosnia and Herzegovina to join trend implemented by other Member Countries.

References

- Johansson, A., Arnold, J., Brys, B., & Vartia, L. (2008). Taxation and Economic Growth. *OECD Economics Department Working, ECO / WKP(2008)28*
- Musgrave, R. (1959). *The Theory of Public Finance*. New York: McGraw-Hill
- Pavlović, Đ., & Ilić Popov, G. (2003). *Leksikon javnih finansija. Zavod za unapređenje i rentabilnost poslovanja*. Belgrade, p. 264.
- Rosen, H. S., & Gayer, T. (2011). *Public Finance*. New York: Irwin/McGraw-Hill
- Tait, A.A. (1988). Value Added Tax. *International Practice and Problems, IMF, Washington*,. 42-44
- Vukmirica, V., & Špirić, N. (2005). *Ekonomska i monetarna integracija Evrope*. Banja Luka: Faculty of Economics
- Indirect Taxation Authority in Bosnia and Herzegovina.** <http://www.new.uino.gov.ba/>
- Ministry of Finance and Treasury of Bosnia and Herzegovina. <http://www.mft.gov.ba/>
- Law on Value Added Tax in Bosnia and Herzegovina, www.uino.gov.ba/download/Dokumenti/.../Law_on_VAT_BiH.pdf

Reservations to Treaties, Prohibited Reservations and some Unsolved Issues Related to Them

Fjorda Shqarri

PhD. Cand. Faculty of Law, University of Tirana

Professor at Faculty of Law, University of Tirana

Department of Public Law

fjorda.shqarri@hotmail.com

Abstract

The capacity of states to conclude treaties is the most important premise of their legal personality, but sometimes a state wants to be part of the treaty but also wants to exclude the effect of some provisions. The statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State is called reservation to the treaty. This paper aims to analyze on the basis of a qualitative methodology, based on research in the literature and relevant legal acts, the role of reservations in the conclusion of treaties between states, its content, the acts similar to reservations and also the prohibited reservations. The consequences of the reservations and the relations between reserving state and the parties of the treaty, as well as other important issues related to them.

Keywords: treaties, reservation, interpretative declaration, prohibited reservation, compatibility test

Article 2/1/d) of Vienna Convention "On the law of treaties" 1969 (mentioned below as Vienna Convention) defines a reservation as "a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;" (Vienna Convention, art. 2) meantime the Vienna Convention of 1986 includes as subject with the right to make reservations the international organizations.

From this definition we understand that the term 'unilateral statement' means that it is done individually by the state and not in agreement with other States Parties, although some countries may make the same reservation (Aust. A, Modern Treaty Law and Practice, pg. 131)

Told otherwise by a reservation into a treaty a state refuses to bound itself with an obligation arising from it, although it agrees with the rest of provisions of this treaty.

The state's ability to make reservations in an international treaty illustrates the principle of state sovereignty, whereby each state can refuse consent to be bound by specific provision and this provision cannot be obligatory to the reservation state. On the other hand, to expose a treaty to reservations of all member states, the means to put at risk all of its implementation. (Shaw. M, International Law, 6ed, Cambridge University Press, pg. 914)

We should note that reservations to a treaty are always unilateral statements, and the fact that some states may make reservation for the same article or provision, does not mean that the reservation loses its a unilateral character, because anyway reservations will be considered individually and not in group(ILC, Guide to practice, UN, 2002).

Reasons why a state wants to make reservation in an international treaty can be different depending on the interest and the politics of each state, but it does not matter for international law and the parties to the treaty. But raises the question which statements or declarations constitute reservations and what they intend to exclude? This is a question that may never get a precise and exhaustive answer because as mentioned above, always depends on the interests of each state party to the treaty, but in general we can mention some of the frequent cases of reservations.

Referring Guide to Practice for Reservations in the Treaties of the International Law Commission of UN, "any unilateral statement drafted by a state or international organization through which aim to limit the obligations imposed by the treaty constitutes reservation". Also will be considered as a reservation each statement made by the parties to the treaty at the time of its ratification, acceptance, approval or accession that it intends to implement the obligations deriving from the treaty in a different manner, but considered by the author of the statement as equivalent to those stipulated by the treaty (ILC, Guide to practice on reservations to treaties, UN, 2011).

Reservations may also be related with territorial application of international treaties. Specifically, the unilateral declarations made by a state by which it intends to exclude the application of certain provisions of the treaty or the entire treaty in a part of its territory for specific

reasons constitute reservations. Also unilateral declarations intended to change or modify the effect of certain provisions of the treaty in a part of this state territory constitutes reservation of the treaty in question (ILC, Guide to practice on reservations to treaties, UN, 2011).

Although, both of these cases may appear very similar, it must be said that the purpose that is aimed by the reservation state is different, because in the first case the aim is to exclude a part of the territory from the obligations arising from the treaty, while in the second case the goal of the state is to modify the effects that will bring the treaty in a specific part of its territory.

Depending of the moment of their expression during the concluding treaty process, reservations can be divided in reservations at the time of signature, reservations at the time of ratification and at the time of accession (Puto. A, Public International Law).

Reservations at the signing time are easier to be accepted, because at this moment the parties are aware of the obligations and rights that will connect them reciprocally, while at the time of ratification of this issue differs because it did not leave the parties the opportunity to modify the treaty provisions, putting them forward an unexpected situation.

At the moment of ratification is presumed that all parties are waiting the entry into force of the treaty to implement it, and if at this point a reservation is made this mean that this may prevent or in the best case may suspend or postpone the time of entry force.

However it must be said that it may have also late reservations, which are made upon ratification, and in this case the depositary state notify all parties to the treaty for the formulation of such reservation records it, no other State has raised objections (UN, Treaty handbook, pg. 12).

It should be mentioned here that there is a distinction between reservations in bilateral and reservations in multilateral treaties. Although the Vienna Convention itself makes no distinction between them, the fact is that these two cases have different consequences. So a reservation in the meaning of art 2/1/d of VC cannot be made to a bilateral treaty because this kind of treaty needs that both parties agreed for all terms before it can be bind to them.

In this sense, the International Law Commission of the United Nations declared that a state declaration regarding a provision of a bilateral treaty made before the entry into force of the Treaty, irrespective of its formulation, which requires modification of the legal effect the provision, cannot be called reservation (ILC, Guide to practice 2011). Such argumentation is thought to be based precisely on the fact that in bilateral treaties, when one of the parties does not accept the treaty or some provisions made by it, then there is no agreement (Shaw. M, International law, CU Press 6ed) and in this case and is required reopening of negotiations to modify the terms of the agreement, otherwise the treaty will not be signed.

While in multilateral treaties, seems that the need for reservations is derived from the nature and process of their formulation. Usually, in such treaties are part of a large number of states, which represent different systems of law, different geographical regions, and what are most important different policies, so it is understandable that they may not agree with specific provisions of the treaty, which could conflict with their domestic policy.

Reserves at the time of accession are common and have been applied in many multilateral treaties. The concept of accession as a legal act whereby a not treaty party State, join in on a later moment of its entry into force (Puto. A, Public International Law, pg. 376), makes it clear that such reservation does not affect the legal poker and the implementation of the treaty. On the other hand, it is normal that such reservations are the most common, considering the fact that a later member state, has not participated in the negotiation phase and has not had the opportunity to express his opinion or position regarding treaty's provisions.

Apart proper reservations in treaties, we have also acts similar to them, which depending by the case may or may not have the reservation legal effect. So, we have political declarations and interpretative declarations.

Political declarations are made by states when they sign a treaty, but do not intend to have any concrete effect regarding the treaty in question. Generally these kinds of declarations are mostly related with issues of domestic policies of a state and do not affect either the application or other member parties to the treaty, such as declarations that although the state has signed the treaty that does not mean that it recognizes the states party to (Aust. A, Modern Treaty law and practice, pg. 129), which he has not recognized individually, or declarations by which a State makes known his position on certain issues related to the other parties to the treaty.

Interpretative declarations are unilateral declaration of a state or international organization party to a treaty, by means of which they intend to specify or clarify the meaning or purpose of the treaty or its particular provisions (ILC, Guide to practice on reservations to treaties, 2011). As mentioned above, the fact that such statements can be made from several states jointly, this does not mean that they lose their unilateral character.

However, it should be mentioned that the main difference between these declarations and reservations is their legal effect, as it is known the reservation effect is to modify the treaty while these kinds of declarations do not produce effects for other parties (except specific cases). Still, interpretation in good faith of the title, text and purpose of the statement is the one that makes the difference whether it's an interpretative statement or a reservation (ILC, Guide to practice on reservations to treaties, 2011).

So, in the "Continental Shelf France – United Kingdom" case, the court has referred to the Convention on the Continental Shelf in 1958, were both states were parties and where France had made a reservation for the implementation of the article 6¹. The arbitral tribunal

¹ In this case France ask to implement the equidistance principle

dismisses claims of United Kingdom that it is a simple interpretive statement, arguing that although this statement has elements of interpretation, its aim is to exclude or modify the legal effect of certain provisions of the treaty, and therefore it makes backup (Sh. Malcolm, International law, 6ed, 2008, pg. 916).

Although an interpretive statement has not legal effects for other parties to the treaty, it must be said that often "hide" in itself a reservation to a treaty provision. Therefore we can say that many authors make the difference between simple interpretative declarations and qualified interpretative declarations where the qualified interpretative declarations in certain situations can bring the effects of reservations (Sh. Malcolm, International law, 6ed, 2008, pg. 916).

Usually, when a treaty prohibits reservations, interpretative declarations cannot be called as such, however in special situations when they intend to exclude or modify the legal effect of certain provisions of the treaty, or the treaty as a whole in relation to certain specific aspects in their application to its author, may constitute a reservation. A declarations can be considered as qualified if it makes interpretation of the treaty or its provisions and in this case should be used all the rules that are in force for reservation in international treaties (ILC, Guide to practice on reservations to treaties, 2011).

In the case of bilateral treaties it must be said that interpretative declarations made by one party and accepted by the other party constitutes the authentic interpretation of this provision or of the treaty.

Also, there may be cases when the treaty provides for the states parties the right to make interpretative declarations and in some treaties is provided as obligations to make these declarations. Such declarations are optional when the treaty expressly permits the party to make interpretative declarations if this is necessary, and interpretative declarations are binding on those occasions when the treaty explicitly requires such a thing. For example we can mention here the Montego Bay Convention 1982, which provides that States Parties should make declarations about how will be applied the Convention to each of them and how to harmonize domestic law with the Convention (UN, Treaty handbook). We can also mention cases when the treaty demands to know the minimum age of the subjects to which they apply its effects, etc.

Interpretative declarations can be made as to the time of signature, ratification, acceptance, approval or later and there be no prescribed form of how it must be drafted. However, in those cases when optional interpretative declaration establish obligations to the state party or organization, then it should be signed by the competent state authority, or the person authorized by full power.

Usually Depositary State shall notify all parties of interpretative declarations made to a treaty, and if other states suspect that we are dealing with a reservation since the statement is intended to modify the legal effects of the treaty, then they have the right to object this declaration.

In cases where the treaty prohibits reservations, the states can be addressed to the other options that aim to avoid the full effect of the treaty. Such may be clauses in the treaty intended to limit the scope of it, or conclusion of parallel agreements with one or more parties to the treaty in which is provided that between them they will not apply one or more provisions of the treaty. Also, a part of the interpretative declarations, states or international organizations may claim to formulate treaty clauses for interpretation or conclusion of a special agreement for this purpose (ILC, Guide to practice on reservations to treaties).

The permissibility of a reservations to an international treaty is a very important issue, because on the one hand is the will to maintain the 'integrity' of a treaty in order that parties be related equally with his rights and obligations, on the other hand is purpose is to ensure a wider participation of the parties even if they do not accept all treaty's provisions. Especially, this need is felt to treaties that establish certain standards or general principles (For example ECHR or Montego Bay Convention), however, in such cases there are restrictions on the right to make reservations (Dixon. M, McCorquodale. R, Williams. S, Cases and materials on international law, 5ed, Oxford press)

Article 19 of Vienna Convention provides that states have the right to make a reservation at the time of signing, ratifying, accepting, approving or acceding to a treaty, which means that firstly this right is limited in time (UN, 10th report of ILC, Reservations to treaties), (as we have mentioned above). However, this is not the only limitation, as this article provides that reservations in a treaty cannot be made in cases where the treaty itself prohibits reservations. So, when the treaty provision provides that reservations are prohibited, the treaty should enter into force between the parties or they should reconsider their positions regarding participation in this treaty.

Prohibited reservations means all cases when the treaty itself prohibits all kind of reservation, cases when the treaty prohibited reservations regarding specific provisions and a state party want to make a reservation for the provision in question, and cases when the treaty prohibits a category of reservations (UN, Guide to practice).

The Convention also provides that no reservations may be made in those cases where the treaty itself allows specific reservations, but reservations made by a party cannot be included in this category. Specific reservations mean those specifically mentioned to the treaty as permissible, which are related to certain provisions of the treaty.

More specifically, a treaty may contain predictions that parties may exclude from the application of the treaty some subjects or issues. Also the treaty can provide that reserves are allowed only on some provisions, for example, provisions relating to the settlement of disputes or the interpretation of the treaty. A treaty may also provide that reservations can be made only to certain rights and obligations (Aust. A, Modern Treaty law and practice, pg. 136)

The Convention also provides that are not permitted reservations which are contrary to the purpose and object of the treaty. We can say that this prediction is somewhat vague, since there is no real definition of criteria when will be considered that the reserve is related to the object or purpose of the treaty, especially if the treaty is silent on reservations, the test of compatibility becomes more difficult (Aust. A, Modern Treaty law and practice, pg. 137).

However we can say that this is an issue the interpretation of which must be made under the principle of good faith and referring general terms of the treaty, title, preamble, negotiation and practice of the party before the conclusion of the treaty. Reservations should be formulated in such a way that its content is understandable and allow compatibility testing (UN, Guide to practice).

However, in general terms a reservation can be considered not to comply with the object and purpose of the treaty if it affects the essential elements of the treaty or the reason for which it was created or compiled.

As to assess the compatibility of a reservation with the purpose and object of a treaty that contains many interdependent rights and obligations should be taken into account as well interdependence, the importance of the provision to which the reservation is made in the general context of the treaty and the impact that the reservations has on the treaty (UN, Guide to practice).

The issue of reservations which are incompatible with the object and purpose of the treaty is actually very controversial, especially when it comes to human rights treaties. In Guide to Practice of International Law Commission of United Nations is mentioned that is prohibited a reservation to a provision that provides a right that no derogation is permitted, unless these reservations are in compliance with the essential rights and obligations arising from this treaty.

If a state aims through the reservation, to change the legal effect of the treaty or its provisions with the justification that want to preserve the integrity of the domestic law, this reservation is permitted only if it does not affect the essential elements and the general concept of the treaty (UN, Guide to practice).

While there may be regarded as prohibited a reservations made on the provisions of the treaty that reflect norms of customary law or the provisions relating to supervisory bodies for the implementation of the treaty or the settlement of disputes.

We also should mention here that is not permissible a general reservation, because a reservation should be made always in regard of specific provision, signing or ratification lose it role.

The authorities which can examine the permissibility of a reservation can be the states or organizations party to a treaty, can be bodies created by the treaty to resolve disputes, or monitoring bodies created for the implementation of the treaty.

In cases when the treaty establish a body to resolve disputes of the parties, and in a concrete case the dispute relates to the permissibility of the reservation, then such a body is entitled to examine the permissibility and decision that he gives is binding on the parties (UN, Guide to practice).

However, remains unresolved issue of entry into force of the reserves, as if we refer to article 20/4 of Vienna Convention, it is foreseen that a reservation made by a State may be considered accepted if it is accepted at least by one state party to the treaty, and the objection from another state of a reservation does not preclude the entry into force of the treaty between objecting states reserving status, except when such a thing is expressly specified. On the other hand, this article is silent on the nature that reservations must have to be accepted, so it does not what will happen if a reservation is not compatible with the article 19 of the Convention and is accepted by the parties to the treaty.

Regarding Article 19, special issue presents article 19/c as the conventions are silent regarding the compatibility test and its objectivity. So there is no well-defined criteria based on which the compatibility test of the reservation with the object and purpose of the treaty will be made, leaving the parties assessing this issue.

Also is not clear the status of a state that makes a reservation prohibited by Article 19, will it be considered as a party to the treaty without taking into account the reserve and which will be the respective rights and obligations in this case? Or it will not be considered as a party to the treaty? Especially, this situation is important to be clarified in the cases when the state authorities relate the ratification of the treaty with the reservations.

As a conclusions we can say that: Reservation in multilateral treaties are a good way to expand participation in the treaty as well as to satisfy all its member states, which may belong to different legal systems. Whether treaty reservations are prohibited, then international law itself has put the parties in other available legal remedies that may have the same effects. But Vienna Convention on the law of treaties is not clear in some of its provisions regarding permissibility of reservation, compatibility test and entry into force of reservations. Also the consequences for the state that made the prohibited reservation are not specified.

Bibliography

Vienna Convention "On the law of Treaties" 1969

ILC, Guide to practice, UN, 2002

ILC, Guide to practice on reservations to treaties, UN, 2011

UN, Treaty handbook,

UN, 10th report of ILC, Reservations to treaties

Aust. A, Modern Treaty Law and Practice

Shaw. M, International Law, 6ed, Cambridge University Press

Puto. A, Public International Law

Dixon. M, McCorquordale. R, Williams. S, Cases and materials on international law, 5ed, Oxford press

The Equation of Equilibrium and Monetary Policy of Central Bank in Present

Richard Pospíšil, Assoc. Prof. Ing., Ph.D.

Department of Applied Economics, Philosophical Faculty, Palacký University

Email: richard.pospisil@upol.cz

Josef Abrhám, Assoc. Prof. Ing., Ph.D.

Department of Tourism, Faculty of International Relations, University of Economics Prague.

Email: abrham@vse.cz

Abstract

The issue of money and establishing interest rates are the main activities of central banks. Through this, the banks immediately influence the behaviour of households, companies, financial markets and the state with the impact on real outcome, employment and prices. When monitoring the issue of money, it is necessary to focus not only on its volume, but also on the attributes and functions carried by money. Among the first economists who considered the quality monetary aspect were J. Locke, D. Hume, D. Ricardo and others. The founders of modern monetarism of the 20th century were I. Fisher and M. Friedman. Fisher was the first to define the equation of monetary equilibrium in the present-day form. The objective of the paper is to point out different approaches to the equation and its modifications and different meanings of its variables. As regards the monetary aggregate M – Money – the paper also deals with the denomination of the aggregate to its various elements, which is significant for fulfilling monetary policy targets. This approach is very important especially at present in the time of crisis when central banks are performing their policy considering contradictory targets of price stability and economic growth.

Key words: Issue of money, monetary policy, monetary equilibrium, monetarism, Irving Fisher

JEL Classification: E52

Acknowledgement: Work on this article was supported by the grant from Philosophical faculty of Palacký University, IGA_FF_2015_014, Continuities and Discontinuities of Economy and Management in the Past and Present.

Introduction

The current economic crisis is primarily a budget and debt one. Nevertheless, together with public budgets and public debts, the issues of monetary policy have been continually and broadly discussed and thought out. Central banks issue money and govern short-term interest rates and thereby influence the behaviour of financial markets, wealth, real outcome, employment and also prices.

Even after several decades of real functioning of central banking it is possible to find a schematic simplifying of monetary policy, the consequence of which is that the monetary approach has been increasingly oversimplified and mixed up with the regulation of the amount of money in the economy. Other aspects of monetary policy, especially the functioning and attributes of money, its velocity of turnover or the use of regulations of short-term interest rates, have been missed out – maybe due to a difficult and sometimes ambiguous understanding of their content. Money in circulation needs to be monitored not only from the point of view of its volume, but also from the point of view of the functions it carries.

Objectives and Methods

The objective of the paper is to analyse the monetary equilibrium using the so-called equation of exchange, to analyse the content and characteristics of particular variables of the equation and to define basic methodical resources of monetary equilibrium for the purpose of real implementation of monetary policies by central banks. The predominant methods used were the research and analysis of available historical and current scholarly and scientific resources related to this issue, including their comparison.

Views on the Theory of Money

The first views related to the quantity monetary thinking appeared more than four centuries ago in connection with the increasing inflow of gold and silver from overseas to Europe. Several philosophers of that time noticed that together with the growth of gold and silver in circulation, prices also grew up.

The first one who tried to give scholarly reasons for the quantity approach to money was the English philosopher, economist, state theorist and jurist John Locke. In 1691, he summed up his interpretation of money supply and its functioning in circulation in five chapters of his pamphlet "Some Considerations of the Consequences of Lowering the Interest and Raising the Value of Money". As an economist – mercantilist he resulted from the generally widespread and accepted identification of money and precious metals. In consequence of precious metal imports to Europe and the increasing mining of precious metals on European fields, he asked himself the question of how much money should actually be in circulation. Even at that time he mentions that it is difficult to define the exact and ideal supply of money in circulation as its function in the economy is affected not only by its volume but also by the velocity of its turnover¹.

Moreover, Locke assumes that not all the money in circulation really circulates; a part of money is kept for the so-called bad times, or can be taken abroad. Related to this, he was the first to suppose that the decrease of money has no significant impact on monetary circulation as it is equalled by faster turnover of money. At the very beginning of his paper he divides money into its particular forms according to the purpose of its use and the velocity of turnover, i.e. money for landholders, money for labourers and money for brokers. Therefore he was the first to discuss the issue of money denomination into particular monetary aggregates, which has been very topical and discussed so far.

Fifty years later the Scottish enlightenment philosopher and economist David Hume became the first true author of the quantity theory of money in the present-day meaning. He sophisticatedly connected the conclusions and findings of many of his predecessors into a united social and economic theory. He published his views in the volume "Political Discourses" in 1752. Pricing is not related only to the value ratio of precious metals, or metal money, and goods, but it is significantly affected by the supply of money in circulation. Increasing the supply of money leads to the increase of prices and to the increase of outcome only in a short-term perspective, whereas in the long-term perspective the real product remains unchanged. In his work "Four Dissertations", which was published as a part of "Essays and Treatises on Several Subjects" in 1757, Hume argues that increasing the supply of money has no other impact than increasing the price of work and goods. In the process towards this change, such increase may have an impact on the economy as it may stimulate industry, but after the changes settle down, there is no impact at all. As the first author he precisely formulated the quantity theory of money and the derived theory of interest rate². Therefore he directly influenced John Maynard Keynes, one of the greatest economists of the 20th century.

David Ricardo was another significant economist who, besides Adam Smith, Thomas Malthus and John Stuart Mill, became one of the most significant representatives of the British school of political economics. In his collection "On the Principles of Political Economy and Taxation" from 1817 he drew the conclusion that the value of money from precious metals is affected not only by its volume but also by the costs of mining the metals and production of money from the metals. On the other hand, the value of paper (non-substance) money, the issue of which was spreading at that time, depends only on its amount. Decreasing the amount can increase its value and vice versa. In Chapter 27 "On Currency and Banks" he discusses the equilibrium of the supply of money in circulation and the amount of offered goods. He also says that any disequilibrium has to be treated by the Bank of England by means of adjustment of its issuing activity. Ricardo united the quantity theory of money and the in-progress theory of value into a comprehensive theory and it is regarded as the peak of the English political economics³.

Equation of Monetary Equilibrium

The above-mentioned brief overview can be, as most economic relations and associations, summed up into a mathematical equation. At the end of the 19th century some economists attributed its primacy to the well-known American astronomer and economist Simon Newcomb who in his work called "Principles of Political Economy", published in 1885, discusses the "equation of exchange of money and goods"⁴. The first author who published the equation in the form known today was the outstanding American economist Irving Fisher who did so in his work „The Purchasing Power of Money: Its Determination and Relation to Credit, Interest, and Crises“, published in 1911. The works of Irving Fisher are considered to be the beginning and basis of monetarism and his notation of the equation is as follows:

$$MV = PT,$$

where M is the nominal amount of money (in the Czech Republic defined by the Czech National Bank), V is the velocity of money turnover (circulation) which defines how many times during the period in view one Czech crown is on average used for purchasing goods. On the right side of the equation P defines the average price of goods and services (in this case the price level) and T represents the number of transactions. Fisher is his original version of the equation used T for expressing all transactions, i.e. for purchasing the final production of

¹ BARBON, N. A discourse concerning the new money lighter: in answer to Mr. Locke's Considerations about raising the value of money. McMaster University Press, Canada, 1971.

² FIESER, J. David Hume – Essay, Moral, Political and Literary. 2006.

³ SOWELL, T. On classical economics. Yale University Press, USA, 2006.

⁴ FRIEDMAN, M. Za vším hledej peníze. Praha: Management Press, 1997.

goods and services, for purchasing intermediate goods and for purchasing capital transactions, i.e. in a broader sense for purchasing land and capital. In the present-day form T involves only the final production of goods and services and therefore T is substituted by Q (the real product) and the form of the equation is as follows:

$$MV = PQ = (p_1q_1 + p_2q_2 + \dots)$$

Every purchase may be seen as an entry in the double-entry bookkeeping in two different ways. On one hand as the amount of money spent and on the other hand as the amount of goods and services (multiplied by their price) purchased. The left side of the equation represents the supply of money and the right side of the equation represents the supply of goods, or money demand.

According to Fisher, the equation implies the following conclusions:

- prices change direct proportionally to the amount of money in case the amount of purchased goods Q and the velocity of money circulation V remain unchanged,
- prices change direct proportionally to the velocity of money turnover (circulation) in case the amount of money M and the amount of purchased goods Q remain unchanged,
- prices change in the opposite proportion to the amount of purchased goods Q in case the amount of money M and the velocity of its turnover V remain unchanged.

From the above conclusions, Fisher also deduced the impact of the change of money on nominal and real quantities. Provided that V is stable (the economy is in equilibrium and V is determined by payment conventions and technologies) and Q is independent on the supply of money in circulation and on price (the economy fully uses its disposable resources and finds itself close to its potential with full employment), the changes in the supply of money in circulation M lead only to the changes of the price level, i.e. an increase of money supply results in the same increase of the price level¹.

The logical consequence of the above is the so-called neutrality, or the super neutrality of money, which means that money does not affect the real quantities of the economy (real product and unemployment rate) but only the nominal ones (price level, nominal product, or both). Money is regarded as neutral in case the money supply has no long-term impact on the real interest rate, real product and real monetary rate because the above-mentioned quantities in their nominal amount exchange one to one to the nominal amount of the money supply. The only result of a supply shock on the side of the money supply change (increase) is only the increase of the price level. Money is regarded as super neutral in case that permanent changes of the money supply have no long-term impact on the real interest rates, real product and the rate of its growth and the real monetary rate because the inflation rate and the above-mentioned quantities in their nominal amount change one to one to the nominal amount of the money supply. In this sense, super neutrality is discussed with regard to the real revenue (standard of living) and with regard to the rate of growth of real revenue (economic growth)².

The impact of inflation increase on relative demand for money and capital can be illustrated by the so-called Tobin effect which is based on the premise that a part of the property portfolio of economic entities is both money and physical capital. Increasing the rate of inflation at the given real return of capital leads to the decrease of money attractiveness and increase of capital attractiveness which in consequence leads to the revaluation of portfolio structures. The higher rate of inflation then corresponds with higher stock of capital and in consequence with the increase of real revenue. What also plays a fundamental role is the aversion of households towards saving risks and the legal deposit insurance. In a standard market economy, the rate of inflation and the rate of economic growth are expertly set by the mix of monetary and fiscal policies. Changes of the monetary policy affect the flow of government revenues, which in consequence affects changes in the fiscal policy. If economic entities suffer from high aversion towards risk, then changes in the fiscal policy are manifested by the fact that high rate of inflation is related to slow economic growth (stagflation). If the economic policy is transparent and trustworthy and risk aversion is low, the result may correspond with the presumption of the Tobin effect.

As regards monetary policy, Fisher was the first economist to clearly and consequently distinguish between the real and nominal interest rates. The so-called Fisher effect deals with the change of the real interest rates depending on the amount of the nominal interest rates

¹ FISHER, I. *The Purchasing Power of Money: Its Determination and Relation to Credit, Interest, and Crises*. New York: The Macmillan, 1922.

² FRAIT, J., ZEDNÍČEK, R. *Monetární politika, neutralita a superneutralita peněz*. In *Bankovníctví*, 2001, roč. 18, č. 4.

and inflation. Generally the real interest rates are considered to be nominal interest rates minus inflation. According to Fisher, the mutual relation is more complex. The real interest rate r is defined as follows:

$$r = [(1 + i) / (1 + \pi)] - 1$$

Where i is the nominal interest rate and the inflation π is the growth rate of the consumer prices index. Fisher explains this relation by the impact of inflation on the economy. Inflation not only depreciates the real revenue of interest rates but primarily distorts the prices of goods and services and therefore, according to Fisher, the real interest rates are lower than what would correspond with the simple margin between the nominal rates and the rate of inflation.

Further development of the quantity theory of money in the 20th century was mostly influenced by two significant economic approaches – Keynesianism and Monetarism.

In the first half of the 20th century the all-round British genius, especially economist and mathematician John Maynard Keynes, the inheritance of whom hugely affected all fields of economics, became the scholastic and ideological founder of the Keynesian thinking. Keynes' book "The General Theory of Employment, Interest and Money" from 1936 became the principal work of the main stream of the economic theory at that time.

Keynes did not limit himself only to work with the above-mentioned macroeconomic aggregates but he worked especially with the aggregate M with regard to its relation to the variables such as unemployment, investment, interest rates, economic growth, budget deficit etc. He treated the aggregate M from a different point of view – he accentuated another attribute of money which is, beside the velocity of its turnover, its liquidity. He viewed the supply of money in circulation as money demand. Keeping different forms of money can have different motives – either money is kept for the purpose of purchasing goods and services – i.e. the transaction (circulation) motive, or it is kept for the reserve purpose – i.e. the canniness motive, or the hoarding motive (reserve). Based on this we can see that particular forms of money (kept for particular purposes) differ significantly depending on their liquidity. Transaction money (the circulation motive) has a cash or undated form in contrast with money kept as a reserve (the canniness motive) which usually has the form of time deposit or money kept as a monetary asset. And the size, intensity and preference of these motives determine the level of money liquidity, or: an asset is the more money, the more it is liquid, and it is the more liquid, the lower are the costs related to its exchange.

Keynes' contribution and influence in his times was almost boundless. He used scholarly methods to prove the necessity of state interventions into the economy with the positive impact on aggregate demand (of consumptions and investment) and on employment. In the field of the quantity theory of money, his major contribution, among others, is the different concept of money and its forms based on its liquidity. Keynes was the first to lay the claim of dividing money based on money demand into particular aggregates according to the level of their liquidity¹. At present, work with monetary aggregates is an inseparable part of the execution of the monetary policy of central banks. They monitor not only the absolute volume of particular aggregates, but in particular the changes and transfers among them.

A part of Keynes' heritage closely related to the theory of money is also a modified concept of the quantity equation of money, the so-called Cambridge equation of equilibrium². In the Cambridge equation, Keynes focuses more on money demand than on money supply governed by central banks. Particular equations also differ in the concept of the aggregate of the velocity of money turnover V . In the classical quantity equation of equilibrium, associated with Fisher, money circulates at a relatively fixed rate and serves rather as a medium of exchange. On the contrary in the Cambridge equation, money acts as a store of value and its velocity of turnover depends on the desirability of households to keep cash. Economists associated with Cambridge University, besides Keynes for example Alfred Marshall, A.C. Pigou and others prove that a certain portion of issued money will not be used for transactions; but is, for the canniness and security purposes, kept by households in cash. This portion of cash is commonly represented as k and if it is regarded in a short-term period as fixed, then according to the Cambridge equation the velocity of money turnover V equals to the inversion value of k . The Cambridge equation is thus:

$$M \cdot 1/k = PQ$$

The development of economic thinking in the last third of the 20th century was significantly influenced by the so-called Chicago school of economics which began focusing on the quantity theory of money from the monetary point of view. This monetary stream led into the movement represented by the principal representative of the liberal economic theory and of the Laissez faire doctrine Milton Friedman.

Keynes' relation between the volume of money and other quantities in the transaction equation is not as simple as it may seem. The quantities are affected by many, already mentioned, factors – liquidity of money, devaluation of money due to inflation, unemployment, consumers' preferences, etc. Monetarists find this relation more direct. In case the economy is not suffering from intense changes and

¹ KEYNES, J. M. Obecná teorie zaměstnanosti, úroku a peněz. Praha: Československá akademie věd, 1963.

² KEYNES, J. M. The General Theory of Employment, Interest and Money Chapter 2 : The Postulates of the Classical Economics, 2012.

consumers' preferences are stable as the result of stable expectation of future revenue, and the velocity of money turnover V (the ratio of gross domestic product and the amount of money, i.e. GDP/M) is relatively fixed, then it is possible to influence prices and therefore the economic activity through the supply of money M . Friedman formulated this clearly in a range of his papers and works, such as in the paper "The Role of Monetary Policy" from 1968, "The Optimum Quantity of Money: And Other Essays" from 1976, "Monetary Policy: Theory and Practice" from 1982 and in many others.

Monetary Aggregates

The mutual correlation between the growth of the price level P and the increase of money supply M was proved by lots of research work performed independently of each other in many advanced countries. If price stability is to be kept, which is the main aim of central banks' activities at present, the principal target is to maintain an equable growth of money supply and also a growth of production. In other words: there is inflation if the left side of the equation, or the growth of money supply (on condition that the velocity of money turnover V is fixed), advances the right side of the equation, i.e. the growth of a product (offered goods and services)¹. In his paper "Inflation: Causes and Consequences" from 1963, Friedman describes that inflation is always and everywhere a monetary phenomenon.

Together with the establishment of this new economic concept of the quantity theory of money and inflation, these thoughts were increasingly brought to the notice of operative activities and monetary policies of central banks. Recently this has been facilitated by the boom of information technologies which enable modelling economic processes, or the relation of the above mentioned quantities, while putting emphasis on the supply of money in circulation and its impact on inflation, by means of various economic-mathematical models.

Experience shows that at present central banks pay an extraordinary attention to the volume of money supply. The main issue they have been facing is how to determine the volume of the money supply part which a bank uses for the application of its issuing and corrective policy. This takes us back to the above mentioned fact of different liquidity of different forms of money which are cumulatively and for the purpose of monetary equilibrium equation defined as the aggregate M . Central banks apply methodical and structural distinction of the aggregate M into its particular elements which are carefully monitored with regard to their absolute amount as well as to the mutual transfer of their volume. The aggregate $M1$ is sometimes used for transaction money (narrow money), it is the most significant and the most monitored aggregate. According to the methodology of the Czech National Bank, $M1$ includes money in circulation (i.e. banknotes and coins) as well as the balance which can be immediately transferred to money in circulation or used for cashless payments, e.g. one-day deposits. This is the most liquid monetary aggregate. The aggregate $M2$ comprises of the aggregate $M1$ and moreover of the deposits due within two years and the deposits which are subject to three months' notice. Depending on liquidity, these deposits may be transferred to the elements of narrow money but in some cases there may be some restrictions such as the necessity of terminating the deposit by a notice, delay, penalty or charges. The definition of the aggregate $M2$ reflects the interest in analyzing and monitoring the monetary aggregate which besides money in circulation includes also liquid deposits. The aggregate $M2$ is called quasi money (near money). The same procedure may be used to create other aggregates in an analytical way with lower and lower rate of liquidity. The aggregate $M3$ consists of the aggregate $M2$ and of tradable tools issued by monetary financial institutions. This aggregate includes some tools of monetary market, particularly shares and investment certificates of market funds and repos. A high level of liquidity and price security guarantee that these instruments are near substitutes of deposits even though their liquidity is considerably lower. Incorporation of these instruments leads to the fact that the aggregate $M3$ is affected by substitution among different categories of liquid assets less than the narrower definitions of money are, and therefore it is more stable. The aggregate $M4$ consists of the aggregate $M3$ and of deposits in domestic non-bank institutions (e.g. co-accepted drafts and cheques). The aggregate $M5$ includes the aggregate $M4$ and other securities in the domestic currency (e.g. long-term obligations or bonds).

Why are central banks watching the particular aggregates so carefully? Simply because the amount and change of volume of particular aggregates are significant indicators of the economic performance of economy. A transfer of money from the aggregate $M1$ to the aggregate $M2$ signals increased saving behaviour in the economy. The increased volume of the aggregate $M2$ is for commercial banks the main source for giving credits. Increased but cautious crediting of enterprises by banks means an increased investment activity but also an increased flow of money to enterprises in other forms (financial means for operation, export etc.). Many analyses proved that the increase of the aggregate $M2$ is, after a particular lapse of time, followed by the growth of GDP. A fast growth of this form of money accompanies a boom, its restriction is on the other hand often followed by recession, or can even have worse effects.

Analytical monitoring of particular monetary aggregates is also an inseparable part of the monetary policy of central banks, especially in their activity related to inflation targeting; despite the fact that the development of monetary aggregates does not directly enter into the prognoses, e.g. of the Czech National Bank. The reason for this is that in the mode of inflation targeting, when the central bank checks the interest rates and withdraws excess money from the market, the development of money supply only reflects the economic development, measures of monetary policy and expectations of economic entities. Monetary aggregates may still serve as additional indicators for verifying the prognosis if they carry information about the current or future development of the economy. The analysis of the predicative

¹ FRIEDMAN, M. The Role of Monetary Policy. In American Economic Review. Vol. 58, No. 1, 1968.

ability of the monetary aggregates using the indicators of the so-called monetary overhang and the nominal and real monetary reserve is also a part of monetary policy analyses. These concepts are commonly used for analysing the monetary aggregates also by the ECB.

The monetary overhang is defined as a percentage deviation of the real level of money supply from the level corresponding to the current position of the economy within the cycle and other fundamentals; and it is calculated based on a standard estimate of money demand. The nominal monetary gap is defined as a percentage deviation of the real aggregate M2 from the value it would have reached if it had grown at the rate reflecting the potential of the economy and the inflation target. The real monetary gap is defined as the nominal monetary gap adjusted by the difference between the real inflation and the inflation target. The monetary gap differs from the monetary overhang by the fact that in case of the monetary overhang the analysis is focused on how much the dynamics of M2 corresponds with the current development of the economy, while in case of the monetary gap the analysis is focused on how much the development of M2 corresponds with long-term equilibrium trends in the economy.

As it is difficult to divide the aggregate M into its particular elements according to a qualitative methodological point of view, it is also difficult to determine the optimum volume of these elements. This depends not only on the decisions of central banks but also on the particular economic situation of the country, on the priorities of the government and on its economic policy, on the structure of the state budget or on the state of the banking sector in the country. The practical application of the monetary policy thus depends on the priorities which are set in the particular country for the future status of national economy. Therefore it is not simple to analyse and compare monetary aggregates of different countries. At the end of the year, the central bank may determine the so-called target corridor of money supply, e.g. by dividing the year into four quarters and comparing the planned and expected amount of money supply with the previous year. This may be used for continual refinement of monetary policy targets, even several times a year. For refining future prospects, a wide range of information is taken into account, namely e.g. the current status of the economy, its growth or decline, pressures on price increase, exchange rate changes, commodity prices and many other facts, even those which are difficult to be estimated at that time.

Assessment of the aggregate M by central banks in an isolated way, without mutual relations and without respecting mutually different functions of money, does only little predicate about the particular status and fulfilling the issuing policy of the central bank. Money in the form of capital, which brings product and further revenue, income, wages and taxes into the state budget has a completely different function in monetary circulation than money in the form of money in circulation which only enables the exchange and consumption of the goods produced. Both are money of the aggregate M but with completely different monetary functions and consequences.

Central banks cannot simply replace deficit production of the economy or for example deficit of the state budget by new issue of cash money. Such issue would be unfair and harmful – it would give purchasing power to the first holders of this money as well as to those who do not participate in production and moreover, inflation consequences of this excess issue of money would destroy the purchasing power of all economic entities. At present, central banks take this fact into account when issuing money and use suitable regulatory measures and tools which allow governing money circulation not only as a global monetary mass but with respect to the differentiation of various forms of money and monetary functions of particular elements of the monetary aggregate.

Conclusions

At present the care of price stability is the main objective of the monetary policies of central banks in advanced countries. Exactly the same objective is set for the Czech Republic by Article 98 of the Constitution of the Czech Republic and Paragraph 2 of the Czech Act No. 6/1993, on the Czech National Bank. The same objective, i.e. price stability, is set for the European Central Bank in Article 105 of the Treaty on the Functioning of the European Union. The Czech National Bank also supports the general economic policy of the government if this side objective is not counter to its main objective. Securing price stability in the economy, i.e. to contributing towards creating a stable business environment, is a part of the central bank liability for sustainable economic development. The Czech National Bank endeavours to fulfil this through the monetary policy mode called inflation targeting.

The Czech National Bank, similarly to most of the central banks, concentrates mostly on the stability of consumer prices. Practically, price stability does not mean changelessness of prices but their slow increase. The increase of prices corresponding with price stability should include a statistical deviation upwards which occurs at measuring the increase of prices, and should also give the necessary scope for slight changes of price relationships which happen in every economy with an effective price system all the time.

At present, the dominant activity of central banks related to the monetary policy is primarily establishing interest rates and executing operations on the free market. The issuing activity of central banks is often being marginalized. Nevertheless, the possibilities of central banks to influence the performance of the economy through the interest rates are quite limited. Commercial banks secure their sources first of all on the primary market, or by means of trade among themselves on the bank-to-bank market and the policy of central banks is effective only little. This can be seen even at present when the policy of minimum rates established by central banks is not able to support the economy and its growth.

On the other hand, a competent issue of money and regulation of the monetary aggregate M represents a more efficient monetary policy tool aiming at economic recovery and sustainable growth. Central banks must carefully analyze also the internal structure of the aggregate M, consisting of the aggregate M1 to M5, and adjust also other tools from a wide range of monetary policy instruments. Central banks

must be prospective in their issuing activity because an excess issue of money in its consequence always leads to the increase of prices and its impact on the real product in a long-term perspective is none.

To sum it up, it is clear that

- inflation is a monetary phenomenon which follows rather from faster increase of the amount of money (left side of the transaction equation) than by the product (right side of the transaction equation),
- there is only one efficient treatment of inflation, which is a lower rate of money supply growth (executed by different monetary policy tools),
- treatment of inflation is long-term and the costs of disinflation are always high, mostly related to the decline of the product growth dynamics and to the increase of unemployment.

References

- [1] BARBON, N. A discourse concerning the new money lighter: in answer to Mr. Lock's Considerations about raising the value of money. McMaster University Press, Canada, 1971.
- [2] FIESER, J. *David Hume – Essay, Moral, Political and Literary*. 2006. [cit. 2012-07-08]. Dostupné na WWW: <http://iep.utm.edu/humeessa>.
- [3] FISHER, I. *The Purchasing Power of Money: Its Determination and Relation to Credit, Interest, and Crises*. New York: The Macmillan, 1922.
- [4] FRAIT, J., ZEDNÍČEK, R. Monetární politika, neutralita a superneutralita peněz. In *Bankovníctví*, 2001, roč. 18, č. 4, s. 19-25. ISSN 1212-42.
- [5] FRIEDMAN, M. The Role of Monetary Policy. In *American Economic Review*. Vol. 58, No. 1 (Mar., 1968), pp. 1–17.
- [6] FRIEDMAN, M. *Za vším hledej peníze*. Praha: Management Press, 1997. 264 s. ISBN 80-7169-480-0.
- [7] KEYNES, J. M. *Obecná teorie zaměstnanosti, úroku a peněz*. Praha: Československá akademie věd, 1963.
- [8] KEYNES, J. M. *The General Theory of Employment, Interest and Money Chapter 2 : The Postulates of the Classical Economics*. 2012. [cit. 2012-07-10]. Dostupné na WWW: <http://marxists.org/reference/subjects/economics/keynes/general-theory/ch02.htm>.
- [9] SOWELL, T. *On classical economics*. Yale University Press, USA, 2006.

State and Citizenship in Former Communist Countries, the Albanian Case

Orinda Malltezi

Lecturer and Deputy Dean,
Political Science Department,
Faculty of Social Sciences,
University of Tirana,
Tirana, Albania
email: malltezi@yahoo.com

Abstract

The goal of this article is to establish the degree of interrelation between state and society as well as the implications that come from this interrelation by focusing on the Albanian case. If the state is perceived in relation with the society, then what comes as a result of this relationship will be seen as Plexus. On the other hand Nexus is the way the Albanian society perceives the relation between state and society, mostly represented by the functioning of state, where the state is the central axis and the society has no influence on it, this derives mostly from the political culture which has been shaped during communism. Countries that experienced totalitarian regimes tend to have similar behavior and perception towards politics which is the product of political culture. In this regard the political culture in post-totalitarian regimes shares similar elements such as: lacks of civic participation, people usually do not trust their governments or politics. The Albanian society usually does not participate in protests or other civic participations unless there is something directly related to their harm. In this regard our society behaves mostly like a post-modern society divided in various small groups of interests that are mostly incapable in achieving their aims because they lack a greater support. Although nowadays there is a greater civic participation during the transition period we lacked this participation due to some elements discussed in this paper.

Keywords: State and citizenship, state and society, relation with the society, greater civic

Introduction

The concept of "social system"¹ has moved to the center of sociological theories, political theories, together with other concepts related to it, such as "social structure" and "social function" which are conceived to serve only as theoretical tools, to study the society in a given country at a given time where changes are perceived as unstructured or in other words as historical changes. In sociology state is mostly perceived as a social relationship, a rational technical or bureaucratic organization. States can be seen as places where people live and therefore influence, protest, destroy or develop. Meanwhile some sociologists see the state in relation to society; others think that the states are in fact a reflection of society representing beliefs that civil society has major influence in statehood. Our goal is to establish the degree of interrelation between state and society as well as the implications that come from this interrelation in Albania and in countries that had similar experiences. If the state is perceived in relation with the society, then what comes as a result of this relationship will be seen as PLEXUS. "PLEXUS means multiple discrete forms linked together in complex ways. On the other hand NEXUS explains a series of connections established or located in a central entity.² Nexus is the way the Albanian society perceives the relation between state and society, mostly represented by the functioning of state, where the state is the central axis and the society has no influence on it, this comes mostly from the established Albanian political culture which has been shaped during communism. Although we should not deny that for major issues that pertain to a large extent, the reflection and reaction of the population is greater. The process of statehood did not end after the formation of the state it was not simply related to independence, or to some reform developments that lead Albanians towards some exact conclusion, statehood is a continuous process which is accompanied by ongoing structural changes. Developments are not related only to the constituent rules and institutions although they play a crucial role in achieving some objectives in relation to organization and expectations. In this regard it would be better to say that "policies" that affect the structure of the state are part of an ongoing constituent process that include a number of elements and influences coming from different sources. Weber argues that local religious cultures have shaped and are shaping organizational practices, which helped modernize practices, modern capitalism, and the modern bureaucratic state system. In case of Albania, the religious cultures have been subject to constant changes and volatiles by failing to inculcate the bureaucracy and perhaps create an appropriate environment for anarchy in Albanian perception. Also religion was not inculcated in Albanian society being subject of various religious changes and impositions did not create a close spiritual relation to the different coexisting religions which were introduced by the greater powers. The lack of religious close relation is explained also by Edith Durham by writing

¹ Parsons, T. (1951). The social system, New York, NY, USA: Free Press, pp. 575

² Carroll, P. (2006). Since, Culture and modern state formation, Berkeley, and Los Angeles, California, University of California Press, pp. 3-4

that if you pass through Romania and ask them; what are you? They say Catholics, in Bulgaria they say Orthodox but in Albania they say Albanians.¹

Does this mean that our society has suffered from the genesis the lack of organizational practices? This will be limited evidence as organizational forms existed in our society; it is enough to mention the existence of old statutes as a regulatory form of social relationships. Aubrey Herbert stated that Albanians are people who want mostly their freedom, they will never pay taxes.² It is true that during the rule of Zog, who started to collect taxes regularly to all Albanians, the demonstrations of the population against taxation were limitless especially during 1923-1924, according to the journals of the time there were almost 2000 protests almost two demonstrations per hour.³ This record in the history of Albania shows that they have protested mostly because they did not want to pay the taxes because it directly damaged them although it could help develop the country, if the government appropriately used the gains. Referring to this assertion the anarchic nature of Albanians has not changed in its nature entirely, even now days the taxes are not paid by everyone but could it be true the supposition that the Albanians go to the protests only when something is related to them or when they fear a direct damage, if a policy will be undertaken? In this regard my work focuses in two main research questions which are: Does the civil society in Albania and the society in general lack civic participation in order to influence government policies? And the second research question which relates to the first one is: If there is a lack of civic participation in Albania what are the factors that are influencing mostly this behavior?

1. Civic participation in Albania

In order to prove this we should look first at the number of protests that are organized in a given time and the reasons these protests are organized excluding the political gatherings or meetings as they are mainly well organized and the people that participate are related in some ways. The biggest demonstration in Albania from 1990 was the student's demonstrations that brought to the collapse of the communist regime. In the beginning of 90s Albania lacked any established and widely accepted rules of the political games, perhaps the only rule well established was the emergence and sustainability of multi-party system which was the basic element towards democracy. This unclear version of politics came after one of the most world severe dictatorship regimes. Communist regime in Albania was of no doubt the most severe regime in the region followed by Romanian communist regime that was also harsh. This regime in Albania it is often argued that "captured the person" mainly by propaganda and the induction of fear. People were not allowed to speak their mind otherwise they were imprisoned, they were not allowed even to believe in God or claiming for the bed economical situation. The regime had a direct impact on the reformation of citizen and leadership, by inducing also a certain political culture which dominates the mind and perception of Albanian people today. After 1991 there was a lack of demonstrations until 1996 and in the beginning of 1997 these demonstrations escalated to anarchy and statelessness. The protests started when the Pyramid schemes were closed after IMF stated that they were making money laundering, so they should be closed. This anarchy was not cause as a result of solidarity but as a personal need to have the money back from the Pyramid schemes. The result was not only the collapse of these pyramids but the collapse of government and the system as whole. In 1997 was an anarchy which had very tremendous results after the opening of the armory and the possession of the arsenal by the people. In this regard 1997 was not reflected as a civic resistance towards the government but as an anarchic situation that nobody wanted to experience once again. The general perception after 1990-s in Albania is that there is a lack of civic resistance, and lack of organization in our society, as we will see from the studies below. Very often the civil society has been reprimanded for supporting the governments or political parties in order to benefit from their powers. In this regard social organizations were prejudiced of fulfilling the interest of various parties and not supported even when they argue government policies. In order to understand and make an accurate observation why people are usually indifferent to the policies that are introduced from the institutions such as parliament, government, etc., I shall analyze two levels of perception, the first relates to the changing forms of governance and power in Albania, and the second relates to the social product which reflects the construction of the constituent structures.

2. Power, state and society

It is clear that societies are composed of subsystems of different types. With subsystem we suppose any type of organization which has components related to each other such as interest groups, individuals etc. All subsystems of a society constitute "the social system" while state agencies are physical manifestations of "the social system". Various times and places reflected structures, forms, roles and functions of different states. In order to better understand the present and future of the Albanian statehood, we will look briefly at state-society relations from the Communist period until today. In this context, let us focus on a general division of states on the basis of authority and their impacts on society and vice versa:

a) Totalitarian and dictatorial states, which are characterized by higher authority, where the state intervention is limitless. The state is managing and implementing economic, social and individual activities. Dictatorship in Albania may be represented by this form of state.

¹ Durham, E. M. (1905). *The burden of the Balkan*, London: Nelson

² Destani, B. & Tomes, J. (2012). *Miku i madh i shqiptarëve, Aubrey Herbert dhe krijimi i Shqipërisë së sotme*, Via Egnatia, Tiranë, Albania

³ Gazeta "SHQIPËRIA E RE", (e diel, 18 mars 1923), Konstancë, v.I, nr.132, pp.1

Communism in Albania produced intervention and the use of force produced a general fear which kept the individuals in silence. Another characteristic of communism was the propaganda introduced by the state and was mostly believed by the people that lacked the information how things were outside Albania. As Alexander Wendt states places like Albania have been called "autistic", mainly because its society had no connection to the outside world and the international system did not "construct" the state as constructivists claim.¹ Communism brought to customization of society with the rules, lack of creativity, competition, lack of freedom, lack of speech etc.

b) Weak states, these states have little power and may occur during transitions. The intervention of state is limited there is high informality, free markets. Transition periods are associated with high uncertainty and informality. After communism Albania had undergo through a transition period and in some aspects and field there is still transition such as political transition. The political transition can be understood from the continuing need for consensus which does not leave space for competition. The Albanian transition like the others as well was and in some ways still is characterized by limited interferences from the government which has brought to a lot of costs coming from informality. The Albanian transition for many analysts finished in 2005 were the political rotation gave hope that a quasi democracy was established in Albania, they are not wrong but some other analysts argue that the transition is still present as there is still a lot of informality.

c) Consolidated state, these states have democratic institutions, at this stage the state has taken form, formality is increasing. The state might have balanced authority, quasi democracy. In this case the state intervention is based on the requirements of conditional priorities for governmental continuity. State at this stage of implementation formalizes rules and then integrates them into society.

An example that describes this stage may be the law of "legalizing the illegal" constructed buildings in Albania. It was thought by the politicians that the decision would meet the requirements of a great number of citizens who had built their houses illegally. At the same time we observe that the group affected by this chaos, such as the previous owners showed little resistance to change. They did not organize many protests and they did not show any willingness to continue their protest in order to be compensated more and for a shorter period, they did not try also to prevent this law to be amended. Here are some of the problems observed from this situation and obtained from the interviews with the former owners².

- a) Owners were not organized in a stable resistance and meshed that with the onset of the problem, as a result of uncertainty surrounding the property as well as its procedure.
- b) Another problem was the distrust in the institutions from the interest group which mainly believed that the resistance would not produce any solution to their problems.
- c) Also the heads of the Former Owners association were domination by the Republican party which was suppose to support them but being in coalition with the governing party did not want any trouble, so persuade the leaders of the interest groups to be silent on the matter.
- d) On the other side also the interested group on legalization did not made any effort to legalize houses as they thought that this law would be proposed even by the opposition as they needed the votes of this people. Even in certain cases it is also seen as an obligation of the state to their perception.

These perceptions derive mainly from the so called communist rule that treated property as a common property, a property for people and of nobody.

The lack of resistance in our society is due to several crucial factors: Firstly people in Albania disbelief that things can change if faced with continued resistance. This confidence comes as a result of our political culture, which is shaped after a big disappointment coming from the dictatorial regime, although lately there are some evidences that this perception is changing by inducing a change in political culture as well. The disappointments were for the most part of the population in the early 1990s, people after many great expectations and confidences coming from the regime's propaganda understood that it was almost everything a lie. After communism Albanians recognized that the communist propaganda was just an illusion. This distrust has continued and even deepened by some abortive models of resistance, which in some cases have become part of the narrow interests of certain groups.

Another belief formed and established during the communist system was that the state should take care and think about everything without asking "anything". This is another critical behavior of Albanian society which again stems from its political culture, they are used to expect from state. This perception has brought towards an "apathetic society", thinking that the state has the power and it is its duty to accomplish everything, without feeling any responsibility to change anything by giving in the end the "fault" only to public authority and to politics in general. Another legacy of the past is the fear from government which induces obedience, and in some other cases domination. The domination from government and politics has different shapes as we will see. In order to induce a change or protect our interested we need to demand that change with persistence. Balanced intervention requires useful people, active civil society, people and society should

¹ Wendt, A., (1999), *Social Theory of International Politics*, New York, Cambridge, Cambridge University Press, pp. 2

² the owners that possess the land before communism

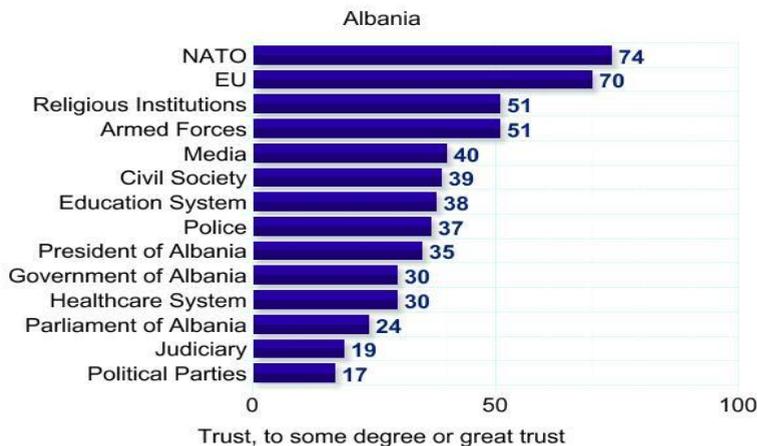
demand more from themselves and less from the state. Nietzsche states that: "The state is the coldest of all cold monsters"¹. For Nietzsche where the state stops, begins the man who is not useless. This statement recognizes the need for useful people, which in the post-modern world seems to be the way for achieving political goals. Now days this perception has changed and even if the state is not perceived as Nietzsche presumes the power of people or citizens could be enormous if people are "useful" or in case of Albania if they believe in it, and act. In this regard the question that we face is: How useful are we to ourselves and to what extent does this usefulness influences government decision-making?

The answer to this question relies on three main elements of political culture that were established during dictatorial regime not only in Albania but also in the other countries that experience totalitarian regime.

The first element as mentioned above is the lack of trust that characterizes the citizens that have experience this regime, or the younger people that are influenced by the elders who experienced it. Lack of trust is manifested not only towards government but also towards other people that might represent for instance the civil society by implying a lack of civil participation at the political life. The lack of trust is manifested in different ways, some think that the best punishment towards politics is not participating in election. According to Central Election Commission in Albania known as CEC, just after communist regime in Albania there were high rate of people participation in elections. In 1991 just after the collapse 99 percent of Albanians voted, until 1996 there was only 10 percent decrease of voters participating in elections and in 1997 after the pyramidal schemes it dropped at 43 percent.² The hopes in the beginning of 1991 had a drastic decline after the chaos of 1997 in Albania which created the idea that politics was nothing but a struggle for power. After this period it has been some irrelevant ups and downs that describe the lack of trust generally in politics. This assumption would be just speculation if we do not take into consideration the people beliefs.

In this regard we completed a questioner in Tirana where 65 percent of people did not believe in government and political parties. Another questioner in Tirana made in 2014 shows that 95 percent of people do not have trust in anything or anyone. Another poll shows that: "many types of CSOs and state organizations have the trust of only 40%. However, religious organizations, charitable and other humanitarian organizations such as women's organizations have public trust as high as 60%"³. Another survey made from PASOS for six countries in the Balkans shows that people in **Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia** do not trust the public institutions and the political parties. For instance in Albania people believe that the institution that has the greater ability to influence the government policy is the Parliament.⁴ As we can see from the table below Albanians believe more in international organizations than in political parties and government.

Table 1



Source: Institute for Democracy and Mediation

¹ Nietzsche, F.W. (1976). "On the New Idol", *Thus Spoke Zarathustra* (Part One), in *The Portable Nietzsche*, tr. & ed. by W. Kaufmann, Viking,, New York, pp.160.

² http://lajme.parajsa.com/Politike/id_98835/

³<http://socs.civicus.org/CountryCivilSocietyProfiles/Albania.pdf>

⁴ <http://pasos.org/12122/pasos-poll-citizens-of-six-balkan-countries-identify-political-parties-as-the-most-untrustworthy-institution-in-their-respective-countries/>

The second element is related to the inherited fear to speak the truth, although this doesn't seem a concerning element in Albania from the general debate that generates in the media, some different reports regarding family abuse on women from different organizations such as UNICEF UNDP, and other organizations show that a major problem is the silence of women and the lack of denunciation that comes from two main factors, the first relates to the lack of law implementation, and the second relates to the lack of substantial income of women to live alone.¹ Another survey made from the Faculty of Social Sciences shows that people are afraid to complain at the directors at the working places. The repression in terms of Foucault produces silence² he explains it through the "repressive hypothesis" where he assumes that repression continues once it has become a state of mind. In this regard he wrote: "This explains the solemnity with which one speaks of sex nowadays. When they had to allude to it, the first demographers and psychiatrists of the nineteenth century thought it advisable to excuse themselves for asking their readers to dwell on matters so trivial and base"³. Although his studies were focus on the prohibition of speaking about sex the analogy works also in regard to the prohibition of speaking once mind during communism in Albania. In this context nowadays if anyhow someone feels there might be consequences they prefer silence. But if someone has no job and not much to lose from the government policy or politics, he might be perhaps more inclined to speak against it.

The third element inherited from past is the perception that the state has the power for everything and it is responsible for everything. All the above elements induce the lack of civil participation in politics and the lack of a functional civil society. Another question in relation to this and especially to the civic participation is: Are we ready to have a liberal approach to governance or is necessary that the state intervenes in our relations in all fields? The liberal approach in this context refers to the liberal theory of international relations that presumes that the state should not intervene at the market because as Adam Smith states "the invisible hand" will regulate the market, or the market regulates itself.⁴ In case of Albania economically speaking citizens expect that the state should regulate the market by creating quotas for higher education which might structurally provide jobs for everybody like it was during the communist regime. In this regard our society in relation to its political culture, generally perceives that decisions should come from "above", the government must think for us while we remove all the responsibilities from ourselves. At this stage we should focus more at the Foucault's perception of power and promote this in our society as a way to enhance their participation and resistance.

3. Power as a product of society

We might conclude that political culture in Albania lacks the confidence in politics and governance. The natural question that comes from the above analyzes is: If someone does not believe in politics and government why should he expect from them?

The expectations in the Albanian society are related to the perception formed during communism that the state owns everything, because everything was public property, and the state has also all the organizational materials and resources. This mentality embeds the idea that the state has all the powers to do whatever it aims. By thinking like this, once again most of the people in Albania do not believe in their own capabilities in changing things. From the regards above we can understand that the political culture in Albania is filled with factors that create a hesitation to resistance. Post-structuralism argues that the creation of identities, capacities and concerns that come from social groups should be seen as power. While pluralist perspective sees social groups as groups that seek to maximize their interests.⁵ This perception is often encountered in Albanian society where usually is believed that these groups are closely related to their interests and thus not to the product they might produce for the whole society. If we want the power to be reflected by post-structuralism terms then we must also examine the concept of power.

According to Foucault Power is equal to Product. Foucault does not see the power in state institutions, but weighs "Power" in the details of social practices to the point where it produces effects.⁶ Pluralism and power are exercised in endless ways, for Foucault they are not driven by politics or by a single project but rather from systematic and numerous projects. According to Foucault all social relations and identities produce power while the product is not always helpful or nice, even Foucault criticizes the way power is used in society because the concept of power suggests that during its exercise there will be dominance. Dominance comes from the hierarchy that is present everywhere in society, even in a small group like family. In this context, Foucault says: "Power is everywhere, not because it embraces everything, but because it comes from everywhere".

Product as a result of the exercise of power would be helpful if we had resistance.

Government acts only to those who resist Foucault says while government institutions are only one aspect of governing strategy. Another aspect of governance is the new forms of politics in contemporary societies. "Foucault defines "government" as "the conduct of conduct", the attempt to influence the action of free subjects"⁸. In this context, the behavior of the society might determine the government behavior

¹ www.unicef.org/albania/sq/domviol-alb.pdf
www.al.undp.org

² Foucault, M., (1978), *The history of Sexuality, First Volume*, Random House, pp. 8-10

³ Foucault, M., (1978), *The history of Sexuality, First Volume*, Random House, pp. 6

⁴ Parkin, M., (2013), *Economics*, 11th edition, Prentice Hall

⁵ Nash, K., (2000), *Contemporary Political Sociology*, Massachusetts USA, Blackwell, pp. 14

⁶ *Ibid*, pp. 20-27

⁷ *Ibid*, pp. 23

⁸ *Ibid*, pp. 25

as well, in case they act as free subjects by resisting to inconvenient power of authority. Thus the society can guide the behavior of its governments the same way they try to influence them. If the exercise of power will cause dominance then how can we overcome this challenge? Foucault believes that discourse as a new form of exercise of power in modern societies is a good power to resist domination. It requires knowledge of multiple discourses in order to argue thoughts and suggest the best alternatives. In this context, discourse contributes to the organization's performance by improving institutions, these institutions are considered as non - discursive because their primary purpose is not discourse but service. Exercise promotes institutional practices or performance and produces discourse.

In this context the Albanian society relations that are dominated by government and are not subject to resistance is likely to give an unprofitable distorted product. While the "free subject" those that are not dominated by government might consequently become instruments of political parties or of the government. On the other hand the "free subject" that is not an instrument to any party might use discourse to improve the functioning of institutions. These may include academics, civil societies, who are not immune from possible instrumentation. Therefore required with broad participation of society and interest groups, as the increase in quality and quantity through discourse as a result of increased public awareness of the discourse itself, would complicate the instrumentalization and domination, prompting more representative politics and therefore good. In case of Albania this article shows that our society has shown a lack of resistance and a lack of trust, as resistance cases are seen as instruments of political parties or small interest groups thus not fighting for the implementation of just policies. I argue that this has been mostly a consequence which relates and derives from the forms of governance and political culture described above. The events of 1997 which developed as a result of income loss of people involved in pyramid schemes showed a disorganized revolt and resistance creating initially an uncertain situation and fear in the population as a result of the anarchy created. The creation of the anarchic situation did not bring any solution to the problem but it resulted only in overthrowing the government. Although resistance existed, it failed its initial intent to return the money from pyramid schemes or government but had the consequences of early elections and anarchy. Pyramid schemes came as a result of the application of liberal economy which relies on the idea that the market regulates itself while another element that favored the situation was the weak Albanian state in the post - communist period, according to the above classification. In this context the resistance of Albanians seems to be present only when they are affected directly but not as a gesture of solidarity with a group of people. While the state characteristics are closely related to the behavior of society we can see that the movement of the Albanian state from a weak state to a state with democratic consolidated institutions begins in 2005 when the rotation of government after the election was mainly accepted from the political parties. Consolidation of democratic institutions took another dimension, showing that the ongoing political transition phase was about to end in 2013 elections, as the next rotation was without any dispute and accusation of manipulation. These developments increased the confidence of society in politics by believing that the period of manipulation and lies had come to an end. Increase citizens' confidence shows a change in attitude and mindset of the political culture which has reduced mistrust in institutions.

By early 2013 it was still believed that resistance and organization of the Albanian society was absent but the news for the arrival of Syrian chemical weapons for demolition in Albania, threatened the Albanians. The threat that Albania might become a place for chemical weapons demolition and this might have terrible impact to the health of people made the resistance toward the government policy very persistent and massive engagement of the youth. The protests begin on Nov. 8, 2013 and after a week the resistance won the battle by influencing the government policy in not accepting the Syrian weapons. What happened can be explained by the Foucault's perception on power.

According to Foucault any troubles should be articulated with words and arguments. Foucault assumes that power relations reproduce themselves deep in society there is no such thing as the opposition between the state and civil society. There is a central conflict, but a plurality of mobile fights. If this claim of Foucault would count as true for Albania then a major challenge is raising, that of citizen to be more participatory in politics or policy compositions, through resistance becoming more responsible and believing that their resistance will bring the change they want. This resistance had also the support of the opposition as well but without taking any meritocracy. Although the developments in the protest showed a lack of organization where some pioneering organizations were not having a central organization, which caused clashes between organizers in terms of meritocracy and the desire to run, however, the determination of the resistance and durability united the society by providing the requested product.

Conclusions

This article presumed that the lack of civic participation is a characteristic of post-communist countries and more generally of post-authoritarian states as they share some similar elements which compose the lack of this participation such as: people do not believe that their behavior or opposition to some policies will consequently change government's policies, they fear the consequences that might follow as they are not "free subjects", people do not trust civil society as they believe that their organizations and actions have hidden agenda, and mostly they are pushed by their immediate interest which does not represent people's interest in general. Driven from the studies of political culture I presume that there is a connection between countries that experience government repression for a long time as they tend to have similar behavior although the study expresses this connection it does not explore further experiences to make this a comparative study but helps to develop similar articles with similar cases. The aim of the article is to give answers on the existence of the lack of civic participation in Albania and try to provide continuous solutions to these beliefs and behaviors.

We can say that the Albanian society on this issue showed that in fact Foucault is right when he states that the state is the "the conduct of conduct"¹ and as a result the state will seek the guidance but the society can push the government to change many elements of its guide. Ernesto Laclau and Chantal Mouffe think: "Everything is cultural" and therefore social order is constructed, challenged and reproduced by culture.² In this context if people believe that together they can act as "free subjects" with no fears and they can change unpleasant situation and policies than the impact on government policies will be of no doubt present no matter to what extent this influence will be. Previous theories of political sociology view society as a unified unit, while post-modernism sees culture and society fragmented, indecisive and unstable. Post-modern thinking on how the economy and the politics are highly dependent on culture, and if culture is undecided the discourse may then bring to an improvement of social structures and functions entirely. The discourse if well articulated and argued could influence politics. In conclusion, not only the discourse but also resistance to government's policies should promote the desirable policies that contribute to the greater benefit of society. Any concern should be articulated and argued by constantly resisting to power. Unless efforts are ongoing we cannot say that there is resistance and therefore if this product is local resistance and without impacts then we have no reason to complain about the government policy as long as we have not sought or resisted against anything.

Bibliography

- Group of Authors, Akademia Shqiptare e Shkencave, (2002), Historia e Popullit Shqiptar, Toena, Tiranë, Albania
- Destani, Bejtulla, Jason Tomes, (2012), Miku i madh i shqiptarëve, Aubrey Herbert dhe krijimi i Shqipërisë së sotme, Via Egnatia, Tiranë, Albania
- Dragoj, Nuri, (2010), "Shqiptarët dhe Grekët", wesso, Tirana, Albania, pp. 363
- Durham, Edith, M., (1905), The burden of the Balkan, London: Nelson
- Carroll, Patrick, (2006), "Science, Culture, and Modern State Formation", Berkley, and Los Angeles, California, [University of California Press](#)
- Foucault, Michel, (April 25 1995), Discipline and Punish, The Birth of the Prison, Vintage Books; 2nd edition
- Foucault, Michel, (1978), The history of Sexuality, First Volume, Random House
- Foucault, Michel, (1980), Power/Knowledge, Pantheon Books, New York
- Foucault, M., (1986), The Foucault Reader. P. Rabinow (ed.). Harmondsworth: Penguin
- Giddens, Anthony, (1984), The Constitution of Society. Cambridge: Polity
- Giddens, A., (1985), The Nation State and Violence: Volume Two of A Contemporary Critique of Historical Materialism, Cambridge: Polity
- Glenny, Misha. (2000), The Balkans 1804-1999: Nationalism, War and the Great Powers, Granta Books, London
- Hanlon, Querine, (2011), State Actors in the 21st Century Security Environment, National Strategy Information Center
- Information-Processing, Journal of Communication Volume 46, vëllimi 3, 1996
- Kaehne, Axel, (2007), Political and Social Thought in Post-Communist Russia, London, New York, Routledge
- Laclau, Ernesto, (2005), The Populist Reason, London: Verso
- Laszlo, Alexander and Krippner, Stanley, (1998), Systems Theories: Their Origins, Foundations, and Development, J.S. Jordan (Ed.), Amsterdam: Elsevier Science
- Nash, Kate, (2000), Contemporary Political Sociology, Blackwell, Massachusetts USA
- Mouffe, Chantal, (1993), The Return of the Political, London: Verso
- Parkin, Michael, Economics, 5th Edition, Addison-Wesley, 1999
- Parkin, [Michael](#), Economics, 11th edition, Prentice Hall, 2013
- Parsons, Talcott, (1951), The social system, New York, NY, SHBA: Free Press, f. 575
- Rapoport, Anatol, (1968), General system theory, The international encyclopedia of social sciences, 15, f 452-458. David L. Sills (ed.). New York: Macmillan & The Free Press
- Rose, Nikolas and Miller, Peter, (Jun. 1992), "Political Power beyond the State: Problematics of Government", The British Journal of Sociology, [Wiley-Blackwell](#), Vol. 43, No. 2, pp. 173-205
- Gazeta, SHQIPËRIA E RE, Konstancë, v.I, nr.132. e diel, 18 mars 1923, p.1

¹ Ibid, pp. 25

² Ibid, pp. 25

Way, Baldwin M., UCLA, and Roger D. Masters, (1996), *Emotion and Cognition in Political*, Dartmouth College
Weber, Max, and Baehr, Peter R., Wells, Gordon C., (2002), *The Protestant ethic and the "spirit" of capitalism and other writings*.
Penguin

Wendt, A., (1999), *Social Theory of International Politics*, New York, Cambridge, Cambridge University Press

Weick, Karl E., *Middle Range Theories of Social Systems*, Behavioral Science Volume 19, issue 6, pp. 357-367

Web

www.unicef.org/albania/sq/domviol-alb.pdf

www.al.undp.org

<http://socs.civicus.org/CountryCivilSocietyProfiles/Albania.pdf>

<http://pasos.org/12122/pasos-poll-citizens-of-six-balkan-countries-identify-political-parties-as-the-most-untrustworthy-institution-in-their-respective-countries/>

http://ajme.parajsa.com/Politike/id_98835/

The Role of Albanian Personalities in the Ottoman Empire

Prof.As.Dr. Rudina Mita

University: "Aleksander Xhuvani"

Elbasan-Albania

rudinamita@hotmail.com

Msc. Besnik Bajrami

besnikbajrami@hotmail.com

Abstract

Albania was one of those countries whose physical and geographical position was tempting and favorable in the Western Balkans as well as South-Eastern Europe. Its position attracted many conquerors and empires through centuries who established their territorial and political hegemony. One of these was also the Ottoman Empire. The Ottoman Empire, not only a political and economic power of that time, but also with the purpose of following the policy of territorial expansion, it intensified its efforts not only in the Balkans but also in other regions. The conquering policy was mainly focused on the linguistic, educational, cultural and religious unification including even the income, economy, taxes, the assets of this place, going even further aiming the use of the political elite as well as Albanian and Balkan leaders, who were soon under the subjugation and in the service of the Empire.

Keywords: Albanian personalities, Ottoman Empire, expansion, viziers

Introduction

Albania was one of those countries whose physical and geographical position was tempting and favorable in the Western Balkans as well as South-Eastern Europe. Its position attracted many conquerors and empires through centuries who established their territorial and political hegemony. One of these was also the Ottoman Empire. The Ottoman Empire, not only a political and economic power of that time, but also with the purpose of following the policy of territorial expansion, it intensified its efforts not only in the Balkans but also in other regions. The achievement of hegemony went through two phases, something which was also mentioned by the famous researcher Petrika Thëngjithi. The first phase was that of vassalage. It was conditioned by two factors:

- the endurance of the Balkan feudal states and the impossibility of the Ottomans to break them immediately
- also the Ottoman state and the governing class in the 14th century until the beginning of the 15th century was still in its formation

The second phase was the conquest and the emplacement of an administrative military system in the conquered regions. In the Balkans the conquering directions were determined by the geographical conditions. They followed the direction of the historical route of Via Egnatia, towards the west, passing through Serez, Manastir and Ohrid until they reached the Albanian coasts in 1385.¹

The conquering policy was mainly focused on the linguistic, educational, cultural and religious unification including even the income, economy, taxes, the assets of this place, going even further aiming the use of the political elite as well as Albanian and Balkan leaders, who were soon under the subjugation and in the service of the Empire.

We are all aware of its achievements, and hegemony of this empire, one of the biggest empires in the world, as well as its reforms and reformers, its political economic educational scientific cultural power, religious domination (Muslim religion and Islamic faith), the executing power of the legislation (Shariah), not only its military strength but also that of the countries which were under its dependence etc.

A great help for the development and increase of the Ottoman Empire in every direction, was also given by the human potentials of the invaded territories conquered by it during different periods of time.

If we look at the Turkish history, everybody would be amazed at the data that we would find concerning the number of Albanian personalities², who on behalf of the Ottoman Empire have reached the peaks of the administrative, political and military power. We could

¹Petrika Thëngjithi "Historia e Perandorisë Osmane", Tiranë, 1997, page 20.

² According to statistics of the Ottoman Empire, the number of Albanians was 1.500.000. These data belong to the year 1884, connected to the ethnic spread of the Ottoman population. This information was taken from the Research Centre for Islamic History, art and culture IRCICA. "Historia e shtetit, shoqërisë dhe qytetëritim Osman". Vol.I Tiranë 2009, page 503.

mention 35 important viziers¹, of Albanian origin. "...Out of these 35 viziers, we could mention Kara Murat Pasha who used to be prime minister twice. Another one was also Damat Ferit Pasha, who was appointed prime minister 5 times. Besides Ahmet Pasha from Dukagjini and Hysejin Pasha from Ohrid, Mehmet Pasha from **Ura**², Mustafa Nail Pasha from Crete and Said Halim Pasha from Egypt are said to be Albanians. The two above mentioned prime ministers although from Crete and Egypt, according to the Ottoman official registers are said to have had Albanian origin. Damat Ferit Pasha was born in Istanbul. Shortly concerning the Albanian identity, the Ottoman official registers have determined even the deepest roots of origin."³

This caste of prime ministers, not only served the Ottoman Empire, but there were cases when they organized conquests even in the territories of their place of birth, due to the policy of the Ottoman expansion. Other prime ministers, of Albanian origin, would not accept to organize such conquests of their native land, sometimes even risking their lives.

As it is also mentioned by Shyqri Nimani: "During the Ottoman Empire of five hundred years, Albanians reached many achievements, giving in this way many prime ministers to this Empire, who sometimes would even destroy with no mercy the lands of their birthplace. But there were also prime ministers, such as Gedik Ahmet Pasha, who risked their lives because of refusing to lead military campaigns against their birthplace.⁴ He also served as an admiral of the Ottoman fleet with a number of 300 ships and 700.000 soldiers. He refused to invade Shkodra, an invasion which the Ottoman Empire realized through the beylerbey of Rumelia the Albanian Koxha Davud Pasha, because of this refusal he was removed from the position of the prime minister and he was imprisoned. In 1480, the sultan sent him out of prison and entrusted him the army containing 100.000 soldiers and a fleet of 281 ships, which he would use to conquer Southern Italy, through Albania (Vlora). The invasion of Otranto castle was achieved, but after the death of the sultan Mehmet II, and since the conquered territories were inhabited by Arbëresh, Gedik Pasha gave them the castle together with Ottoman commanders (Albanian) who later on would serve as mercenaries of the Italian princes.⁵ That was an act which would cost his life.

"I am Ahmet Pasha, the one who others also call with respect as Gedik. Because of my big deeds I am also known as Kreshnik (Knight), but when Padishah ordered me to invade heroic Shkodra, I refused and gave my life – by Jove I would never betray my country."⁶

The Ottoman Empire would reach its highest peak during 1520-1550, especially during the time of the Sultan Sulejman. We are not going to focus on his achievements which are already known worldwide but we are going to focus on the role of the viziers of Albanian origin, who were in his service such as: Ibrahim Pashë Pargalliu, Ajaz Pasha, Lutfi Pasha, Rustem Pasha, Kara Ahmed Pasha etc.

Ibrahim Pasha was a high vizier during the time of the sultan Sulejman, but he was also his loyal friend. His Albanian origin is thought to be from Parga, considering even his surname Ibrahim Pashë Pargalliu. Concerning his origin it is written that: "Ibrahim Pasha (1493-1536), of a slave origin, was assigned as a bey, but he also served as a prime minister for 13 years." While according to the Turkish researcher Esin Atil: "Ibrahim Pasha was kidnapped when he was a little boy, and he was given an excellent education." When the sultan Sulejman was assigned to the throne, Ibrahim Pasha was appointed Has Odabası (prime guardian of treasure). He had taken part in the military campaign in Belgrade (1521), in Rhodos (1522), Mohaç (1526) and in Vienna (1529). He had improved the situation in Egypt (1523) and he had also pressed the uprisings in South-Eastern Anatolia (1527). He was also assigned a prime minister in 1523 and he was appointed a *serasker* (chief commander of the armed forces) in 1529, a position which was reserved only for the sultans.⁷ Being thirsty for power and the continuous conflicts with the sultana Hyrrem, influenced his execution by her. He served the Ottoman Empire in many directions. He was assigned a High Vizier by the Sultan Sulejman, since he was his favourite one. "The close collaboration of Sulejman with his new friend brought lucky events for the empire. He was clever, realist, with great political skills and a strong personality. Ibrahim Pasha played an essential role, bringing back the time when he was a great vizier (1523-1536), the greatest period of the golden Ottoman century."⁸

¹Muzaffer Tufan "Toleranca Osmane që mbrojtë identitetin e popullit shqiptar". Osmanli' Dan Amavutliik' a Tahirihoşgörüyeyazdik. "Nga Perandoria Osmane ne Shqipëri e shkruam historinë me tolerance", Tiranë 2005, page 121-123. Gedik Ahmet Pasha, Davud Pasha, Dukagjin-oglu Ahmet Pasha, Ayes-Mehmet Pasha, Lutfi Pasha, Kara Ahmet Pasha, Ohrii-Hysejin Pasha, Mere Hysejin Pasha, Yabani Yassi Mehmet Pasha, Kemankes Kara Mustafa Pasha, Cican-Kapucubasi Sultan Semin, Kara-Murad Pasha, Terhuncu-Ahmet Pasha, Zumazen Mustafa Pasha, Koprulu Mustafa Pasha, Koprululu-zade Numan Pasha, HacıHalil Pasha, Hacı-Ivaz Mehmet Pasha, Ivaz-zade Halil Pasha, Alemdar Mustafa Pasha, Memis Pasha, Girilti-Mustafa Naili Pasha, Mehmet Ferid Pasha, Misirli Said Halim Pasha, Misirli Said Halim Pasha, Damad Ferid Pasha.

² According to Muzaffer Tufan "The village of Rodnik belonging to the sandzak of Berat had had four sons from Ura who used to be prime ministers. The term "from Ura" implies a neighborhood in the mini municipal unit of Amasje, where Mehmet Pasha had already built some places for public use through which he became well known. Moreover even Ahmet Pasha, Mustafa Pasha and Numan Pasha who belonged to the same family origin, they became well known creating in this way a family of prime ministers, something which was very rare in the Ottoman history." Toleranca Osmane që mbrojtë identitetin e popullit shqiptar, Osmanli' Dan Amavutliik' a tahirihoşgörüyeyazdik. "Nga Perandoria Osmane ne Shqipëri e shkruam historinë me tolerancë", Tiranë 2005, page 113.

³Muzaffer Tufan, Toleranca Osmane që mbrojtë identitetin e popullit shqiptar, Osmanli' Dan Amavutliik' a tahirihoşgörüyeyazdik. "Nga Perandoria Osmane ne Shqipëri e shkruam historinë me tolerancë", Tiranë 2005, page 113.

⁴ShyqriNimani, "Amavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 14.

⁵ShyqriNimani, "Amavud, Artistër shqiptarë në PerandorinëOsmane", Pristina 2003, page 54.

⁶ShyqriNimani, "Amavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 40.

⁷ShyqriNimani, "Amavud, Artistër shqiptarë në Perandori në Osmane", Pristina 2003, page 121.

⁸ Robert Mantran, "Historia e Perandorisë Osmane", Dituria 2004, page 147.

Ajaz Pasha was the second vizier during the period of the sultan Sulejman, who loyally served him. He was sent by the sultan to press the uprising that had already been started in Egypt by the Ottoman vizier Ahmed Pasha, who had been self-assigned as the sultan of Egypt, no longer dependent on the sultan Sulejman. During his time he was assigned as bey of Anatolia and vali of the vilayet of Syria. He took part in the expedition of Moldavia, and in the entourage of Corfu. In 1535 he was assigned a prime minister instead of Ibrahim Pasha. His origin is thought to be from Vlora.¹

Lutfi Pasha used to be a vizier, he was Albanian but there are discussions concerning his birthplace. According to researchers he might have been from Shkodra or Vlora.² During the period of the sultan Sulejman, he became a prime minister. He served as a chief military commander for the empire, in its expeditions in the regions of Poje, in the south of Italy and in Siujdhese of Corfu. He also used to be a vizier of the second and third rank. In 1537 he became a prime minister after Ajaz Pasha. He used to have great knowledge of Arabic literature as well as philosophic sciences. He was the writer of "The book of viziers" (Asaf-name), "The experience of researchers" in the philosophic field etc.³ In one of his earliest writings known as Asafname, in which he describes the organization of the Ottoman state, Lutfi Pasha does not pay much attention to the *ulema*, even when he mentions them he does not show any particular consideration to them.⁴

Rustem Pasha (?-1560)

In 1554 he was assigned as a chief vizier, a position which he held for 14 years. His origin is thought to have been from Illyria⁵, where he was taken as *devşirme*.⁶ He was a prime minister twice, from 1544 to 1553, and from 1555 to 1561. Together with his wife they used to be supervisors of the religious and charity objects. They were the gods of the famous architect Sinan.

Kara Ahmed Pasha used to be one of the most important viziers during the period of Kanuni Sultan Sulejman, a position which he held for two years. He started his career by being an agha, agha of the janissaries, *beylerbey* (governor-general) of Rumelia, and later on a vizier. He took part in the battle near the border with Iran, by destroying the army of the Shah Tahmasib. He also took part in the war of Temishvarin 1552, where the Kurdish were obliged to surrender. He was sentenced to death because of the intrigues made to the family of the sultan. According to Hammer, the reasons of his execution were: "... Kara Ahmed Pasha, as an important vizier, changed Rustem Pasha who used to be the son –in-law of the sultan. In this way the main reason of his death was to fulfill the desire of the sultan's wife, to assign her son –in-law in the position of the vizier."⁷

Dukagjin-zade Mehmet Pasha used to be a vizier during the period of the sultan Selim Hanit. He served as a vali in Halep and Egypt. He was the writer of poverty. The dynasty of Qyprerlinjve⁸, for several generations during the years 1656-1683, gave its contribution and help through its representatives, in the consolidation of the Ottoman state, which used to experience difficult situations during this period of time. Some of the most important representatives of this dynasty are:

Mehmet Pashë Qypriliu⁹ comes into power at a time when the political situation was worsened and an iron hand was needed to establish stability within the empire. In this way he was appointed a prime minister when he was 75 years old.¹⁰ Immediately after being assigned to this position, he got several measures. "During the early year of his governing he sentenced nearly 30.000 people. He sentenced to

¹According to the Encyclopedia of Sami Frashëri "Kâmûs-al –a' lâm", Istanbul, 1889.

²H. Kaleshi in "Roli i shqiptarëve në letërsinë orientale", The seminar of Albanian culture for the foreigners, Pristina 1976, page 175 cited: "Lutfi Pasha was from Shkodra". Taken from: Shyqri Nimani, "Arnavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 129.

³According to the Encyclopedia of Sami Frashëri "Kâmûs al-a'lâm", Istanbul, page 1889.

⁴The members of Ulema were jealous of each other. Nobody believed them. Lutfi Pasha, Asafname. Research Centre for Islamic History, art and culture IRCICA, "Historia e shtetit, shoqërisë dhe qytetërimit Osman",

Volume I, Tiranë 2009, page 278.

⁵ This has been cited from Nexhip Alpan (Alban) as well as the Turkish researcher Esin Atıl.

⁶ The practice by which the Ottoman Empire forcibly took boys from Christian families

⁷Shyqri Nimani, Hammer, vep. e cit, Volume I. page 132

⁸ It was an Albanian feudal family from the village of Roshnik in Berat. Akademia e Shkencave të Shqipërisë, "Fjalor Enciklopedik Shqiptar", Volume III, Tiranë 2009, page 2191.

⁹ He came from a poor family. He had worked in the kitchen of the sultan. Due to his willpower and his self-control he managed to get high state positions, although he didn't know reading and writing. He was energetic. Petrika Thëngjilli, "Historia e Perandorisë Osmane", Tiranë 1997, page 20.

¹⁰Petrika Thëngjilli, "Historia e Perandorisë Osmane", Tiranë 1997, page 149.

death even the orthodox patriarch, whom he hung. He also disciplined the army of Spahinjve. This led to the temporary expansion of the Sultan's power. All these actions taken by him, led to the reinforcement of the army especially the fleet. He also reinforced the authority of the central power.¹ In this way he ensured unprecedented peace and managed to achieve great success in the relationships with other countries. "He used the great power that he had, to break the Venetian blockade (1656), and he also retook the two islands Lemno and Tenedho. Order and peace had already been established although by force and bloodshed. Although it is to be admitted that authority was already established in these provinces and the central financial sources ensured the institutionalization of the structural changes in the Ottoman political life. This undoubtedly led to a new period of "revival", and the positive results would only be understood after the year 1683.² He was also a great admirer of culture.

Fazlî Ahmet Pasha used to be a prime minister from 1661 up to 1676. He took the position of his father as a prime minister for 15 years, but he was not as severe as his father used to be. He paid great attention especially to the case of Transylvania which was an unsolved issue during his father's time. But he managed to achieve success including it in the Ottoman territory.³Fazlî Ahmet Pasha was also well known as a protector of culture, writers and artists. He also opened a library which today holds the name of Qyprillinjve.

Kara Mustafa Pasha was another representative of the Qyprillinjve family (the son-in-law of Mehmet). He occupied the place of his forefather as a prime minister. He adapted himself to the new conditions already established in the Empire, because of the Christians' revolts and he acted more carefully. The actions and reforms taken by the Qyprillinjtë served to temporary stop the crisis but it could not be definitely removed. All these led to the temporary improvement of the situation in the Ottoman Empire. Peace and order had been established, the central power was reinforced, the incomes had been improved, abuse of the villagers' taxes had been reduced etc. But of course this would not last for a long time, since the fight for power within the imperial court would cause the deterioration of the situation and the change of four sultans in a short period of time.

Albanian personalities were not always obedient soldiers of the empire. In many cases the rebellious spirit of Albanians was openly shown not only versus the highest leaders but also even versus the sultan. Regarding this issue the German researcher Hammer has cited: "the disobedient nature of the Albanians has always been openly shown through their hatred."⁴ Through this action they would justify even the reaction of the Albanian prime minister Kara Mustafa Pasha, who would be directed to the sultan with the following words: "Padishah, is it worth inviting me for 500 wood loads from Divan and give an end to that? This blocks and drags some of the most important issues. So you are asking me about those 500 wood loads, instead of asking me about the begging of your people, about the borders and the treasure?"⁵His reaction after advice he had taken, was: "Is it for his good to be honest by telling the truth, and spoiling him? It is better dying by freely speaking than living as a slave."⁶

Restricted tolerance of the Ottoman state was one of the main characteristics of this empire versus the countries it had under its control and the absorbing of personalities from these states. This absorbing was mainly done by taking into consideration the skills, loyalty, and intelligence of these personalities despite their religion, that is despite being Muslim or Christian. In many cases the Ottoman policy based on the achievements, successes and loyalty of these personalities concerning the duties they had carried out, it would also determine the continuity of power and duty even to their descendants, their family members. If the duties had not been carried out properly it was again the Ottoman policy that would determine the sentences, persecutions and executions of those who abused with the loyalty and positions that these personalities held on behalf of the Ottoman Empire (as it was mentioned above the case of Gedik Pasha). This can be confirmed through the help of the ottoman documents. Based on these documents we manage to learn that: "Mehmet Ferida Pasha was the son of Mustafa Nuri Pasha who was assigned to work in Vlora. He was born in **Janina** (Ioannina) in 1851. Mehmet Ferid Pasha, on his father's side came from the dynasty of Koygu Sinan Pasha. While from his mother's side he belonged to the family of Ali Pashe Tepelena."⁷

Through the strategies and policies that the Ottoman Empire realized in the conquered territories, including even Albania, it managed to get from the Albanian families healthy children and beautiful girls, realizing in this way what wars and campaigns could not do. This was clearly witnessed by Hoxha Sadedin who cited: "Before the Sultan went against the territories of Karaman, he would send Ali Bey Evrenozin to steal Albanian territories. Ali Begu had enslaved outnumbered males and females. It is also worth mentioning the

¹Petrika Thëngjilli, "Historia e Perandorisë Osmane", Tiranë 1997, page 149.

² Research Centre for Islamic History, art and culture IRCICA, "Historia e shtetit, shoqërisë dhe qytetërimit Osman", Volume I, Tiranë 2009, page 73.

³ Research Centre for Islamic History, art and culture IRCICA, "Historia e shtetit, shoqërisë dhe qytetërimit Osman", Volume I, Tiranë 2009, page 74.

⁴Shyqri Nimani, "Arnavud, Artistër shqiptarë nëPerandorinëOsmane", Pristina 2003, page 28.

⁵Shyqri Nimani, "Arnavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 28.

⁶Shyqri Nimani, "Arnavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 28.

⁷ Taken from A.g.e., Cilt.II s 1587; "Toleranca Osmane që mbrojti identitetin e popullit shqiptar".Osmanli' Dan Arnavutlik' a Tahirihoşgörüyeyazdik. "Nga Perandoria Osmane ne Shqipëri e shkruam historinë me tolerance", Tiranë 2005, page 115.

sultana Gjylbehar, of the Sultan Mehmet II who was Albanian. We could also mention viziers who married with the closest people of the sultans (their daughters or sisters).¹

For example Mustafa Pasha², who got the rank of the second vizier during the time of the sultans Sulejman Javuz Selim Hanit, and the Sultan Sulejman Hanit, he married the sister of the Sultan Sulejman. Dukagjin-zade Mehmet Pasha, a vizier during the time of the Sultan Selim Hanit later on even Sulejman Kanuni, he was the son-in-law of the Sultan Selim Ibrahim Pasha, since he married with the sister of the Sultan Sulejman, Hatice in 1523. Lutfi Pasha married with the sister of the Sultan Sulejman Hanit. Rustem Pasha married with the daughter of the Sultan Sulejman and the sultana Hyrrem, Mihrimaha. Even their daughter married with the prime minister with Albanian origin (Semiz) Ahmed Pasha (who stayed for just one year as a prime minister, 1579-1580). All these personalities were from Albanian territories such as: Ohrid, Arta, Vlora, Berat, Manastiri etc. Out of these important people, three of them were the most prominent ones whose efforts raised Turkey in the military field. But the contribution of the Albanian personalities was seen even in other fields and functions: pashas, reformers, military commanders, governors, economists, poets, linguists, architects, painters, psychologists etc.

In the military field it is important to be mentioned Mehmet Pashë Bushatlliu, who was also the founder of the **Pashalik** of Shkodra. He was given the title of the vizier. He served the empire even as a commander of the Ottoman fleet for the protection of the Greek archipelago with the ships of Ulqin and Tivar.³

Mehmet Aliu of Egypt⁴ and Mustafa Pashë Shkodrani were strong and powerful rulers. Mehmet Aliu leading a paid Albanian army went to Egypt in the 19th century in protection of the ruler of this place. He became the commander of a cantonment due to his great leading skills in the military field. He got the position as the ruler of Egypt, a position which was known by the High Porte as the position of a vice king. He initiated several reforms in the military and economic field (agriculture, trade, fiscal system) which undoubtedly led to an obvious development of Egypt. He also asked the support of French specialists. He paid an annual charge to the central power. His efforts helped Egypt go towards an independent state. He helped the central power by pressing the Greek revolution, with the condition of giving Crete, Morenë and Syria. The last one would be taken by paying a huge amount of money to Russia, according to the Adrianople agreement. The Sultan did not keep his promise, and this obliged him to get into relationship with Mustafa Pasha.⁵ The relationship would have some conditions which were: Mehmet Aliu would help Mustafa Pasha with money, while the last one would provide supply of wood and agricultural products. This agreement was not realized. Among other fleet captains of Albanian origin we could mention: Hamza Bey, Gedik Ahmed Pasha, Kemankesh Kara Mustafa Pasha, Kara Murad Pasha, Zurnazen Mustafa Pasha, Kilavuz/ Kose Ali Pasha, Amcazade/ Sarhosh Husejin Pasha, Nasuh – yade Ali Pasha, Kilari Suleyman Refet Pasha. Among the most important reformers we could mention Koçi Beu from Mborja of Korça. In 1630 he introduced in front of the High Porte the project of reforms for the modernization of the Ottoman State. He was a worker of the Ottoman Empire, and the compiler of two tractates which were presented to Sultan Murat IV and Ibrahim I. He was of the opinion that religion and state could exist only in knowledge (otherwise known as *Ilm*). This *Ilm* was made by the religious officials otherwise known as *ulema*.⁶ In the first tractate there was said: "The Ottoman Empire was falling, the Spahinjë were lacking the desire to take part in wars, land possessions had passed to non-military people, bribery was present everywhere, there was noticed an exaggerated luxury... Many of these examples were taken from the Albanian environment by Koçi Beu in order to prove this situation. The only way to get out of this situation was turning back in time, during the period of the Sultan Sulejman when the system of Timar was blooming; reducing the number of soldiers serving with payment; confiscating the illegal land of religious institutions (otherwise known as *vakëfeve*) and giving it to the Spahinjë; reducing the taxes; assigning skilled people in the administration and army; reinforcing discipline in these fields; banning of bribery in the administration etc." These reforms undertaken by the sultan provided temporary results. While in the second tractate, which was similar to the first one, he appreciated the Albanians, and he suggested the sultan to rely on them. He is often referred to as the founder of historical literature in Turkey, as the "Montesquieu of the Turkish" or as "the Machiavelli of Turkey".⁷ Among the main secretaries of Albanian origin in the Ottoman Empire we could mention: Ekmekçi / zade Ahmet Pasha; Prevezeli / Mustafa Pasha; Zurnazen Mustafa Pasha; Kilavuz / Kose Ali Pasha; Defterdar / zade Mehmet Pasha.

A high number of Albanians became part of the Ottoman parliament created after the proclamation of the constitution by the sultan Abdyl Hamiti. There were selected 35 deputies from the Albanian territories such as: Abdyl Frashëri, Kostandin Kristoforidhi, Mihal Harito, Mehmet Ali Vrioni, Jusuf Podgorica etc. There were treated different problems in the parliament concerning the situation of their regions but also concerning the status of the Empire. The deputy of Janina, Abdyl Frashëri asked for a draft concerning the educational reforms in 1878. He said: "The existence of a people relied on education, on the system of social justice and on the governing through officials. These three things do not exist in our case. In order to make progress in our society, these three duties need to be realized

¹Shyqri Nimani, "Arnavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 25.

² He took part in the battles against Hungary. He was mainly distinguished for his loyalty and accomplishment of duties. In 1521 he was assigned as the vali of Egypt. He returned in Istanbul being awarded the rank of the second vizier. (According to the Encyclopedia of Sami Frashëri "Kâmûs al-a'lâm", Istanbul, 1889.

³Petrika Thëngjilli, "Historia e Perandorisë Osmane", Tiranë 1997, page 167.

⁴ He is thought to be from the field of Korça. His family later on moved to the town of Kavalla. His father used to deal with the trading of tobacco.

⁵ The ruler of Shkodra

⁶ Research Centre for Islamic History, art and culture IRCICA, "Historia e shtetit, shoqërisë dhe qytetërimit Osman", Volume I, Tiranë 2009, page 279.

⁷ "Fjalor Enciklopedik Shqiptar", Volume II, Tiranë 2009, page 1196.

immediately."¹In the parliament there were discussed many drafts concerning the governing of vilayets, municipal organization, administration, press, budget etc. The contribution of Albanian deputies was very important. At a time when the parliament stopped its work, and the parliament was faced with the obscure politics of the sultan Hamit II, all movements (with constitutional character) against him started powerfully. Many educated Albanians were involved in these movements, who believed that the constitutional movements were the only way of making progress. Ibrahim Temo was the Albanian who together with a group of medical school students created a Secret Committee against the despotic regime of the sultan. He had been baptized as the "Ottoman Union" consisting of 25 people. The committee created new cells and its members were known otherwise as the "Young Turks". Many Albanians inside and outside the empire joined this movement, such as: Ismail Qemali, Dervish Hima, Hamdi Ohri etc. The movement of this committee is well known inside and outside the empire, but this is not our objective. What we aim is pointing out the role of Albanians in it and its movement. In the Congress of the Young Turks, Paris 4-9 February 1902, among the delegates there took part the following Albanians: Ibrahim Temo, Ismail Qemali, Dervish Hima, Hamdi Ohri, Jashar Erebara etc."²During his speech Ismail Qemali opposed the program of the Young Turks, which aimed to reinforce the "centralized power" to the detriment of the rights of the other people of the Empire. He supported the idea of a decentralized monarchy which would provide equal rights to all the citizens of the empire in taking part in the local government. He also required the intervention of Europe concerning the control and implementation of the constitution as well as the implementation of the new reforms."²Ismail Qemali thought that the organization of a coup d'etat with the help of European countries could be the way of bringing down the absolute regime of the sultan. He was given the task of dealing with the financial and political aspect of this coup d'etat, but he failed because of the way chosen by him and the attitude held by France and England.

Pashko Vasa (1825-1892), otherwise known as Vaso Pasha in the Ottoman archives, was another important Albanian personality (he was from Shkodra), whose powerful position could be distinguished within this empire. He served the empire with loyalty, holding important positions such as The Governor of Lebanon (1883-1892)³, but inside his spirit he remained Albanian. He used to be one of the most important personalities of the Albanian National Renaissance. He used to be Christian, he worked for an Ottoman state where Islam was the only religion, but he still remained a patriot. His conscience could find peace only through his call: "Albanians...! ... Do not look at churches and mosques, Albanians' religion is Albania."

Albanians in the Ottoman empire used to play important roles not only in politics and army but even in other important fields such as education, science, literature, architecture etc.

It is worth mentioning the great scholar Hasan Tahsin (1811-1881), who was the founder and rector of the Istanbul University.⁴

Sami Frasheri (1850-1904) is also known as the compiler of 6 science volumes of the Turkish Encyclopedia "Kâmûs al-a'lâm", besides his contribution in other important aspects. It is also worth mentioning the founder of the classical ottoman architecture Sinan Atiku, otherwise known as Kristo Dullo from Berat; Shedefqar Mehmet Agai or Bitakçiu from Elbasan⁵. He used to be the architect and builder of the most famous mosque in Istanbul, the Blue Mosque. He was born in Elbasan in 1562. He was taken as *devşirme*, and he used to be the pupil and assistant of Koxha Mimar Sinani. He studied architecture in Istanbul. He took part in the building of the mosque Muradije in Manisa, near Izmir. He became the main architect of the empire, building many palaces and cult objects.

The poets: Mehmet Akif Pejani, Jahja Bej Dukagjini, Prishtinasi Mesih, Sun'ullah Efendi from Skopje were mainly distinguished in poetry and they gave a great contribution in it.

In history in the 20th century, one of the most distinguishing personalities who raised the issues of Turkish history at a worldwide level was Fuat Qyprili⁶. The number of Albanians who greatly contributed in all fields of the Ottoman empire is endless.

One of the most distinguished personalities is also Scanderbeg, or otherwise known as Gjergj Kastrioti in Albanian. He was taken and educated in the school of *iç-ollganëve*, during the time of the sultans Mehmet I and Murat II. He was awarded the title *subash* (governor) of the vilayet of Kruja, due to his skills and services versus the empire. He was also given a feud of his own. After the events having happened in Albania, he sent him to a remote part of the Balkan Peninsula.⁷

However he never forgot his birthplace. He managed to find the right time to abandon his service and turn back as a liberator. The Albanian legendary hero, and the creator of the Albanian union had served with loyalty to the Ottoman empire, until he decided to turn back to his birth place and help Albanians. Among Albanians he was known as "the first among the equals".

¹Petrika Thëngjilli, "Historia e Perandorisë Osmane", Tiranë 1997, page 220.

²Petrika Thëngjilli, "Historia e Perandorisë Osmane", Tiranë 1997, page 224.

³Akademia e Shkencave të Shqipërisë, "Fjalor Enciklopedik Shqiptar", Volume III, Tiranë 2009, page 2857.

⁴Shyqri Nimani, "Arnaut, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 14.

⁵Elbasani-Enciklopedi, "Në Panteon drejt Panteonit", Silver 2000, page 45.

⁶Research Centre for Islamic History, art and culture IRCICA, "Historia e shtetit, shoqërisë dhe qytetërimit Osman", Volume I, Tiranë 2009, page 23.

⁷"Fjalor Enciklopedik Shqiptar", Volume II, Tiranë 2009, page 2350.

Albanians are people who have values, virtues and *Besë* (the oath of honor). They have contributed for other nations, they have sacrificed their lives but they have never forgotten their birthplace. The Ottoman chronicler Hoxha Sadedin expressed: "This people is strange. They are quiet versus the faithful people, only when it comes to justice and faithfulness. But they settle accounts with swords to those who approach with hatred."¹

Bibliography

Akademia e Shkencave të Shqipërisë, "Fjalor Enciklopedik Shqiptar", Volume II, Tiranë 2009.

Akademia e Shkencave të Shqipërisë, "Fjalor Enciklopedik Shqiptar", Volume III, Tiranë 2009.

Elbasani-Enciklopedi, "Në Panteon drejt Panteonit", Silver 2000.

Encyclopedia of Sami Frashëri "Kâmûs-al -a' lâm", Istanbul, 1889.

Mantran, Robert "Historia e Perandorisë Osmane", Dituria 2004.

Nimani, Shyqri "Arnavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003.

Research Centre for Islamic History, art and culture IRCICA, "Historia e shtetit, shoqërisë dhe qytetërimit Osman", Volume I, Tiranë 2009.

Tufan, Muzaffer *Toleranca Osmane që mbrojti identitetin e popullit shqiptar, Osmanli' Dan Arnavutlik' a tahirhoşgörüyleyazdik*. "Nga Perandoria Osmane ne Shqipëri e shkruam historinë me tolerancë", Tiranë 2005.

Thëngjilli, Petrika "Historia e Perandorisë Osmane", Tiranë 1997.

¹Shyqri Nimani, "Arnavud, Artistër shqiptarë në Perandorinë Osmane", Pristina 2003, page 21.

Business Ethics Perceptions in the Czech Republic during Global Economic Crisis

Martina Šípková, Ing. MBA, Ph.D.

KDI School of Public Policy, Sejong, South Korea
Metropolitan University Prague, Czech Republic
University of Economics, Prague, Czech Republic
martina.Sipkova@mup.cz

Tae-Hee, Choi, Ph.D.

KDI School of Public Policy and Management, Sejong, South Korea
tchoi@kdis.ac.kr

Abstract

Based on a questionnaire survey, this study investigates business ethics (BE) in the Czech Republic as perceived by employees of Czech private and public organizations. Four main aspects of Czech BE are covered: 1) the management of BE in Czech organizations, 2) Czech managers' opinion of BE practices in their industries, 3) managers' previous experience of ethical conflicts, and 4) the factors influencing (un)ethical decisions. According to the results, while most organizations are making effort to enhance BE, large companies are more active in promoting BE when compared with small and medium size enterprises. The most common BE tools are corporate philosophy, code of ethics, and contribution to social/cultural activity. Personal code of ethics is the strongest driver of ethical decisions, and financial needs and lack of company policy are the strongest factors in making unethical decisions. Slightly over a half of respondents have some experience with ethical conflicts, majority of which are related to honesty in internal communication, offering bribes, and honesty in executing contracts and agreements. Unethical practices seem widespread, with bribing, unfair competitive and pricing practices, and contract violation perceived as the most serious issues. Our study also tentatively suggests that BE is increasingly beginning to be seen as an issue internal to the organization.

Keywords: business ethics, Czech Republic, transitional economies, managers' perceptions

JEL Classification: F2, M5, Z1

1 Introduction

This paper focuses on the investigation of business ethics (BE) practices in the Czech Republic (CR)¹, which is a middle-size Central European country that belongs among new members of the European Union (EU)². CR is an open economy highly dependent on export, and, due to its geographical position in the center of Europe along with its well-educated workforce, it is a popular site for foreign companies to locate their regional representations in. Thus, despite its relatively small economic size, the country has now become an important business crossroads for many European and global companies.

Since the reinstatement of the market economy in 1989, Czech companies as well as government officials have gradually realized that BE is an important factor influencing the overall quality and international attractiveness of local business environment. The entry in the EU brought the need to harmonize Czech standards and legislature with those of the EU and also highlighted the importance of anti-corruption measures, corporate social responsibility (CSR) and BE. Unfortunately, post-communist countries do not enjoy favourable reputation in relation to local ethical standards, and corruption and BE have become important consideration for foreign companies envisaging to bring their business to Central Europe or the CR. As Čaník and Čaníková (2006) document, among the EU economies, the Czech Republic is generally perceived as less ethical than old-member states (e.g. France, Germany, etc.), but more ethical than other newly accessed countries (e. g. Poland or Hungary).

Combined with increasing international competition, the fact that foreign companies often express their fear of the existence of unethical practices only serves to emphasize that the Czech Republic should be careful not to lose any potential investors or business partners because of their fear of low level of ethical standards. Although some Czech managers still tend to think that, especially in short-term, unethical conduct gives competitors an advantage over other companies (Trnková, 2004), they are becoming increasingly aware that in the long run, ethical attitudes bring companies more benefits than costs. This attitude is becoming more common and the number of initiatives and organization dedicated to BE enhancement has recently been growing.

Inspired by the growing significance of BE in the Czech Republic and lack of up-to-date studies on the subject, this paper investigates BE in the Czech Republic as perceived by managers from private and public organizations located in the CR. This study focuses on managers' perceptions of BE in four main areas: 1) the management of BE in Czech organizations, 2) Czech managers' opinion of BE practices in

their industries, 3) managers' experience of ethical conflicts, and 4) the factors influencing (un)ethical decisions. The research is based on a questionnaire survey conducted on the sample of 60 Czech companies evenly distributed among various industry groups and company sizes.

We find that majority of organizations are aware of BE issues and are making effort to enhance BE, most commonly by the use of corporate philosophy, code of ethics, and contribution to social/cultural activity. Our results suggest prevailing discrepancy between small and medium companies (SMEs) and large companies, which are on average more active in promoting BE than SMEs. In making *ethical* decisions, Czech managers are most strongly influenced by their personal code of behaviour and company policy. Personal financial needs and lack of company policy are viewed as the strongest factors for making *unethical* decisions. Slightly over a half of survey participants have experienced an ethical conflict in their career, most often related to honesty in internal communication, offering bribes, and firings and layoffs. The results further suggest the existence of a gap between theory and practice, as the answers to situational questions reveal that in reality respondents' personal ethical standards are not as influential as they report. Unethical practices seem widespread, with bribing, unfair competitive practices, price discrimination and unfair pricing practices, and breaking or violating contracts seen as the most serious issues. Our study also tentatively suggests changing understanding of BE, which is beginning to be seen as organizations' internal issue.

Our study contributes to the BE field in several respects. Its findings can be used by any organizations, institutions or initiatives having the promotion and enhancement of BE as their goal³. More detailed knowledge of how BE is perceived by local managers is an important factor, which can help them target their effort and increase the effectiveness of their BE related activities. Second, reliable information regarding Czech BE significantly facilitates the entry of foreign companies and investors in local market, as they can get a more accurate perspective of local business environment⁴. This can, in turn, help improve international competitiveness of the Czech Republic through increased trust and improved international reputation. Furthermore, this study also brings valuable information to Czech business managers, because it gives them a chance to verify their own views of Czech BE. In this respect, our study is especially important as Czech managers often report lack of information regarding BE in the CR. Finally, our study can also serve as teaching material for educators, who often rely on materials from other countries, as BE is still a very new subject at Czech universities.

The rest of the paper proceeds as follows. The following section (Section II) briefly discusses the development of the CR since the Velvet Revolution in 1989 until present, and shortly summarizes existing studies related to Czech BE. Section III provides overview of the methodology and sample descriptive statistics. The analysis and the results are provided in Section IV. The paper is concluded in Section V.

II Evolution of BE in CR since in Post-communist Era and Prior Studies

BE in the Czech Republic is a relatively new topic for scholars as well as researchers. Until the Velvet Revolution in 1989, Czechoslovakia⁵ was a communist country with a command economy system, which meant that BE virtually did not exist (for broader discussion on the challenges that Czech modern history and transitional process brought in the field of BE see Bohata, 1997; Cordeiro, 2003; Barclay and Smith, 2003; or Brown et al., 2003). During the transition period following 1989, market system and market principles were gradually re-introduced. The whole process was accompanied by necessary systemic changes, which happened relatively quickly over a short period of time.

Since 1989, the Czech Republic has gone through several stages of BE development. With some delay, the evolution of BE roughly copied the phases of Czech economic transition, and was also strongly influenced by the accession process in the EU. Major attributes of the **first phase** (1989 - mid-1990s) were fast pace of changes, underdeveloped legal system and turbulent business environment. As most business organizations were mainly concerned with economic survival, they displayed very low or no interest in BE.

In mid-1990s, CR entered so-called **know-why** stage (Tmkova, 2004) and BE started receiving more attention. Czech business environment gradually stabilized and reached sufficient level of maturity to create room for businesses to focus on issues not directly related to short-term economic goals. Also alerted by corruption scandals involving important persons of public life, companies began to realize the importance of ethical standards and trustworthy behaviour in business relationships. However, due to the lack of deeper and systematic understanding of BE (as well as CSR), local firms still needed to learn to understand the benefits of ethical conduct and find motivation for its systematic development. It is at this stage that the first studies trying to map corruption and BE situation in the CR appeared. Among the most important authors, we can mention Bohata (1997), Putnova (1999, 2000, 2001, 2007), and Nemcova (2001). The effort of scholars was also accompanied by the attempts of international organizations such as Transparency International (TI) to map local situation concerning CSR and BE (e. g. Průzkum aplikace etických kodexů, TI, 2006). As BE was reintroduced as a subject to schools, more theoretically oriented literature as well as specialized studies appeared (Friedel, 2003; Cooper and Dofman, 2003).

At the beginning of the new millennium, the country reached current, **know-how** stage. By now, most Czech organization have accepted the need to institutionalize BE and incorporate BE and CSR activities in their strategy, however, as Travnickova (2005) suggests, there is still serious lack of knowledge of specific tools and procedures. According to Čaník and Čaníková (2006), Czech managers believe that there is still not enough information or literature on BE and BE issues are seriously neglected by media and the press. Managers would especially welcome more specific information concerning the implementation of various BE instruments, more positive examples, or

databases containing the experience and best practices of other companies. BE and CRS studies conducted in the CR (Trnkova, 2004) also suggest that companies with foreign participation or local branches of multi-national companies display higher awareness and more sophisticated approach in relation to BE⁶, a trend, which has also been observed among large companies. Previous studies also suggest existing BE gap between Czech SMEs and large companies. While majority of large companies started developing and implementing specific BE instruments (know-how stage), most SMEs are still in the phase of know-why. Nevertheless, despite reported lower awareness and knowledge of BE or CSR concepts among small companies (Trnkova, 2004; Čaník and Čaníková, 2006; Travníková, 2005), many SMEs actually successfully practice BE or CSR principles intuitively.

Previous studies have also provided some information regarding some BE perceptions prevailing in Czech business sector. It is alarming that a large number of managers does not see ethical behaviour as beneficial for the company (e. g. Travníková, 2005) and that a certain level of unethical (rather than ethical!) conduct is considered to be the standard. Furthermore, especially in the short-run, unethical conduct is often seen as a competitive advantage. Another largely held opinion is that companies can start paying more attention to BE issues only after they have reached economic stability, or that more sophisticated approach to BE and CSR topics is only needed in large companies (Čaník and Čaníková, 2006)⁷. Travníková (2005) also reports the existence of a large discrepancy between private and public sector, the latter being regarded as more unethical. Despite that, CSR or BE studies cited here also suggest that BE is growing in importance, BE practices are growing in sophistication and overall business environment seems to be becoming more ethical.

Existing studies also suggest another important feature of Czech business environment is the application of so-called double standards (Travníková, 2005; Čaník and Čaníková, 2006). Czech managers tend to distinguish two types of unethical behaviour – unethical practices which directly harm their own organization and should be severely punished (“bad ones”), and unethical practices benefiting their own organization (“good ones”). The latter are regarded as overall less harmful, not necessarily requiring punishment. Furthermore, if unethical behaviour in an organization is discovered, it is usually seen as a problem of character or individuals, rather than a problem of the whole organization. Consequently, in many cases Czech managers refuse their organization’s responsibility for unethical conduct displayed by their employees (Čaník and Čaníková, 2006).

Finally, generally high level of scepticism regarding government intervention or any institutions promoting BE should also be mentioned. Implied by the experience from the previous regime, Czech managers regard these activities as inherently ineffective (Travníková, 2005). This attitude is also related to the widely held opinion that if exemplary ethical behaviour and CSR activities of companies are publicly announced or discussed, in the eyes of the public such activities are reduced to PR instruments through which the organization is trying to boost its economic performance.

III Methodology, Data and Sample Description

This study is based on a fully anonymous questionnaire survey using a modified version of a questionnaire employed by Choi, Nakano (2008)⁸. The modifications include the change of monetary unit for CZK (Czech Crown) and adjustment of the financial amounts to better reflect purchase power in the CR. Companies participating in the survey were identified by snowballing and the questionnaire was self-administered and submitted to the researchers via e-mail. Data was collected in August 2010.

Descriptive statistics of the sample are provided in Table 1. Respondents’ organizations cover various industries, levels of management, and company sizes. Company size classification is based on the classification used in the EU⁹. As the table documents, 38% of the sample are large size enterprises¹⁰. Where company size may bear significant influence on the interpretation of the results, a separate analysis is provided for SMEs and large companies. As the sample mainly consists of non-manufacturing industry organizations (86%), the conclusions from this survey should be interpreted with caution and extended to manufacturing companies only with great care.

In relation to the sample description, it is also interesting to mention a high proportion of respondents without religion. It has been previously noted as a sociological phenomenon that the Czech Republic is the most secular country in Europe, even when compared with other culturally close Central European¹¹ or ex-communist countries. This fact bears importance on the survey, as the values of non-religious respondents are unlikely to be strongly influenced by any belief or religion¹².

IV Results

This section reports major findings of the study. Based on different aspects of BE investigated in our survey, we divide the results into six groups: those concerning unethical industry practices, management of ethical values in respondents’ organizations, responsibility to various social groups and respondents’ experience of ethical conflicts, factors influencing (un)ethical decision making, comparison of current ethical standards with the situation ten years before, and the results related to hypothetical situations. More detailed information follows.

IV. 1 Unethical Practices in Respondent’s Industry

We first focus on respondents’ opinions of general BE practices in their industry. Table 2 documents unethical practices are still widespread, as 78% of respondents report the existence of unethical practices in their industries and only 15% think there are none. On checking for company size, we found that SMEs report the existence of unethical practices more often (84% of SMEs respondents answer

"Yes, a few" or "Yes, many") than large companies (68% for both answers combined). The explanation may be that SMEs are more open to the external environment, making all of their employees more likely to be exposed to the situations where they can encounter or observe the existence of unethical practices. More detailed analysis also reveals that the tendency to report the existence of unethical practices does not appear to be related to the management position, as the results are very consistent for all managerial groups.

Table 3 reports that among existing unethical practices, respondents would most wish to eliminate "Giving of gifts, gratuities, and bribes", "Price discrimination and unfair pricing", "Dishonesty in making or keeping a contract", and "Miscellaneous unfair competitive practices". The list is topped by unethical practices directly related to business relationships with business partners and business contracts while practices related to respondents' organizations' internal issues (e. g. unfairness to employees or dishonest advertising) are considered as less important. This complies with the notion reported in prior studies that Czech managers mostly see BE issues as those arising from direct contact and everyday dealings with their business partners, neglecting other dimensions of BE. In situations where large companies can exercise stronger power implied by their economic size, SMEs and large companies' responses differ. For example, "Miscellaneous unfair competitive practices" are viewed as a more serious problem by the respondents from SMEs (47%), rather than large companies (33%). Similarly, "Price discrimination and unfair pricing" is also reported more often by SMEs respondents (50% vs. 40% for large companies).

IV. 2 Management of Ethical Values in Respondents' Organizations

With regards to the effort respondent's organization is making to enhance ethical values (Table 4), it is alarming to see that one fourth of respondents said their company is not making any effort at all and another 14% answered "Yes, but very little" (when combined, 38% of the answers). In contrast, only 14% think their organization is making effort to promote ethical values "eagerly".

As for the differences between SMEs and large companies, as expected, big companies' approach appears more active. According to the results, 77% of respondents from large companies answered 'Yes, eagerly' or "Yes, to some extent", while in SMEs the combined percentage is only 51%. The explanation behind this results seems to be the generally held opinion that SMEs have "other things to worry about" than BE or CSR issues (Travnickova, 2005; Čanik and Čaniková, 2006). Furthermore, large companies are often linked to foreign (Western) companies or investors who bring more sophisticated attitudes to BE from their own country. However, it is also important to point out that in many cases, small companies practice BE attitudes intuitively without institutionalizing them, and the effort on the part of such companies may not be recognized as the effort towards BE enhancement (Čanik and Čaniková, 2006).

The analysis also focused whether the way the respondents assess organization's BE effort is related to managerial position. When the answers "Yes, eagerly" and "Yes, to some extent" were added up, no significant differences were found for the groups of middle management (upper or lower) and non-management personnel. However, it was interesting to see that the responses of the group of top managers differ. Contrastingly to the rest of the sample, top managers tend to view their organizations effort as insufficient. Only 46% of them have answered "Yes, eagerly" or "Yes, to some extent", while 31% of top-management think the effort made is 'very little'. This may be caused by the fact that top managers are likely to be better informed of BE or CSR instruments and are in better position to see their organization's activities in larger context. Being aware of all possible ways to enhance BE, top managers may qualify the organization's effort as insufficient although from the viewpoint of lower managerial level the effort may seem enough. The answer may also reflect the fact that top managers are the main decision makers, who, fully aware of BE and CSR importance, may feel frustrated by insufficient resources they have at the disposal for BE and CSR enhancement¹³. This would be supported by the results of previous studies documenting that a number of managers show active interest in BE and CSR, but state they currently lack the resources for the development of BE and CSR in their organization (Čanik and Čaniková, 2006).

As far as the instruments used to enhance BE are concerned (Table 5 Panel A), overwhelming majority of companies rely on *corporate philosophy including ethics* (86% of respondents who answered the question), followed by the use of the *code of ethics* as distant second (46%), *contribution to social/cultural activity* (43%), *punishment for unethical conduct* (34%), and *employee training in ethics* (27%). According Table 5 Panel B, on average, companies use three different business ethics enhancement instruments. Differences between SMEs and large companies are also confirmed again. While the average number of different ethical instruments used by large companies is 3.9, for small companies it is only 2.4. It is also noteworthy that only 6% of big companies reported the use of *social auditing*, which is in contrast with the finding of Čanik and Čaniková (2006), who report that social auditing along with the use of code of ethics are BE tools receiving most attention.

On sorting the answers according to the management position for SMEs and large companies separately, interesting results were obtained (Table 5 Panel B). While for large companies the average number of ethical enhancement tools reported by the respondents decreases with the managerial level (with the exception of "other"), for SMEs the same number increases with management level (with the exception of "other"). This discrepancy points at the fact that lower level employees may be less accurately informed of BE tools in use by their company or the possibility of insufficient BE trainings. However, a large sample size and deeper analysis is needed to shed more light on this issue.

IV. 3 Responsibility to Various Social Groups and Respondents' Experience of Ethical Conflicts

Among various social groups, respondents think company is most responsible to *customers*, followed by *employees* as distant second, and *stockholders, suppliers and society in general* (Table 6). It is not surprising to see that respondents do not feel strongly responsible to government, which can be explained by a high level of scepticism of population towards institutions or public sector as reported in the CR (Travnickova, 2005). We contend that the lower level of responsibility to local community may be implied by communist history.

Slightly more than a half of respondents have experienced ethical conflicts in their career (Table 7), with some difference between SMEs and large companies – while 43% of respondents from large companies have experienced ethical conflict, in SMEs it was over 55%. Respondents have most commonly experienced conflicts related to “*honestly in internal communication*”, “*gifts, entertainment, and kickbacks*”, and “*firings and layoffs*” along with “*honestly in executing contracts and agreements*”, closely followed by “*fairness and discrimination*” and “*honesty in external communication*” (Table 8). Ethical conflicts respondents have experienced usually involve suppliers, employees, customers, colleagues, and competitors (Table 9). The finding that the most common type of ethical conflict is honesty in internal communication and the finding that employees and colleagues belong among the four most common social groups involved in the ethical conflicts respondents have experienced suggest that the perceptions of BE in the CR are changing and BE is beginning to be understood as an internal issue.

Respondents were further asked whether they reported the unethical practices they have experienced and if not, why. According to Table 10, in 74% of cases unethical practices went unreported. While 24% of managers gave as a reason that “*even if reported, it would be difficult to correct the unethical practice*”, 21% stated “*it was difficult to decide whether the practices were ethical or not*” (Table 11). As for the large amount of answers in the category of “*other*” (reasons), majority of them fell in two groups. The first can be summarized as saying they have never experienced an ethical conflict, so there was no reason to report it. The second one is related to managerial positions – top-management respondents said they had no superior to report to or had sufficient authority to solve the situation without superior’s intervention.

IV. 4 Factors Influencing (Un)ethical Decision Making

The survey also examined the factors influencing (un)ethical decision making. In making **ethical** decisions (Table 12), “*One’s personal code of behaviour*” was reported as the strongest factor, followed by “*company policy*”, “*the behaviour of one’s superiors*”, and “*the behaviour of one’s equals in the company*”. “*Ethical climate of the industry*” was considered as the least influential factor. These findings are in contradiction to previous studies repeatedly suggesting important role (or even key role) of leadership by example in Czech organizations (e. g. Travnickova, 2005). To understand this discrepancy better, we tried to see whether the company size or managerial position had any influence on the distribution of the answers. When the responses were arranged according to the management position, mixed results were obtained. Despite that, it was possible to observe increasing importance of ethical climate of the industry with increasing position in the company hierarchy. One possible explanation might be that the more responsibility managers have, the more external factors they need to consider in making their decisions, including overall ethical climate of the industry.

As for the issue raised earlier (weak influence of the behaviour of superiors or colleagues), we can only note that the importance of superiors for respondents in making ethical choices rose with decreasing management level (untabulated)¹⁴. This may be explained by the fact that with lower position, an employee has less power and authority and thus may tend to turn to superiors as opinion leaders more often.

In addition, two interesting findings should be mentioned. First, the results suggest that ethical climate of the industry plays more important role in ethical decision-making of SMEs (median rank 4.0) than in big companies (4.5)¹⁵. The reason may be that small companies are more open and more exposed to the outside environment and thus need to consider its current state more carefully than big companies. The second interesting finding is that in big companies, respondents reported stronger reliance on one’s personal code of behaviour than in SMEs. It is left to future research to provide more insight into this finding.

As for making **unethical** decisions, personal financial needs were reported as the most significant factor, followed by company policy or lack thereof, and the behaviour of one’s superiors (Table 13). Financial needs reported as the main reason for unethical conduct are well in line with previous literature documenting the tendency of the Czech to see unethical conduct more as a problem of individuals, rather than companies (e. g. Putnova, 2000; Čaník and Čaníková, 2006). The lack of company policy as an important unethical conduct factor may be related to the legislature and general policy vacuum (in public as well as private sector) that existed in Czech economy during the transformation process and the fact that BE and CSR concepts are still new for Czech businessmen. Although social demand for more clear guidelines existed, they were not provided or systematically executed, so this answer may also show lingering frustration of the inexistence of clear ethical rules to follow. Similarly to the previous question, the behaviour of colleagues or superiors does not belong among the most influential factors, although its importance increases with decreasing management level.

IV. 5 Hypothetical Situations

Finally, the respondents were presented with four types of hypothetical situations. In each case, they were asked what they would do in a given situational context and what they think an average businessman/executive (AE) would do. The responses are summarized in Table 14.

Situation 1

In Situation 1 **respondents** were asked what **they** thought about an executive padding his expense account. As the table documents, 68% of respondents think this behaviour is “*unacceptable regardless of circumstances*”. In contrast, 27% of respondents think it is “*acceptable, if the executive’s superior knows about it and says nothing*”. These answers indicate the respondents are willing to follow the attitude displayed by the superior’s behaviour. This corresponds to the findings concerning the factors influencing (un)ethical behaviour, where superiors were not considered the major factor, and at the same time were reported to be more influential factor than the behaviour of one’s colleagues (the option “*acceptable, if other executives in the company do the same thing*” was only chosen by 5% of respondents).

The answers regarding what an **average manager** would think differed. Most respondents said that an average manager would think the behaviour is “*acceptable, if the executive’s superior knows about it and says nothing*” (40%), followed by “*acceptable, if other executives in the company do the same thing*” (32%) and then “*unacceptable, regardless of circumstances*” (28%). This shows that Czech managers tend to regard themselves more ethical than the average. The findings related to Situation 1 also finally shed some light on the discrepancy identified in Table 12. Corroborating the findings from Table 12, the answers to Situation 1 suggest that the notion that “*leadership by example*” works and that it is a very significant factor influencing the conduct of Czech managers, is the respondents’ opinion of the common situation in the industry (average manager). However, when managers are asked to provide answers concerning their own behaviour and motivation, their responses reveal that this factor is significantly weakened and that their own behaviour is more strongly influenced by personal code of ethics or company policy (Table 14). Alternative explanation is that the answers may also be influenced by social desirability.

Situation 2

Situation 2 concerns managers’ willingness to hire an employee to obtain technological secret which would improve the position of their organization vis-a-vis major competitors in the same industry. As Table 14 shows, while 80% of respondents would probably hire the employee, 20% probably would not. As for the opinions of an average manager, the ratio is as high as 97% of opinions stating that average manager would do so and mere 3% stating he probably would not hire the employee. These findings confirm that respondents view themselves more ethical than the average, or, alternatively, they view the average less ethical than themselves. These findings may also partially reflect the “*double standards*” repeatedly reported by prior studies (Travnickova, 2005; Čaník and Čaniková, 2006) referring to the fact that Czech managers tend to make distinction between unethical behaviour that brings benefits to their organization (“*good unethical conduct*”; often belittled in importance and not requiring strong punishment) and unethical behaviour that directly harms it (“*bad unethical behaviour*”; should be punished and persecuted).

Situation 3

In Situation 3, respondents were asked what they would do if the minister of a foreign nation offered them help in obtaining a contract in exchange for a ‘special consulting fee’. When answering for themselves, 38% of respondents said they would “*refuse to pay, even if sale is lost*”, while more than a half said they would “*pay the fee, feeling it was unethical but necessary to help insure the sale*” and 9% would “*pay the fee, feeling it was ethical in the moral climate of the foreign nation*”.

These answers reveal that this kind of situation would expose 54% of respondents to an ethical dilemma, which they would finally solve by suppressing their personal ethics in favour of the interests of their organization. This is contradictory to the answers in Tables 12 and Table 13 where ethical climate of the industry was regarded among the least influential factors in respondents making (un)ethical decisions.

When talking about an average executive (AE), strikingly few (5%) respondents stated that AE would “*refuse to pay, even if sale is lost*” (For comparison, when talking about themselves, 38% of respondents said they would do so). Another 61% think that AE would “*pay the fee, feeling it was unethical but necessary to help insure the sale*” and the remaining 33% said he would “*pay the fee, feeling it was ethical in the moral climate of the foreign nation*”. These results again suggest respondents view themselves as more ethical than they view average managers.

Situation 4

Finally, in Situation 4 respondents were asked what they would do if they were a sales manager and found out that their salespeople are giving money to purchasing agents to obtain more sales. While 15% of respondents reported they would “*issue an order stopping future payments and reduce salespeople’s pay in the amount equal to their commissions on the sales gained as a result of future payments*”, 59% would “*issue an order stopping future payments, but do not reduce sales people’s pay*”, and 25% would “*say and do nothing*”. These responses suggest that unethical behaviour favouring the respondents’ organization would be largely tolerated, in the sense that even if managers tried to stop it, they would not punish it (59%), or no attempt to correct this unethical practice would be made (25%). Again, we can see the manifestation of “*double standards*” as mentioned above.

When asked about an average sales manager, 70% of respondents think average sales manager would “say and do nothing”, 23% that he would “issue an order stopping future payments, but do not reduce sales people’s pay”, and only 7% are of the opinion he would “issue an order stopping future payments and reduce salespeople’s pay in the amount equal to their commissions on the sales gained as a result of future payments”. These answers again confirm the general scepticism of average managers and better view respondents hold of themselves when compared with an average manager. The gap is especially obvious when respondents talk about saying and doing nothing – while 25% of respondents ticked this answer when talking about themselves, 70% of respondents think this is what an average manager would do.

To summarize, the situational questions reveal a difference between theoretically stated ethical principles and preferences as summarized in the previous parts of this section, and behaviour when faced with real situation. This points towards the need for more practically oriented trainings, rather than theoretical explanations or materials, which may be understood as moralizing. Furthermore, the answers to hypothetical situation demonstrate different perceptions of one’s own ethical standards and those of average managers, who are viewed as much less ethical.

V Conclusion

Through a questionnaire survey, this study investigated the views of BE held by Czech managers and non-managerial personnel of private and public organizations in the CR. Four BE areas, namely, the management of BE within the respondents organizations, respondents opinions of BE practices in their industries, their experience of ethical conflicts, and the factors influencing un(ethical) decisions were examined. In addition, survey participants were also presented with four different hypothetical situations, and they were asked what they would do and what an average manager/executive would do in such situations.

The results show that 61% of organizations are making more than “very little” effort to build ethical values in their organizations. The most common ethical enhancement instruments are corporate philosophy, code of ethics, contribution to social/cultural activity, and punishment for unethical conduct. When compared with SMEs, large companies make more active effort and on average use a larger variety of different BE instruments than SMEs. Managers feel most responsible to customers, employees and stockholders, while the responsibility towards government or society is rather weak.

Unethical practices are seen to be widespread - 78% of respondent report the existence of unethical practices in their industries. Bribing, unfair competitive practices, breaking or violating contracts and unfair pricing practices are perceived as the most serious issues. Slightly over a half of survey participants have experienced an ethical conflict in their career, most often related to honesty in internal communication, offering bribes, and firings and layoffs. The fact that honesty in internal communication is the most often cited cause of ethical conflicts may suggest changing understanding of BE, which is beginning to be seen as an internal issue. However, more studies are needed to verify this notion.

While one’s personal code of behaviour followed by company policy were reported as the most influential factors in making ethical decisions, personal financial needs and lack of company policy are viewed as the strongest factors for unethical decisions. In both cases, ethical climate of the industry was perceived as a relatively weak factor; however, the answers to other questions reveal a discrepancy between theory and practice and indicate that respondents own ethical standards are not in reality as influential as respondents would wish. Our findings also indicate that respondents’ answers are biased by social desirability.

Providing more detailed view, situational questions largely support the above findings. However, as mentioned above, they also reveal a difference between theoretical answers and respondents’ behaviour when facing real situations.

The results of our study should be interpreted with caution. First, we acknowledge the limits of our study caused by the fact that the group of manufacturing industry and the group of large companies are slightly underrepresented, and the sample is relatively small. Despite that, we think that the findings point at some important trends and have enough validity to be taken into account. Furthermore, as repeatedly pointed out in the paper, respondents’ answers may be influenced by various sorts of bias. In particular, social desirability seems to play a role, and it was also possible to observe that with increasing management position respondents were more reluctant to provide any answer which might make them appear as unethical. Moreover, when reading the results it is important bear in mind that generational difference plays a more important role in Czech as well as other ex-communist countries than the rest of Europe. It is so because the respondents from the age group of 40 and higher have spent most of their lifetime under a non-democratic regime suppressing their opinion, but at the same time simplifying many decisions due to the limited freedom of choice. As with any other surveys, we must not forget that self-selection also plays a role in our survey. It is likely that organization that do not consider BE issues important will be less willing to return a completed survey. The results will be thus more optimistically biased in the sense that they come from organizations (individuals) with at least certain amount of awareness of BE. Finally, it is also possible that answers to some questions are biased by the prevailing impact of the recent economic crisis, as sluggish or declining economy tends to worsen the view of business environment.

Our study contributes to our understanding of BE in the CR in several respects. To our knowledge, this is the first study of BE in the Czech Republic of this extent that has been conducted since the economic crisis that hit the world economy in 2008, and as such, it can provide interesting insights in BE perceptions in the post-crisis environment. Furthermore, majority of previous comprehensive BE studies in the CR are rather old, as the most recent one we have been able to find dates to 2006, which is a long time in the fast changing business environment of transitional economies. Another point is that unlike many previous studies, which either focus on in-depth investigation of

one single BE instrument (Transparency International, 2006) or broadly cover CSR issues and consider BE just a part of them, our study is monothematic in the sense that it solely focuses on BE. Last but not least, our sample composition to large extent reflects opinions of SMEs, which are often neglected by other researches, as SMEs are likely to employ less sophisticated BE policies and instruments. We believe that our findings can be beneficial for any organizations focused on BE promotion or BE training. The findings of our study provide useful insights of how BE was perceived in 2010 and as such they can help these institutions better target their efforts. Our results can be also used for educational purposes. BE studies are still a new subject at Czech universities and teachers still largely use teaching materials originated in other countries. Last but not least, our study can also provide more accurate information on Czech business environment to businessmen, often relying on their own experience when assessing business practices in their field (country), or any other economic subjects interested in cooperation with Czech companies.

References:

- Barclay, J., & Smith, K. (2003). Business ethics and the transitional economy: A tale of two modernities. *Journal of Business Ethics*, Vol. 47, n. 4, 315–325.
- Bohatá, M. (1997). Business Ethics in Central and Eastern Europe with Special Focus on the Czech Republic. *Journal of Business Ethics*, Vol. 16, n. 14, 1571–1577.
- Brown W.S., McCabe D., & Primeaux, P. (2003). Business Ethics in Transitional Economies: Introduction. *Journal of Business Ethics*, Vol. 47, n. 4, 295–297.
- Choi, T., & Nakano, C. (2008). The Evolution of Business Ethics in Japan and Korea over the Last Decade. *Human System Management*, 1-17.
- Cordeiro, W., P. (2003). Should Business Ethics Be Different in Transitional Economies? *Journal of Business Ethics*, Vol. 47, n. 4, 327-334.
- Czech Statistical Office. <http://www.czso.cz/>
- Čaník, P. & Čaníková, P. (2006). Aplikace metod a nástrojů podnikatelské etiky v českém podnikatelském prostředí. Transparency International - Česká republika, o.p.s.
- Cooper R.W., & Dorfman M.S. (2003) Business and Professional Ethics in Transitional Economies and Beyond: Considerations for the Insurance Industries of Poland, the Czech Republic and Hungary. *Journal of Business Ethics*, Vol. 47, n. 4, 381-392(12).
- Friedel, L. (2003). Etika v podnikání - Databáze nejlepších praktik. Rotary Club Ostrava, Ostrava.
- Němcová, L. (2001). Problems of Business Ethics in Czech Cooperatives in the Transformation Period. *Etika v podnikání*, International Scientific Conference, Gevle.
- Putnová, A., et al. (1999). Dílčí závěrečná zpráva GAČR: Etika jako faktor úspěšného začlenění ČR do evropských struktur. GAČR - 1084, 1999.
- Putnová, A. (2000). Business Ethics as seen by Managers - ten Years after the Fall of Communism. Case Study from the Czech Republic. The Second World Congress of Business Ethics, ISBE, Sao Paulo, Brasil.
- Putnová, A. (2001). Teaching business ethics at the Economic Faculties (Case study of the Faculty of Business and Management in Brno). International Scientific Conference Tvůrčí odkaz Tomáše Bati a současné podnikatelské metody, Referate in Section 3 (Lidé, znalosti a etika v podnikání), Univerzita Tomáše Bati ve Zlíně, Zlín.
- Putnová, A. (2007). Is Business Ethics a Neuralgic Point of Czech Companies? *Electronic Journal of Business Ethics and Organization Studies*, Vol. 12, n. 2.
- Trávníčková, K. (2005). Výzkum etiky podnikatelského prostředí v České republice – závěrečná zpráva z výzkumu. GfK, Prague.
- Transparency International (2006). Průzkum aplikace etických kodexů, Transparency International - Česká republika.
- Trnková, J. (2004). Společenská odpovědnost firem - kompletní průvodce tématem & závěry z průzkumu v ČR. Business Leaders Forum, Prague.
- Vaskova, R (2005). Autonomy at Work among Self-employed People. <http://www.eurofound.europa.eu/ewco/2005/12/CZ0512NU03.htm>

Footnotes:

- ¹ Czech population in March, 2010 was about 10,500,000 inhabitants; 2009 GDP per capita 18,971 PPS (Purchase Power Standard). Czech Statistical Office, <http://www.czso.cz/>.
- ² Czech Republic has been EU member since May, 2004.
- ³ Transparency International CR, Business Leaders forum CR, AISIS, VIA Foundation, CG Partners, SCR Consults, Ethical Forum of the CR, etc. can serve as the examples of such organizations.
- ⁴ The uncertainty implied by insufficient knowledge of local business practices, and among them especially those related to ethical issues or legal aspects of doing business, is an important factor for companies in their decision about the location of their investment.
- ⁵ In 1993 former Czechoslovakia peacefully split up into two sovereign countries – the Czech Republic and the Slovak Republic.

⁶ However, Czech economic agents realize it does not necessarily mean a higher **level** of BE on the side of foreign companies. In fact, certain amount of Czech managers are of the opinion that while foreign companies have devised more sophisticated ways to enhance BE or CSR, they have at the same time become very apt at finding ways how to avoid acting in accordance with them. BE or CRS instruments thus in many case become mere PR tools, rather than efficient ways of increasing overall level of BE and CRS (Travnickova, 2005).

⁷ Čanik and Čaniková (2006) also find that a significant portion of SMEs managers believes ethical practices can be developed through personal communication and shared company culture, with written rules or ethical code considered unnecessary.

⁸ This study is part of a series of studies conducted worldwide (e. g. Korea, Japan, China, Bhutan, USA) based on the same survey instrument.

⁹ Recommendation 2003/361/EC regarding the SMEs definition, <http://ec.europa.eu/enterprise/policies/sme/>

¹⁰ Based on the portion of Czech GDP originated in SMEs and large companies, large companies (38% of the sample) are slightly underrepresented (about 40% of Czech GDP is originated in large companies), data for 2010, taken from the official website of the Czech Statistical Office (<http://www.czso.cz/>).

¹¹ The country culturally closest to CR is the Slovak Republic. Nevertheless, even in Slovakia the proportion of religious population (84% of population in 2001) is much higher than in the CR (31% in 2001). Both numbers are taken from the official website of the Czech Statistical Office (<http://www.czso.cz/>).

¹² This fact is relevant in relation to the answers provided in Tables 12 and 13 (survey participants' responses regarding the factors influencing their (un)ethical decisions).

¹³ As the proportion of respondents at the top-management level is lower for large companies than for SMEs (See Table 1 B), we also conducted the analysis of responses according to the management level for SMEs and large companies separately. The above findings have been confirmed. Not tabulated.

¹⁴ The answer to the question raised here is further discussed in relation to the results reported in Table 14 of this paper.

¹⁵ Untabulated.

Tables:

Table 1 (Panel A): Descriptive Statistics of respondents

Descriptive Statistics		
1. Age		<i>N=60</i>
	29 or under	10%
	30-39	42%
	40-49	20%
	50 or over	27%
2. Education		
	High school graduate or less	12%
	Bachelor' degree or vocational school	13%
	Graduate school	75%
3. Management position		
	Top management (president, chairman of board, executive director and board member)	22%
	Upper middle management (functional department head, assistant director of department and deputy)	32%
	Lower middle management (functional unit head)	32%
	Other (non-management personnel, assistant manager, supervisor and government officer)	15%
4. Industry		
	Manufacturing	14%
	Non-manufacturing (mining, construction, transportation, and other service industries)	86%
5. Company size: number of employees [*]		
	1-49 (Small enterprises)	38%
	50-249 (Medium size enterprises)	25%
	250 or more (Large enterprises)	37%

^{*}Company size classification is based on Recommendation 2003/361/EC regarding the SMEs definition commonly used within the EU (<http://ec.europa.eu/enterprise/policies/sme/>).

Panel B: Number of respondents by management position (SMEs vs. Large Companies)

Company Size	Top (%)	Upper – middle (%)	Lower – middle (%)	Other (%)
SMEs	76.9	73.7	52.6	44.4
Large	23.1	26.3	47.4	55.6

N=60.

Legal elaboration, principles and the process of Integrated Border Management. Observation of the legal framework of Kosovo

Armend Podvorica, M.Sc., PhD Cand.

Lecturer at the University of Prizren "Ukshin Hoti"

Lecturer at the University of Prishtina "Hasan Prishtina" branch Ferizaj

Trainer at the Kosovo Institute of Public Administration

Pristina, Kosovo

Contact: +377 (0) 44163311, email: armendi_537@hotmail.com

Abstract

The aim of this piece of work is to examine the legal aspect and explain the process of Integrated Border Management as one of the essential criteria of the European Union in the process of visa liberalization dialogue and other integration processes in Europe. Integrated Border Management is a very complex process and this complexity involves: the increased number of immigrants; combat and prevention of terrorist acts in the continent, narcotics smuggling, human trafficking, acts of criminal groups in the form of organized crime, etc. Integrated Border Management in the Republic of Kosovo faces some difficulties making this process complicated in relation to other countries in the region, such as: unwillingness of the Republic of Serbia to establish interstate relations based on good neighborly relations, failure to exert full power in the northern part of the country, failure to define the green line and border demarcation with all its neighbors, etc. In view of this, the topic of this piece of work is to look into the legal and institutional mechanisms which are linked to the process of Integrated Border Management. This paper also strives to carry out a formal analysis of the Integrated Border Management process in order to draw conclusions and recommendations, which will facilitate the implementation of this process in the future. The key issues to be addressed in this paper are: the international legal framework which addresses and regulates the border crossing, the national legal basis for the management of state borders, primary and secondary legislation of Kosovo, the institutions and their responsibilities in this process.

Keywords: Legal elaboration, Integrated Border Management, legal framework of Kosovo

Introduction

The aim of this piece of work is to examine the legal aspect and explain the process of Integrated Border Management as one of the essential criteria¹ of the European Union in the process of visa liberalization dialogue² and other integration processes in Europe, which appears to be a topic of interest and significance for both, researchers on this issue and those who exercise this profession in practice. Parallel to its information aspect, this piece of work strives to contribute to the practical aspect as well. Considering that Kosovo is in the process of implementing the Integrated Border Management with its neighboring countries, as one of the criteria for integration and membership in the European Union.

The Integrated Border Management is a very complex process and this complexity involves: the increased number of immigrants³; combat and prevention of terrorist acts in the continent, narcotics smuggling⁴, human trafficking, acts of criminal groups in the form of organized crime⁵, regional cooperation of criminal groups and the use of technology in committing criminal acts, etc. Therefore, being part of the European continent, the Republic of Kosovo is also affected by these phenomena. Integrated Border Management in the Republic of Kosovo faces some difficulties which make this process complicated compared to other countries in the region, such as: unwillingness of the Republic of Serbia to establish interstate relations based on good neighborly relations, failure to exert full power in the northern part of

¹European Union Progress Report I year 2010 - 2011

²Visa liberalization means free movement within the Schengen area. Liberalization allows for visa free travel only for 90 days (every six months), for free travel and cannot be used for work or for other benefits.

³With the term emigrant we mean a person who goes to another country in search for better economic, professional, religious, etc., possibilities, respectively he emigrates from an old country and immigrates into a new country, for more see Joshua S. Goldstein, International Relations, printing house Dituria, pg. 523.

⁴With smuggling narcotics we mean an unlawful form of production and circulation, in mediating in unlawful trade of narcotics, in purchasing narcotics in an unlawful manner and in transportation of narcotics in an illegal way, for more see Latifi V. Criminology, Prishtina, 2011, pg.295.

⁵With organized crime we mean whoever willfully or knowingly, be it the aim and the overall activity of the organized criminal group or group or the intention of the group to commit one or more criminal offenses which are punishable with imprisonment of at least four (4) years, actively takes part in the criminal activities of the group knowing that such participation will contribute to the realization of the criminal activities of the group, is sentenced with a fine up to two hundred e fifty thousand (250.000) Euro, and imprisonment of up to seven (7) years, Criminal Code of Kosovo, Article 283, Nr. 04/L-82, 20 April 2012

the country, failure to define the green line and demarcation¹ of the border² with all its neighbors, etc. In view of this, the topic of this piece of work is to look into the legal and institutional mechanisms which are linked to the process of Integrated Border Management. This paper also strives to carry out a formal analysis of the Integrated Border Management process in order to draw conclusions and recommendations, which will facilitate the implementation of this process in the future.

The key issues to be addressed in this paper are: the international legal framework which addresses and regulates the border crossing, the national legal basis for the management of state borders, primary and secondary legislation of Kosovo, the institutions and their responsibilities in this process.

International Legal Basis for the controlled border management

The Integrated Border Management is not purely a national issue but a process which implicates two or more countries, and as such it represents a mechanism for cooperation and coordination of actions to ensure a higher degree of security towards potential phenomena and events which could jeopardize the general public safety.

International legal acts which regulate border crossings, also contain provisions which regulate the process of Integrated Border Management. In this regard, especially since 1985 onwards, significant results have been achieved. In view of this, bordering countries have signed bilateral and multilateral memoranda of cooperation, thus defining and regulating the Integrated Border Management. The most important international Conventions and documents on this issue are: the Schengen Convention of 1990 adopted by the European Union³; Schengen Border Code 15 March 2006⁴; EC Regulation No. 562/2006 of the European Parliament and Council; Guidelines - the European Parliament Council Commission communique on the Integrated Border Management of member states of the European Union (Brussels, 07.05.2002); Guidelines for Integrated Border Management of Western Balkan countries adopted by the European Commission (October, 2004) and amended and supplemented in 2007, etc.

All these international legal acts (conventions, codes, guidelines, statements, etc.) address legal regulation of interstate border issues, including the definition of the terms: border, inner and outer border of the European Union, border crossing point, border control, and the principles of application by the competent authorities for Integrated Border Management. According to Schengen border Code, the term inner border means common borders such as rivers and lakes, borders of the European Union states, airports for domestic flights and sea, river, lake and ports for regular ferry connections⁵, while the outer borders include land borders of the European Union countries, including the borders of rivers and lakes, sea borders and airports, river ports, sea ports and lake ports, provided that they are not inner borders⁶.

International legal acts define the meaning and the ways of establishing border crossing points between countries. According to the Convention, a border crossing point is any crossing point authorized by the competent authorities for crossing outer borders⁷. However the Convention does not provide the location and the number of border crossing points, this falls under the authority of neighboring countries based on their political and economic interests and other specificities that may have.

In order to ensure a continuous basis for cooperation and in order that this cooperation takes its normal flow regarding the border crossings between states, the Convention defines the meaning of the border crossing, which is "a check made at a border as a single response for the purpose of crossing the border"⁸. The cooperation between neighboring countries is vital for the development of a common understanding and respect for the principles in the implementation of the process of the Integrated Border Management. In order to conduct a more effective border management which would enable people to live in a safe and free environment, to move freely, to facilitate and develop cross-border trade, to combat international crime, etc., the international legal acts have defined the concept of the Integrated Border Management, which implies coordination and cooperation between all relevant authorities and agencies involved in the border

¹ Defining the overall direction of the state border with documents is called DELIMITATION, while drawing the border in the field is called DEMARCATION. This is done by mixed commissions or an international commission, for more see GrudaZejnullah, International Public Law, page 167, Pristina.

² Until the date of the publication of this piece of work Kosovo has not completed the process of demarcation with Serbia and Montenegro.

³ Schengen Convention was named after the town of Schengen/Luxembourg where the Convention was signed on 19 June 1990 by countries of Benelux, Germany and France. It entered into force on 26 March 1995, <http://www.hri.org/docs/Schengen90/body8.html>

⁴ Schengen Border Code REGULATION (EC) Nr.562/2006 of the EUROPEAN PARLIAMENT AND COUNCIL of 15 March 2006, a code of the European community setting up rules on governing the movement of people along borders.

⁵ Schengen Border Code approved by the European Parliament, Article 2, paragraph 1

⁶ Ibid, Article 2, paragraph 2

⁷ Schengen Convention, Article 1, paragraph 7

⁸ Schengen Convention, Article 1, paragraph 8

security and in easing trade, in order to create an effective and efficient management within the integrated border system border to reach the common goal of open borders, but controlled and safe"¹.

The concept of Integrated Border Management defined in international documents means that the process of Integrated Border Management is a multi-dimensional starting with: control and surveillance of borders according to principles and standards set by the Schengen Convention and Code, as well as other legal documents, detection and investigation of national and international crime by undertaking all actions in coordination with the competent authorities based on the applicable laws in this field, mutual cooperation between agencies and the competent authority in managing borders (border guards, customs officers, police and other relevant authorities) including the coordination and coherence of activities of member states in the European Union institutions.

The provisions of international legal acts show that the process of Integrated Border Management is regulated only in principle, whereas the regulation of concrete issues related to the practical implementation of the Integrated Border Management process remains under the jurisdiction of states and their legislation according to international standards.

Legal elaboration of the IBM process according to the legislation of the Republic of Kosovo

The Constitution of the Republic of Kosovo defines the Republic of Kosovo as an independent, sovereign, democratic, unified and indivisible state², with the right of the competent authorities to control the borders in its territory³. As in most modern states, in the Republic of Kosovo the legal elaboration of border control has been regulated through a special law. The Government of the Republic of Kosovo has established the essential legal basis for elaboration of the Integrated Border Management by drafting the law on the integrated management and control of the state borders⁴ and by drafting and adopting sub-legal acts which derive from this law. There are also other legal acts containing provisions that indirectly address the border management process such as the Law for the Control and Supervision of the State Border⁵, the Asylum Law (no. 03 / L-073); Law on Amending and Supplementing the Law on Asylum (no. 03 / L089); The Criminal Code of the Republic of Kosovo (No. 04 / L082); Police Law (no. 04 / L-076); Law on Foreigners (no. 04 / L-069, etc.). The legal framework in which the process of Integrated Border Management is directly or indirectly addressed has been complemented by the Government during the drafting and adoption of the National Strategy for the Integrated Border Management of the Republic of Kosovo; Strategy for Combating Terrorism, organized crime, human trafficking, etc.

The Law for the Control and Supervision of the State Borders contains provisions of material, procedural, executive and punishment nature - offenses which satisfactorily regulate the legal elaboration of the Integrated Border Management process and ensures the functioning of the open border movement, safe and well controlled⁶. This law incorporates international standards in developing an effective system of control and management of the state border⁷, which allow free movement of people and goods, prevention of cross-border crime while respecting human rights and freedoms. The general provisions proclaim the goal of regulating border control, police powers within the state, the cooperation among state institutions which have competence in the border management⁸. However if we interpret other provisions of the law, it is evident that the priority has been given to the procedural regulation in the exercise of powers – authorizations as well as the cooperation between the competent authorities in the implementation of the Integrated Border Management process. In

¹Guidelines for integrated management of borders in Western Balkans I, reviewed in 2007, by the European Commission, page 14.

²The Constitution of the Republic of Kosovo approved by the Assembly of the Republic of Kosovo and entered into force on 15 June 2008, Article 1, paragraph 1.

³Ibid, Article 125, paragraph 1.

⁴Law on Integrated Management and Control of State Borders nr. 03/L065, approved by the Assembly of Kosovo on 21 May 2008, marks, for the first time, a legal elaboration of the Integrated Border Management process through a separate law.

⁵Law on Control and Management of State Borders nr. 04/L-072, approved by Kosovo Assembly on 21 December 2011, declared by the President of Kosovo through a decree nr. DL-001-2012, dated 06.01.2012.

⁶The Law consists of Chapters I – XIII and contains 63 Articles. Chapter I includes general provisions and consists of Articles 1-4; Chapter II includes provisions of powers and authorization to conduct border control and consists of Articles 5-8; Chapter III includes provisions on crossing the state border and consists of Article 9; Chapter IV includes provisions of border control and consists of Articles 10-26; Chapter V includes provisions on border crossing points and the zone of the border crossing point and consists of Articles 27-34; Chapter VI includes provisions on the supervision of the border and consists of Articles 35-39; Chapter VII includes provisions on border line and consists of Articles 40-45; Chapter VIII includes provisions on police measures inside the country and consists of the Article 46; Chapter IX includes provisions on the cooperation of state bodies which have the authority in border management and consists of Articles 47-49; Chapter X includes provisions on cross border police cooperation and consists of Articles 50-53; Chapter XI regulates collection of personal data and consists of Articles 54-58; Chapter XII includes provisions on border offences and consists of Articles 59-62; Chapter XIII includes transitional and final provisions and consists of Articles 63-64.

⁷State borders are defined as lines separating the territory of one state from the territory of another state or the territory of one state and an open sea or as lines until where the territory and sovereignty of a state stretches, for more see GrudaZenullah, *Pristina International Public Law*, page 164.

⁸Article 1, Law on control and supervision of the state border nr 04/L-072, approved on 21 December 2011 by the Kosovo Assembly

order to achieve effective cooperation, to facilitate data and information exchange, and have greater efficiency of the system for the integrated border management, the National Center for Border Management has been established¹. Blanket provisions of the law imply that the assistance and cooperation of state institutions involved in the border management is carried out through the Strategy for the Integrated Border Management².

In addition to creating and harmonizing primary and secondary legislation with the EU Acquis, the Republic of Kosovo has advanced and functionalized its key Agencies and Institutions involved in the implementation of the IBM process, such as: Kosovo Police - KP; Kosovo Customs - KC; Food and Veterinary Agency of Kosovo - FVAK³.

The state Agencies and Institutions of the Republic of Kosovo are guided by some basic principles which directly or indirectly are incorporated in the provisions of the Law on the Control and Supervision of the State Border, as well as in the National Strategy for Integrated Border Management, thus providing guarantees for the implementation and realization of the objectives of the Integrated Border Management process:

- Implementation of relevant legislation for the three pillars ensuring that the authorized agencies for the integrated management and control of the state border will be organized and operate as required by the EU.
- Cooperation and coordination of activities of the agencies involved in the border control and reforms in their organizational and management structure.
- All procedures of the border agencies regarding human resources, training, finance and logistics are determined by internal regulations in joint consultations among them.
- Proper procedures for selection and appointment of staff in the border agencies should be applied in order to increase the professionalism and quality.
- Communication and exchange of information among authorized border agencies should be improved to create an overall information management system.
- Development of infrastructure and adequate equipment to support the efforts of the agencies in providing professional services to citizens and other beneficiaries.
- Ensuring sustainable funds for continued exercise of operations in the integrated border management system and the creation of mechanisms to ensure international donations.⁴

Administrative and Territorial features of the Republic of Kosovo

During history, depending on political and economic changes and overall development of the society, the territory of Kosovo has changed as of February 17, 2008, when the Declaration of Kosovo's independence was adopted by the leaders of our nation, elected in a democratic way, through the declaration they proclaimed Kosovo an independent and sovereign state⁵.

After the declaration of independence of Kosovo, the international borders of the Republic of Kosovo include a territorial area of 10,907 km², which is defined in the border line of the former Autonomous Province of Kosovo within the former Socialist Federal Republic of Yugoslavia⁶.

The territory of Kosovo is situated in the south-eastern Europe, having a central position in the western part of the Balkan Peninsula and borders with: the Republic of Albania with 113,551 km of border length; the Republic of Macedonia with 170,772 km of border length; the Republic of Serbia with 380,068 km of border length and with the Republic of Montenegro with 79,165 km of border length⁷. The terrain through which the state border line of the Republic of Kosovo passes through consists of generally rugged mountains, hills, fields and lakes⁸. Geographical elements show that Kosovo's territory has an important strategic position connecting central Europe and the

¹Ibid, Article49, paragraph 1.

²Ibid, Article 49, paragraph 2.

³In addition to KP, KC and FVAK in implementing IBM, other relevant institutions play an important role, such as Ministry of European Integrations, Ministry of Transport, Forensic Institute, Ministry of Health, Ministry of Public Administration, Ministry of Agriculture, Forestry and Rural Development, Ministry of Security Force of Kosovo.

⁴National Strategy of the Republic of Kosovo for the Integrated Border Management, pages11 – 12, approved by the Government of Kosovo, April 2009, Pristina.

⁵Kosovo's Independence Declaration, approved by the Kosovo Assembly, 17 February 2008, Article 1, Pristina.

⁶KOSOVO SPATIAL PLAN 2010-20, Pristina, page 20.

⁷Ibid, page 19

⁸ Dr. Rizai. Çavolli, Kosovo's Regional Geography, page 319.

Mediterranean Sea. In order to facilitate the movement, competent state authorities of Kosovo authorities have put into function 13 border crossing points of road and rail types with the neighboring countries, by applying physical controls. Between the Republic of Kosovo and the Republic of Albania there are 3 road type border crossing points: Vermica; Qafa e Prushit and Qafa e Morinë. With the Republic of Montenegro the border crossing point Kulla is in function. Between the Republic of Kosovo and the Republic of Serbia the largest number of border crossing points – 6 (six) in total are operational and are of road type: Bernjak, Jarinie, Merdare, Mutivode, Dheu i Bardhë, Muçibabë. Between the Republic of Kosovo and the Republic of Serbia there used to exist two rail type border crossing points: Merdare and Leshak which are no longer operational¹. With the Republic of Macedonia there are two border crossing points Hani i Elezit and Gllaboçica, which are of a road type, whereas the border crossing point in Hani i Elezit is of a rail type.

All border crossing points of the Republic of Kosovo operate according to the national and international legislation, and their categorization and standardization has been done according to internal and external factors based on bilateral and multilateral agreements.

Conclusions

The time, the phases and the process of establishment and transformation of border control institutions in the territory of Kosovo has not been the same, due to particular political effects and the rule of law, the success of the implementation of the law has not been the same in all border crossing points.

Due to the prevailing nationalist ideas regarding the border demarcation and the complicated political situation between the Republic of Kosovo and the Republic of Serbia, it was very difficult to transform the border crossing system according to the rules set forth by the IBM process. Therefore these components did not guarantee progress in the implementation of IBM along the border between Kosovo and Serbia, where as a consequence free movement of people and goods is put into danger, inefficiency in preventing and combating cross-border crime which manifests itself in the form of organized crime by certain groups of interest. Having this situation in mind, competent state institutions have supported the development of IBM process in terms of legal aspect in using international principles and integration criteria set forth for the Western Balkans. The aim of developing and proclaiming liberal integration ideas in order to challenge nationalist ideas and enhance the integration process of the Western Balkan countries have contributed to a large extent to the overall development of institutional relations on border control, but not in eliminating completely the challenges in implementing IBM process.

Creation of the legal framework and strategies required to address the process of IBM, shows the special care state institutions pay in the implementation of IBM as one of the conditions for visa liberalization in the process of integration into the European Union. Alongside the development and harmonization of legal basis with the EU acquis, the state institutions should pay inter-institutional attention and professionalism in the implementation of this legal basis for the full implementation of IBM in all border crossing points.

The Republic of Kosovo is still in need to invest in building and strengthening the mechanisms and institutions in charge of implementing the IBM process according to applicable law. In this regard it is worth noting the insufficiency of the mechanism for border control as one of the factors for the implementation of the IBM process. Formal controls made by state border police, I think represents more of a formal and superficial control and not a border control with stopping, monitoring and with special emphasis on risk assessment and criminal intelligence to ensure the control of persons, vehicles and goods crossing the border, by applying effective monitoring at all border crossing points.

Applicable laws allow key agencies and institutions involved in the IBM process, such as the Kosovo Police; Kosovo Customs; Food and Veterinary Agency of Kosovo, to undertake actions and decisions in a discreet and autonomous manner in implementing IBM which could be incompatible with the actions and decisions of other institutions. In order to avoid these actions and decisions, operational cooperation and coordination between key institutions involved in the IBM should be developed and professionalized. Likewise, based on the legal provisions of the national and international character these institutions should enhance institutional cooperation in order to reach the full functioning of all border crossing points, be it road or rail type, depending on the border terrain wherever possible to erect joint points of border crossing, through the coordinated operations of monitoring and patrolling of static and mobile units

Finally, I consider that Kosovo despite the fact that it established the legal basis, must constantly undertake political and economic measures to ensure its implementation in the process of IBM, as an aim and an objective to fulfill the preconditions for membership in the European Union institutions.

References

¹Until the date of the publication of this paper, railway traffic between the Republic of Kosovo and the Republic of Serbia through the border crossings of Merdare and Leshak has not been functionalized. Reasons for its non-functioning are of political and objective nature – damages to railroad infrastructure during and after the war, years 1997 – 2000.

European Union Progress Report I year 2010 – 2011

Joshua S. Goldstein, International Relations, (2003) Prishtina, printing house Dituria, pg. 523

Latifi . Vesel. Criminology, (2011) Pristina, pg.295

Criminal Code of Kosovo, (2012) Article 283, Nr. 04/L-82

Gruda. Zejnullah, International Public Law (1987) Pristina, page 167,

Schengen Convention was named after the town of Schengen/Luxembourg where the Convention was signed on 19 June 1990 by countries of Benelux, Germany and France. It entered into force on 26 March 1995, <http://www.hri.org/docs/Schengen90/body8.html>

Schengen Border Code REGULATION (EC) Nr.562/2006of the EUROPEAN PARLIAMENT AND COUNCIL of 15 March 2006, a code of the European community setting up rules on governing the movement of people along borders

Guidelines for integrated management of borders in Western Balkans I, reviewed in 2007, by the European Commission, page 14

The Constitution of the Republic of Kosovo approved by the Assembly of the Republic of Kosovo and entered into force on 15 June 2008, Article 1, paragraph 1

Law on Integrated Management and Control of State Borders nr. 03/L065, approved by the Assembly of Kosovo on 21 May 2008

Law on Control and Management of State Borders nr. 04/L-072, approved by Kosovo Assembly on 21 December 2011, declared by the President of Kosovo through a decree nr. DL-001-2012, dated 06.01.2012

National Strategy of the Republic of Kosovo for the Integrated Border Management, pages11 – 12, approved by the Government of Kosovo, April 2009, Pristina

Kosovo's Independence Declaration, approved by the Kosovo Assembly, 17 February 2008, Pristina

KOSOVO SPATIAL PLAN 2010-20, Pristina, page 20

Dr. Rizai. Çavolli, Kosovo's Regional Geography (2005) Prishtina , page 319

Feminism in Carver's Works**Viola Kita**

University of Tirana

PhD Candidate

kitaviola@yahoo.com**Abstract**

The presence of feminism in Carver's work is not studied in depth. The attention is focused on the description of masculine characters while their feminine counterparts have been neglected. In fact, in Carver's female characters can be noticed their strive for freedom and escape which for men is normal but for women can be considered heroic. Carver gives enough space for female characters to develop and show their traits. Therefore, in his work one can see the presence of the topic of gender issues which during the '70s and '80s became the predominant topic of concern. Carver depicts in the female characters those characteristics that embody the favourite topic of the feminists, the "conflict" between masculinity and femininity. His feminism is not perceived in terms of incompatibility and equality but rather on the position, status as well as the role they have in the society. His female characters are really complex. During the second wave of feminism in the United States the attention was focused mainly on middle class women. The same was reflected in Carver's work. Eventually, the working-class people especially women are given a particular significance, which was a novelty for the time.

Key words: feminism, freedom, conflict, masculinity, equality

Introduction to Feminism in Carver's Work

The presence of women in Raymond Carver's work is significant in understanding the contribution of this writer in the American literature. However, up to now there is no thorough study on this topic.¹

His work can be analyzed under the light of feminist criticism.

While portraying gender, it seems that Carver's work is really close to Hemingway, especially in stories such as "Tell the Women We're Going" or "So Much Water So Close to Home". In these stories, women occupy an insignificant role in Carver's world thus making his work have noticeable masculine characteristics. Women struggle to achieve self-assertion and in doing so they make the society more understandable.

Carver describes with a tremendous accuracy the suffering of women and men alike. In fact, to focus on women means to focus on masculinity as well, because the two cannot stand apart from each other. In fact, by paying attention to the dialogues between men and women we jump to the conclusion that women are more capable in their confrontation with the everyday while men on the other hand are far from the image of the hero, an image that served as a model in Hemingway's masculine characters. Moreover, it seems that some definitions which were held to be true as far as the role of women in society is concerned, seems to be outdated and ungrounded.

Toni and Leo's tragedy in "Are These Actual Miles"—first published in *Will You Please Be Quiet, Please?* (1976) as "What Is It?" is the best example of the gender dynamics in all of Carver's work. Toni's probable prostitution act to ensure the sale of the convertible car is a symbolic act of the way female's body is "used" by men in our society accompanied of course by the feelings of guilt and remorse.

The suburban domestic atmosphere to which women in Carver's fiction have been confined leaves them trapped in domestic routine. Women lose all sense of identity because they have no opportunity for self-realization.

In Carver's work are portrayed many female characters who challenge the boundaries placed on them by the society. They achieve this by developing strategies that help them. A typical example is the way Olla feels the sensation of the triumph when she shares her house with her husband in "Feathers," affirming that it "can constitute a positive, life-affirming space."² It is concluded that if men find an escape from confines of the society, they never use that freedom to "energize" their lives. However, women though they don't have such a freedom and therefore not having the chance to do anything exceptional, they "find transcendence in the small acts of bravery and honesty that confront them on a daily basis."²

According to Vanessa Hall's "Influences of Feminism and Class on Raymond Carver's Short Stories,"³ Carver's sensitivity to the female's state makes them a reflection of the society's discourse on masculinity and femininity" in the 70s and 80s. Based on the feminist discourse of the period, his description of the lives in the home, with no possibility of escape or change becomes a symbol of the depression that results from its monotony. Despite their inferior status women demonstrate a desire to change their status in their lives and thus to become less dependent on others which makes them superior to the lethargy found in men in most of Carver's stories. Women become the best

¹ Nessel, Kirk. "This Word Love": Sexual Politics and Silence in Early Raymond Carver." *American Literature* 63. 2 (1991): 292-313.

² *Will You Please Be Quiet, Please?* (1976);

³ Vanessa Hall's "Influences of Feminism and Class on Raymond Carver's Short Stories,(1998)

representative for the working-class people who struggle to overcome the biographical and socio-cultural obstacles imposed by society. Thus women really start to "influence" the society.

Carver shows his skills as a writer through the portrayal of his female characters. He has proved what social theories have just mentioned that gender identities are produced by the society. The question of masculinity, and how it is represented in Carver's studies, is tackled in Josef Benson's article "Masculinity as Homosocial Enactment in Three Stories by Raymond Carver."³ Benson demonstrates how Carver's work is dominated by male figures who are dependent on other males to prove their masculinity, thus generating homosocial desire.

Women against oppression

Critics like Winfried Fluck have used the term "weak identity" to refer to Carver's characters. This is due to the fact that women do not have the possibility to achieve status and power. The philosopher Julia Kristeva claims that identities are unstable and in order to illustrate her idea she coined the term "subject-in-process". This process refers more to a trial where the identities are called into question. This concept of the "subject-in-process" can be used as a tool for analyzing Carver's female characters. The most typical example is that of the woman in the story "The student's wife" where the woman has to undergo a really painful existence because of the pains in her arms, shoulders and legs. This is the best embodiment of Kristeva's concept of the subject as a wounded body. This concept refers to her psychoanalytical theories on identity and subjectivity. Her idea is to reconstitute her so-called "a wounded narcissistic identity". Her suggestion is as follows: 'heal your inner wounds which as a result will render you then capable of effective social action, or intervention in the social plane with the other'.¹

In one particular moment in the story, we understand her inner fears and pains of becoming a woman. In a moment like this she asks her husband: "Didn't you ever feel yourself growing? Her inner desire is to stop being treated as a child or patient by her abusive husband. This desire becomes obvious when she utters: "I like that, flying in airplanes. There's a moment as you leave the ground you feel whatever happens is all right". This moment can be interpreted as foreshadowing of the future independence of the woman. In the final description of the story:

"When it began to be light outside she got up. She walked to the window.... The trees and the row of two-story apartment houses across the street were beginning to take shape as she watched.... Except for the times she had been up with one or another of the children..., she had seen few sunrises in her life.... By stages things were becoming very visible."

As it can be seen, Carver's character is "a subject-in-process" due to the lack of formation of the identity of the character.

The same ideas are obvious even in the short story "I Could See the Smallest Thing"² in which the wife can hardly bear the presence of her husband. She suffers from insomnia and in one particular moment she leaves her house in the middle of the night. Upon her return, she states: "I thought for a minute of the world outside my house, and then I didn't have any more thoughts except the thought that I had to hurry up and sleep". Her life is very different from what it ought to be but though she can feel it she cannot do anything to change it. In another story, "Blackbird Pie"³ it is shown a totally different female character that displays her determinism quite obviously by daring to escape the prison she happened to be because of her marriage contract.

Subjectivity is a key concept in feminist theory. Teresa de Lauretis' uses "eccentric subject" a term used to refer to an "excessive critical position ... attained through practices of political and personal displacement across boundaries between sociosexual identities and communities, between bodies and discourses" ("Eccentric" 182). Her theory is very helpful in analyzing Carver's female characters. In Carver's first collection, once again we encounter women who want to get rid of their husbands who isolate them and make them feel smaller and unimportant but that unfortunately they cannot find the strength and determination to do so.

De Lauretis explains the concept of "the figures of resistance" according to which certain female figures refuse to accept the norms and rules imposed on them by the society. For instance, in the short story "What Do You Do in San Francisco?" the young woman is nothing like the standard of femininity that is perceived by the society. She is portrayed as a woman who wears male clothes by making the people around her feel outrageous and especially neighbours pass all the limits by questioning her devotion and role as a mother and wife. All the speculations are triggered because she refuses to wear what the society considers decent.

Another example of a "figure of resistance" can be found in "Blackbird Pie". In this story the husband cannot accept the fact that his wife has abandoned him and thus constructs a whole theory of secrets and suspicious actions. He bases his theory on the grounds that the handwriting in the letter addressed to him is not that of his wife, and therefore something strange and inexplicable must be going on. The letter becomes a symbol of a figure of resistance because it represents the object that breaks all the norms of the patriarchal law according to which a woman cannot leave her husband. Ironically, women find their force even in a pen.

¹ "An interview" Julia Kristeva 1996

² What We Talk About When We Talk About Love (1981);

³ Where I'm Calling From (1988);

The same idea is inferred in Carver's poem "The Other Life" in which the husband narrator describes the moment his wife is signing the divorce papers:

"My wife is in the other half of this mobile home making a case against me.

I can hear her pen scratch, scratch. Now and then she stops to weep, then— scratch, scratch."

The verb "scratch" is repeated by making us believe that her writing is disturbing the husband who feels that the patriarchal order is threatened.

Masculinity in crisis

"Masculinity in crisis" is interpreted by feminist critics not as a "crisis of manhood," as many believe but as a wrong concept of masculinity in itself. In gender theory, the concepts of 'men' and masculinity are unstable, especially in Carver's stories. Unlike Hemingway's male characters who were strong and heroic, Carver's characters are men who cry, men that feel undecided and consequently bearing everything that is far from the traditional concept of manhood.

In *Cathedral* the traditional masculinities are long gone, since women become active subjects while men stand as passive objects. The recovering alcoholics in "Where I'm Calling From" or the male protagonists in "Cathedral," are portrayed as men who lack confidence and lead a life characterized by anxiety. On the other hand there are also men who repress their insecurity and remain silenced such as the husband in "Preservation," who is jobless and spends his day on the sofa. These men are so different from the knights who rescued their damsels, as the character of Mel in "What We Talk about When We Talk about Love" dreams of: "... what I liked about knights, besides their ladies, was that they had that suit of armor, you know, and they couldn't get hurt very easy"¹.

In Carver's portrayal of masculinity, the concept of heterosexuality is prevalent. However, some characters are shown in situations and actions that can be interpreted as queer. Teresa de Lauretis coined the phrase "queer theory" (theorizing lesbian and gay sexualities) in 1990 which seems to explain this phenomenon in Carver's stories. One of Carver's stories that could be interpreted by making use of this theory is "Neighbours," in which as Nessel argues, the characters are often "trapped in a kind of sexuality they cannot understand"² Bill Miller gets into the neighbors' apartment, a place that William Stull defines as a "psychosexual rumpus room" and abandons himself into what can be called "an impossible queer fantasy".

In a moment, he finishes his drink, takes off his suit, finds and wears a pair of panties and a brassiere. Then he puts on a black and white skirt, zips it up and is about to wear even his wife's shoes if they would fit. Bill's cross-dressing performance momentarily turns him into a queer subject. As feminist critic Alice Walker argues: "the cross-dresser functions as a disorderly and subversive presence: by resisting assimilation within a system of binary oppositions, he or she reveals the inadequacy of this system, and, furthermore, questions the extent to which appearance and identity are coextensive"³.

In fact, Bill's cross-dressing performance, even though it is limited in space and time, reveals queerness, a taboo in traditional masculinity and thus a threat to patriarchy.

In "Cathedral" can be found moments of queer desire where two men, who at first were rivals, find out that they have a lot in common. At first, the reader is introduced to a narrator who continuously underestimates his wife. However, his attention is totally focused on her when he feels threatened when one of his wife's friends decides to visit them. At this particular moment the masculinity crisis appears and feeling inferior he decides to become a friend with his rival. The erotic triangle is created, thus drawing parallels to the feminist theory. In this triangle the bond between the rivals is as strong as the bond between their beloved one. Consequently, the feelings that they experience are of an intense level.

Since it cannot be defined as a real homosexual desire, perhaps it would be much better to refer to the term used by Sedgwick "homosocial desire"⁴. However, there are moments that can be described as homoerotic especially at the end of the story. Let's take into consideration this fragment:

¹ "What We Talk about When We Talk about Love", pg (148-149)

² De Lauretis, Teresa. "Eccentric Subjects." *Figures of Resistance: Essays in Feminist Theory*. Ed.

³ Alice Walker "As you wear: Cross-dressing and Identity politics in Jackie Kay's *Trumpet*" *Journal of International Women's Studies*, Volume 8, Feb-2007

¹⁰ *Between Men: English Literature and Male Homosocial Desire*, Eve Kosofsky Sedgwick; Columbia University Press; 1985

¹¹ "The Calm", "What we talk about when we talk about love"

He found my hand, the hand with the pen. ... "Press hard," he said to me. "That's right. That's good," he said. "Sure. You got it, bub. I can tell. You didn't think you could. But you can, can't you? You're cooking with gas now." ... "Don't stop now. Draw." So we kept on with it. His fingers rode my fingers as my hand went over the paper. It was like nothing else in my life up to now.¹

In another story titled "The Calm", the husband takes the decision to leave his wife while he is in a barber shop:

"We looked into the mirror together, his hands still framing my head. I was looking at my self, and he was looking at me too.... He ran his fingers through my hair. He did it slowly, as if thinking about something else. He ran his fingers through my hair. He did it tenderly, as a lover would".²

As it can Playing with male identification by employing mirrors and metaphors of the double, Carver manages to transform a masculinist scenario where men use toothpicks and discuss violent stories into a place of homoerotic possibility between the barber and the protagonist.

Carver's oeuvre is not concerned with politics, social issues or movements. He does not like ideological abstractions. He is not the kind of writer who proclaims feminism's ideas neither as advocate nor as adversary.

To illustrate Carver's discourse on feminism let us focus on a short story entitled "Fever," a story in which the protagonist, Carlyle, abandoned by his wife Eileen, is confronted to four females belonging to age groups that span three generations: the late adolescent Debbie, whom Carlyle took as a babysitter "in desperation to find someone" the day before resuming his teaching job; Carol, the secretary he works and occasionally has sex with; Eileen, whose absence he is trying to get over; Mrs. Webster, the elderly babysitter he can finally "count on" at the end of the story and whose authenticity of feeling and expression have the maieutic function of helping him express his feelings as well, thus overcoming his crisis and moving on to another phase in his life.

This story has a lot to do with language. The four women are not analyzed in depth psychologically according to the conventions of realism. In fact, each character is portrayed only through the speech type Carver attributes to them. Debbie isn't a good influence for his children, abandoned on the lawn the first day Carlyle comes back from work, while "in the living room with three teenaged boys" and her "blouse...unbuttoned," Debbie's voice is not heard because there is "Rod Stewart screaming from the stereo," a metaphor for the teenage sub-culture that has such a great influence on her.

The phrases used in the story should be read very carefully because they give hints that help the better understanding of the story. For example, the older Carol's "voice," really "sounded indistinct". Her response to Carlyle's story of the incident with Debbie is parodied in the third person: "Did he want her to come over to his place? she asked...He shouldn't be afraid to say when he needed affection, she said". Switching to direct discourse, her speech continues in sentimental phrases that contain no sincerity in them: "Sweetie, I'm sorry about what happened. But I understand your wanting to be alone. I respect that.... Honey, don't let it get you down". Influenced by her way of speaking she continues in the same way: "Thanks again for being there when I need you...You're one in a million, you know". However, he does not feel good about what he said. He would have rather said something else and feel much better because at least he would have known that was honest. He'd never talked that way before in his life". It seems that Carlyle was forced to behave and speak in a way that was too sentimental and too unrealistic to the relationship they have with one another. In the end neither Debbie nor Carol, have an identity of their own. Therefore none of them can reflect upon the conditions or the state of females.

If we take into consideration the undeveloped voice of Debbie and the "indistinct" voice of Carol, Eileen's voice, has a certain volume and a *vibrato*, which aggravated Carlyle's pain instead of soothing or healing it. Though Eileen's language seems sophisticated it is made of stereotypical phrases that are difficult to relate to her, as they also show her discrepancy from the real: "We have to keep all lines of communication open," she tells Carlyle although in fact she never communicates with him or the children. "I think the worst is over. For both of us. I've suffered too". Despite her decision to emancipate herself from them Eileen does not give the impression that she has suffered, and the worst is far from over for Carlyle and the children she left behind.

At the root of all this stands Eileen awakening of her past ambitions to realize herself as an artist: "In college, she had majored in art, and even though she'd agreed to marry him, she had always wanted to do something with her talent. Carlyle said he wouldn't have it any other way. She owed it to herself, he said. She owed it to both of them.... Then, after eight years of being married to him, Eileen had pulled out. She was, she said in her letter, 'going for it'—"it" being the talent she prioritizes over motherhood: "Tell Keith and Sarah I love them. Tell them I'm sending some more pictures. Tell them that. I don't want them to forget their mother is an artist. Maybe not a great artist yet, that's not important. But, you know, an artist. It's important they shouldn't forget that". She sends them a photograph of herself "in a big, floppy hat, wearing a bathing suit" or "a pencil drawing...of a woman on a riverbank in a filmy gown, her hands covering her eyes, her shoulders slumped. It was, Carlyle assumed, Eileen showing her heartbreak over the situation". Her posture seems to imitate the stereotypical example a female "artist."

² "The Calm", "What we talk about when we talk about love"

According to Bahtin: "The words of a speaking person are always *ideologemes*, carriers of an ideological discourse rather than neutral, ever registering with extreme subtlety the tiniest shifts and oscillations of the social atmosphere"¹. Therefore, Eileen's decision to free herself from her marriage, can be seen as influenced by a certain social climate created by feminist ideology during the 70s and 80s. It is at least suggested in her expression "go for it" as well as in Carlyle's own justification, "she owed it to herself. She owed it to both of them," by encouraging in this way her emancipation toward self-realization that was the core of feminism.

Something that should not be underestimated is their profession. One is a teacher of art and the other is an artist which distinguishes them from the working-class Carol, both Carlyle and Eileen who couldn't feel the movement's force and influence. Carlyle implies, during an art lesson on Byzantine paintings, "he took so long trying to place the anonymous artists in their *social milieu* that some of his students began to scrape their shoes on the floor, or else clear their throats". The students are feeling impatient because Carlyle's preoccupation is personal and doesn't have to do with the them. On the other hand, in Carol's words one cannot find "ideologemes" to show feminist ideas.

Although there is no obvious connection with feminism it is definitely clear that Eileen *embodies* emancipation from the domestic sphere. When considering Eileen's responsibilities as a mother it can be said that Carlyle has a more developed 'motherly instinct' than Eileen, who seems to have none, or lost it in the process of emancipation. In the story entitled "Fever" is dealt with the myth of women as having a greater capacity to care for and connect with others, a capacity that is apparently not linked to gender.

In order to refer back to the issue of gender, Carlyle confesses to Mrs. Webster that Eileen was not always the kind of wife and mother she has now become: "Mrs. Webster, there's something I want you to know. For a long time, my wife and I loved each other more than anything or anybody in the world. And that includes the children". He also expresses that even Eileen's voice was different: "He longed to hear her voice—sweet, steady, not manic as it had been for months now..." Etymologically, "manic," from *mania* 'madness,' connects with *maenad*, 'bacchante,' which *Merriam Webster* defines as "an unnaturally excited or distraught woman" illustrating women who left their homes to follow Bacchus in Euripides' eponymic *Bacchae*, *maenad/manic* on the other hand is in harmony with Carlyle's frequent repetition of Eileen as "crazy": "She was losing her mind. That much was clear to him". It seems that Eileen is trying to forget the past as well as the present and is only focused on her idea of being an artist.

Based on what is described above feminism can be made responsible for Eileen's giving up of all commitment to Carlyle and her children, the pain she caused to both of them as well as the change her voice underwent from "sweet, steady" to "manic." However, it shouldn't be inferred that Carver is trying to describe feminism as a reason for destroying marriages. The argument that opposes this misinterpretation stands on the fact that if Carver really wanted to do that he would have ended his story with Eileen rather than with the fourth and last female of Mrs. Webster, as he does.

Conclusions

It can be concluded that Carver's female characters are a very interesting case of study for all scholars. In them one can sense the search for freedom which due to the given circumstances can be considered heroic. It is heroic because it is developed under the conflict between masculinity and femininity which is as old as the whole world. At the end of it women are the ones to be depicted as those who fought for their position in society while men just had it given as a gift from their birth.

In Carver's work are depicted middle class women, which was a novelty for the fiction of the time. However, Carver is not focused on women only but in fact by paying attention to them he brings to focus masculinity as well because they cannot stand apart from each other. Carver portrays men and women who suffer alike. Especially men who are far from the image of the hero, an image that stands at the center of the work of other great writers like Hemingway. Such a concept in his work is given as outdated and ungrounded.

Some of the topics concerning feminism include the "use" of female body by men as portrayed in the short story "Are these Actual Miles"?, women trapped in the domestic atmosphere as well as the topic of challenging all the boundaries imposed on them by the society. Examples of such topics can be found in stories like "Feathers", "Student's Wife", "I Could See the Smallest Thing".

In addition, Carver's skills as a writer are shown through the portrayal of his female characters. He has proved what social theories have been claiming about gender identities and the influence of the society that produces them. Society can play an active role in the way certain characters are shaped. Philosophers like Julia Kristeva, have used the term "weak identity" to refer to Carver's characters. In order to show how unstable these identities were, Kristeva coined the term "subject-in-process" that became a perfect tool for the analysis of the characters, especially female characters.

Another important concept in the work of Carver is that of *subjectivity* which is also a key concept in the feminist theory. Teresa de Lauretis has used the term "eccentric subject" to analyze female characters. This is applied especially to that group of women in Carver's stories who simply want to get rid of their husbands. The reason behind this is that their husbands isolate them and make them feel so unimportant. However, it is really painful that despite their desire these women have neither strength, nor determination to do anything.

In contrast, De Lauretis also presents the concept of "the figures of resistance" according to which there is a particular category of women who do not care about the norms of the society but develop their own individuality and do things which are acceptable if we take into consideration the human rights but are shocking to a patriarchal society. This is perfectly depicted in characters such as the woman who

¹ Bahtin- Literary critic

wears male clothes in the story "What Do You Do in San Francisco" or in the women who abandon their husbands in the short stories "Blackbird Pie" and "The Other Life".

Finally, it can be said that Carver is a master of penetrating in the human soul. He can depict characters in a way nobody else can and he does that with elegance and skill. No other writer can discuss delicate gender issues in such a careful yet straightforward language. All feminist theories are proved in his work filled with characters that know how to shock, move or even identify with you. Perhaps, feminist activists must study his work in depth and acknowledge the great contribution Carver has given not only to World Literature but to their cause as well.

Bibliography

- Carver, Raymond. "Blackbird Pie." *Elephant and Other Stories*. London: Vintage, 2003 (1988)
- "Careful." *Cathedral*. London: Vintage, 2003 (1983).
- "Cathedral." *Cathedral*. London: Vintage, 2003 (1983).
- "Fat." *Will You Please Be Quiet, Please?* London: Vintage, 2003 (1973).
- "I Could See the Smallest Things." *What We Talk About When We Talk About Love*. New York: Vintage, 1989 (1974).
- "Neighbours." *Will You Please Be Quiet, Please?* London: Vintage, 2003 (1973).
- "One More Thing." *What We Talk About When We Talk About Love*. New York: Vintage, 1989 (1974).
- "The Calm." *What We Talk About When We Talk About Love*. New York: Vintage, 1989 (1974).
- "The Other Life." *All of Us: The Collected Poems*. New York: Vintage, 2000.
- "The Student's Wife." *Will You Please Be Quiet, Please?* London: Vintage, 2003 (1973)..
- "What Do You Do in San Francisco?" *Will You Please Be Quiet, Please?* London: Vintage, 2003 (1973).
- "What We Talk About When We Talk About Love." *What We Talk About When We Talk About Love*. New York: Vintage, 1989 (1974).
- "Will You Please Be Quiet, Please?" *Will You Please Be Quiet, Please?* London: Vintage, 2003 (1973).
- De Lauretis, Teresa. "Eccentric Subjects." *Figures of Resistance: Essays in Feminist Theory*. Ed. Kristeva, Julia. *An Interview with Julia Kristeva*. Conducted by Kathleen O'Grady. *Powers of Horror: An Essay on Abjection*. New York: Columbia University Press, 1982.
- "A Question of Subjectivity. An Interview." *Modern Literary Theory: A Reader*. Eds. Philip Rice and Patricia Waugh. London and New York: Edward Arnold, 1989:128-134.
- Nesbet, Kirk. "'This Word Love': Sexual Politics and Silence in Early Raymond Carver." *American Literature* 63. 2 (1991): 292-313.
- Rich, Adrienne. "The Knight." *Snapshots of a Daughter-in-law: Poems, 1954-1962*. New York: Harper and Row, 1963.
- Russo, Mary. "Female Grotesques: Carnival and Theory." *Feminist Studies/Critical Studies*. Ed. Teresa de Lauretis. London: Macmillan, 1988:213-229.
- Sedgwick, Eve Kosofsky. *Between Men: English Literature and Male Homosocial Desire*. New York: Columbia University Press, 1985.
- Silverman, Kaja. *Male Subjectivity at the Margins*. New York: Routledge, 1992. Stull, William L. "Raymond Carver." *Dictionary of Literary Biography: Yearbook, 1988*. Ed. J. M. Brook. Detroit: Gale, 1988.
- Walker, Alice. "As You Wear: Cross-dressing and Identity Politics in Jackie Kay's *Trumpet*." *Journal of International Women's Studies* 8.2 (February 2007): 35-43. White, Patricia. "Introduction." *Figures of Resistance: Essays in Feminist Theory*. Urbana and Chicago: University of Illinois Press, 2007: 1-22.

Table 2: Existence of unethical practices

	All (%)	Company Size		Management Position			
		SMEs (%)	Large (%)	Top (%)	Upper middle (%)	Lower middle (%)	Other (%)
None	15.0	15.8	13.6	23.1	10.5	10.5	22.2
Yes, a few	61.7	63.2	59.1	61.5	63.2	63.2	55.6
Yes, many	16.7	21.1	9.1	15.4	21.1	10.5	22.2
Don't know	6.7	0.0	18.2	0.0	5.3	15.8	0.0

N=60.

Table 3: Unethical practices most wanted to eliminate

	All (%)	SMEs	Large
Giving of gifts, gratuities, and bribes	53.2	50.0	60.0
Price discrimination and unfair pricing	46.8	50.0	40.0
Dishonesty in making or keeping a contract	42.6	40.6	46.7
Miscellaneous unfair competitive practices	42.6	46.9	33.3
Price collusion by competitors	27.7	28.1	26.7
Cheating customers	27.7	31.3	20.0
Dishonest advertising	23.4	25.0	20.0
Unfairness to employees	21.3	18.8	26.7
Overselling	12.8	18.8	0.0
Unfair credit practices	10.6	12.5	6.7
Other and unspecified	4.3	3.1	6.7

N=47. The question was designed as multiple-choices type, the respondents were asked to check as many answers as applicable. Percentage among those who answered this question.

Table 4: Company efforts to build ethical values into organization

	2All (%)	Company Size		Management Position			
		SMEs (%)	Large (%)	Top (%)	Upper – middle (%)	Lower – middle (%)	Other (%)
Yes, very eagerly	13.6	10.8	18.2	46.2	66.7	63.2	66.7
Yes, to some extent	47.5	40.5	59.1				
Yes, but very little	13.6	18.9	4.5	30.8	5.6	10.5	11.1
Not at all	25.4	29.7	18.2	23.1	27.8	26.3	22.2

N=59.

Table 5 Panel A: Methods of building ethical values into the organization

	All (%)	Company Size	
		SMEs (%)	Big (%)
Corporate philosophy including ethics	86,4	80,8	94,4
Code of ethics	45,5	34,6	61,1
Contribution to social/cultural activity	43,2	34,6	55,6
Punishment for unethical conduct	34,1	23,1	50,0
Employee training in ethics	27,3	15,4	44,4
CEO's frequent statements on ethics	18,2	23,1	11,1
Following parent company's philosophy	18,2	15,4	22,2
Anonymous Reporting Hotline for unethical conduct	11,4	3,8	22,2
Suggestion system on ethics	6,8	0,0	16,7
Ombudsman	6,8	3,8	11,1
Social auditing	6,8	7,7	5,6
Ethics committee	0,0	0,0	0,0
Other and unspecified	0,0	0,0	0,0

N=44.

Table 5 Panel B: Average number of ethical enhancement tools for SMEs and large companies by management position

	ALL	SMEs	Large	All	SMEs	Large
Top management				2.6	1.6	5.0
Upper middle management		2.4		2.9	2.4	4.3
Lower middle management	3.0		3.9	3.2	3.3	3.1
Other				3.7	2.5	4.3

N=44.

Table 6: Company responsible to social groups (mean ranks)

	All	SMEs	Large
Customers	1.7	1.4	2.1
Employees	2.8	2.6	3.1
Stockholders	3.0	3.3	2.6
Suppliers	4.3	4.1	4.7
Society in general	4.4	4.6	4.1
Government	6.1	6.8	5.1
Dealer	6.3	6.1	6.7
Local community	6.4	6.3	6.6

N=58. Number 1: social group to which respondents feel most responsible, n. 8: social group to which respondents feel least responsible.

Table 7: Experience of conflicts between company interests and personal ethics

	2All (%)	Company Size		Management Position			
		SMEs (%)	Large (%)	Top (%)	Upper – middle (%)	Lower – middle (%)	Other (%)
Yes	50.8	55.3	42.9	38.5	52.6	50.0	66.7
No	49.2	44.7	57.1	61.5	47.4	50.0	33.3

N=59.

Table 8: Issues with regard to which conflicts between company interests and personal ethics were experienced

		All (%)
With regard to		
	Honestly in internal communication	50.0
	Gifts, entertainment, and kickbacks	36.7
	Firings and layoffs	36.7
	Honesty in executing contracts and agreements	30.0
	Fairness and discrimination	26.7
	Honesty in external communication	26.7
	Price collusion and pricing practices	16.7
	Other and unspecified	3.3

N=30.

Table 9: Social groups with regard which ethical conflicts were experienced

	All (%)
With regard to	
Suppliers	48.4
Employees	41.9
Customers	32.3
Colleagues	29.0
Competitors	25.8
The law and government	22.6
Superiors	16.1
Society in general	3.2
Other and unspecified	3.2
Stockholders	0.0

N=31.

Table 10: Have respondents reported unethical practices?

	All (%)
Yes	26.3
No	73.7

N=57.

Table 11: Why were not unethical practices reported?

	All (%)
It was difficult to decide whether the practices were ethical or not	20.6
Even if reported, it would be difficult to correct the unethical practice	23.5
It was questionable whether my identity as the person who reported the unethical practice would be kept secret	17.6
I would receive negative judgment from my superior or colleagues	0.0
Other	11.8

N=34.

Table 12: Factors influencing *ethical* decisions (mean ranks)

	All	SMEs	Large
One's personal code of behaviour	1.9	2.1	1.6
Company policy	2.3	2.1	2.4
The behaviour of one's superiors	2.7	2.8	2.6
The behaviour of one's equals in the company	3.7	3.4	3.9
Ethical climate of the industry	4.3	4.1	4.5

N=58. Number 1 the most influential factor, n. 5 the least influential factor.

Table 13: Factors influencing *unethical* decisions (mean ranks)

	All	SMEs	Large
One's personal financial needs	2.4	2.3	2.5
Company policy or lack thereof	2.7	2.8	2.5
The behaviour of one's superiors	2.8	2.9	2.5
The behaviour of one's equals in the company	3.3	3.4	3.2
Ethical climate of the industry	3.7	3.4	4.1

N=58. Number 1 the most influential factor, n. 5 the least influential factor.

Table 14: Hypothetical situations

	Oneself	Average
Situation 1 (N = 49)		
Acceptable if other executives in the company do the same thing	5.1	31.6
Acceptable if the executive's superior knows about it and says nothing	27.1	40.4
Unacceptable regardless of the circumstances	67.8	28.1
Situation 2 (N = 49)		
Probably would	79.7	96.6
Probably would not	20.3	3.4
Situation 3 (N = 48)		
Refuse to pay, even if sale is lost	37.9	5.3
Pay the fee, feeling it was ethical in the moral climate of the foreign nation	8.6	33.3
Pay the fee, feeling it was unethical but necessary to help insure the sale	53.4	61.4
Situation 4 (N = 49)		
Issue an order stopping future payments and reduce salespeople's pay in the amount equal to their commissions	15.3	7.0
Issue an order stopping future payments, but do not reduce sales people's pay	59.3	22.8
Say and do nothing	25.4	70.2

In relation to hypothetical situations, respondents were asked the following questions:

Situation 1: *An executive earning EUR 100,000 a year has been padding his expense account by about EUR 5,000 a year. What do you think?*

Situation 2: *Imagine that you are the president of a company in a highly competitive industry. You learn that a competitor has made an important scientific discovery which will give him an advantage that will substantially reduce the profits of your company for about a year. If there were some hope of hiring one of the competitor's employees who knew the details of the discovery, what would you do?*

Situation 3: *The minister of a foreign nation, where extraordinary payments to lubricate the decision-making machinery are common, asks you, as a company executive, for an EUR 250,000 (about 6,250,000 CZK) consulting fee. In return, he promises special assistance in obtaining a 100 million EUR (2. bil CZK) contract which should produce, at least, a 5 million EUR (125 mil CZK) profit for your company.*

Situation 4: *Imagine that you are a regional sales manager for a large industrial supply company and your salespeople are giving money to purchasing agents to obtain sales. This is beyond the generally acceptable meal or promotional item. Assuming that no laws are being violated, what would you do?*

Managing and Training of Human Resources in Hotel Micro Business Case Study: Peja City

Merita Begolli Dauti, PhD)

University "Haxhi Zeka". Kosovo
merita_dauti@hotmail.com

Abstract

Tourism presents very complex activity with social-economic character which has diverse importance in activities and economic branches that is very important activity in economy of our country, and on last years is becoming an important sector of economy. Development and quality is not possible without human resources. Main factors of success in tourism are human resources which through training get perfection and get qualified in the industry of tourism and hotels. To manage one hotel presents difficulty and different pleasure which should be balanced to achieve full service. A good managing is difficult to assess in short term since it has to go through a long process of the offering service, its consuming and at the end to listen to the opinion of clients for the offered service, their pleasures and disappointments. This project is based at the empiric data through questionnaires in which were surveyed micro business hotels. The aim of this project is to provide empiric proves regarding training of human resources in Kosova micro business. Data are collected surveying managers of business hospitality using closed questions and on likerts scale. Collected data show that managers of micro business hotels in our country are aware that training of human resources is important and completes the needs of one business, while on the other hand they do not apply greatly different trainings of human resources during their work activity on their business.

Keywords: *Tourism, Hospitality, Managing, Training, Micro-business*

Aim of research

Aim of this project is how to implement training of human resources and the importance that managers of micro business in our country pay.

Objectives of the research

Having in mind the character of this project, attention was focused in implementation of these goals:

- Reviewing of the literature for managing and training of human resources and the models that are being used for managing of the human resources. This context would serve as theory context to base the work analyses.
- Conducting of questionnaire in micro business hotels to identify what manager's think regarding the training of human resources.
- Conducting of data analyses based in quality and statistic information combining methods of statistical analyses with a quality ones.
- Presenting of a set of conclusions of the project, giving some explanations regarding matters that are object of study in this project.
-

Hypothesis

"Still we do not have proper awareness of managers for importance of training of human resources in micro business hotels".

Methodology used in the research

For realization of this study was used methodology that consists with one combination of primary data with the second ones. A significant proportion of secondary data were provided through the use of electronic libraries and managing literatures. Also were used data of the studies that were done by the Ministry of Trade and Industry for the profile of tourism sector in entire Kosova. To see how important training of human resources in micro business hotels is we have designed a questionnaire. Questionnaires are with closed questions and with likerts scale. This questionnaire was directed to the managers of micro business hotels. Questionnaires were distributed to 200 businesses during year 2014, while 193 answered. Distribution of questionnaire was done personally interviewing the manager of business hotel

Importance of the study

Importance of this study I think is greater because first of all helps to all managers in tourism and hotel sector because the level of quality of service depends from the quality of staff. Qualities connect with knowledge, skills and opinions or ideas which influence in surviving and developing of a hotel business. For this reason training of the staff is essential in many ways. It increases productivity in meanwhile that employees are "armed" with professional knowledge, experience and valued ideas.

Introduction

Historically term "human resources" was determined as a working strength and was listed among four main factors of the production: land, working strength, capital and costs. This training of employees is a source as financial sources or those physical ones which has genesis at the politics of the employees during industrial revolution. Managing of human resources came as consequence of the fact that organizations requested from employees to work and produce more than they were rewarded. (Appelbaum, E., Bailey, T., Berg, P. and Kalleberg, A (2000).

Meaning of human resources changed as year passed by because the concept of organizations expanded and employees started to be treated more as human beings and not as live materials or organizational systems. Human resources started to be noticed as dynamic and flexible resources so the organizations started to search for different manners with intention to motivate them and to increase performance, this made the increase researches in area of human resources and lately the information is getting provided also from the science of physiology, economy and economic politics. (Fisher, D. 1989)

Concept of human resources expanded by the term of managing of human resources in development of human resources which has to do with support and skills that are being given to the employees not only to perform their job but also to get prepared for the rise of their carriers. Human resource management went through a long process of development until it reached the status that gained today, one of the most important functions of managing in one organization. (Koli.Z, Llaci.Sh, 2005).

Managing of human resources

Every organization, enterprise or institution that aims to fulfill their goals should engage in providing not only technical or financial resources but also of the human resources which have ethical importance for the success of the organization. Resources or human assets are those that project the best and services, check the quality, trade products and take decisions for the manner of organization functioning. Managing of human resources thru activities helps to the management of organization for the effective use of their employees. It includes activities as: selection and employing of people, evaluation and their rewarding, creating conditions for them to be motivated more for work.

As Gary Dessler described "HRM is the policies and practices involved in carry out the „people" or human resource aspects of a management position, including recruiting, screening, training, rewarding and appraising." These practices and policies include conducting job analysis, selecting suitable and required candidates, orienting new employees, plans and implementation of training and developing, managing salaries, providing employees" benefits and awards etc. (Dessler 2006, 4)

HRM is a pattern of planned HR development and activities which affect the behavior of individuals with the intention of enabling organizations to achieve their goals (Wood, Holman & Stride, 2006).

HRM refers to the policies, practices, and systems in organizations for recruiting and developing their employees, as well as influencing their behavior, attitudes, and performance to achieve the organizations' goals (Stone, 2008).

HRM competency contains an organizations' ability to recruit, train and develop, maintain and utilize prospect-oriented employees with their capacities in a way that they comply with their organizations' goals (Zaugg & Thom, 2003).

Human resource management is defined as 'a strategic and coherent approach to the management of an organization's most valued assets-the people working there who individually and collectively contribute to the achievement of its objectives'(Armstrong, 2006).

Bartol and Martin (1998), also state that human resource management is the management of various activities designed to enhance the effectiveness of an organizations' workforce to realize set goals.

Training

Activities of development of human resources were traditionally qualified under the presidencies of training, development and education. Training is a planned activity performed in short term to highlight specific knowledge regarding work, attitude and skills. Education is long term process applying general knowledge and often not connected to work. Both can contribute in individual development: improving and general increasing of skills of an individual through conscious and non-conscious learning (Buckley and Caple, 2004).

Training of the employees is a learning experience, whose intention is to achieve a change relatively stable improving their skills of performance during work. In this way training includes changing of qualifications, of knowledge, of attitude or of behavior (C.S.Duncan; J.D.Selby; W.Swart, 2002).

Training is the process of developing knowledge and expertise in people, (Swanson, R. and Holton, E., 2001).

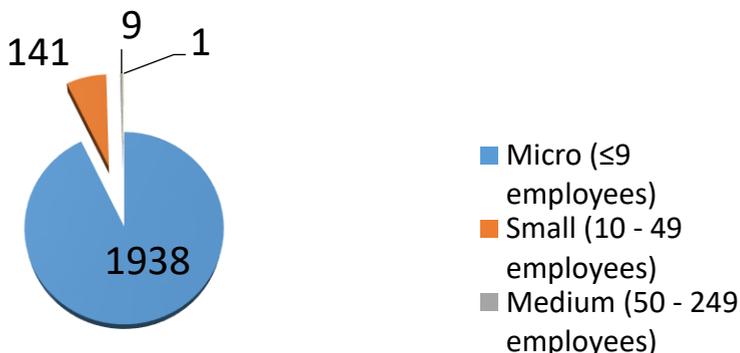
Training and learning should result in change in attitude or an acquisition of new skills. Honey and Mumford (1996) explains that learning or training can only be said to have taken place when people can demonstrate that they know something that they did not know before (insights, facts and realizations) and when they can do something they could not do before (skills). Training is job or task oriented. It therefore aims at enabling individuals to perform better on the job they are currently doing.

Armstrong, M. (2006) defines training as a planned and systematic modification of behavior through learning events, programs and instruction, which enable individuals to achieve the levels of knowledge, skill and competence needed to carry out their work effectively.

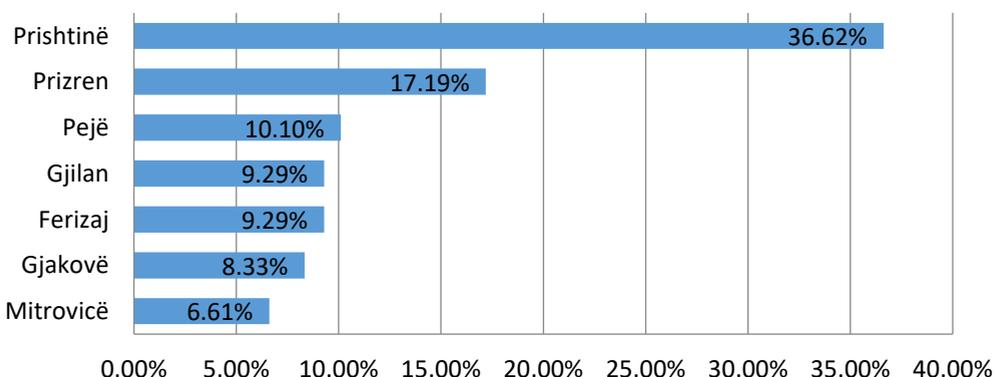
The number of registered businesses in the tourism industry in 2013 it was (2,089) :

(1,938 Micro), (141 small), (9 medium) and (1 large) company)

The basic data for the hotel business



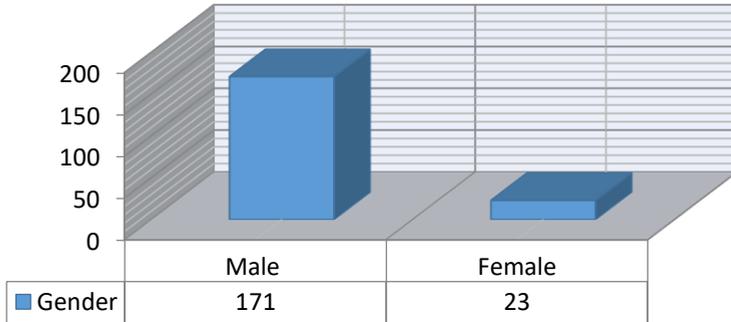
The distribution of businesses by region



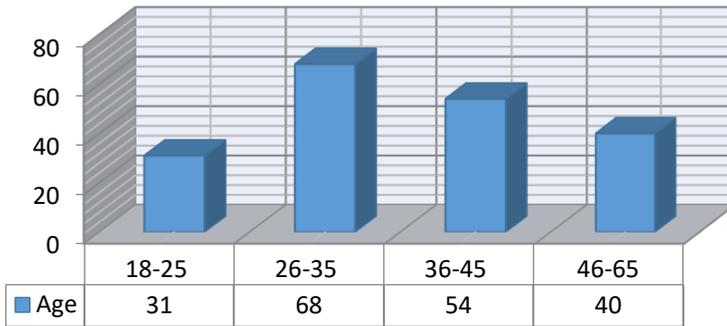
Source: Tax Administration of Kosovo ,2013

This part of questions requires getting basic information for managers of micro business hotels.

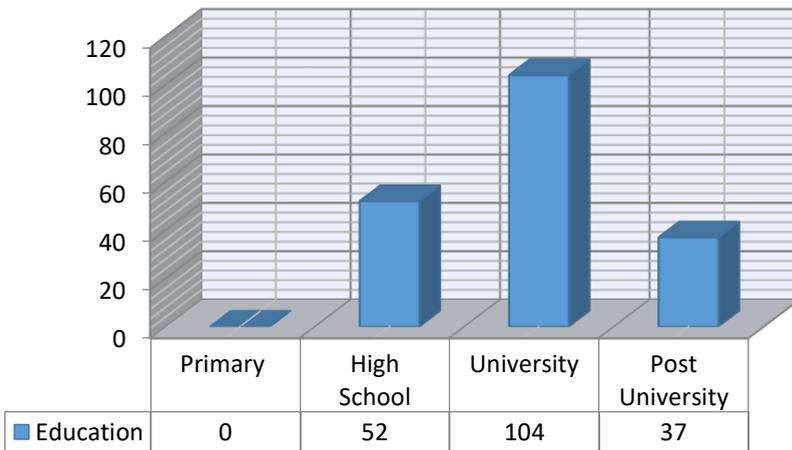
1. Gender



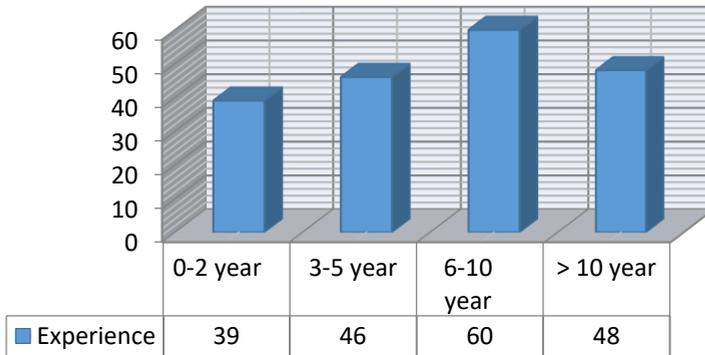
2. Age



3. Education: Which is your level of education?



4. Your work experience in business hotel?

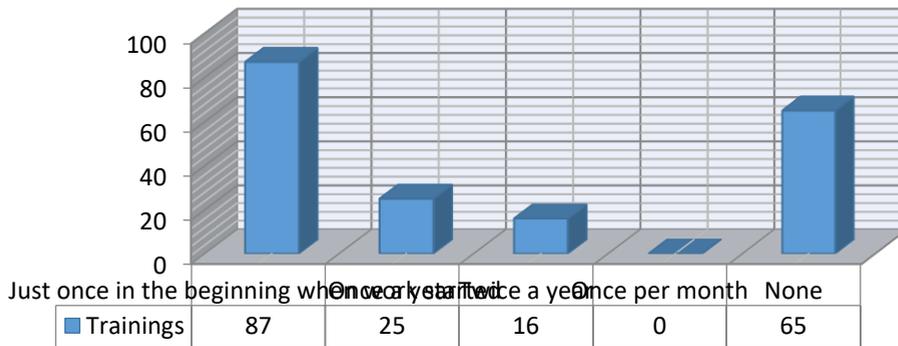


5. How often you have training of your staff in your business?

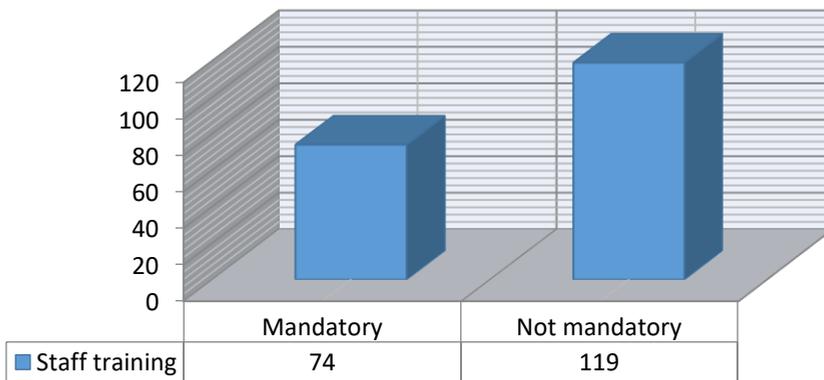
5	Have you been trained for the hotel when you started working?	Yes	46	24%
		No	147	76%
5.a	If yes, for how long?	1-weekly	14	30%
		1-monthly	26	57%
		3-monthly	6	13%
		More then 3 month	0	0%
5.b	What do you train?	General knowledge about hotels	13	28%
		Customer service	7	15%
		Using computer system	26	57%
		Department manager	0	0%
5.c	How was the first training when you take part?	Important	27	59%
		Necessary	19	41%
		Just a routine	0	0%
		Not important	0	0%

These questions require necessary information by managers of micro business hotels for staff training

6. How often have you training your staff in your business?



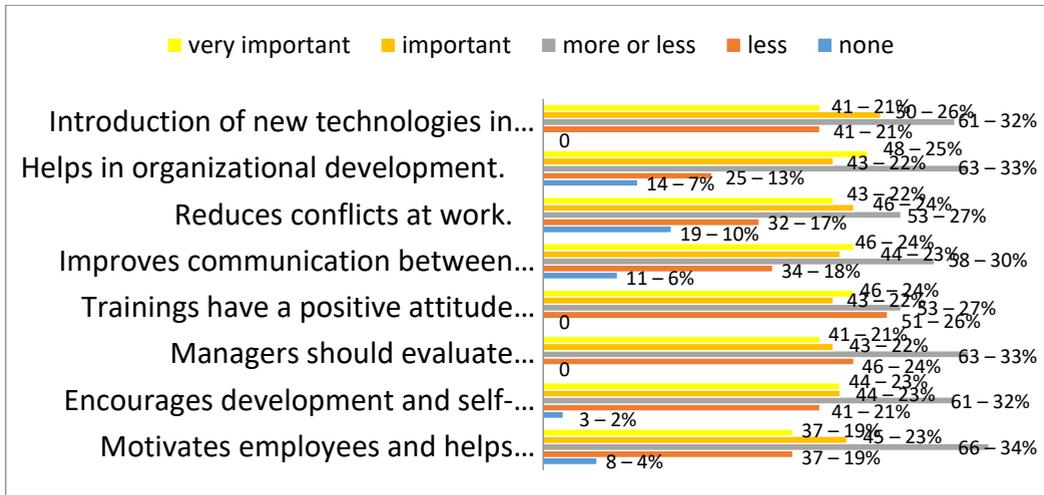
7. Trainings of business staff of hotels are:



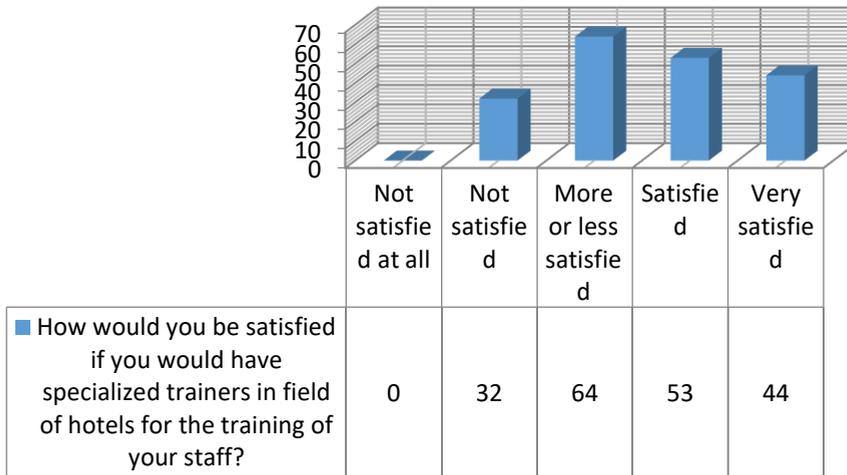
8. Do you have to search for a trainer for training of your staff?

8.	Do you have to search for a trainer for training of your staff?	Po	74	38%
		Jo	119	62%
8.a	Where do you held trainings for your staff?	Within the business	49	66%
		Outside business	25	34%
8.b	Who held trainings for your staff?	Specialized trainers for field of hotels from the countries that have developed tourism.	7	9%
		Hired lecturers from the country and from abroad	6	8%
		Managers	49	66%
		Trainers and supervisors	12	17%

9. Why training is important for business hotels?



10. How would you be satisfied if you would have specialized trainers in field of hotels for the training of your staff?



Data analyzing

During primary research achieved for aims of this project were taken sufficient data by the questionnaires with a sample from 193 micro business hotels that operate in Peja town.

This part of questions requires getting basic information for managers of micro business hotels

Total number of manager's male gender was 171, while female gender 23. Majority of them 65 were aged 26-35 while the other part had different ages. Level of their education in majority was university degree, 37 were post graduated, and with high school 52 managers. Majority had experience in business hotel 6-10 years while others had less. Majority of managers 147 were not trained at all in the area of catering (hotels) when they started their business while 46 were trained.

These questions require necessary information by managers of micro business hotels for staff training

Training of staff in business hotel in major number 87 had training just once when employees started to work while 65 answers were that their staff never participated in trainings. Managers in majority 119 think that training is not mandatory in their business while 74 think that are mandatory. Need for the training for training staff was not awareness rising of managers where 119 think there is no need to request it while 74 of them answered that there is a need to request it. As for importance of trainings most of them majority answered until certain point while answers of managers for specialized trainers in area of catering (hotels) for training of their staff in their businesses were satisfied until certain point 64 managers, satisfied were 53, very satisfied 44 and not satisfied 32.

Based to analyses of questionnaires and raised hypothesis in the project:

"Still we do not have proper awareness of managers about the importance of human resource training in micro-enterprises hotels".

We came to the conclusion that hypothesis was verified for the reason that 119 surveyed managers were not interested for the importance of staff- human resources training in their businesses.

Conclusion

As in most other businesses human resource management is the most complex and difficult process for managing a hotel. Managers require a sustained and optimal performance of employees because it is directly related to the importance and their interaction with customers. As a result, managers and their organization seek to secure the environment, reward and motivation towards workers that make them valuable to increase the performance and delivery of the satisfaction to customers. In modern business hotel is everything based on the competence of the people and especially the qualities and characteristics of employees. The level of quality of service depends on the quality of staff. Qualities are related to the knowledge, skills and thoughts or ideas that affect the survival and development of a hotel. For this reason, staff training is essential in many ways. It increases productivity while employees are 'armed' with professional knowledge, experience and valuable ideas.

Training of staff also motivates and inspires employees providing them all necessary information at work and also helps them understand how important is work that they will perform.

Need for training can arise for many reasons as for example (Llaci, Shyqyri & Koli, Zana, 2005):

- When employees start to work in one hotel should learn secrets of work, to learn how the work is being done in new environment.
- Even that new employers were selected based to qualifications and main characteristics they can again have a lack of ability.
- The reorganization of work may require the employee to acquire more capacity.
- If employees are promoted or transferred they need more capacity.

Recommendations

From the conducted study we concluded that with all the changes that occurred these last years in Kosova and in specific way in Peja we still don't have an awareness of managers for the importance of function of management. Some of the reasons why management of micro businesses is not developed in city of Peja we can find also in development of personnel also in problems with which were faced these companies during the period of transition. Successful hotels always include staff training as one of the key parts of the strategy development. Sorted by composition of training they are held for different purposes, some are getting organized to help the new employees to know the hotel, while some other are being attended to develop skills and knowledge of current employees.

So based to recommendations every hotel business should be refrained to these types of trainings (Yang. Xiao, 2010):

- **Initial training**

This training helps to introduce general hotel information and based skills needed for work. It promotes building good relations between employees as well as among employees and management also. Above all, this type of training helps employees develop the appropriate behavior towards work that they will carry.

- **Training through testing and obtaining certificates**

After this kind of training, workers receive a professional certificate or any theoretical test. This training is intended to promote the skills and motivation of employees when they are able to take this exam.

- **Training as work practice**

Professional skills of the employees is the key of the service of one hotel, work rules and principles are taught in this kind of training, except the courtesy, manners and techniques of maintaining interpersonal relationship. It aims to train employees to learn how best to do the job as effectively and quickly as possible.

- **Language training**

The hotel staff should have as basic skills recognition of one or more foreign languages for different departments, different categories of jobs or different positions. English as a used international language should be known by all staff. While the knowing of a second language would depend from the location of the hotel that in our country is Albanian language.

Literature:

Appelbaum, E., Bailey, T., Berg, P. and Kalleberg, A (2000). *Manufacturing advantage: why high performance work systems pay off*. Cornell University Press, Ithaca, NY.

Armstrong, M. (2006), *A Handbook of Human Resource Management Practice 10th .Ed*. London: Kogan Page Ltd

Bartol, K.M., and Martin, D.C., (1998). *Management*. New York: McGraw-Hill Companies

Duncan, C. S., Selby-Lucas, J. D., Swart, W. (2002). Linking Organizational Goals and Objectives to Employee Performance: A Quantities Perspective. *Journal of American Academy of Business*, 314-318.

Fisher, D. 1989. Current and Recurrent Challenges in HRM. *Journal of Management*. Vol: 15 pg. 157-178.

Gary, Dessler 2006. *A Framework for Human Resource Management*. 4th edition. New Jersey. Pearson Prentice Hall.

Honey, P and Mumford, A (1996) *The Manual of Learning Styles*, 3rd edn, Honey Publications, Maidenhead.

Human resource management – organisational development – knowledge creation. *Journal of Change Management*, 3(3), 199 – 211.

Koli, Z. & Llaci, Sh. (2005). *Menaxhimi i Burimeve Njerezore*. Tirane.

Llaci, Shyqyri & Koli, Zana, *Manaxhimi i Burimeve njerëzore*, Kap. IX 'Trajnimi' Fq. 251.

Roger Buckley & Jim Caple "The Theory and Practice of Training", London.2004.

Stone, R.J. (2008). *Human Resource Management (6th edition)*. John Wiley & Sons, Australia.

Swanson, R.A., and Holton III, E.F., (2001). *Foundations of human resource development*. 1st ed. San Francisco: Berrett-Koehler publishers.

Wood, S., Holman, D., & Stride, C. (2006). Human resource management and performance in UK Call Centres. *British Journal of Industrial Relations*, 44(1), 99 –124

Yang Xiao, The importance of staff training in the hotel industry, fq.25, *Business economics and tourism*, 2010.

Zaugg, R. J., & Thom, N. (2003). Excellence through implicit competencies:

Reservations to Treaties, Prohibited Reservations and some Unsolved Issues Related to Them

Fjorda Shqarri, Phd Cand.

Faculty of Law, University of Tirana

Professor at Faculty of Law, University of Tirana

Department of Public Law

fjorda.shqarri@hotmail.com

Abstract

The capacity of states to conclude treaties is the most important premise of their legal personality, but sometimes a state wants to be part of the treaty but also wants to exclude the effect of some provisions. The statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State is called reservation to the treaty. This paper aims to analyze on the basis of a qualitative methodology, based on research in the literature and relevant legal acts, the role of reservations in the conclusion of treaties between states, its content, the acts similar to reservations and also the prohibited reservations. The consequences of the reservations and the relations between reserving state and the parties of the treaty, as well as other important issues related to them.

Keywords: treaties, reservation, interpretative declaration, prohibited reservation, compatibility test

Introduction

Article 2(1)(d) of Vienna Convention "On the law of treaties" 1969 (mentioned below as Vienna Convention) defines a reservation as "a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;" (Vienna Convention, art. 2) meantime the Vienna Convention of 1986 includes as subject with the right to make reservations the international organizations.

From this definition we understand that the term 'unilateral statement' means that it is done individually by the state and not in agreement with other States Parties, although some countries may make the same reservation (Aust. A, Modern Treaty Law and Practice, pg. 131)

Told otherwise by a reservation into a treaty a state refuses to bound itself with an obligation arising from it, although it agrees with the rest of provisions of this treaty.

The state's ability to make reservations in an international treaty illustrates the principle of state sovereignty, whereby each state can refuse consent to be bound by specific provision and this provision cannot be obligatory to the reservation state. On the other hand, to expose a treaty to reservations of all member states, the means to put at risk all of its implementation. (Shaw. M, International Law, 6ed, Cambridge University Press, pg. 914)

We should note that reservations to a treaty are always unilateral statements, and the fact that some states may make reservation for the same article or provision, does not mean that the reservation loses its a unilateral character, because anyway reservations will be considered individually and not in group (ILC, Guide to practice, UN, 2002).

Reasons why a state wants to make reservation in an international treaty can be different depending on the interest and the politics of each state, but it does not matter for international law and the parties to the treaty. But raises the question which statements or declarations constitute reservations and what they intend to exclude? This is a question that may never get a precise and exhaustive answer because as mentioned above, always depends on the interests of each state party to the treaty, but in general we can mention some of the frequent cases of reservations.

Referring Guide to Practice for reservations in the Treaties of the International Law Commission of UN, "any unilateral statement drafted by a state or international organization through which aim to limit the obligations imposed by the treaty constitutes reservation". Also will be considered as a reservation each statement made by the parties to the treaty at the time of its ratification, acceptance, approval or accession that it intends to implement the obligations deriving from the treaty in a different manner, but considered by the author of the statement as equivalent to those stipulated by the treaty (ILC, Guide to practice on reservations to treaties, UN, 2011).

Reservations may also be related with territorial application of international treaties. Specifically, the unilateral declarations made by a state by which it intends to exclude the application of certain provisions of the treaty or the entire treaty in a part of its territory for specific reasons constitute reservations. Also unilateral declarations intended to change or modify the effect of certain provisions of the treaty in a part of this state territory constitutes reservation of the treaty in question (ILC, Guide to practice on reservations to treaties, UN, 2011).

Although, both of these cases may appear very similar, it must be said that the purpose that is aimed by the reservation state is different, because in the first case the aim is to exclude a part of the territory from the obligations arising from the treaty, while in the second case the goal of the state is to modify the effects that will bring the treaty in a specific part of its territory.

Depending of the moment of their expression during the concluding treaty process, reservations can be divided in reservations at the time of signature, reservations at the time of ratification and at the time of accession (Puto. A, Public International Law).

Reservations at the signing time are easier to be accepted, because at this moment the parties are aware of the obligations and rights that will connect them reciprocally, while at the time of ratification of this issue differs because it did not leave the parties the opportunity to modify the treaty provisions, putting them forward an unexpected situation.

At the moment of ratification is presumed that all parties are waiting the entry into force of the treaty to implement it, and if at this point a reservation is made this mean that this may prevent or in the best case may suspend or postpone the time of entry force.

However it must be said that it may have also late reservations, which are made upon ratification, and in this case the depositary state notify all parties to the treaty for the formulation of such reservation records it, no other State has raised objections (UN, Treaty handbook, pg. 12).

It should be mentioned here that there is a distinction between reservations in bilateral and reservations in multilateral treaties. Although the Vienna Convention itself makes no distinction between them, the fact is that these two cases have different consequences. So a reservation in the meaning of art 2/1/d of VC cannot be made to a bilateral treaty because this kind of treaty needs that both parties agreed for all terms before it can be bind to them.

In this sense, the International Law Commission of the United Nations declared that a state declaration regarding a provision of a bilateral treaty made before the entry into force of the Treaty, irrespective of its formulation, which requires modification of the legal effect the provision, cannot be called reservation (ILC, Guide to practice 2011). Such argumentation is thought to be based precisely on the fact that in bilateral treaties, when one of the parties does not accept the treaty or some provisions made by it, then there is no agreement (Shaw. M, International law, CU Press 6ed) and in this case and is required reopening of negotiations to modify the terms of the agreement, otherwise the treaty will not be signed.

While in multilateral treaties, seems that the need for reservations is derived from the nature and process of their formulation. Usually, in such treaties are part of a large number of states, which represent different systems of law, different geographical regions, and what are most important different policies, so it is understandable that they may not agree with specific provisions of the treaty, which could conflict with their domestic policy.

Reserves at the time of accession are common and have been applied in many multilateral treaties. The concept of accession as a legal act whereby a not treaty party State, join in on a later moment of its entry into force (Puto. A, Public International Law, pg. 376), makes it clear that such reservation does not affect the legal poker and the implementation of the treaty. On the other hand, it is normal that such reservations are the most common, considering the fact that a later member state, has not participated in the negotiation phase and has not had the opportunity to express his opinion or position regarding treaty's provisions.

Apart proper reservations in treaties, we have also acts similar to them, which depending by the case may or may not have the reservation legal effect. So, we have political declarations and interpretative declarations.

Political declarations are made by states when they sign a treaty, but do not intend to have any concrete effect regarding the treaty in question. Generally these kinds of declarations are mostly related with issues of domestic policies of a state and do not affect either the application or other member parties to the treaty, such as declarations that although the state has signed the treaty that does not mean that it recognizes the states party to (Aust. A, Modern Treaty law and practice, pg. 129), which he has not recognized individually, or declarations by which a State makes known his position on certain issues related to the other parties to the treaty.

Interpretative declarations are unilateral declaration of a state or international organization party to a treaty, by means of which they intend to specify or clarify the meaning or purpose of the treaty or its particular provisions (ILC, Guide to practice on reservations to treaties, 2011). As mentioned above, the fact that such statements can be made from several states jointly, this does not mean that they lose their unilateral character.

However, it should be mentioned that the main difference between these declarations and reservations is their legal effect, as it is known the reservation effect is to modify the treaty while these kinds of declarations do not produce effects for other parties (except specific cases). Still, interpretation in good faith of the title, text and purpose of the statement is the one that makes the difference whether it's an interpretative statement or a reservation (ILC, Guide to practice on reservations to treaties, 2011).

So, in the "Continental Shelf France – United Kingdom" case, the court has referred to the Convention on the Continental Shelf in 1958, were both states were parties and where France had made a reservation for the implementation of the article 6¹. The arbitral tribunal dismisses claims of United Kingdom that it is a simple interpretive statement, arguing that although this statement has elements of

¹ In this case France ask to implement the equidistance principle

interpretation, its aim is to exclude or modify the legal effect of certain provisions of the treaty, and therefore it makes backup (Sh. Malcolm, *International law*, 6ed, 2008, pg. 916).

Although an interpretive statement has not legal effects for other parties to the treaty, it must be said that often "hide" in itself a reservation to a treaty provision. Therefore we can say that many authors make the difference between simple interpretative declarations and qualified interpretative declarations where the qualified interpretative declarations in certain situations can bring the effects of reservations (Sh. Malcolm, *International law*, 6ed, 2008, pg. 916).

Usually, when a treaty prohibits reservations, interpretative declarations cannot be called as such, however in special situations when they intend to exclude or modify the legal effect of certain provisions of the treaty, or the treaty as a whole in relation to certain specific aspects in their application to its author, may constitute a reservation. A declarations can be considered as qualified if it makes interpretation of the treaty or its provisions and in this case should be used all the rules that are in force for reservation in international treaties (ILC, *Guide to practice on reservations to treaties*, 2011).

In the case of bilateral treaties it must be said that interpretative declarations made by one party and accepted by the other party constitutes the authentic interpretation of this provision or of the treaty.

Also, there may be cases when the treaty provides for the states parties the right to make interpretative declarations and in some treaties is provided as obligations to make these declarations. Such declarations are optional when the treaty expressly permits the party to make interpretative declarations if this is necessary, and interpretative declarations are binding on those occasions when the treaty explicitly requires such a thing. For example we can mention here the Montego Bay Convention 1982, which provides that States Parties should make declarations about how will be applied the Convention to each of them and how to harmonize domestic law with the Convention (UN, *Treaty handbook*). We can also mention cases when the treaty demands to know the minimum age of the subjects to which they apply its effects, etc.

Interpretative declarations can be made as to the time of signature, ratification, acceptance, approval or later and there be no prescribed form of how it must be drafted. However, in those cases when optional interpretative declaration establish obligations to the state party or organization, then it should be signed by the competent state authority, or the person authorized by full power.

Usually Depository State shall notify all parties of interpretative declarations made to a treaty, and if other states suspect that we are dealing with a reservation since the statement is intended to modify the legal effects of the treaty, then they have the right to object this declaration.

In cases where the treaty prohibits reservations, the states can be addressed to the other options that aim to avoid the full effect of the treaty. Such may be clauses in the treaty intended to limit the scope of it, or conclusion of parallel agreements with one or more parties to the treaty in which is provided that between them they will not apply one or more provisions of the treaty. Also, a part of the interpretative declarations, states or international organizations may claim to formulate treaty clauses for interpretation or conclusion of a special agreement for this purpose (ILC, *Guide to practice on reservations to treaties*).

The permissibility of a reservations to an international treaty is a very important issue, because on the one hand is the will to maintain the 'integrity' of a treaty in order that parties be related equally with his rights and obligations, on the other hand is purpose is to ensure a wider participation of the parties even if they do not accept all treaty's provisions. Especially, this need is felt to treaties that establish certain standards or general principles (For example ECHR or Montego Bay Convention), however, in such cases there are restrictions on the right to make reservations (Dixon. M, McCorquodale. R, Williams. S, *Cases and materials on international law*, 5ed, Oxford press)

Article 19 of Vienna Convention provides that states have the right to make a reservation at the time of signing, ratifying, accepting, approving or acceding to a treaty, which means that firstly this right is limited in time (UN, 10th report of ILC, *Reservations to treaties*), (as we have mentioned above). However, this is not the only limitation, as this article provides that reservations in a treaty cannot be made in cases where the treaty itself prohibits reservations. So, when the treaty provision provides that reservations are prohibited, the treaty should enter into force between the parties or they should reconsider their positions regarding participation in this treaty.

Prohibited reservations means all cases when the treaty itself prohibits all kind of reservation, cases when the treaty prohibited reservations regarding specific provisions and a state party want to make a reservation for the provision in question, and cases when the treaty prohibits a category of reservations (UN, *Guide to practice*).

The Convention also provides that no reservations may be made in those cases where the treaty itself allows specific reservations, but reservations made by a party cannot be included in this category. Specific reservations mean those specifically mentioned to the treaty as permissible, which are related to certain provisions of the treaty.

More specifically, a treaty may contain predictions that parties may exclude from the application of the treaty some subjects or issues. Also the treaty can provide that reserves are allowed only on some provisions, for example, provisions relating to the settlement of disputes or the interpretation of the treaty. A treaty may also provide that reservations can be made only to certain rights and obligations (Aust. A, *Modern Treaty law and practice*, pg. 136)

The Convention also provides that are not permitted reservations which are contrary to the purpose and object of the treaty. We can say that this prediction is somewhat vague, since there is no real definition of criteria when will be considered that the reserve is related to the

object or purpose of the treaty, especially if the treaty is silent on reservations, the test of compatibility becomes more difficult (Aust. A, Modern Treaty law and practice, pg. 137).

However we can say that this is an issue the interpretation of which must be made under the principle of good faith and referring general terms of the treaty, title, preamble, negotiation and practice of the party before the conclusion of the treaty. Reservations should be formulated in such a way that its content is understandable and allow compatibility testing (UN, Guide to practice).

However, in general terms a reservation can be considered not to comply with the object and purpose of the treaty if it affects the essential elements of the treaty or the reason for which it was created or compiled.

As to assess the compatibility of a reservation with the purpose and object of a treaty that contains many interdependent rights and obligations should be taken into account as well interdependence, the importance of the provision to which the reservation is made in the general context of the treaty and the impact that the reservations has on the treaty (UN, Guide to practice).

The issue of reservations which are incompatible with the object and purpose of the treaty is actually very controversial, especially when it comes to human rights treaties. In Guide to Practice of International Law Commission of United Nations is mentioned that is prohibited a reservation to a provision that provides a right that no derogation is permitted, unless these reservations are in compliance with the essential rights and obligations arising from this treaty.

If a state aims through the reservation, to change the legal effect of the treaty or its provisions with the justification that want to preserve the integrity of the domestic law, this reservation is permitted only if it does not affect the essential elements and the general concept of the treaty (UN, Guide to practice).

While there may be regarded as prohibited a reservations made on the provisions of the treaty that reflect norms of customary law or the provisions relating to supervisory bodies for the implementation of the treaty or the settlement of disputes.

We also should mention here that is not permissible a general reservation, because a reservation should be made always in regard of specific provision, signing or ratification lose it role.

The authorities which can examine the permissibility of a reservation can be the states or organizations party to a treaty, can be bodies created by the treaty to resolve disputes, or monitoring bodies created for the implementation of the treaty.

In cases when the treaty establish a body to resolve disputes of the parties, and in a concrete case the dispute relates to the permissibility of the reservation, then such a body is entitled to examine the permissibility and decision that he gives is binding on the parties (UN, Guide to practice).

However, remains unresolved issue of entry into force of the reserves, as if we refer to article 20/4 of Vienna Convention, it is foreseen that a reservation made by a State may be considered accepted if it is accepted at least by one state party to the treaty, and the objection from another state of a reservation does not preclude the entry into force of the treaty between objecting states reserving status, except when such a thing is expressly specified. On the other hand, this article is silent on the nature that reservations must have to be accepted, so it does not what will happen if a reservation is not compatible with the article 19 of the Convention and is accepted by the parties to the treaty.

Regarding Article 19, special issue presents article 19/c as the conventions are silent regarding the compatibility test and its objectivity. So there is no well-defined criteria based on which the compatibility test of the reservation with the object and purpose of the treaty will be made, leaving the parties assessing this issue.

Also is not clear the status of a state that makes a reservation prohibited by Article 19, will it be considered as a party to the treaty without taking into account the reserve and which will be the respective rights and obligations in this case? Or it will not be considered as a party to the treaty? Especially, this situation is important to be clarified in the cases when the state authorities relate the ratification of the treaty with the reservations.

As a conclusions we can say that: Reservation in multilateral treaties are a good way to expand participation in the treaty as well as to satisfy all its member states, which may belong to different legal systems. Whether treaty reservations are prohibited, then international law itself has put the parties in other available legal remedies that may have the same effects. But Vienna Convention on the law of treaties is not clear in some of its provisions regarding permissibility of reservation, compatibility test and entry into force of reservations. Also the consequences for the state that made the prohibited reservation are not specified.

Bibliography

Vienna Convention "On the law of Treaties" 1969

ILC, Guide to practice, UN, 2002

ILC, Guide to practice on reservations to treaties, UN, 2011

UN, Treaty handbook,

UN, 10th report of ILC, Reservations to treaties

Aust. A, Modern Treaty Law and Practice

Shaw. M, International Law, 6ed, Cambridge University Press

Puto. A, Public International Law

Dixon. M, McCorquordale. R, Williams. S, Cases and materials on international law, 5ed, Oxford press

Financial Reporting - the Private - Public Partnership Prospective - the Case of Albania

Kledian Kodra, Ms.C.

Senior Audit Manager at PwC (Albania)

kledi.kodra@al.pwc.com

Doc.Ines Dika

Lector, Agricultural University of Tirana

ines.dika@virgilio.it

Abstract

In the wake of the recent trend in governments stepping back from performing administrative duties aiming at improving service quality of citizens, Albania has witnessed a rapid growth in the Private – Public Partnerships (PPP). The ever growing confrontation of the government with the challenge to improve infrastructure and public facility planning grows proportionally with the increase in demand from the population as well as the need for enhancing existing infrastructure and public facilities, which suffer from delayed maintenance interventions. One of the distinguishing features of the latest developments in Albania is the boost in the number of PPP arrangements completed and in progress, aimed at meeting different infrastructure objectives, efficient mining exploitation, construction of Hydroelectric power plants and various public facility centers offering an array of public services etc. The PPP arrangements take a number of forms depending on the degree of involvement in the private sector and according to the methods used for their implementation. In this paper we are going to focus only on the accounting and financial reporting aspect of these issues, from the prospective of the public sector entity, i.e. the offer, by giving limited consideration to the operators of these agreements due to the fact that the accounting treatment and the respective financial reporting for Service Concession Agreements for private operators are covered by IFRIC 12 of the Interpretations committee for the International Financial Reporting Standards on "Service Concession Arrangements".

Keywords: Financial Reporting, Public Partnership Prospective

Introduction

Due to recent trends in which governments continuously step back from performing administrative duties and with the purpose of improving the quality of the services offered to the citizens, the Private – Public Partnerships (PPP) is rapidly growing in Albania, by raising the efficiency of the public investments. Governments are facing now more than ever the challenge to create the infrastructure and the public facilities, which should comply with the increase in demand from the population. They are also facing the need to enhance existing infrastructure and public facilities, which are deteriorating due to the delayed maintenance.

One of the distinguishing features of the latest developments in Albania is the boost in the number of PPP arrangements agreed upon and the ones that are in progress, aimed at meeting different infrastructure objectives, efficient mining exploitation, construction of Hydroelectric power plants and various public facility centers offering an array of public services etc. The PPP arrangements take a number of forms depending on the degree of involvement in the private sector and according to the methods used for their implementation.

A specific form of this partnership is the Concession Agreement (CA) which differs from other forms of PPP agreements because the risks and benefits that associate with the construction, ownership and use of the asset (property) subject to the agreement, along with the control over it, are largely separated between the public sector entity and the private sector involved in the agreement. The separation of these aspects of asset/property and the complexity of the transactions has often made uncertain the financial reporting by public entities as well as the private ones. Examples of these agreements are the use and maintenance of a highway from a private company against a fee, production and distribution of national passports, the production of excise stamps, construction operation and maintenance of the large parking lots, construction and operation of hydropower, etc. All of the above examples that are already present in the Albanian economy have on their basis the acceptance of the responsibilities from the companies that make the investment even after the completion of the investment.

In many cases, if not most of them, the execution of these agreements with the private sector requires their cooperation with the banks to provide for the necessary financial means (such as the case of HPP), where the guarantee of obtaining credit can be given by the public sector or from different agencies or donors. Under such circumstances, financial reporting takes the meaning of reliable information given to all parties involved.

Backgrounds and issues related to financial reporting agreements of the PPP

Although in Albania there is no clear guidance on the accounting and reporting by public sector entities for the property subject to concession agreements, of assistance in this regard may be the framework of the International Accounting Standards Board (IASB Framework) and the standard lease agreements and suggestions to the International Public Sector Accounting Standards Board (IPSAS). The lack of specific regulations on this issue, has brought divergence in the way of reporting the property/asset or service. It may unfortunately happen that the property is not reported as such from neither the public nor the private sector.

In this paper we are going to focus only on the accounting and financial reporting aspect of these issues, from the prospective of the public sector entity, i.e. the offeror or provider, by giving limited consideration to the operators of these agreements and this is due to the fact that the accounting treatment and the respective financial reporting requirements for Service Concession Agreements from private operators are covered by IFRIC 12 of the Interpretations Committee for the International Accounting Standards Board on "Service Concession Arrangements".

If the financial reporting on assets was to be based only on legal ownership, we would not be able to achieve financial reporting that faithfully reflects the assets based on the principle that "economic substance prevails over legal form". This is why it becomes necessary to analyze the relationship between the parties as well as the asset or activity subject to the agreement.

According to the International Public Sector Accounting Standards (IPSAS) the assets are defined as "resources controlled by one entity, which arise from activities in the past, from which are expected possible future or potential income of economic benefits. The notion of control over resources is clearly presented in the definition. Given the definition, that the provider has to report the property subject to the concession agreement as an asset, it should have a control over the property, but also receive future economic benefits or service potential.

The control over the use of the property is the key principle that is reiterated in the conclusions given in the IFRIC 12. According to this principle the private operator should not report as an asset of his own an asset subject to an agreement that is regulated by this interpretation. According to this interpretation, the private operator does not recognize the property as an asset but recognizes an intangible or a financial asset that reflects the right that has been granted to him by the offeror to use the property or receive contractual cash flows. According to the IPSAS Board, the nature of the criteria included in the scope of application of the IFRIC 12 generally is appropriate to determine whether the provider has complete control (substantial) on the property under such agreements for financial reporting purposes. These criteria taken into consideration together indicate that a) the provider will have a continuous right to ask for the property to be operated in such a way as to fulfill public service throughout the whole agreement and beyond, and b) the operator's practical ability to sell or pledge the property is limited.

Regardless of the operators' control over the provision of certain aspects of services that have resulted from wealth, the general use of this property remains limited to the providers' target set in the agreement. Furthermore, the concession provider controls the key operational aspects of the property, such as, for example, the fees to be applied to its use.

If criteria similar to those in IFRIC 12 are met, it is widely accepted that the operator operates the property on behalf of the provider, and the latter has ultimate control over the property.

Based on the instructions of IPSAS 23 and IPSAS 6, it can be argued that if the grantor's control over the assets underlying these agreements is similar to regulatory control, only one control of this kind is not sufficient to meet the concept of control included in the definition of an asset for financial reporting purposes providers.

For example, the government may transfer an area of land to a public university specifying that the land will be used only to construct the campus. Under IPSAS 23, despite this definition, the public university (in this example "user") controls the land and will present it as an asset in its financial statements. The university needs to recognize also a liability, if the determination shall be considered as a condition, which means that if the land is not used for the purpose for which it is given, then it will be returned to the rightful owner. Results of financial reporting in this example may seem in conflict with the guidelines discussed above concerning the control over property of this agreement, where the party that imposes restrictions on the use of assets (provider) and not the user of the asset (operator) is considered that controls the property for financial reporting purposes. The crucial difference between this example of land transfer to the university and the service concession arrangement is that the grantor holds control of the remaining interest in the underlying assets of the agreement until its end. In typical arrangements such as those discussed above, the asset at the end of the agreement is not returned to the transferor. Even where predestination is provided, upon fulfillment of this condition the asset remains with the operator, so in the case of the University at the time that the land will be used to build the campus, the asset (land) remains, to be reported in the statements of the University.

Future economic expected benefits or services potential.

Even though the provider in an agreement can control the use of property, in order to meet the definition of an asset by IPSAS 1, as mentioned above, the property should bring a stream of expected future economic benefits or service potential to the provider. IFRIC 12 concludes that the use of the property, subject to these agreements regulated by this interpretation, is not controlled by the operator (it does not meet the definition of an asset for the operator). IFRIC 12 covers only for private operator accounting and does not address the flow of benefits from the property to the provider.

The aspect of the potential service as future benefits that can come from an asset is the main difference between the definition of an asset under IPSAS 1 and that according to the IASB framework, which focuses only on future economic benefits. "The potential of services" further explained in paragraph 11 of IPSAS 1 as follows:

Assets provide means for the entities to achieve their goals. The assets used to supply goods and services in accordance with the objectives of an economic entity, but don't generate direct net cash flows are often described as containing "service potential". For example, a road where no fees apply for transfer is considered as an asset for the government because it provides services in order to achieve government objectives in relation to transport, although it does not generate future economic benefits for the government. In general, governments enter into such agreements concession to fulfill the objectives of the service through the construction, renovation, or improvement of the property subject to the agreement. In this way, the property subject of the contract is intended to provide benefits to the provider, related to the potential of their services, even if the property will not provide any economic benefit in the future. Even though the main reason for the provider to enter into such an agreement is the economic benefit, for example to receive in advance a cash influx in exchange for the rights to operate a road, the property subject to the agreement will continue to be used to accomplish government objectives - it would be operated only by a private operator, so it will offer service potential benefits grantor.

For example, let's take into consideration a national road operated free of charge that is reported as an asset by the provider, based on its potential for services. Let us assume that this road becomes the object of a concession agreement according to which the operator is entitled to decide charges for the road users, in return he takes the responsibility to make repairs and renovations, as well as make use of the road according to the specifications of the provider. If it is proved that the provider has control over the road under the conditions specified in the contract, then he will have the same benefits he had before the execution of such agreement, despite the fact that the provider has spent a good part of the risks and benefits to the operator. Therefore, it seems that the road must continue to appear as an asset of the provider because its basis that requires its reporting as an asset has not change, so it is an asset of the provider based on potential service.

Furthermore, it can be argued that in the cases the provider controls the property, the operator operates deeply the asset on behalf of providers, then he is a supplier of services to the concession provider. The economic risks and benefits assumed by the operator through the agreement may be similar to those of a seller to a service contract. They differ from the risks and benefits associated with ownership of these assets.

However, the economic risks and benefits may be associated with an active private operator reported as a result of "access" in this property. For example, the operator shall report an asset as intangible under IFRIC 12 because future income depends on the public use of the service and is not guaranteed.

Current proposals by the IPSAS Board, which can be adopted as practical even in our country, suggest that the concession provider must report the asset in its financial statements, if it is considered that controls property for financial reporting purposes. The proposed criteria for determining control by the providers are as follows:

The provider controls what services should the operator provide making use of the property subject to the agreement, to whom should these services be provided, prices associated with these services, etc.

The provider controls, through ownership, or through any other cause - a residual interest in the asset until the end of the agreement.

According to the Board, the providers' control over the asset subject to the agreement, proves that the provider remains responsible for providing direct or indirect public services, which relate to an asset. The fact that the provider is keeping the risks and benefits shows that the latter expects to receive from the property potential for services in the future.

Other accounting aspects and the financial reporting

For agreements that meet the proposed control criteria it is a good practice to use the requirements of IPSAS 7, regarding the timing of recognition of the asset (during construction or only when the asset becomes usable) and the liability associated with this asset, which in fact reflects the obligation of the provider to compensate the operator regarding the property (asset). Recognition criteria will be met during construction, if the value of the construction in process can be measured accordingly. This applies when the provider bears the risk of construction or when both parties can waive the agreement when they want to do such a thing without being paralyzed. If none of these scenarios is fulfilled, then the recognition criteria are not likely to be completed until construction is finished.

Specific requirements have also been set regarding the agreements where the elements of construction and service may (or not) be separated within the scheduled payments by the providers.

If, however, for some concession agreement none of the proposed control criteria is met, as discussed above, the provider does not have to recognize as an asset subject to this agreement. Consequently, any payment to be made to this CA is for its service and not for the asset/property, and therefore should be spent according to the economic benefits of the service. Also, if the property exists and is held as an asset by the provider, according to IPSAS 17, it should be de-recognized.

For concession agreements in which the provider only controls the use of the property during the agreement (for example in the form CA building-ownership-operation), the tenant must follow the instructions in IPSAS 13 if the agreement meets the requirements of a lease contract. If, however, the provider controls only the use of the property during the agreement and the agreement does not meet the terms of a finance lease, because the provider retains ownership during the period of the agreement, then the provider must report the property as an asset. If, however, the agreement includes a newly built property, the asset and the liability related to it shall be reported and measured as described above regarding the financial reporting provider when control criteria are met. At the end of the agreement the

remaining accounting value of the property will be deregistered, reflecting the transfer of property to the operator. If the agreement does not meet the terms of a finance lease and the provider is not the owner of the property, then it will not be recorded as an asset and any payment in connection with this property / asset would be an expense of the period.

For agreements involving assets / properties that are newly constructed, where the provider does not control the use of the asset / property during the agreement, but instead it controls remaining interest in the asset / property at the end of the agreement (for example the BOOT form agreement), the provider reports as an asset the excess of the value arising from the difference between the expected fair value of the property right at the end of the agreement and the amount that the provider will be required to pay to the operator for the restitution of the property. This asset reaches gradually its accounting value of the payments made by the provider to the operator during the whole the agreement.

For arrangements involving existing assets in which the provider does not control the use of property during the time of the agreement, but instead it controls the residual interest at the end of the agreement, the Board proposes to follow the guideline that applies to the lessor by IPSAS 13, if the agreement meets the definition of a lease contract. If the agreement does not meet this definition, the provider derecognizes the asset (property) and recognizes as an asset the obligation of the operator to return the property at the end of the agreement.

Provisions for revenue sharing

In the cases of agreements where the operator is expected to raise revenue from direct fees imposed to third parties or by the users of the public good, usually the provider negotiates to include in the contract a provision for these revenue sharing between him and operator. In this way, if the property use exceeds expectations then the operator will share success with the provider. This provision would serve to protect the provider from political risk and public criticism that could arise due to involvement in an agreement, which may be more profitable for a private operator. For example, as part of a BOOT agreement for the construction of a large parking lot, the provider receives a fixed fee for each ticket sold. The provider uses this fee to finance activities of the community. Another example would be a deal that includes the construction of a toll road, whereby the provider is entitled to receive 40% of the total income as net flows from the agreement offer to the operator a pre-tax rate of return of 6.5% on the total funds invested. The part of the provider increases to 80% of the total revenue collected as cash contract gives to the operator a rate of return of 8%.

Provisions of revenue sharing are often included in the terms of an agreement along with a minimum guarantee for the operator. For example, an agreement for the operation of a toll road contains a provision for revenue sharing. This provision requires the provider to benefit about 57% of the income that exceed those predicted. This provision may be accompanied by other provisions where the provider will pay 80% of any negative gap between the predicted and current revenue. The provider minimizes the risk of demand by giving to the operator a kind of guarantee for minimum income, which if the project results successful has the potential to be even bigger. Current proposals of the Board emphasize that providers should recognize these revenues (and receivables) as they are earned, along with the substance of the agreement and after any contingency event has been met (such as the excess of the minimum threshold of income).

Consolidation

When the operator is a government business enterprise, there will always exist some of the control indicators discussed in paragraphs 39 and 40 of IPSAS 6, especially if this kind of enterprise is created to serve as an operator in the concession agreement. This operator, in general, should be consolidated in financial statements of the providers.

In cases the operator is an economic entity, then it is an economic entity for specific purposes and the control indicators described in paragraph 39 of IPSAS 6 would not be valid between the operator and the provider. However, the contractual terms of these agreements may result in the presence of several indicators of control given in paragraph 40 of IPSAS 6. For example, in an economic entity for specific purposes that is created for a toll road, the following provisions of the contract may be indicators of the control strength of the providers over the operator:

The operator is allowed to take a loan as specified in the contract and the provider must approve in advance any additional debt.

All payment charges for crossing the road are subject of approval by the Minister of Transportation and may differ depending on the requirements of providers.

The provider may request to dismiss every employee who is incompetent, rude etc.

The provisions of the agreement in this example, which may indicate that the provider receives benefits from the activities of the operator are as follows:

It is necessary for the operator to ensure that the highway will be open to traffic at all times and that traffic flow meets predetermined standards that accomplish objectives of the provider regarding transportation.

The operator will make payments to providers if the return of the project exceeds a certain limit.

Conclusions and Recommendations

A distinctive feature of developments nowadays in Albania is the rising number of PPP agreements completed and those in the process, for the implementation of various investments in infrastructure, for efficient utilization of mining, construction of HPP, centers and various facilities public, various public services etc.

PPP is a new and important means to increase the efficiency of government investment funds with the aim of taking responsibility on both sides.

Currently accounting treatments and adequate financial reporting by private operators for the concession agreements are covered by IFRIC 12 Interpretations Committee of the Board of the International Accounting Standards "Service Concession Arrangements".

Based on the instructions of IPSAS 23 and IPSAS 6, it can be argued that if grantor's control over the property subject to the agreements is similar to regulatory control, only such control is not sufficient to meet the concept of control included in the definition of an asset for financial reporting purposes of the provider.

The aspect of service potentials as future benefits that can come from an asset is the main difference between the definition of an asset under IPSAS 1 and that according to the framework of the IASB, which focuses only on future economic benefits.

Although the main motive of the provider to enter into such an agreement is the economic benefit, for example, to receive an influx of cash in advance in exchange for the rights to operate a road, the property subject of the agreement shall continue to be used to achieve government objectives - it would only be operated by a private operator, so that will offer potential benefits to its service provider.

Current proposals from the IPSAS Board, which can be adopted as practical even in Albania, suggest that the concession provider must report the asset in its financial statements, if it is considered that it controls the property for financial reporting purposes.

Literature

Ministry of Finance, Albania "Albanian Macroeconomic Indicators" (2012)

Ministry of Finance, Albania, "Albanian Macroeconomic Indicators" (2012)

Ministry of Finance, Albania, "Albanian Macroeconomic Indicators" (2013)

OECD – Working Party of Senior Budget Officials "From Lessons to Principles for the use of Public-Private Partnerships"

EU law on public procurement and concessions in relation to public-private partnerships - **2004 Green Paper** - how procurement law applies to different forms of public-private partnerships

IPSASB consultation Paper

IFAC website

IASB Framework

The Pledge as a Legal Instrument for Reinforcement of the Contract

Skender Gojani, PhD

Lecturer, Faculty of Law

University of Prizren "Ukshin Hoti", Kosovo

Abstract

The contract is made with the aim of achieving harmonized interests of contractors. Contractors, such as the seller and the buyer, initially align goals and mutual interests and, as such, they set in the contract, in order to realize in practice. This is the normal course of contracting and contractual implementation. However, in practice, it often happens that, at least one contractor to disobey them adequately its contractual obligation and, to the extent and in what form, to damage the contractor. After that, the judicial proceedings for the realization of contractual requirement of contractor damaged, to the extent of consideration, is complex and lengthy, in that proceeding, the damaged contractor, again, is disadvantage. Consequently, in practice, are applied forms of respective insurance forms of contractual of request of contractual creditor. Such a practice is called "instrument for reinforcement the contract". Instrument for reinforcement of the contract, is regulated with a clausal of contract and presents its accessory element. When the contract is perfected in accordance with contractual terms, contractual enforcement instrument, is not activated and vice versa. In theory and in practice, are recognized and applied multiple instruments, and different to enforce the contracts, among which, worth to be emphasized the Pledge.

Keywords: the pledger, pledgee, Contractor, liability, insurance

Introduction

Pledge (in movable goods "res mobiles", while, on real estate "immobile res" – imobiles" -pledge) is practiced as suitable instrument for securing the contract. The good "res" loaded with pledge, should be available on the market but can be ideal part of it. Also, instead of the good, can also be pledge a property right which is appropriate for the creditor in order to achieve the contractual requirement to provide it. The contractual right of pledge is a real type of insurance liabilities, unlike bail, which also is one of the instruments of insurance liabilities, but of personal character. So bail, is a personal instrument of liability insurance, while, pledge, is a real instrument in the same function.

However, the movable property pledge "pignus" or on real estate "mortgage" is the safest instrument for reinforcement of the contract of bail, which relies on personal components, moral and values assigned to bail, which, as such, in practice, cannot monetized as practicable to the thing charged with pledge.

The right of pledge

The right of pledge is a real right, with what its holder is not authorized to use the pledge, but only to dispose for contractual fulfilment of contractual demand unfulfilled from his debtor and, when is found that the debtor has failed in fulfilling the certain contractual obligation.

With pledge contract, the debtor, as the pledge debtor is obliged to, he or another person, as pledger, to give any movable good to pledge creditor, in which there is a right of property, so that he before other creditors can collect from its value, if the request will not be paid before expiry, whereas, the pledge creditor, owed that, the taken thing to save and maintain and after its request, to return to the pledger.

The right of pledge profit

For acquisition of the right of pledge, the pledge contract is a legal base "titulus". Except titulus for pledge contract is required the ways of getting the pledge "modus acquirendi", which is realized at the time of receipt of the pledge.

Essentially, the contract for the pledge, even though resembles the real contract, is consensual and oneroze contract. In contract for pledge is established the legal report for the pledge between the creditor and debtor of the pledge. Usually, the pledger is the entity that has the right to request from legal-binding relationship. When a bank lends (loan) to borrower € 100,000 and he pledges the property with a value of € 167,000, in the contraction, the bank is lender and pledgee, while the borrower is the borrower and the pledger.

The pledger can be the borrower but also the entity (from the Roman law; POMPIUS: "PLUS CAUTIONIS IN RE EST QUAM IN PERSONA") who does not get borrowings from the lender but guarantee the borrower with the thing that use as pledge.

Such contracting is of multilateral type. The object of the pledge can be each movable or real estate good which is in circulation "res in commercial".

Also, the items in the joint, for the adequate part of the owner, can be charged with pledge. The object of pledge must be specified and defined.

Gams- considered the item left as pledge must be individualized. Pledger obtains the right in pledge when he gets the thing left as pledge. Such pledge is possessory pledge.

Pledge can be standard when the pledged object remains in the possession of the pledger. However, possessory pledge, the pledge holder is handy, because, in case of failure of the debtor's contractual pledge, the pledge can be accomplished more easily and quickly.

For valid contracting for pledge is requires that the pledger to have ingenuity of handling the pledged item. Only thing that is owned by the pledger may be left as pledge, as authorized owner to legally accessed with the "Ius Utendi" Ius Fruendi "Ius Abutendi".

By law and in practice tolerated and applied successor or pledges or pledge in pledge known as under pledge. The contract for pledge can be done to advance the thing pledged.

The pledge can be put in next duty and obligation liability, as can be conditional pledges and credit pledge with certain commercial paper. The right of pledge is also in the secondary requirements associated with the primary requirement, such as the interest, costs pledgee holder for holding securities and expenses for the realization of the pledge. The reports and legal affairs secured by pledge business, is not allowed:

- Transfer of pledge into the property of the pledgee after the contractual failure of the pledge debtor, neither
- Selling the pledge from the pledgee with a price established previously by him with the pledger.

However, is permitted that the pledgee, in legal proceedings, to sell the pledge with a price that the pledge item has as a standard and for that price he can take itself.

The pledger is obliged to submit the pledgee or a third person designated by them, the thing (res) which is the object of the contract or document which entitles the holder the exclusive right of availability with it.

Pledger and the Pledgee

Contractors, pledger and pledgee, may agree that the thing pledged, to keep together. In all cases, the pledger or other person is authorized to maintain the pledged item (the possessory pledge) is required to save the object with good care economies. When the debt is back, the owner of the thing pledged, authorized for its retention must return the object to the same condition and form as contracted.

Also, the pledgee who use pledge without the authorization of the pledger, is responsible for damage or destruction caused pledge odd in that case.

When the pledge gives fruits. (Antichresis), while, between contractors is not defined their case, they, in principle belong to the pledger. Similarly applies to benefit from the thing pledged. If pledge collateral has factual or legal defect, the pledgee is entitled to request from the pledger to replace such collateral.

In case the debtor, with time or under contract does not fulfil the contractual obligation, the creditor has the right to ask the court of jurisdiction to sell the pledge collateral in auction, and, if the pledged collateral has a stock price or market price, to sell it with current prices. Pledgee, has the right that from the realized price from the sale of collateral to pledge, to collect money before the other creditors:

- Contractual requirement (Pledge can be: legal pledge, when assigned to law enforcement; judicial pledge, which is determined on court proceeding or contractor pledge, which is stipulated from the relative contractors)
- The relevant interest rate;
- Costs incurred for the maintenance and preservation of the pledge (possessory pledge);
- Expenses for collection of contractual demand.

Negative pledge applies when the pledger, in the pledge agreement commits that pledge collateral will not impose to another pledge. Collateral is property or movable property which can be transferred legally. Joint property may be collateral on the consent of the co-owners. A person who has partial interest in movable property, that interest can leave as collateral. With pledge collateral can be ensured the total amount of the obligation secured with the pledge. With pledge can be secured some liabilities. To be a valid pledge requires that the secured obligation may be expressed monetary.

Pledge can be:

- Standard;

-
- Possessory and
 - Cash buyer.
 - Pledge can be manifested as:
 - Pledge in bank account;
 - Pledge in cash or
 - Pledge in contractual obligation and in any movable goods.

For perfection of pledge, among other things, is required the statement of pledge (The Notification Statement), which should be recorded (must be filed). Declaration of pledge a minimum should contain:

(Pledge means an intentionally created interests in movable property that gives the pledge holder the right to take possession of such property for the purpose of satisfying or attempting to satisfy a secured obligation in accordance with the application law):

- Sufficient identification of the pledger;
- General or specific identification of the secured obligation;
- The maximum amount of the secured debt expressed in money;
- Identification of the collateral;
- Signature of the pledger or his authorized person and
- The date when the pledge was given and its registration.

According to the Law on Pledges, pledge terminate (ends) when:

- The pledger and pledgee agree;
- The obligation secured is calculated;
- The collateral finish existing;
- Collateral is changed or incorporated with any item or other right;
- The collateral becomes part of the property or other right;
- Collateral becomes property of the pledgee (the collateral becomes owned by the pledge holder).

When the debtor fails to fulfil the obligation secured by the pledge, the pledgee as creditor, if it did not have in possession the collateral (possessory pledge), pledge collateral can take in the possession through:

- Court (proceedings) action (Judicial action);
- Its action with the condition not to break law and order or
- Administrative proceeding.

In court proceedings, the pledger, may make application to the court of jurisdiction to give the order "ex parte" with which, to allow the taking of collateral in its possession as a creditor (plaintiff).

The court, in unusual circumstances, decides for the issue within three days of conform to the application of the pledgee. In three other days, the pledger or the person authorized and legal legitimate active (legal interest), may exert contrary to the court's decision for allowing dismission of pledge and the court, also, within the same time must decide by opposition.

The decision by the opposition and decision against whose within three days is not exercised the objection, becomes final, so that, pledgee, may proceed with the execution of the pledge.

When the pledge is a possessory, judicial processing is shorter, so that the pledgee, from the court of jurisdiction requires ex parte to allow the sale of collateral of pledge.

In the case of not fulfilling the contractual liability of the debtor (pledger), the creditor (pledgee), can sell the pledge, to hire or dispose of, and the incomes of such pledge collateral, should dispose for:

- Reasonable expenses for taking in possession, putting on sale and realization of sale of collateral of pledge;

-
- Fulfilment of the obligation secured;
 - Fulfilling the obligations to the subsequent pledge on the same collateral and
 - The rest part (if there is any left part) is returned to the pledger.

Except on the case when is contracted differently, the pledger remains liable to the pledgee for the debt which cannot be covered by the sale of pledge collateral.

Alienation of the pledged collateral, compliance with contracts and local shopping habits, can be realized:

- At public auction or in
- Private sale (if the pledge holder proceeds by Judicial action scarf times file an application with the Court with appropriate jurisdiction requesting on order ex parte and without notice to the pledger or any other person authorizing the collateral to be seized and delivered to the Pledge holder pursuant to Judicial process). However, the pledgee, before, must inform the pledger and other pledgees in the same collateral, for the day and place of sale of pledge collateral. Pledgee, in principle, cannot buy the pledge collateral except when:
- Pledge collateral is sold on a recognized market or
- For collateral exist standard prices widely known.

Also, the pledgee can offer the pledge collateral for fully or partly fulfilling of the ensured demand, if:

- The pledger is agreed and
- Debtor including each other debtors, within 14 days of receipt of the offer, stating no objection. The pledge, must first register and when the obligation guaranteed is fulfilled, without delay, the same should be deregistered. Registration and deregistration of the pledge is made at the designated office for that official work.

Conclusion

We managed to understand that contract is a very important contributor instrument and liability under mandatory law and also provides a central institution within the legal communications between the contracting parties.

In legal theory, the contract is defined as will consent between two or more parties to which they come for the purpose of ascertaining, change or break the relation of any legal liability. So, contracting is done with the aim of achieving harmonized interests of contractors. Contractors, such as the seller and the buyer, initially align goals and mutual interests and, as such, is set in the contract, in order to realize in practice. With pledge contract, the debtor, as the pledge debtor is obliged to, he or another, as pledger, to give any movable good to the pledge creditor, in which there is a right of property, so that he before other creditors can collect from its value, if the request will not be paid before expiry, whereas, the pledge creditor, owed that, the thing that he takes, to maintain the item taken and return it to the pledger.

Literature

- SMAKA Dr.Sc. Riza., GOJANI Mr. Sc. Skender., The Business Law, Prishtina 2012
- DAUTI, Dr.Sc. Nerxhivane, The Liability Law, Prishtine,2004,
- GORENC, Viliam, Fundamentals of the Business Law Statutory and Contractual, Prishtina 2010,
- DAUTI, Dr. Nerxhivane, Mandatory Law, UP – Juridical Faculty, Prishtina 2003
- GAMS, ANDRIJA, Introduction to the Civil Law , Prishtina, 1981
- KRASNIQI, dr, Armand, University of Prishtina, the School of Business, Pejë 2012
- GOJANI, Skender, GLOSSARY LEGAL TERMINOLOGY, Prishtina 2013
- SEMINI (TUTULANI), Dr. Mariana, The Contractual and mandatory law, General Overview, Tirana, 2002.
- KRASNIQI, Armand, The Business Right, Dukagjini, Peje 2014
- Law No. 03/L-154 " ON PROPERTY AND OTHER REAL RIGHTS" Prishtina, 25,06, 2009
- Law No. 04/L-077 "ON OBLIGATIONAL RELATIONSHIPS" 10 May 2012

Terminology of the Penal Code Procedure - Options of Translation in Albanian and German

Dr. Ergys Prifti

Dr. Mihallaq Zilexhiu

University of Tirana

Abteilung für deutsche Sprache

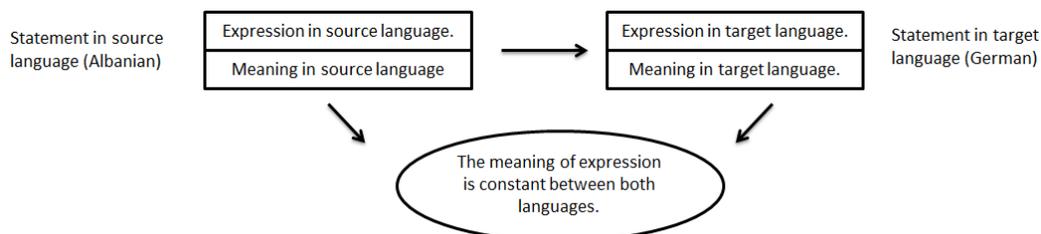
Abstract

The Justice, be it civil or penal should be forwarded through a particular form of language. This linguistic form can be orally and in written form as in the case of different linguistic processes, as well as in only written form as in the case of translation of laws or legal provisions. Discussion on legal right and right's judgment, are processes transmitted with the help of language, which are based on texts such as decisions based on language. Language content of these texts is crucial. An equally important role is taken therefore by oral interpreters and those who translate written texts from one language to another. Translators (interpreters) forward the language content in linguistic processes between the defendant in the trial and the plaintiff. But how is it possible to correctly translate the content of a text in written or oral form? What can the translator do in cases of uncertainty? In order to give a possible answer to these questions, the following paper will try to address the following issues: - Brief historical overview of the Albanian code of penal procedure: In this way we can better understand the present status of the penal code procedure in our country, whose history becomes quite often the cause of the problems for the translator. The first Albanian penal code was written in 1925. It was conceived based on the Italian penal code procedures at that time. It was approved in 1927 and in 1928 entered into force. In 1948, was written a part of penal code which was totally completed in 1952. In 1977 was compiled a new Albanian Constitution. After the fall of the communist regime, in 1993 we have some minor amendments of the Constitution, while in 1995 comes out the new penal code procedure under the guidance of specialists in the field from Western countries.

Keywords: Terminology, Penal Code Procedure. Options of Translation, Albanian, German

Introduction

The new Constitution of Republic of Albania is written in 1998. Let us consider now some typical examples that constitute a kind of difficulty, but also a challenge for the translator of materials linked to the penal code procedure in the Republic of Albania and Republic of Germany. Here follows a translation model known worldwide:



Expressions in the source language. By this we understand the form of the language form which we are translating and the meaning from this language. We then have the form of target language and its meaning. Finally we come to the expression of the target language. The meaning of the expression is constant between both languages.

Different types of word belonging:

- I. one to zero
- II. one to many
- III. many to one

I. One to zero

- German. Prokurist
- Rechtspfleger
- Sicherungsverwahrung
- Bagatelldelikt

- All above words have not an equivalent in Albanian. In these cases it is left to the translator to realise the translation, which arises the risk of having more than one translation version. Here follow some examples of such translations:

German – Schiedsgutachtensordnung
Albanian - Rregullore ndërmjetësimi
English - Arbitration Regulation

German – Mediationsordnung
Albanian - Rregullore ndërmjetësimi
English - Mediation Regulation

German – Konfliktmanagementordnung
Shqip - Rregullore për menaxhimin e konflikteve
English - Rules on Conflict Management

German - Verfahrensordnung für Adjudikation
Shqip - Rregullore për adjudikacionin
English - Regulation on adjudication

In such a case, the interpreter is in front of three different translation options:

1. He can take the phrase and translate it in form of a quote or as a loan:

German - Ombudsman / ombucman (Shqip. Avokat i popullit?)

2. The interpreter can give a literal translation of the borrowed word:

German – Bundeskartellamt

Shqip – Autoriteti federal i konkurrencës

English - The Federal Competition Authority

German – Einbruchsdiebstahl

Shqip – Vjedhje me dhunë (thyerje)

English - Robbery use of violence (breaking)

German – Bundesgerichtshof

Shqip – Gjykata Federale (e Lartë) gjermane
English - Federal German (High) Court

3. The translator uses a word from the target language which stands closer to the meaning of the word which is being translated:

German – Prokurist

Shqip – Përfaqësues tregëtar

English – Trade representative

German – Rechtspfleger

Shqip – Ndihmës (këshilltar) ligjor

English – Legal assistant (advisor)

German – Bagatelendelikt

Shqip – vepër e lehtë penale

English - a light penal offence

II. One word with many words

German - Vorsätzliche Tötung

1. Shqip – Vrasje me paramendim / English - Premeditated Murder

2. Shqip - Vrasje me dashje /English - Intentional Murder

German - Vorsätzliche Körperverletzung –

1. Shqip - plagosje me paramendim /English - Premeditated injury

2. Shqip – plagosje me dashje /English - Intentional injury

III. Many words with a word

German – Mord

Shqip – Vrasje

English – murder

German – Totschlag (im Zustand Starker psychischer Erregung)

Shqip – Vrasje (në kushtet e një ngarkese të madhe psikologjike)

English - Murder

German – Tötung (Vorsätzlich)

Shqip – Vrasje

English - Murder

In fact, the word murder for different situations has different words in German:

- of man – Either *Mord*, and *Totschlag* are intentional killing of other people but the word murder expressed by the word *Mord*, is punished more severely than that expressed by the word *Totschlag*.

In the German penal procedure code, *Totschlag* means premeditated murder of a man, which did not fulfill either the criteria to be punished as a *Mord*, nor even those of mitigation to be considered as a *Tötung*.

Murder by negligence (*die fahrlässige Tötung*) is considered as an offense of murder in the narrower sense.

Art. 76 Sh - *Vrasje me dashje*
E - *Intentional murder* (killing simple)
Gj - *Vorsätzliche Tötung*

Art. 78 Sh – *Vrasja me paramendim*
E - *Premeditated murder*
Gj - *Tötung mit Vorbedacht*

Art. 79 Sh – *Vrasja në rrethana cilësuese*
E - *Murder in qualifying circumstances*
Gj - *Tötung unter qualifizierten Umständen*

Art. 81 Sh. *Vrasje e Foshnjës*
E – *Infanticide*
Gj – *Kindestötung*

Art 82 Sh - *Vrasja e kryer në kushtet e tronditjes së fortë psiqike*
E - *Murder under profound psychic troubles*
Gj - *Totschlag im Zustand starker psychischer Erregung*

Art Sh - *Vrasje e kryer me kapërcim të kufijve të mbrojtjes së nevojshme*
E - *Murder committed by overcoming the limits of necessary defense*
Gj - *Totschlag bei Notwehrexzess*

Many words with a word:

G - *Angeschuldigter* / Sh. (person i akuzuar) / E - (defendant?)
G - *Angeklagter* / Sh - *Person i akuzuar.* / E - *Charged person*
G - *Beschuldigter* / Sh - *Person nën hetim* / E - *Person under investigation*

Common to all three translations most commonly encountered in our dictionary of penal code procedures is (*person i akuzuar*) the *accused person*.

Let's look now one by one which are the meaning and their differences for the above mentioned words used in German.

Angeschuldigter, under the German law, is someone who is convicted in a penal proceeding, against whom is sued a public accusation, but the main proceedings against him is not yet opened.

Beschuldigter in the German penal code procedure is an adult person against whom are charges of a criminal offense and due to that a criminal investigation process is under development against him.

Angeklagter under the German Penal Code Procedure is the defendant against whom it is set to open the main investigation process under Article 203 of Penal Code Procedure (Article 157 StPO).

Example 4

Many words with a word:

G - (Gerichts) Verhandlung / Sh - séancë gjyqësore / E – hearing session

G - Sitzung des Gerichtshofs / Sh – séancë gjyqësore / E – hearing session

Example 5

Many question with a word:

G - Diebstahl / Sh - Vjedhje / E – theft

G - Einbruchsdiebstahl / Sh - vjedhje me dhunë / E - Robbery with violence (breaking)

G - Raub / Sh – Vjedhje me dhunë / E – Violent Robbery

Here follows an illustrative example from a newspaper:

Car theft (E.P M. Z) - How to reduce the risk

Monday, January 31, 2011

Theft of parts - For many years, radio theft has been the biggest problem, but recently thieves have become more ambitious. Now they steal the steering wheel, airbags and electronic control modules (ECT). ECT are computers which control electronic systems of today's cars. They are small parts, of great value, easy to find and very easy to steal. Sound systems remain as well desirable targets for theft.

Conclusions:

At the end of this analysis paper we can say that the problem identification in the field of translation in jurisprudence requires a great work and is very important. All the above mentioned cases can be prevented if they are well known and translations of many words either in Albanian or in German can be given by the equivalent in the relevant language and in many cases their meaning should be completed by explanatory words if the word itself in target language is not sufficient to translate as simply equivalent. On the other hand we share the opinion that necessary work and efforts should be made for a possible unification of terminology in the field of jurisprudence vocabulary and in preparation of a guidance material for all translators dealing with materials in field of justice in their daily activity.

Literature:

- *Albanisches Strafgesetzbuch (Sammlung Ausserdeutscher Strafg.)* Amazon. De German Edition 1977

- *Die im Vergleich mit albanischen Strafrechtsreformen Rechtsakten EU.* Endri Papajorgji 2010 Publisher: VDM Verlag Dr. Mutter

- *Code of Criminal Procedure of the Republic of Albania (I updated to October 2004)*

Legal elaboration, principles and the process of Integrated Border Management. Observation of the legal framework of Kosovo

Armend Podvorica, M.Sc., PhD Cand.

Lecturer at the University of Prizren "Ukshin Hoti"

Lecturer at the University of Prishtina "Hasan Prishtina" branch Ferizaj

Trainer at the Kosovo Institute of Public Administration, Pristina, Kosovo

Contact: +377 (0) 44163311, email: armendi_537@hotmail.com

Abstract

The aim of this piece of work is to examine the legal aspect and explain the process of Integrated Border Management as one of the essential criteria of the European Union in the process of visa liberalization dialogue and other integration processes in Europe. Integrated Border Management is a very complex process and this complexity involves: the increased number of immigrants; combat and prevention of terrorist acts in the continent, narcotics smuggling, human trafficking, acts of criminal groups in the form of organized crime, etc. Integrated Border Management in the Republic of Kosovo faces some difficulties making this process complicated in relation to other countries in the region, such as: unwillingness of the Republic of Serbia to establish interstate relations based on good neighborly relations, failure to exert full power in the northern part of the country, failure to define the green line and border demarcation with all its neighbors, etc. In view of this, the topic of this piece of work is to look into the legal and institutional mechanisms which are linked to the process of Integrated Border Management. This paper also strives to carry out a formal analysis of the Integrated Border Management process in order to draw conclusions and recommendations, which will facilitate the implementation of this process in the future. The key issues to be addressed in this paper are: the international legal framework which addresses and regulates the border crossing, the national legal basis for the management of state borders, primary and secondary legislation of Kosovo, the institutions and their responsibilities in this process.

Keywords: Legal Elaboration, Process of Integrated Border Management, Legal Framework, Kosovo

Introduction

The aim of this piece of work is to examine the legal aspect and explain the process of Integrated Border Management as one of the essential criteria¹ of the European Union in the process of visa liberalization dialogue² and other integration processes in Europe, which appears to be a topic of interest and significance for both, researchers on this issue and those who exercise this profession in practice. Parallel to its information aspect, this piece of work strives to contribute to the practical aspect as well. Considering that Kosovo is in the process of implementing the Integrated Border Management with its neighboring countries, as one of the criteria for integration and membership in the European Union.

The Integrated Border Management is a very complex process and this complexity involves: the increased number of immigrants³; combat and prevention of terrorist acts in the continent, narcotics smuggling⁴, human trafficking, acts of criminal groups in the form of organized crime⁵, regional cooperation of criminal groups and the use of technology in committing criminal acts, etc. Therefore, being part of the

¹European Union Progress Report I year 2010 - 2011

²Visa liberalization means free movement within the Schengen area. Liberalization allows for visa free travel only for 90 days (every six months), for free travel and cannot be used for work or for other benefits.

³With the term emigrant we mean a person who goes to another country in search for better economic, professional, religious, etc., possibilities, respectively he emigrates from an old country and immigrates into a new country, for more see Joshua S. Goldstein, International Relations, printing house Dituria, pg. 523.

⁴With smuggling narcotics we mean an unlawful form of production and circulation, in mediating in unlawful trade of narcotics, in purchasing narcotics in an unlawful manner and in transportation of narcotics in an illegal way, for more see Latifi V. Criminology, Pristina, 2011, pg.295.

⁵With organized crime we mean whoever willfully or knowingly, be it the aim and the overall activity of the organized criminal group or group or the intention of the group to commit one or more criminal offenses which are punishable with imprisonment of at least four (4) years, actively takes part in the criminal activities of the group knowing that such participation will contribute to the realization of the criminal activities of the group, is sentenced with a fine up to two hundred e fifty thousand (250.000) Euro, and imprisonment of up to seven (7) years, Criminal Code of Kosovo, Article 283, Nr. 04/L-82, 20 April 2012

European continent, the Republic of Kosovo is also affected by these phenomena. Integrated Border Management in the Republic of Kosovo faces some difficulties which make this process complicated compared to other countries in the region, such as: unwillingness of the Republic of Serbia to establish interstate relations based on good neighborly relations, failure to exert full power in the northern part of the country, failure to define the green line and demarcation¹ of the border² with all its neighbors, etc. In view of this, the topic of this piece of work is to look into the legal and institutional mechanisms which are linked to the process of Integrated Border Management. This paper also strives to carry out a formal analysis of the Integrated Border Management process in order to draw conclusions and recommendations, which will facilitate the implementation of this process in the future.

The key issues to be addressed in this paper are: the international legal framework which addresses and regulates the border crossing, the national legal basis for the management of state borders, primary and secondary legislation of Kosovo, the institutions and their responsibilities in this process.

International Legal Basis for the controlled border management

The Integrated Border Management is not purely a national issue but a process which implicates two or more countries, and as such it represents a mechanism for cooperation and coordination of actions to ensure a higher degree of security towards potential phenomena and events which could jeopardize the general public safety.

International legal acts which regulate border crossings, also contain provisions which regulate the process of Integrated Border Management. In this regard, especially since 1985 onwards, significant results have been achieved. In view of this, bordering countries have signed bilateral and multilateral memoranda of cooperation, thus defining and regulating the Integrated Border Management. The most important international Conventions and documents on this issue are: the Schengen Convention of 1990 adopted by the European Union³; Schengen Border Code 15 March 2006⁴; EC Regulation No. 562/2006 of the European Parliament and Council; Guidelines - the European Parliament Council Commission communique on the Integrated Border Management of member states of the European Union (Brussels, 07.05.2002); Guidelines for Integrated Border Management of Western Balkan countries adopted by the European Commission (October, 2004) and amended and supplemented in 2007, etc.

All these international legal acts (conventions, codes, guidelines, statements, etc.) address legal regulation of interstate border issues, including the definition of the terms: border, inner and outer border of the European Union, border crossing point, border control, and the principles of application by the competent authorities for Integrated Border Management. According to Schengen border Code, the term inner border means common borders such as rivers and lakes, borders of the European Union states, airports for domestic flights and sea, river, lake and ports for regular ferry connections⁵, while the outer borders include land borders of the European Union countries, including the borders of rivers and lakes, sea borders and airports, river ports, sea ports and lake ports, provided that they are not inner borders⁶.

International legal acts define the meaning and the ways of establishing border crossing points between countries. According to the Convention, a border crossing point is any crossing point authorized by the competent authorities for crossing outer borders⁷. However the Convention does not provide the location and the number of border crossing points, this falls under the authority of neighboring countries based on their political and economic interests and other specificities that may have.

In order to ensure a continuous basis for cooperation and in order that this cooperation takes its normal flow regarding the border crossings between states, the Convention defines the meaning of the border crossing, which is "a check made at a border as a single response for the purpose of crossing the border"⁸. The cooperation between neighboring countries is vital for the development of a common understanding and respect for the principles in the implementation of the process of the Integrated Border Management. In order to conduct a more effective border management which would enable people to live in a safe and free environment, to move freely, to facilitate and develop cross-border trade, to combat international crime, etc., the international legal acts have defined the concept of the Integrated Border Management, which implies coordination and cooperation between all relevant authorities and agencies involved in the border

¹ Defining the overall direction of the state border with documents is called DELIMITATION, while drawing the border in the field is called DEMARCATION. This is done by mixed commissions or an international commission, for more see GrudaZejnullah, International Public Law, page 167, Pristina.

² Until the date of the publication of this piece of work Kosovo has not completed the process of demarcation with Serbia and Montenegro.

³ Schengen Convention was named after the town of Schengen/Luxembourg where the Convention was signed on 19 June 1990 by countries of Benelux, Germany and France. It entered into force on 26 March 1995, <http://www.hri.org/docs/Schengen90/body8.html>

⁴ Schengen Border Code REGULATION (EC) Nr.562/2006 of the EUROPEAN PARLIAMENT AND COUNCIL of 15 March 2006, a code of the European community setting up rules on governing the movement of people along borders.

⁵ Schengen Border Code approved by the European Parliament, Article 2, paragraph 1

⁶ *Ibid*, Article 2, paragraph 2

⁷ Schengen Convention, Article 1, paragraph 7

⁸ Schengen Convention, Article 1, paragraph 8

security and in easing trade, in order to create an effective and efficient management within the integrated border system border to reach the common goal of open borders, but controlled and safe"¹.

The concept of Integrated Border Management defined in international documents means that the process of Integrated Border Management is a multi-dimensional starting with: control and surveillance of borders according to principles and standards set by the Schengen Convention and Code, as well as other legal documents, detection and investigation of national and international crime by undertaking all actions in coordination with the competent authorities based on the applicable laws in this field, mutual cooperation between agencies and the competent authority in managing borders (border guards, customs officers, police and other relevant authorities) including the coordination and coherence of activities of member states in the European Union institutions.

The provisions of international legal acts show that the process of Integrated Border Management is regulated only in principle, whereas the regulation of concrete issues related to the practical implementation of the Integrated Border Management process remains under the jurisdiction of states and their legislation according to international standards.

Legal elaboration of the IBM process according to the legislation of the Republic of Kosovo

The Constitution of the Republic of Kosovo defines the Republic of Kosovo as an independent, sovereign, democratic, unified and indivisible state², with the right of the competent authorities to control the borders in its territory³. As in most modern states, in the Republic of Kosovo the legal elaboration of border control has been regulated through a special law. The Government of the Republic of Kosovo has established the essential legal basis for elaboration of the Integrated Border Management by drafting the law on the integrated management and control of the state borders⁴ and by drafting and adopting sub-legal acts which derive from this law. There are also other legal acts containing provisions that indirectly address the border management process such as the Law for the Control and Supervision of the State Border⁵, the Asylum Law (no. 03 / L-073); Law on Amending and Supplementing the Law on Asylum (no. 03 / L089); The Criminal Code of the Republic of Kosovo (No. 04 / L082); Police Law (no. 04 / L-076); Law on Foreigners (no. 04 / L-069, etc.). The legal framework in which the process of Integrated Border Management is directly or indirectly addressed has been complemented by the Government during the drafting and adoption of the National Strategy for the Integrated Border Management of the Republic of Kosovo; Strategy for Combating Terrorism, organized crime, human trafficking, etc.

The Law for the Control and Supervision of the State Borders contains provisions of material, procedural, executive and punishment nature - offenses which satisfactorily regulate the legal elaboration of the Integrated Border Management process and ensures the functioning of the open border movement, safe and well controlled⁶. This law incorporates international standards in developing an effective system of control and management of the state border⁷, which allow free movement of people and goods, prevention of cross-border crime while respecting human rights and freedoms. The general provisions proclaim the goal of regulating border control, police powers within the state, the cooperation among state institutions which have competence in the border management⁸. However if we interpret other provisions of the law, it is evident that the priority has been given to the procedural regulation in the exercise of powers – authorizations as well as the cooperation between the competent authorities in the implementation of the Integrated Border Management process. In order to achieve effective cooperation, to facilitate data and information exchange, and have greater efficiency of the system for the

¹Guidelines for integrated management of borders in Western Balkans I, reviewed in 2007, by the European Commission, page 14.

²The Constitution of the Republic of Kosovo approved by the Assembly of the Republic of Kosovo and entered into force on 15 June 2008, Article 1, paragraph 1.

³Ibid, Article 125, paragraph 1.

⁴Law on Integrated Management and Control of State Borders nr. 03/L065, approved by the Assembly of Kosovo on 21 May 2008, marks, for the first time, a legal elaboration of the Integrated Border Management process through a separate law.

⁵Law on Control and Management of State Borders nr. 04/L-072, approved by Kosovo Assembly on 21 December 2011, declared by the President of Kosovo through a decree nr. DL-001-2012, dated 06.01.2012.

⁶The Law consists of Chapters I – XIII and contains 63 Articles. Chapter I includes general provisions and consists of Articles 1-4; Chapter II includes provisions of powers and authorization to conduct border control and consists of Articles 5-8; Chapter III includes provisions on crossing the state border and consists of Article 9; Chapter IV includes provisions of border control and consists of Articles 10-26; Chapter V includes provisions on border crossing points and the zone of the border crossing point and consists of Articles 27-34; Chapter VI includes provisions on the supervision of the border and consists of Articles 35-39; Chapter VII includes provisions on border line and consists of Articles 40-45; Chapter VIII includes provisions on police measures inside the country and consists of the Article 46; Chapter IX includes provisions on the cooperation of state bodies which have the authority in border management and consists of Articles 47-49; Chapter X includes provisions on cross border police cooperation and consists of Articles 50-53; Chapter XI regulates collection of personal data and consists of Articles 54-58; Chapter XII includes provisions on border offences and consists of Articles 59-62; Chapter XIII includes transitional and final provisions and consists of Articles 63-64.

⁷State borders are defined as lines separating the territory of one state from the territory of another state or the territory of one state and an open sea or as lines until where the territory and sovereignty of a state stretches, for more see GrudaZenullah, *Pristina International Public Law*, page 164.

⁸Article 1, Law on control and supervision of the state border nr 04/L-072, approved on 21 December 2011 by the Kosovo Assembly

integrated border management, the National Center for Border Management has been established¹. Blanket provisions of the law imply that the assistance and cooperation of state institutions involved in the border management is carried out through the Strategy for the Integrated Border Management².

In addition to creating and harmonizing primary and secondary legislation with the EU Acquis, the Republic of Kosovo has advanced and functionalized its key Agencies and Institutions involved in the implementation of the IBM process, such as: Kosovo Police - KP; Kosovo Customs - KC; Food and Veterinary Agency of Kosovo - FVAK³.

The state Agencies and Institutions of the Republic of Kosovo are guided by some basic principles which directly or indirectly are incorporated in the provisions of the Law on the Control and Supervision of the State Border, as well as in the National Strategy for Integrated Border Management, thus providing guarantees for the implementation and realization of the objectives of the Integrated Border Management process:

- Implementation of relevant legislation for the three pillars ensuring that the authorized agencies for the integrated management and control of the state border will be organized and operate as required by the EU.
- Cooperation and coordination of activities of the agencies involved in the border control and reforms in their organizational and management structure.
- All procedures of the border agencies regarding human resources, training, finance and logistics are determined by internal regulations in joint consultations among them.
- Proper procedures for selection and appointment of staff in the border agencies should be applied in order to increase the professionalism and quality.
- Communication and exchange of information among authorized border agencies should be improved to create an overall information management system.
- Development of infrastructure and adequate equipment to support the efforts of the agencies in providing professional services to citizens and other beneficiaries.
- Ensuring sustainable funds for continued exercise of operations in the integrated border management system and the creation of mechanisms to ensure international donations.⁴
-

Administrative and Territorial features of the Republic of Kosovo

During history, depending on political and economic changes and overall development of the society, the territory of Kosovo has changed as of February 17, 2008, when the Declaration of Kosovo's independence was adopted by the leaders of our nation, elected in a democratic way, through the declaration they proclaimed Kosovo an independent and sovereign state⁵.

After the declaration of independence of Kosovo, the international borders of the Republic of Kosovo include a territorial area of 10,907 km², which is defined in the border line of the former Autonomous Province of Kosovo within the former Socialist Federal Republic of Yugoslavia⁶.

The territory of Kosovo is situated in the south-eastern Europe, having a central position in the western part of the Balkan Peninsula and borders with: the Republic of Albania with 113,551 km of border length; the Republic of Macedonia with 170,772 km of border length; the Republic of Serbia with 380,068 km of border length and with the Republic of Montenegro with 79,165 km of border length⁷. The terrain through which the state border line of the Republic of Kosovo passes through consists of generally rugged mountains, hills, fields and lakes⁸. Geographical elements show that Kosovo's territory has an important strategic position connecting central Europe and the Mediterranean Sea. In order to facilitate the movement, competent state authorities of Kosovo authorities have put into function 13 border crossing points of road and rail types with the neighboring countries, by applying physical controls. Between the Republic of Kosovo and the Republic of Albania there are 3 road type border crossing points: Vermica; Qafa e Prushit and Qafa e Morinës. With the Republic of Montenegro the border crossing point Kulla is in function. Between the Republic of Kosovo and the Republic Serbia the largest number of

¹Ibid, Article49, paragraph 1.

²Ibid, Article 49, paragraph 2.

³In addition to KP, KC and FVAK in implementing IBM, other relevant institutions play an important role, such as Ministry of European Integrations, Ministry of Transport, Forensic Institute, Ministry of Health, Ministry of Public Administration, Ministry of Agriculture, Forestry and Rural Development, Ministry of Security Force of Kosovo.

⁴National Strategy of the Republic of Kosovo for the Integrated Border Management, pages11 – 12, approved by the Government of Kosovo, April 2009, Pristina.

⁵Kosovo's Independence Declaration, approved by the Kosovo Assembly, 17 February 2008, Article 1, Pristina.

⁶KOSOVO SPATIAL PLAN 2010-20, Pristina, page 20.

⁷Ibid, page 19

⁸ Dr. Rizai. Çavolli, Kosovo's Regional Geography, page 319.

border crossing points – 6 (six) in total are operational and are of road type: Bernjak, Jarinie, Merdare, Mutivode, Dheu i Bardhë, Muçibabë. Between the Republic of Kosovo and the Republic of Serbia there used to exist two rail type border crossing points: Merdare and Leshak which are no longer operational¹. With the Republic of Macedonia there are two border crossing points Hani i Elezit and Gllaboqica, which are of a road type, whereas the border crossing point in Hani i Elezit is of a rail type.

All border crossing points of the Republic of Kosovo operate according to the national and international legislation, and their categorization and standardization has been done according to internal and external factors based on bilateral and multilateral agreements.

Conclusion

The time, the phases and the process of establishment and transformation of border control institutions in the territory of Kosovo has not been the same, due to particular political effects and the rule of law, the success of the implementation of the law has not been the same in all border crossing points.

Due to the prevailing nationalist ideas regarding the border demarcation and the complicated political situation between the Republic of Kosovo and the Republic of Serbia, it was very difficult to transform the border crossing system according to the rules set forth by the IBM process. Therefore these components did not guarantee progress in the implementation of IBM along the border between Kosovo and Serbia, where as a consequence free movement of people and goods is put into danger, inefficiency in preventing and combating cross-border crime which manifests itself in the form of organized crime by certain groups of interest. Having this situation in mind, competent state institutions have supported the development of IBM process in terms of legal aspect in using international principles and integration criteria set forth for the Western Balkans. The aim of developing and proclaiming liberal integration ideas in order to challenge nationalist ideas and enhance the integration process of the Western Balkan countries have contributed to a large extent to the overall development of institutional relations on border control, but not in eliminating completely the challenges in implementing IBM process.

Creation of the legal framework and strategies required to address the process of IBM, shows the special care state institutions pay in the implementation of IBM as one of the conditions for visa liberalization in the process of integration into the European Union. Alongside the development and harmonization of legal basis with the EU acquis, the state institutions should pay inter-institutional attention and professionalism in the implementation of this legal basis for the full implementation of IBM in all border crossing points.

The Republic of Kosovo is still in need to invest in building and strengthening the mechanisms and institutions in charge of implementing the IBM process according to applicable law. In this regard it is worth noting the insufficiency of the mechanism for border control as one of the factors for the implementation of the IBM process. Formal controls made by state border police, I think represents more of a formal and superficial control and not a border control with stopping, monitoring and with special emphasis on risk assessment and criminal intelligence to ensure the control of persons, vehicles and goods crossing the border, by applying effective monitoring at all border crossing points.

Applicable laws allow key agencies and institutions involved in the IBM process, such as the Kosovo Police; Kosovo Customs; Food and Veterinary Agency of Kosovo, to undertake actions and decisions in a discreet and autonomous manner in implementing IBM which could be incompatible with the actions and decisions of other institutions. In order to avoid these actions and decisions, operational cooperation and coordination between key institutions involved in the IBM should be developed and professionalized. Likewise, based on the legal provisions of the national and international character these institutions should enhance institutional cooperation in order to reach the full functioning of all border crossing points, be it road or rail type, depending on the border terrain wherever possible to erect joint points of border crossing, through the coordinated operations of monitoring and patrolling of static and mobile units

Finally, I consider that Kosovo despite the fact that it established the legal basis, must constantly undertake political and economic measures to ensure its implementation in the process of IBM, as an aim and an objective to fulfill the preconditions for membership in the European Union institutions.

References

- European Union Progress Report I year 2010 – 2011
Joshua S. Goldstein, *International Relations*, (2003) Prishtina, printing house Dituria, pg. 523
Latifi . Vesel. *Criminology*, (2011) Prishtina, pg.295
Criminal Code of Kosovo, (2012) Article 283, Nr. 04/L-82
Gruda. Zejnullah, *International Public Law* (1987) Prishtina, page 167,

¹Until the date of the publication of this paper, railway traffic between the Republic of Kosovo and the Republic of Serbia through the border crossings of Merdare and Leshak has not been functionalized. Reasons for its non-functioning are of political and objective nature – damages to railroad infrastructure during and after the war, years 1997 – 2000.

Schengen Convention was named after the town of Schengen/Luxembourg where the Convention was signed on 19 June 1990 by countries of Benelux, Germany and France. It entered into force on 26 March 1995, <http://www.hri.org/docs/Schengen90/body8.html>

Schengen Border Code REGULATION (EC) Nr.562/2006 of the EUROPEAN PARLIAMENT AND COUNCIL of 15 March 2006, a code of the European community setting up rules on governing the movement of people along borders

Guidelines for integrated management of borders in Western Balkans I, reviewed in 2007, by the European Commission, page 14

The Constitution of the Republic of Kosovo approved by the Assembly of the Republic of Kosovo and entered into force on 15 June 2008, Article 1, paragraph 1

Law on Integrated Management and Control of State Borders nr. 03/L065, approved by the Assembly of Kosovo on 21 May 2008

Law on Control and Management of State Borders nr. 04/L-072, approved by Kosovo Assembly on 21 December 2011, declared by the President of Kosovo through a decree nr. DL-001-2012, dated 06.01.2012

National Strategy of the Republic of Kosovo for the Integrated Border Management, pages 11 – 12, approved by the Government of Kosovo, April 2009, Pristina

Kosovo's Independence Declaration, approved by the Kosovo Assembly, 17 February 2008, Pristina

KOSOVO SPATIAL PLAN 2010-20, Pristina, page 20

Dr. Rizai. Çavolli, Kosovo's Regional Geography (2005) Prishtina , page 319

Role and Impact of Budget as Instrument of Financial Policy and Developmental in Kosovo

Enkeleda Lulaj, PhD. Cand.
University "Haxhi Zeka" in Peja
Enkeleda.Lulaj@unhz.eu

Abstract

In this scientific paper will be presented a detailed description of the methodology for analysis the budget and the improving connections and budget planning for the provision of financial and developmental policies in Kosovo. This paper will try to write the so that read and easily understood by non-specialists a field of economics and finance. State budget is one of the most important economic instruments, to have Government of Kosovo in available .Draft and spending the budget Kosovo has been competence of local institutions since the establishment of the Provisional Institutions. However, even after more than a decade from the time when local institutions have enjoyed the right to drafting and costs of the state budget, there are major problems in drafting procedures, expenditure and budget reporting. Kosovo budget in some cases is approved hastily and without debate in the Assembly in Kosovo. The current form of appropriations and budget reports is not at that level of detail as to enable the members of the Assembly and citizens understand clear, way divisions and expenditure of public money.

Keywords: state budget, expenditure, revenue, budget organizations, budgetary allocations, budgetary reporting etc.

Introduction

Që nga themelimi i Institucioneve të Përkohshme Vetëqeverisëse (IPVQ) më 2001, hartimi dhe aprovimi i Buxhetit të Kosovës (i njohur fillimisht edhe si Buxheti i Konsoliduar i Kosovës) ka qenë kompetencë e institucioneve vendore. Por të drejtën finale të aprovimit, madje edhe të ndryshimeve rrejësore, deri më 2008 e kishte Përfaqësuesi Special i Sekretarit të Përgjithshëm (PSSP) i OKB. Edhe pas shpalljes së pavarësisë së Kosovës, hartimi i buxhetit mbeti kompetencë ekskluzive e institucioneve shtetërore të Republikës së Kosovës. Para shpalljes së pavarësisë dhe në kohën kur institucionet vendore njiheshin si IPVQ, buxheti shtetëror në të shumtën e rasteve është miratuar me procedura të përshpejtuara, apo edhe duke përdorur kompetencat e rezervuara nga ana e PSSP. Ministria e Financave, si institucioni kryesor i cili koordinon procesin buxhetor, dhe organizatat buxhetore veç e veç, duhet të jete transparente në publikimin e të dhënave të detajuara buxhetore. Pra ,buxheti shtetor luan rol te rendesishem ne zhvillimin dhe stabilitetin ekonomik .

What is State Budget?

Buxheti i Shtetit reflekton në mënyrën më të plotë dhe domethënëse politikën e një qeverie. Buxheti është në thelb një akt politik. Ai përbën instrumentin kryesor të aksionit ekonomik të qeverisë dhe zë një vend madhor në politikën ekonomike e një vendi . Buxheti i Shtetit është i balancuar në termat e arkëtimit dhe të pagesave. Arkëtimet dhe pagesat e qeverisjes së përgjithshme kryhen nëpërmjet llogarisë së unifikuar të thesarit, e mbajtur në lekë dhe në valuta të huaja. Llogaria e unifikuar e thesarit mbahet në Bankën e Shqipërisë . **Arkëtimet ne Kosove** përfshijnë të hyrat që rezultojnë nga transaksione të ndërsjella dhe jo të ndërsjella, të ardhurat nga shitja e mallrave dhe shërbimeve, nga shitja e aktiveve afatgjata, të ardhurat nga tatimet, taksat dhe tarifat, nga frytëzimi i aktiveve në pronësi shtetërore, nga grantet nga të tretët, nga kontributet e detyrueshme, nga interesat, nga huatë, nga transaksionet financiare, etj. **Pagesat ne Kosove** përfshijnë shpenzime që lidhen me transaksione të ndërsjella dhe jo të ndërsjella, shpenzime për blerjen e mallrave dhe shërbimeve, për blerjen ose formëzimin e aseteve afatgjata, pagesa për huamarrje, transferata qeveritare,grante dhënë të tretëve, kontribute dhe donacione, pagesa financiare dhe të principaleve të borxhit, shpenzime për interesa, shpenzime për qira financiare, etj.Buxheti analizohet në funksion të Klasifikimeve Buxhetore si më poshtë:

- ✚ **Klasifikimi administrativ**, i cili përfshin klasifikimin e njësive të qeverisjes së përgjithshme deri në nivelin më të ulët të njësive shpenzuese;
- ✚ **Klasifikimin ekonomik**, i transaksioneve sipas natyrës dhe / ose sektorit ekonomik;
- ✚ **Klasifikimi funksional**, sipas funksioneve ose objektivave ekonomiko-socialë, që njësitë e qeverisjes së përgjithshme synojnë të përmbushin ,
- ✚ **Klasifikimin sipas programeve**, i cili përfaqëson programet, nënprogramet dhe projektet, në përputhje me objektivat e njësive të qeverisjes së përgjithshme;
- ✚ **Klasifikimin sipas burimeve të financimit** .

The Budget Process in Kosovo

Buxheti i Kosovës përgatitet nga Ministria e Financave (MF) në koordinim me organizatat buxhetore dhe miratohet në fund të vitit në Kuvendin e Kosovës. Buxheti për vitin e ardhshëm përgatitet në vitin aktual përmes një zinxhiri veprimesh i njohur si proces buxhetor. Deri në marrjen e formës finale si Projektligji për buxhet, dhe para prezantimit për miratim në Kuvend, procesi buxhetor zakonisht zhvillohet në mes të Ministrisë së Financave dhe organizatave buxhetore. Këto të fundit, konform udhëzimeve nga MF, dërgojnë propozimet e tyre për buxhet sipas planeve dhe objektivave të përcaktuara me plan të punës. Sipas Ligjit për menaxhimin e financave publike dhe përgjegjësitë, "organizatë buxhetore do të thotë një autoritet ose ndërmarrje publike e cila drejtpërdrejt pranon një ndarje buxhetore." Në procesin e hartimit të buxhetit, Ministria e Financave dhe organizatat buxhetore veprojnë në mes vete në dy drejtime: nga poshtë-lartë - kur organizatat buxhetore e kanë lirinë e projektimit të shpenzimeve dhe kërkesave për buxhet varësisht nga planet e tyre, dhe nga lartë-poshtë - kur organizatat buxhetore iu ndahet buxheti duke marrë për bazë buxhetin dhe shpenzimet e asaj organizate gjatë vitit paraprak, dhe jo duke marrë parasysh nevojat për buxhet të këtyre organizatave. Sikur në shumë vende, Kosova aplikon një formë të pëzier të të dy drejtimeve, do të thotë organizatat buxhetore e përgatisin apo e propozojnë buxhetin e tyre për shpenzim gjatë një viti (drejtimi poshtë-lartë) por edhe janë të kufizuara në këtë përgatitje si rezultat i një tavanit buxhetor siç njihet në këtë fushë (drejtimi lartë-poshtë).

Reporting of Budget

Raportimet e shpenzimeve të buxhetit kuptohen në dy drejtime: i pari lidhet me raportimin e organizatave buxhetore në Ministrinë e Financave, dhe i dyti, raportimi për të gjitha këto nga Ministria e Financave në Kuvend të Kosovës. Nëse i referohemi raportimit të organizatave buxhetore në Ministrinë e Financave, Ligji për menaxhimin e financave publike dhe përgjegjësitë, edhe Udhëzimi për procesin buxhetor i përgatitur duke u bazuar në ligj, tregojnë një numër mekanizmesh përmes të cilëve organizatat buxhetore i raportojnë shpenzimet e tyre në këtë Ministri. Sistemi i Menaxhimit Financiar i bazuar në "FreeBalance" ku të gjitha organizatat buxhetore kanë qasje në të përmes programit të instaluar në secilën organizatë, është mjeti kryesor i raportimit të shpenzimeve nga organizatat buxhetore në Ministri të Financave. Ky sistem iu mundëson organizatave buxhetore edhe të kontrollojnë shpenzimin e buxhetit përmes lajmërimeve që bën vetë softueri përmes tri mënyrave: ndalo shpenzimin, ngadalëso shpenzimin, dhe nevoja për alokim shtesë të buxhetit.

Budget Appropriations Unclear

Kjo pjesë shqyrton problemet me emërimin, definimin dhe kuptueshmërinë e shpenzimeve buxhetore, në veçanti të atyre kapitale. Qëllimi është që t'i identifikojmë disa prej problemeve tipike gjatë analizimit të shpenzimeve buxhetore dhe kategorizimit të tyre. Një emërtim që hasim sidomos tek ndarja e buxhetit nëpër Komuna është që shuma të mëdha buxhetore emërohen si "Bashkëfinancim me donatore" . Nëse shikojmë buxhetin e vitit 2013 për Komuna shohim se së paku 5.5 milionë euro të këtyre shpenzimeve kapitale janë të emëruara në këtë mënyrë. Ky lloj emërtimi i përgjithshëm, përveç që lejon mundësi manipulimi të buxhetit në bazë të interesave të individëve që menaxhojnë këto fonde, njëkohësisht krijon probleme edhe me kategorizim të shpenzimeve nëse publiku është i interesuar të dijë se në çfarë fushe qeveria apo komunat kanë orientuar shpenzimet e tyre.

The Revenues Budgetary For the Year 2014

Në bazë të analizës së mjedisit afat-mesëm makroekonomik dhe nën parametrat ekszitues të politikës fiskale (parametra këto që rezultojnë nga politika të formuluarë në pajtueshmëri me nevojat afatgjate të ekonomisë Kosovare) është bërë parashikimi i grumbullimit të të hyrave buxhetore për vitin 2013. Projektioni për vlerën e përgjithshme të grumbullimit të të hyrave rezulton nga supozimet e skenarit bazë mbi ecuritë makroekonomike. Ky parashikim përbën pikën fillestare për përcaktimin e nivelit të përgjithshëm të shpenzimeve dhe, rrjedhimisht, për përzgjedhjen e financimit të projekteve prioritare buxhetore në mesin e shumë kërkesave që reflektojnë nevojat e ekonomisë. Në pajtueshmëri me dispozitat ligjore në Republikën e Kosovës, procesi përgatitor buxhetor fillon nga rirrefikimi i Komizës Aftamesme të Shpenzimeve në Prill të vitit paraprak, dhe në vazhdimësi përcjelllet nga përgatitje të cilat çojnë në skenarin final të projekteve makroekonomike dy muaj para periudhës referente të buxhetit vijtor.

Revenue Collected in Country

Planifikimi për arkëtimin e të hyrave nga kategoritë tatimore që grumbullohen nga Administrata Tatimore e Kosovës (ATK) shënon një zgjerim prej €13 milion nga buxhetimi i vitit paraprak, dhe paraqet një rritje prej 4.5% mbi këtë bazë. Rritja në këtë kategori të hyrash, e cila përfshin kryesisht të hyrat nga tatimet direkte (në të ardhura personale, korporative, dhe ato nga interesi) si dhe një pjesë të tatimeve indirekte (TVSH-së), buron nga rritja e projektuar e konsumit dhe investimeve për vitin 2013, çka edhe pritet të përkthehet në ngritje të hyrash personale dhe korporative, si dhe në vlerë të shtuar nga aktivitetet ekonomike që mbështesin rritjen e konsumit dhe investimeve.

Collected Revenues in Frontier

Në pajtim me skenarin bazë makroekonomik 2013-2015, dhe me vrotimin e trendeve të deritanishme arkëtuese për vitin 2012, bruto të hyrat nga kufiri parashihet të arrijnë vlerën prej €915 milion përgjatë periudhës Janar-Dhjetor 2013. Në supozimin e realizimit të plotë të të hyrave në kufi përgjatë vitit 2012, rritja e parashikuar e kësaj kategorie të hyrash kap vlerën prej 4.6%.

Other income of budget: non-tax revenues; revenues from concession fees from royalties, dividends, and income from donors

Për buxhetin e vitit 2013, të hyrat vetanake të nivelit komunal dhe atij qëndrorë janë paraparë të rriten me 11.5%, nga €122 milion në €136 milion. Duke qenë se kompetencat e Qeverisë Qëndrore janë të kufizuara në ndikimin e grumbullimit të të hyrave në nivel komunal, të hyrat vetanake të nivelit komunal janë projektuar në nivel të njëjtë me vitin paraprak për arsyë buxhetimi, përkundër rritjes së theksuar nominale të BPV-së, dhe përkundër potencialit të akumuluar për ngritjen e kësaj kategorie të të hyrash.

Budget Expenditure

Shpenzimet e përgjithshme buxhetore për vitin 2013 përfshirë edhe shpenzimet për AKP dhe rikthimin e kredisë nga KEK-u janë planifikuar të jenë në vlerë €1,586 milion apo rreth 4.0% më të larta se shpenzimet e planifikuara me rishikim të buxhetit të vitit 2012. Kjo rritje e nivelit të shpenzimeve buxhetore për vitin 2013 vjen si rezultat i rritjes së të dy kategorive të shpenzimeve si atyre rrjedhëse po ashtu edhe atyre kapitale. Në këtë kontekst shpenzimet rrjedhëse gjatë vitit 2013 janë rritur për rreth 7%. Duhet theksuar faktin që rritja më e lartë e shpenzimeve rrjedhëse për vitin 2013 krahasuar me rritjen e projektuar të shpenzimeve kapitale, vjen si rezultat i dy arsyeve: (i) rritjes së konsiderueshme të bazës së shpenzimeve kapitale (ruajtja e pjesëmarrjes së lartë të tyre në shpenzimet e përgjithshme Komiza Afatmesme e Shpenzimeve paraqet koherencën, koordinimin dhe ndërlidhjen funksionale ndërmjet prioritetëve të përcaktuara me dokumente strategjike të qeverisë në njërin anë si dhe përfshirjen e tyre konkrete në projektet buxhetore për periudhën afatmesme. Për qëllime të orientimit sa më të mirë të ndarjes së mjeteve buxhetore gjatë procesit të ardhshëm buxhetor është hartuar Deklarata e Prioriteteve Afatmesme të Qeverisë 2015-2017 përmes së cilës konfirmohet përkushtimi i qeverisë për t'i dhënë efekt prioritetëve kryesorë strategjike duke synuar rritje të qëndrueshme ekonomike, vendosjen e standardeve të larta të qeverisjes së mirë dhe sundimit të rendit dhe ligjit, zhvillimin e kapitalit njerëzor dhe përmirësimin e standardit jetësor dhe mirëqenies sociale të qytetarëve të Republikës së Kosovës. Kosova do të vazhdojë përkushtimin e saj në promovimin e investimeve duke krijuar një ambient të favorshëm për qëllim të rritjes së investimeve të brendshme dhe të jashtme dhe për të promovuar revitalizimin ekonomik dhe industrial të vendit. Përkrahja për Ndërmarrjet e Vogla dhe të Mesme (NVM) do të fokusohet përmes inicimit të skemës për garantimin e kredive për bizneset fillestare dhe bizneset të cilat kanë potencial për eksportim, politikë që gjithashtu pritet të përkrahët nga partnerët zhvillimor. Modernizimi dhe zhvillimi i infrastrukturës përbënë një element të rëndësishëm të investimeve të Qeverisë, të cilat investime kanë për qëllim përmirësimin, zhvillimin dhe mirëmbajtjen e transportit duke synuar integrimin e Kosovës në korridoret pan-evropiane në përputhje me standardet evropiane. Vazhdimi i përkrahjes për zhvillimin rural dhe bujqësi do të bëhet përmes rritjes së buxhetit për këtë sektor në masën prej 100%, duke synuar avancimin e infrastrukturës për zhvillimin rural dhe të bujqësisë, rritjen e prodhimit, uljen e importit të produkteve bujqësore dhe zëvendësimin e tyre me produkte vendore, ofrimin e shërbimeve këshillimore për fermerët dhe njëherit gjenerimin e vendeve të reja të punës. Qeveria e Kosovës edhe gjatë periudhës së ardhshme do ta ketë rritjen e shkallës së punësimit si synim strategjik që tenton ta arrijë jo vetëm përmes këtij prioriteti por edhe përmes zhvillimit të tërësishëm të burimeve njerëzore. Analiza makroekonomike e cila mbështet planin fiskal tre vjeçar të elaboruar në këtë dokument parasheh rritje të të ardhurave vjetore për kokë banori nga 2,960 Euro më 2014, në 3,276 Euro më 2017. Me një mesatare afat-mesme inflacioni prej 1.1%, dhe rritje reale të BPV-së prej 4.4%, performanca makroekonomike në vitet vijuese pritet të jetë reflektim i ngritjes së përgjithshme të potencialit gjenerues të ekonomisë, dhe jo vetëm i lëvizjeve ciklike përbrenda kapaciteteve ekzistuese. Udhëheqës të rritjes ekonomike pritet të jenë konsumi dhe investimet private, të përcjellura me mbështetje të eksportit dhe investimeve publike. Këto parashikime janë në përputhje edhe me zhvillimet e pritura në sektorin e jashtëm, gjegjësisht pritet për përpjekjet të rritjes në ekonomitë e shteteve me të cilat Kosova ka marrëdhënie tregëtare, apo ka të përqëndruar në të diasporën e saj. Pritet për zhvillim të mëtejshëm ekonomik bazohen po ashtu edhe në parashikimin për thellim të mëtejshëm financiar të

ekonomisë së Kosovës, të përcjellur me kushte më të favorshme kreditore, dhe zgjerim të përgjithshëm të portfolit të depozitave dhe kredive. Mbi këtë performancë makroekonomike është zhvilluar edhe parashikimi i të hyrave buxhetore për periudhën 2015-2017. Të hyrat pritet të arrijnë në 1,598 milionë Euro më 2017, nga 1,458 milionë Euro sa janë buxhetuar më 2014. Nën parashikimet për shkallë të ulët inflacioni (dhe çmime rënëse të importit), kjo rritje që dominohet nga rritja e të hyrave tatimore pritet të vijë nga volumi i shtuar i aktivitetit ekonomik . Të hyrat buxhetore 2015-2017 .

Revenues by Source of Cashing

Të hyrat buxhetore pritet të kenë strukturë të ngjashme përgjatë periudhës së parashikuar afatmesme, me një rritje graduale të pjesëmarrjes së të hyrave vendore. Për shkak të arkitimit të përbashkët të Tatimit në Vlerën e Shtuar nga Dogana dhe Administrata Tatimore në Kosovë, struktura e të hyrave edhe më tej parashihet të dominohet nga të hyrat doganore, me një pjesëmarrje mesatare prej 59%. Përdërisa në vitin 2010 pjesëmarrja e të hyrave vendore në të hyrat e përgjithshme ishte 18.5%, falë rritjes së efikasitetit në arkitimin e të hyrave nga Administrata Tatimore e Kosovës, përgjatë periudhës afatmesme kjo pjesëmarrje pritet të arrijë në 27%, që dëshmon për një përkushtim të vazhdueshëm në implementim të reformave për të siguruar zhvendosje të mbledhjes së tatimeve nga kufiri brenda vendit, për të siguruar një financim të qëndrueshëm gjatë periudhës afatmesme.

Expenditure by Budget Categories 2015-2017

Buxheti i vitit 2014 dhe korniza afatmesme fiskale është përgatitur duke respektuar parametrat e lejuar sipas Ligjit për Menaxhimin e Financave Publike dhe Përgjegjësitë për deficitin e përgjithshëm. Andaj, bazuar në parashikimin për trendin e të hyrave të përgjithshme buxhetore, shpenzimet e përgjithshme janë planifikuar të rriten me një normë mesatare prej 2% përgjatë periudhës afatmesme. Pavarësisht kësaj, niveli si dhe struktura e shpenzimeve mund të ndryshoj varësisht nga aprovimi dhe implementimi i iniciativave të reja ligjore si dhe realizimit të të hyrave. Përgjatë periudhës së vrojtuar, shpenzimet rrjedhëse parashihet të përbëjnë rreth 71% të shpenzimeve totale përdërisa shpenzimet kapitale prezantojnë 27% të tyre. Pjesën tjetër të shpenzimeve e përbëjnë shpenzimet për servisim të borxhit si dhe shpenzimet tjera.

Fig.1. Trend of budgetary revenues in millions .

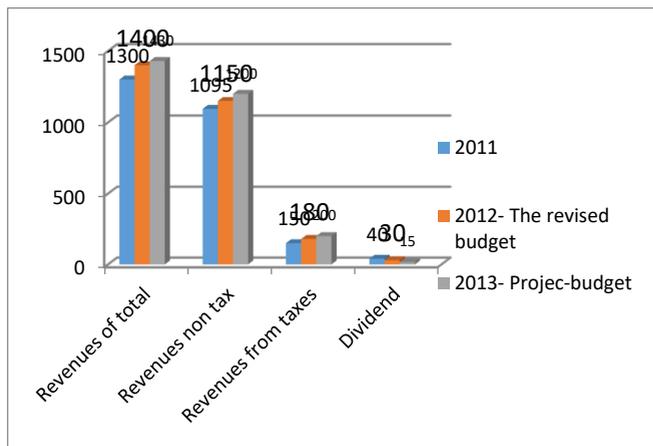
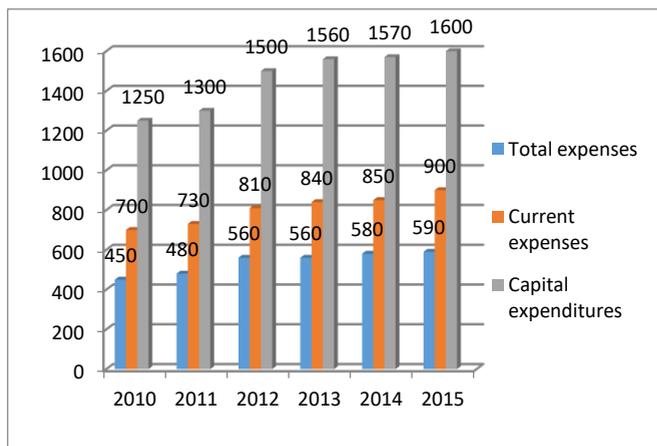


Fig.2. General budget expenditures in millions .



The Financing

Pas anëtarësimit në BERZH, EIB si dhe institucionet tjera financiare, një pjesë e shpenzimeve planifikohet të financohet nga huamarrja e jashtme. Ashtu siç është sqaruar edhe më lartë, supozimet për fillim të implementimit të rregullës fiskale nga viti 2014 e tutje ka kushtëzuar planifikimin e matur të shpenzimeve publike duke e kufizuar rritjen e deficitit buxhetor në 2% të BPV-së. Nën supozimin e ekzekutimit të plotë të shpenzimeve dhe arkëtimit të të hyrave deficitit buxhetor pritet në mesatare të arrijë në 2.0 % të BPV-së.

Përshkrimi	2012 Buxheti i Rishikuar	2013 Buxheti	2014 Proj.	2015 Proj.
<i>Në miliona euro</i>				
1. TË HYRAT E PËRGJITHSHME	1,384	1,423	1,426	1,498
Te hyrat nga tatimet	1,128	1,182	1,230	1,297
Te hyrat vendore	288	301	327	359
Te hyrat doganore	875	915	938	974
Kthimet	-35	-35	-36	-37
Te hyrat jo-tatimore, THV	170	208	195	200
Te hyrat jo-tatimore	46	44	48	49
nga te cilat: <i>interesi</i>	2	2	1	1
Të hyrat vetanake	122	136	115	117
Niveli Komunal	63	63	64	65
Niveli Qëndror	59	73	51	52
Taksa Koncesionare	2	6	10	12
Tantiemat	-	22	22	22
Dividenda	45	30	-	-
Mbështetja Buxhetore	37	-	-	-
KE	-	-	-	-
BB	37	-	-	-
Grantet e Projekteve	4	3	1	0
2. SHPENZIMET PRIMARE	1,524	1,586	1,650	1,666
nga të cilat: <i>AKP</i>	8	8	9	10
Rrjedhëse	896	959	1,001	1,009
Pagat dhe Mëditjet	410	435	447	449
Mallrat dhe shërbimet	204	225	227	229
Nga te cilat: komunalite	23	23	23	23
Subvencionet dhe transferet	282	299	327	331
Transferet sociale	246	268	296	300

Subvencionet per NP	36	31	31	31
Shpenzimet Kapitale	614	621	636	643
<i>nga të cilat: shpenzime me financim të rregullt buxhetor</i>			528	600
<i>financim i njëhershëm dhe bartje të nënshpenzimit</i>			108	43
Rezerva	3	4	4	4
Neto kredidhenia	11	-6	-	-
<i>Nga te cilat: kredite per NP</i>	15	-	-	-
<i>kthimet nga NP</i>	-4	-6	-	-
3. BILANCI PRIMAR	-140	-163	-224	-168
3.1 BILANCI PRIMAR (perjashtuar AKP)	-131	-155	-215	-158
3.2 BILANCI PRIMAR (sipas rregullës së propozuar fiskale)	-	-	-116	-125
Pagesa e interesit	-13	-18	-19	-18
4. BILANCI I PËRGJITHSHËM	-152	-181	-243	-186
5. FINANCIMI	152	181	243	186
Financimi i jashtëm	93	7	-16	-26
Terheqjet	104	24	7	1
<i>nga te cilat: FMN</i>	92	-	-	-
Pagesa e principalit të borxhit	-11	-16	-23	-27
Financimi i brendshëm	60	173	258	212
Huazimi i brendshëm	75	80	100	140
Financimi i njehereshëm	64	326	108	43
<i>nga të cilat: të hyra të njëhershme financiare</i>	35	-	58	23
<i>bartja e nënshpenzimeve</i>	-	-	50	20
Ndeshimi ne mjetet tjera financiare	-4	-14	-3	-
Ndeshimi ne stokun e THV	-32	3	4	5
Ndeshimi ne bilancin banker	-43	-222	50	24
6. Bilanci i BKK	203	426	376	353
<i>Nga te cilat: ELA</i>	46	46	46	46

Tab.1. Revenues and Expenditures of General Government**Conclusions and Recommendations**

Në bazë të shpjegimeve dhënë më lartë ne kete punim shkencor, mund të përfundohet se buxheti luan rol mjaftë te rendesisem per shtetin dhe funksionimin e tij

Duke u bazuar në këtë përfundim si rezultat i analizimit të raportimit të buxhetit, mund të rekomandoje që MEF duhet të jete me l qarte ne hartimin e politikave fiskale si ne zbatimin e buxhetin që do të ndikojë në rritjen e ekonomike ,duhet të shmangen ndarjet e paqarta buxhetore që do të thote nje planifikim me l mire buxhetor .Ministria e Financave duhet të ndryshoj formën e raportimit buxhetor në baza tre mujore dhe vjetore. Raportimi buxhetor duhet të përfshijë të dhëna të detajuara për zbatueshmërinë e të gjitha atyre projekteve për të cilat janë kërkuar mjete me Ligjin për buxhetin.

Literature

<https://mf.rks-gov.net/sq-al/ministriaefinancave/buxhetiirepublikesekosoves/buxhetiqendrore.aspx>

[file:///c:/users/enkeleda/downloads/5\).tabela_3_1_a_shqip.pdf](file:///c:/users/enkeleda/downloads/5).tabela_3_1_a_shqip.pdf)

<https://mf.rks-gov.net/sq-al/ministriaefinancave/buxhetiirepublikesekosoves/buxhetiqendrore.aspx>

file:///c:/users/enkeleda/downloads/buxheti%202014-2016%20finale_shqip%20

<https://mf.rks-gov.net/sq-al/departamentet/departamentiibuxhetit.aspx>

<https://mf.rks-gov.net/sq-al/ministriaefinancave/raportedhepublikime/kornizaafatmesmeeshpenzimeve.aspx>

<https://mf.rks->

<gov.net/portals/0/raporte%20dhe%20publikime/kash/korniza%20afatmesme%20e%20shpenzimeve%202015%20-%202017.pdf>

<https://mf.rks-gov.net/sq-al/ministriaefinancave/raportedhepublikime/raportimujoritehyravedheshpenzimeve.aspx>

<https://mf.rks-gov.net/sq-al/ministriaefinancave/raportedhepublikime/qarkoretbuxhetore.aspx>

<https://mf.rks-gov.net/sq-al/ministriaefinancave/raportedhepublikime/raportetefonditmonetarnderkombetar.aspx>

<https://mf.rks-gov.net/linkclick.aspx?fileticket=mgfelfibt84%3d&tabid=194&mid=1252&language=sq-al>

<https://mf.rks-gov.net/sq-al/ministriaefinancave/buxhetiirepublikesekosoves/buxhetikomunal.aspx>

Shpenzimet publike dhe llogaridhenia financiare

Vleresimi i menaxhimit të financave publike

Për buxhetin e republikës së Kosovës për vitin 2015

Korniza afatmesme e shpenzimeve

Raporti gjashtëmujor i buxhetit 2014

Raporti i buxhetit për vitin 2013

Raporti vjetor financiar -buxheti i republikës së Kosovës

Raportimi mujor i të hyrave dhe shpenzimeve

Qarkorja buxhetore 2013– 01 për komuna

Qarkorja buxhetore 2014-01 përgatitjet e para dhe kufijtë fillestar për buxhetin e vitit 2014 nga organizatat buxhetore qendrore

Impact of the Teaching Techniques on the Disruptive Behaviour

Dr. Alma Muharremi

“Aleksandër Xhuvani” University, Elbasan, Albania

Faculty of Education Sciences

Department of Teaching Methodology

almamuharremi@gmail.com

Abstract

The disruptive behaviour of students and the impact that the teaching techniques may have on it are an important issued for the Albanian school. One of the techniques that has new the tendency to be used in the Albanian education is the Respond Cards (RC) Technique. This technique offers students plenty of opportunities to interact when they are learning a new material, or when repeating a material learned before. It also enables teachers to assess the understanding of each student, react instantly and adapt the lesson and the class to the circumstances. The goal of this study is to assess the impact that using the RC Technique in the class of Knowledge on the Nature will have on the students' disrupting behaviour. The RC Technique was used in combination with the Single-Student Responding (SSR) Technique through an ABAB type design. Five students of the fourth grade in the "Ali Agjah" school in Elbasan, Albania were the sample for the data collection. The disruptive behaviour was measured during SSR and RC, by partial intervals' recording in the observation of each student in each session. Results showed that when RC were used the average number of intervals with disruptive behaviour fell by 5.4 and that there were no differences between genders. It is not only productive, but also essential and indispensable to implement effective instructing techniques such as RCs, which highly evaluate the active responses of the students. Teachers must deal with disruptive behaviour, but they also should see deep in their teaching techniques.

Keywords: disrupting behaviour, ABAB design, techniques of Response Cards, Single-Student Responding, Knowledge on the nature.

Introduction

The overall problems caused by disruptive behaviour are highlighted in the studies of Steed and Lawrence (1988), Gray and Richer (1988), Sentelle (2003), Jung e Boman (2003), Hunter-Love (2008), Hofstadter-Duke (2011) Todras (2007) and many others, and they are present in the Albanian education system too. More than half of Albanian teachers complain about the problematic behaviour of students (Tamo & Karaj, 2007).

The students' disruptive behaviour and the impact that the teaching techniques may have on it are an important issued for the Albanian school. One of the techniques that has the new tendency to be used in the Albanian education is the Respond Cards (RC) Technique. This technique offers students plenty of opportunities to interact when they are learning a new material, or when repeating a material learned before (Randolph, 2007; Sutherland et al, 2002). RC enable teachers to assess the understanding of each student, react instantly (Christle & Schuster, 2003) and adapt the lesson and the class to the circumstances (Kellum el al., 2001). RC are reusable tables which allow all students to independently answer questions of the teacher (Cavanaugh et al., 1996; Gardner et al., 1994).

Different researchers have highlighted the benefit of using the RC technique in reducing disruptive behaviour. Use of RC is an intervention with some empirical evidence aiming at reducing disrupting behaviour, while positive behaviour in class increases (Lambert et al., 2006).

Armendariz & Umbreit (1999) were the first to obtain the effects of the empirical examination of the RC of the disruptive students. They reported a considerable reduction of the intervals with disrupting behaviour when using RCs, compared to the questions-answers classes. All 22 students involved in the research reduced their disrupting behaviour to 59% when using RCs.

Lambert el al (2006) proved the effects of RC on the reduction of disrupting behaviour and on the increase of academic responses during the maths class for nine students of the fourth grade in an urban school. Disruptive behaviour decreased from a M = 6.8% (range 5.6% to 8.0%) during hand raise condition to a M = 1.3% (range 0% to 2.7%) during RC condition, for an overall average decrease of 5.5% disruptive behaviour.

Singer (2013) examined the effects of RC on student disruptive behavior, responding, and accuracy of responding during whole-class guided-reading instruction in a first-grade classroom. During baseline conditions, the target students had moderate to high levels of disruptive behaviors (i.e., individual disruptions ranged from 40% - 100% of intervals observed during ½ of a 30 min session) and low levels of hand raising and active student responding. During intervention conditions, target students were less disruptive and more actively engaged due to the competing response nature of using the cards. The results revealed that RC implemented by a classroom teacher did reduce students' disruptive behaviors and increased their responding and accuracy during class.

The goal of this research is to assess the effects that the use of RC technique during the class of Knowledge on the Nature have on the disruptive behaviour of the students. It also aims to find out if there are gender differences in the disruptive behaviour when using RC technique.

The questions raised by this research are:

Do students display less disruptive behaviour when the RC technique is used?

Are there gender differences in the disrupting behaviour when the RC technique is used?

Method

Participants and data

The research was conducted in the fourth grade of the "Ali Agjah" school in Elbasan, in the class of Knowledge on the Nature, which is taught in three classes a week. The school and the class were chosen randomly. The sample for data collection was 5 students who were chosen by the researcher and the teacher of the class, after the researcher observed the class for 2-3 classes a week during a month and identified them as student with disrupting behaviour. These student were 9-10 years of age, and their grades in the subject were 5,6 and 7 (the lowest passing grade in the Albanian education system is 5, and the highest is 10). 40% of the sample were girls and 60% boys (See Table 1).

Table 1: Demographic and Academic data of Target Students

Student	Gender	Age	Grade in the subject of Knowledge on Nature
1	M	9 years and 3 months	6
2	F	9 years and 7 months	5
3	M	9 years and 1 month	5
4	F	9 years and six month	7
5	M	10 years	6

The teacher holds the Bachelor Degree "Teacher of grades 1-4", has obtained the "Very well" grade in the second level of qualification, and has been teaching all subjects of the fourth grade curriculum - including Knowledge on the Nature - for 15 years.

The project of the research and the procedures.

An ABAB type design was used, which means:

- A- Use of Single-Student Responding (SSR1)
- B- Use of Response Cards (RC1)
- A- Use of Single-Student Responding (SSR2)

B- Use of Response Cards (RC2)

This design type means that the disrupting behaviour will be measured during four sessions during which SSR and RC will be used consecutively, and the aim will be to find out whether there are differences in the disrupting behaviour of the students during SSR compared to RC.

The use of the SSR technique consists in students being allowed to answer the teacher's questions after they raise their hands. The class was characterised by typical classroom procedures, like introduction of new knowledge, independent work, and the creation of practical skills by using the question-answer format. The accuracy of the answers of the five students were corrected in some cases.

The use of the RC technique consisted in each student using a card to write their answer to the teacher's question, and then showing it. The cards in the class of Knowledge on the Nature contained questions to which student could reply with "True/False" or by choosing alternatives, and also open questions. When the teacher asked a question to the class, students were given 3 seconds to think about the answer, time to write the answer, and then students raised their hands to give their answer, thus allowing the teacher to quickly check the class and assess the understanding of each student.

The teacher, who did not have previous knowledge on the RC Technique, received a training which focused on knowing the essentials and characteristics of the RC technique and on mastering the skill to use it in class.

The use of SSR and RC techniques was applied several times during a month by the teacher, so that students would familiar with them. No measuring was performed during this period.

The observation procedure

The research team consisted of the researcher and his 4 assistants. The assistants were students on master in education, and they were present during the Knowledge on the Nature class. The disrupting behaviours were recorded through direct observation. Each assistant observed one student and kept notes of their disrupting behaviours (if any). Students were not aware that they were being observed.

Observers and students were given codes from 1-5 and they kept these codes until the end of the study. Each observer recorded the disrupting behaviours of one designated student, using a recording procedure with partial intervals. Each participant student was observed for 10 seconds, and then 5 seconds were used for recording. A wall mounted electronic clock was used so that observers were in sync during observations in 10 seconds intervals.

Research instrument

The instrument used in this study was a table for the recording of disrupting behaviours and was built by adapting instruments of Gable et al (1998). Observers had recording cards with observation intervals. If the student displayed disrupting behaviour during an observation interval, the interval was coded as disruptive (+). If no disrupting behaviour was displayed, the interval was coded 0.

Defining and measuring the variables

The variables in this study are: disruptive behaviour (dependent variable), the techniques of RC (independent variable), and the technique of SSR (independent variable). The operational definition of the variables in this study was:

Disruptive behaviour in class is a behaviour which prevents or obstructs the teaching and learning process (De Martini-Scully et al, 2000).

In the *RC technique* each student independently writes his/her answer to the teacher's question and then shows it.

In the *SSR technique* each student asks permission to answer the teacher's question.

Results

The first research question: Do students display less disrupting behaviour when the RC technique is used?

The disruptive behaviours of five students during the Knowledge on the Nature class were observed in alternated SSR and RC intervals. Data on intervals of disrupting behaviour for each student (see Table 2) show that:

Student 1 reduced by 6.1 the average number of intervals with disruptive behaviour when passing from SSR1 session (M = 7.3) to RC1 (M = 1.2), and an even greater reduction (6.7) when passing from SSR2 (M = 8.7) to RC2 (M = 2.0). His

overall reduction of the average number of intervals with disruptive behaviour was 6.4 when passing from SSR session (M = 8.0) to the RC session (M = 1.6). Student 1 displays less disruptive behaviour when the RC technique is used.

Student 2 reduced by 7 the average number of intervals with disruptive behaviour when passing from SSR1 session (M = 7.5) to RC1 (M = 0.5). The reduction was smaller (5.4) when passing from SSR2 (M = 7.9) to RC2 (M = 2.5). His overall reduction of the average number of intervals with disruptive behaviour was 5.2 when passing from SSR session (M = 7.7) to the RC session (M = 1.5). Student 2 displays less disruptive behaviour when the RC technique is used.

Student 3 reduced by 5.3 the average number of intervals with disruptive behaviour when passing from SSR1 session (M = 7.7) to RC1 (M = 2.4). The reduction was smaller (5.1) when passing from SSR2 (M = 7.4) to RC2 (M = 1.3). His overall reduction of the average number of intervals with disruptive behaviour was 5.7 when passing from SSR session (M = 7.5) to the RC session (M = 1.8). Student 3 displays less disruptive behaviour when the RC technique is used.

Student 4 reduced by 5.4 the average number of intervals with disruptive behaviour when passing from SSR1 session (M = 6.4) to RC1 (M = 1.0). The reduction was smaller (2.8) when passing from SSR2 (M = 4.0) to RC2 (M = 1.2). His overall reduction of the average number of intervals with disruptive behaviour was 4.1 when passing from SSR session (M = 5.2) to the RC session (M = 1.1). Student 4 displays less disruptive behaviour when the RC technique is used.

Student 5 reduced by 5.3 the average number of intervals with disruptive behaviour when passing from SSR1 session (M = 5.9) to RC1 (M = 0.6). The reduction was smaller (3.9) when passing from SSR2 (M = 5.4) to RC2 (M = 1.5). His overall reduction of the average number of intervals with disruptive behaviour was 4.6 when passing from SSR session (M = 5.6) to the RC session (M = 1.0). Student 5 displays less disruptive behaviour when the RC technique is used.

Table 2. Mean Number of Intervals of Disruptive Behavior during SSR and RC conditions for the target students

Student	SSR1	RC1	SSR2	RC2
Student 1	7.3	1.2	8.7	2.0
Student 2	7.5	0.5	7.9	2.5
Student 3	7.7	2.4	7.4	1.3
Student 4	6.4	1.0	4.0	1.2
Student 5	5.9	0.6	5.4	1.5
Group(M)	6.9	1.1	6.7	1.7

Note. SSR = single-student responding; RC = response cards.

When passing from SSR1 to RC1, Student 2 had the greatest reduction (M = 7) of the average number of disruptive behaviour intervals (see Table 2), and students 3 and 5 had the smallest reduction (M = 5.3). When passing from SSR2 to CR2, Student 1 had the greatest reduction (M = 6.7) of the average number of disruptive behaviour intervals, and students 4 had the smallest reduction (M = 2.8). Student also had the greatest reduction of the average number of disruptive behaviour intervals - M = 6.4 - when passing from SSR to RC. Student 4 had the smallest reduction of the average number of disruptive behaviour intervals - M = 4.1 - when passing from SSR to RC.

For all involved students, the difference between average number of intervals with disruptive behaviours during SSR1 (M = 6.9) and SSR2 (M = 6.7) is 0.2. So it can be said that student display almost the same number of intervals with disruptive behaviour during these sessions. The difference between average number of intervals with disruptive behaviours during RC1 (M = 1.1) and RC2 (M = 1.7) is 0.6.

For all involved students, the difference between average number of intervals with disruptive behaviours during SSR1 (M = 6.9) and RC1 (M = 1.1) is 5.8. Student 5 had the greatest reduction. All five disruptive students increased the average number of intervals with disruptive behaviours when passing from RC1 to SSR2. Student 1 had the greatest increase, exceeding SSR1 session. All students indicated a reduction of disruptive behaviour when passing from SSR2 to RC2. This is a considerable reduction that highlights the efficiency of using the RC technique, which is confirmed by the other reduction

(by 5) of the number of intervals with disruptive behaviours when passing from SSR2 (M = 6.7) to RC2 (M = 1.7). The greatest reduction of intervals with disruptive behaviours happens during the first passing from SSR to RC.

The behaviour of the disruptive student varied between a middle and low level when using RC. Disruptive behaviour declined during the RC1 session, increased during SSR2, and declined again during RC2. The overall average reduction of number of intervals with disruptive behaviours for all involved students was 5.4, with M = 6.8 during SSR and M = 1.4 during RC.

So, less disruptive behaviours were displayed when RC technique was used.

The second research question: Are there gender differences when using the RC technique?

The sample was 40% girls and 60% boys. This ratio does not match the real ratio in the class, where 70% are girls and 30% boys.

Both girls and boys involved in the research (See Table 2) had same average number of intervals with disruptive behaviour during SSR1 (6.9). Boys (M = 1.4) had 0.7 more intervals with disruptive behaviour than girls (M = 0.7) during RC1. This difference goes up to 1.3 during SSR2. But in RC2 girls had 0.2 more intervals with disruptive behaviours than boys.

Girls had a decline of 6.2 in the average number of intervals with disruptive behaviours when passing from SSR1 (M = 6.9) to RC1 (M = 0.7). The reduction for girls was smaller (4.1) when passing from SSR2 (M = 5.9) to RC2 (M = 1.8). The overall reduction of intervals with disruptive behaviours for girls was 5.2 when passing from SSR (M = 6.4) to RC (M = 1.2).

Boys had a decline of 5.5 in the average number of intervals with disruptive behaviours when passing from SSR1 (M = 6.9) to RC1 (M = 1.4). The reduction for boys was greater (5.6) when passing from SSR2 (M = 7.2) to RC2 (M = 1.6). The overall reduction of intervals with disrupting behaviours for boys was 5.5 when passing from SSR (M = 7.0) to RC (M = 1.5).

There was an insignificant difference in the average number of intervals with disruptive behaviour between girls (5.2) and boys (5.4) when passing from SSR1 to RC1. When passing from SSR2 to RC2 boys had in average 1.5 more intervals with disruptive behaviours than girls. The difference was insignificant when passing from SSR to RC sessions, with M = 5.2 for girls and M = 5.0 for boys.

So, there were no gender differences when using RC technique.

Discussion

The research results showed that less disruptive behaviours happen when RC technique is used in the class of Knowledge on the Nature and that there are no gender differences when this technique is used.

A summary of the data for each student provides a good argument for the prediction, verification and the recurrence of the positive effects of the RC on the disruptive behaviour of students. All students displayed a considerable decline of disruptive behaviours during RCs sessions compared to SSR sessions. Musai (2003) notes disruptive behaviours can be considerably reduced through quality teaching in general, and in particular through the way of behaving the working system of the teacher.

The research results indicate a functional relation between the dependent variable (disruptive behaviour) and the independent variable (Response Cards). Students showed higher level of disrupting behaviour during SSR compared to RC sessions. It has been accepted that teaching methods influence the disrupting behaviour of the students (Kounin 1970).

As Lambert et al (2006) note, these findings are in line with previous researches for the fact that the implementation of effective instructive strategies such as the RC, which highly evaluate active responses of the students, is not only productive, but also essential and indispensable.

Furthermore, these results are supported by research in certain areas of learning and by the positive effects of direct instructive strategies, especially for urban teachers from Bullara (1994) and Delpit (1995).

The research results showed that all five disruptive students were less disruptive during RC sessions. Lambert et al (2006) note that during the last years a lot of debate has focused on the approach to effective instructions to students, but the impact of these approaches rarely goes along with this discussion.

This is an important consideration which deserves critical attention in the Albanian education context.

Techniques like RC get students involved, so they are required to take an active role in the instructions. For students, being more attentive with the instructions means more learning and less distraction from other factors in class, and less time for disruptive behaviour. Using RC also allows teachers to receive distinguishable answers from students, and as a result they can continuously have immediate feedback on the students' performance, which also increases the learning of the students. Teachers must get familiar with techniques like RC and make them part of their work.

References

- Armendariz, F., & Umbreit, J. (1999). *Using active responding to reduce disruptive behaviour in a general education classroom*. *Journal of Positive Behaviour Interventions*, 1(3).
- Bullara, D.T.(1994). *Effects of guided notes on the academic performance and off-task/disruptive behaviors of students with severe behavior handicaps during science instruction*. Unpublished doctoral dissertation, The Ohio State University.
- Cavanaugh, R. A., Heward, W. L., & Donelson, F. (1996). Effects of response cards during lesson closure on the academic performance of secondary students in an earth science course. *Journal of Applied Behavior Analysis*, 29, pp. 403-406.
- Christle, C. A., & Schuster, J. W. (2003). The effects of using response cards on student participation, academic achievement, and on-task behavior during whole-class, math instruction. *Journal of Behavioral Education*, 12, pp. 147-165.
- Delpit, L. (1995). *Other people's children*. New York; The New Press.
- DeMartini-Scully, D., Bray, M. A., & Kehle, T. J. (2000). A packaged intervention to reduce disruptive behaviours in general education students. *Psychology in the Schools*, 37(2), pp. 149-156.
- Gable, R. A., Quinn, M. M., Rutherford, R. B., Jr., & Howell, K. W. (1998). Functional behavioral assessments and positive behavioural interventions. *Preventing School Failure*, 42, pp. 106 - 119.
- Gardner, III, R., Heward, W. L., & Grossi, T. A. (1994). Effects of response cards on student participation and academic achievement: A systematic replication with inner-city students during whole-class science instruction. *Journal of Applied Behaviour Analysis*, 27, pp. 63-71.
- Gray, J. and Richer, J. (1988). *Classroom Responses to Disruptive Behaviour*, Macmillan Education.
- Hunter-Lowe, M.R. (2008). *Qualitative Analysis of Disruptive Behavior and Leadership Influence in Two Urban K-6 Virginia Elementary Public Schools*. Universal-Publishers, Dissertation.com Boca Raton, Florida USA.
- Hofstadter-Duke, K. L. (2011). Functional analysis of replacement behavior: assessing concurrent behavioural excesses and academic deficits, University of Nebraska. <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1110&context=cehdsdiss>
- Jung, J. & Boman, P. (2003). Comparison of disruptive behaviours in South Australian LOTE and mainstream primary school classrooms, *Journal of Educational Enquiry*, Vol. 4, No. 2, pp. 90-101.
- Kellum, K. K., Carr, J. E., & Dozier, C. L. (2001). Response-card instruction and student learning in a college classroom. *Teaching of Psychology*, 28, pp. 101-104.
- Kounin, J. (1970). *Discipline and group management in classrooms*. New York: Holt, Rinehart & Winston, Cituar nga Orlich,
- C. et al. (1995). *Learning Strategies (Strategjitë e të mësuarit)*, Eureka, Tiranë, pp. 318, 319.
- Lambert, M. C., Cartledge, G., Heward, W. L., & Lo, Y. (2006). Effects of response cards on disruptive behaviour and academic responding during math lessons by fourth-grade urban students. *Journal of Positive Behaviour Interventions*, 8, pp. 88-99.
- Musai, B. (2003). *Teaching Methodology (Metodologji e mësimdhënies)*. Tiranë: Pegi, f. 222.
- Randolph, J. J. (2007). Meta-analysis of the research on response cards: Effects on test achievement, quiz achievement, participation, and off-task be. *Journal of Positive Behaviour Interventions*, 9, pp. 113-128.
- Sentelle, J. (2003). *A multi-component behavioural intervention for a diverse classroom*, Dissertation, School of The Ohio State University, pp. 62.

-
- Steed, D. and Lawrence, J. (1988). *Disruptive Behaviour in the Primary School*, Goldsmiths' College, University of London.
- Singer, L., S. (2013). "Effects of Response Cards on the Disruptive Behavior of Students" *Graduate Theses and Dissertations*. <http://scholarcommons.usf.edu/etd/4772>
- Sutherland, K. S., Wehby, J. H., & Yoder, P. J. (2002). Examination of the relationship between teacher praise and opportunities for students with EBD to respond to academic requests. *Journal of Emotional and Behavioral Disorders*, 10, pp. 5-13.
- Tamo, A., Karaj, Th. (2007). Study: Job satisfaction of the Albanian teachers (*Kënaqësia e mësuësve shqiptarë nga puna e tyre*), pp. 18.
- Todras, P. (2007). Teachers' perspectives of disruptive behaviour in the classroom. *The Chicago School of Professional Psychology, Dissertation*

The Republic of Kosovo: Constitutional Politics

Adem Shala

PhD Candidate at the European University in Tirana.

Department of Juridical Sciences

Doctoral research in governing processes.

shala.ad@live.com

Abstract

An essential factor is considered to be the appropriate adjustment, clear and deliberate constitutional policies for effective governance, with predictions: the parliamentary system and balancing powers; proportional electoral system; guarantee of human rights under international conventions and standards (see: Chapter II Fundamental Rights and Freedoms); the rights of minority communities (see Chapter III Rights of Communities and their Members); decentralization through local governance at the municipal level (Chapter X Local Government and Territorial Organization); After the independence in 2008, concrete successes have been achieved in the legal and institutional consolidation of governance, but an effective and quality implementation of political and legal order; rule of law, is required by fighting negative phenomena in institutions in order to prevent the alienation of the policy goals in regards to constitutional governance. Legal obligations, constitutional law, separation of powers etc. limit the power in relation to political rights and freedoms and social rights of individuals. The activity and the determination of the Kosovar society to overcome the situation compelled the International Community towards establishing attitudes, making decisions and acting, among others, in the case of Kosova. Kosova, as a country that belongs to all communities and citizens, is a specific case. The governing processes and constitutional politics are directly influenced by the International Community and global effects. This Kosova specific governing process is a compound of two processes, specific kosovar circumstances and global effects in the region. A special approach should be applied when global effects are evaluated and analyzed in the case of Kosovo, of special interest the practical and theoretical activity, for understanding problems, circumstances, and causes as well as the way towards surpassing obstacles and the advancement of positive processes in governing, constitutional politics and development. After the independence of Kosovo in 2008, the preconditions were created for governance and institutional organization based on constitutional and legal definitions in accordance with democratic standards and international law.

Keywords: Kosova, International community, Constitutional politics, Ahtisaari Plan, Constitution, Minority, Governing, The electoral system.

1. Introduction

On February 17, 2008, Kosovo unilaterally declared independence from Serbia. The Kosovar declaration of independence (2008) represents a fascinating case in international law. It poses important questions regarding the modern day understanding of the international legal theories of secession, statehood, and recognition. In light of these challenging issues and questions, other solutions to the Kosovar problem, such as the creation of an international protectorate, conditional independence, and the division along ethnic lines should have been envisioned and seriously considered before full independence of Kosovo was embraced by the West. (Milena Sterio,2009). The Ahtisaari Plan(2007) commits Kosovo to maintaining multi-ethnic. It provides essential elements for minority and property rights, for a strong form of decentralized local government. Article 3.2 requires the "protection of the national or ethnic, cultural, linguistic and religious identity of all Communities and their members." Article 4 provides for the right of return and to reclaim property. Article 6 provides for local self-government and that municipalities "shall have the right to inter-municipal and cross-border cooperation on matters of mutual interest in the exercise of their responsibilities." The Plan's Annexes expand on these - Annex I (Article 8.3) gives municipalities the right to local sources of revenue and (8.4) to "inter-municipal and cross-border cooperation in the areas of their own and enhanced competencies."

After the independence and Kosovo's constitution in 2008, concrete successes have been achieved in the legal and institutional consolidation of governance, but an effective and quality implementation of political and legal order; guarantee of human rights under international conventions and standards (see: Chapter II Fundamental Rights and Freedoms); the

rights of minority communities (see Chapter III Rights of Communities and their Members); decentralization through local governance at the municipal level (Chapter X Local Government and Territorial Organization).

2. Model and methods

This study used multiple viewpoints on appropriate methods for understanding the causes, consequences, and variable correlations and effects. This study focused on researching specific facts related to Kosovo and in understanding the interpretation of local and international legal acts that relate to and interact with the processes on the Kosovar governance while employing models and strategies of research on comparisons, evaluations, observation ethnography, grounded theory, and evaluating the facts and processes related to the topic on the above mentioned area. This study used the experimental model represented through active and passive observations which is a time limited study of concrete phenomena. Furthermore, the study conducted analysis of monitoring reports of international institutions on governance and Kosovo institutions, analysis of reports of the institutions themselves and parts of civil society organizations, and independent monitoring agencies of the government of Kosovo. Comparisons were drawn with modern views of theories on the conditions and objectives of democratic. Northern issue and relations with Serbia, while employing models and strategies of research on comparisons, evaluations, observation ethnography, grounded theory, and evaluating the facts and processes related to the topic on the above mentioned area. This study used the experimental model represented through active and passive observations which is a time limited study of concrete phenomena. Furthermore, the study conducted analysis of monitoring reports of international institutions on governance and northern issue and relations with Serbia.

3. Constitutional politics

Constitutional politics and institutional consolidation in the independent Kosovo, is based in The Ahtisaari Plan (Comprehensive Proposal for the Kosovo Status Settlement, March 2007) and international supervision of its implementation. Article 1.3 of Ahtisaari 's Plan states: "Kosovo shall adopt a Constitution. The Constitution of Kosovo shall prescribe and guarantee the legal and institutional mechanisms necessary to ensure that: Kosovo is governed by the highest democratic standards, and to promote the peaceful and prosperous existence of all its inhabitants. The Constitution shall include, but not be limited to the principles and provisions contained in Annex I of this Settlement". This plan provides for the regulation of political and legal system in general, and some areas are defined in detail. In Article 1.1 (General Principles) it stipulates that: "Kosovo shall be a multi-ethnic society, which shall govern itself democratically, and with full respect for the rule of law, through its legislative, executive, and judicial institutions". Positive ratings come from all relevant international institutions regarding the implementation of the Ahtisari Plan.

Constitutional politics and governing quality represents an essential factor in the development and integration process. Rule of Law and Constitutional politics according to Wolfgang Merkel sets the following: political - institutional determinants and "partial regimes, encompassing and free elections, the political rights to participate, civil liberties, ensuring institutional control and security powers de jure and de facto power of the elected representatives" stresses Merkel (2010). However, without a political culture, without economic opportunities, de concentration of power, favorable international position and integration it is difficult to achieve effective democratic governance. The model of limiting government control of society, the opposition, the right, the balance of powers, decentralization, international law, distribution of resources, values, democratic attitudes and behaviors, international atmosphere and global processes however, are providing an environment relatively suitable for institutional processes and democratic governance in Kosovo.

With the establishment of international guidance the Assembly proclaimed the Declaration of Independence on 17th of February 2008. International recognition followed, with a significant number of countries with a global impact accepting it. Kosovo's constitution (2008) determined the character, functions and organization of the institutions. All the definitions and governing authority of institutional powers were consolidated in compliance with the requirements of the Ahtisaari Plan, by guaranteeing all ethnic groups, civil rights, especially in regards to the Serb minority in Kosovo.

The Constitution defined the political and legal system: parliamentary republic with a system of governance similar to that of western democracies and transition countries. A unique state with a decentralized local municipal government. The constitutional politics fits the level and goals of the democratic society of Kosovo. The constitution of Kosovo represents the basic solutions to government and institutional processes according to democratic standards. The

Constitution, as the supreme legal act of the Republic of Kosovo in Chapter I on Basic Provisions, Article 16.2, Supremacy of the Constitution states: "The Power to Govern stems from the Constitution". Chapter I, Article 2.1 on Sovereignty defines "The sovereignty of the Republic of Kosovo stems from the people, belongs to the people and is exercised in compliance with the Constitution through elected representatives, referendum and other forms in compliance with the provisions of this Constitution". By expressing the supremacy of this act and its constitutionality in the governing process, Chapter I, Article 16.2 defines: "The Constitution is the highest legal act of the Republic of Kosovo. Laws and other legal acts shall be in accordance with this Constitution". In Article 4.1 [Form of Government and Separation of Power]: "Kosovo is a democratic Republic based on the principle of separation of powers and the checks and balances among them as provided in this Constitution". An essential factor is considered to be the appropriate adjustment, clear and deliberate constitutional policies for effective governance, with predictions: the parliamentary system and balancing powers; proportional electoral system; guarantee of human rights under international conventions and standards (see: Chapter II Fundamental Rights and Freedoms); the rights of minority communities (see Chapter III Rights of Communities and their Members); decentralization through local governance at the municipal level (Chapter X Local Government and Territorial Organization). Interpretation and protection of the constitutionality and legality of the governance is being done by the constitutional court, which also includes international representatives.

After the independence in 2008, concrete successes have been achieved in the legal and institutional consolidation of governance, but, an effective and quality implementation of political and legal order; rule of law, is required by fighting negative phenomena in institutions in order to prevent the alienation of the policy goals in regards to constitutional governance.

In accordance with the Constitution, laws, procedures and other relevant regulations, all institutions were constituted according to powers and responsibilities. International Court of Justice in The Hague UN on the 22nd of July 2010, published a positive advisory opinion concerning the legality of Kosovo's declaration of independence in 2008, noting that there is no contradiction on United Nations Resolution 1244, adopted by the Security Council. Among the major successes is the end of international supervision of independence (September 2012), which marked the completion of the implementation of the criteria required by the Marti Ahtisari package.

We can conclude that, constitutional politics in the Kosovo government during this period took these effective governing features. The governance through independent institutions, legitimate and functional according to legal provisions has begun. There are visible and concrete results, but it was not the right quality of leadership and officials in representative institutions such as the executive, judicial, administrative, public service or other independent institutions. There is special warning regarding the prosecution and the judiciary institutions, which were not effective against negative phenomena in institutions, and had no serious support from the main political institutions.

There are no clear economic development policies. There has been a delay in creating suitable conditions for the businesses. There is a lack of reforms and clear economic and macroeconomic policies. Economic policies so far are not concrete and specific; they are not mid-term and long-term project and strategies for sustainable economic development. So, with this the constitutional preconditions, legal and organizational functioning, the establishment of institutions and governance of the Republic of Kosovo were completed. Cultural support and consolidation of democratic values in governance, economy, in respecting human and minority rights, gender equality etc. are growing. However, this governance did not reach the north. Rational civic courage and political activity has begun to increase. The civil society through NGOs is continuously consolidating. The media have also raised the level of independence, analysis and criticism. But the latter still show bias toward partisanship. Stratification and pluralistic structure of Kosovar society is missing, as a result of economic underdevelopment in manufacturing and service providing private spheres.

Constitutional politics are not effects because, in Kosovo government occupation occurred by party leaderships and the penetration of corrupt groups in institutions and not fighting negative phenomena in institutions for a long time. These circumstance causes, affected the quality of institutional functions at the level of implementation of roles and powers of the parliament itself as the basic institution of parliamentary democracy, and consequently other institutions. Non-compliance to law, the lack of autonomy of powers and mutual lack of control, especially of parliament over the executive. Ineffective judiciary towards high-level corrupt individuals, lack of proper functioning of the electoral process, characteristics of political parties and of their leadership have brought consequences on the growth of corruption and organized crime, as well as failing to fight it. Negative phenomena in institutions are damaging the state budget, economy and society: by preventing and distorting public investments and by creating uncertainty for potential internal and external investors. These phenomena are directly impacting on economic underdevelopment, insecurity, the quality of public and administrative services, and the

delayed integration.

4. The electoral system/ proportional electoral

System and electoral law / proportional electoral in Kosovo, from the international and domestic factor, were considered appropriate; more convenient than the electoral system / electoral majority, or that one mixed. In Kosovo, the proportional electoral system has resulted in the creation of many small parties. This practice is reducing the dominance of a massive party in the negative phenomena party-state and not in polarization and extreme confrontation of the two major parties, as the position and the opposition is fragmented into several medium and small parties. This is affecting the inefficiency of the political system; but this fragmentation has always obliged entities in cooperation, coordination, debate and compromise the necessary cross-party consensus. These constitutional solutions are bringing democratic practices and significant experiences. Majority system in transition countries is creating massive party and confrontation of the two main parties on the extreme confrontations; the 'tyranny of majorities,' or confrontation of the two majorities in extreme consequences usurpations by the ruling institutions, with accompanying consequences in governing quality. While in Kosovo, as a result of the order and the pure proportional electoral system, we have a plurality of parties, the obligation of respect and cooperation between the parties.

The proportional electoral system produces instability, difficulty in institutional consolidation after the elections and difficulties in decision-making; while, the governing majority system considered stability and efficiency in decision making. But full proportional systems enable small parties to exist and be focused on one or several issues, and later may become more influential. This is positive for Kosovo, because they allow easier option opposition parties to appear. It is most appropriate for ethnic minority parties; however, those in Kosovo are guaranteed participation and powers and responsibilities. There are opinions that whether a country has chronic instability, no tradition of coordination and lack of constructive debate, proportional system might just collapse lead the governing process of democracy and lack of efficiency and effectiveness of government. But, it can happen to both electoral systems, either on proportional or majority system, if the tradition and political culture is lacking. If negative phenomena extend roots, the majority of the system is proportional may be undemocratic and confrontational and unstable. In Kosovo, so far, similar phenomena exceeded the external factor in cooperation with the Interior. External interference is inappropriate, because they are outside intervention, not the factor solution maturity local government. However, in Kosovo is maintained a stable democracy and stable, is provided the inclusion and representation of all national minorities and the opportunity for new parties in the proportional system. Now they have begun cross-party cooperation and respect among party entities and are tame confrontations extreme cross party. So where the system has provided positive outcomes, moderating inter-party clashes and forcing the interparty cooperation.

The proportional system is enabling the emergence and consolidation of new parties that are initially small in membership and supporters. It enables pluralism as democratic element. The fragment more political parties and forwarded to the difficulties in the institutional consolidation of the decision; but, is forcing create political culture of cooperation, compromise and reconciliation parties. For initial democracies such as Kosovo, a majority electoral system is not entirely ideal, since it produces „tyranny of majorities” and emotional confrontations both major parties, the extremities of intolerance and deepening of negative phenomena party state.

But even entirely proportional system is creating excessive fragmentation. Therefore, a mixed electoral system / mix may be more appropriate. The combined system will absorb all the positive aspects of both electoral systems and relativizes negative reflections of both systems, in particular, national-parliamentary elections. So in the process since voters appears most-position over 51%. Legal and constitutional changes to the electoral system / election must protect the democratic principles of the system; however, the improvement of the process Kathy mixed electoral system will affect the efficiency and more efficient consolidation of institutions; will contribute to the democratization of political parties, would force the parties to find candidates with the most reputed and improve the electoral process. Determination to make constitutional and legal changes is included in the section of the requirements of the EU, which refers to political criteria. But the changes have yet to happen, because the subjects in power and most of them opposition, there are real changes in the electoral process and governance, because they seem unfit for their narrow interest group of party leaderships

In local elections, the existing proportional system is sufficient. Mayors are elected directly, so the voters. This is and is raising legitimacy, efficiency and effectiveness of this institution in many respects.

According to constitutional provisions, the president must be non-partisan, at least during the term, because

represents unity. He/she now is elected by Parliament. But he / she should be elected directly by the electorate, to be qualitative and functions required by the constitution. The powers and responsibilities are advanced and should be the same for not changing the government parliamentary, but choosing from citizens directly, issues more qualitative candidates and President for Competencies, roles and functions than this institution has.

5. Constitutional politics for minorities

The Ahtisari Plan (2007) and Kosovo's constitution (2008): defines Kosovo as a multiethnic democratic society, non-religious, with a market economy and open and free competition. It provides key elements for minority rights and a strong form of decentralized local governance at the municipal and central level, in particular for the northern Serb minority community. The aim was for the Serbian minority to be provided with a special status in order to integrate and eliminate destructive policies of Serbia towards Kosovo. Municipal Local government is carrying out its functions successfully in all municipalities even in the Serb-majority ones in other parts of Kosovo, except the north. The Ahtisaari plan, Kosovo Constitution and the integration of the Serb minority in other parts of the Republic of Kosovo, are facts that indicate the guarantee and most advanced solutions in the region for the rights of the Serbian community in local and central government, the most significant democratic standards.

The Statistical Office of Kosovo (2008), all minorities in Kosovo constitute about 8% of the population. The rest are minorities among which 7% are serbs, and a 5% is comprised of other ethnic minorities such as Bosnians, Roma, Ashkali, Egyptians, and Turks. In general. In the case of Kosovo there were no interethnic conflicts, but it was the exploitation of the Serb minority by dominant Serbian policies and international toleration. Serbia's destructive policies aim was the prevention of the creation of institutions and establishment of the governance of Kosovo as an independent state, not for the interests and rights of the Serb minority. In order to limit the that Kosovo is not a pronounced multiethnic society. But the real solution of this problem is done by preventing the intrusive policies of Serbia and its allies against the independence of Kosovo because the effects of these policies are reflected in the governance. The global effects were even more specific as a result of the large collection of problems over longer periods of time, and the politics of the surrounding countries, especially the dominating Serbian politics.

An analysis conducted by Gerard.M.Galluci in 2011 in the context of affiliation on Serb northern municipalities states that the Ahtisaari Plan provides a framework for a functioning multiethnic democracy. Annex II (Article 4) provides communities the right to express, maintain and develop their language and culture; receive pre-school, primary and secondary public education in their own language; establish and maintain their own private schools (with public financing); display community symbols; and have their own media (including TV). Annex I (Article 1.6) provides for the ability to maintain dual citizenship. Annex III defines local government, decentralization and linkages to Belgrade. Article 3 of the Annex gives municipalities full and exclusive powers for local economic development, land use, urban regulation, public services and utilities, education, health care and social services, public housing, licensing local services and naming of streets. Article 4 gives Serb-majority municipalities "enhanced participatory rights in the appointment of Police Station Commander" and provides North Mitrovica with "extended" competencies for university education and a hospital. Article 5 requires that the central government delegate to municipalities responsibility for cadastral and civil registries, voter registration, business registration and licensing, distribution of social assistance payments (excluding pensions) and forestry protection. Annex III also allows for municipalities to cooperate with (Art. 10) and receive funding from (Art. 11) Belgrade and to use educational material from Serbia in local schools (Art. 7). Annex IV provides that municipalities will have their own local courts and (Art. 2.2) mandates that "Kosovo judicial institutions shall ... reflect the ethnic composition of their area of jurisdiction."

At the national level, the Ahtisaari Plan provides for reserved and protected minority participation in the central government. Annex I provides quotas for "non-majority" participation in the national government. Article 3.3 requires a minimum of ten seats (out of 120) reserved for Kosovo Serbs in the National Assembly, as well as minimum numbers for other national minorities. Article 3.7-9 provides for 8 The Ahtisaari Plan and North Kosovo - TransConflict protected participation and voting majorities in the Assembly for issues affecting the "non-majority" communities without reference to simple majority vote or referendum. Article 5 requires a minimum number of Serb and other non-majority community representatives as ministers and deputy ministers and mandates that the civil service "reflect the diversity of the people of Kosovo." Annex I also gives the non-majority representatives an enhanced role in choosing members of the Constitutional Court (Article 6) and in the process of amending the constitution (Article 10). Thus the Ahtisaari Plan provides a framework

for a functioning multi-ethnic democracy. As to its functioning in fact, one may judge via analysis of the Plan's implementation south of the Ibar River. (Gerard.M.Galluci, 2011)

Legal solutions to the Ahtisari Plan included in full in the Constitution and the political and functional legal system of Kosovo, as well as the successful integration of the Serb minority (except north), are undeniable arguments, and successful practices for solving problems of the north i.e. its integration. Even the international attitudes are clear that there is no change of borders on ethnic grounds. Therefore, Serbia's destructive role in the institutionalization of government in this part of Kosovo is being restricted. The Ahtisaari plan, Kosovo Constitution and the integration of the Serb minority in other parts of the Republic of Kosovo, are facts that indicate the guarantee and most advanced solutions in the region for the rights of the Serbian community in local and central government, the most significant democratic standards.

The diplomat Rohan (2012), as Ahtisaari's deputy in Vienna talks for setting the status of Kosovo, on the opening of negotiations for the normalization of relations between Kosovo and Serbia, in the context of north states that Ahtisaari Plan contains a substantial autonomy for the northern Kosovo Serbs. Therefore, he argues, any departure from this plan creates complications in the political and legal system of the Republic of Kosovo. This has been understood by all parties. Republic of Serbia also forced by domestic and integration needs, has begun to change the approach towards Kosovo and the north.

The essence of the results of the negotiations for the north, in the spirit of the normalization of relations between Kosovo and Serbia under the mediation of the European Commission, Brussels (2013) is seen in the 15 point agreement, signed by prime ministers Thaci and Dacic. The key points of the Agreement are:

1. There will be an Association/Community of Serb-majority municipalities in Kosovo. Membership will be open to any other municipality provided the members are in agreement.
2. The Community/Association will be created by statute. Its dissolution shall only take place by a decision of the participating municipalities. Legal guarantees will be provided by applicable law and constitutional law (including the 2/3 majority rule).
3. The structures of the Association/Community will be established on the same basis as the existing statute of the Association of Kosovo municipalities e.g. President, vice President, Assembly, Council.
4. In accordance with the competences given by the European Charter of Local Self Government and Kosovo law the participating municipalities shall be entitled to cooperate in exercising their powers through the Community/Association collectively. The Association/Community will have full overview of the areas of economic development, education, health, urban and rural planning.
5. The Association/Community will exercise other additional competences as may be delegated by the central authorities.
6. The Community/Association shall have a representative role to the central authorities and will have a seat in the communities' consultative council for this purpose. In the pursuit of this role a monitoring function is envisaged.
7. There shall be one police force in Kosovo called the Kosovo Police. All police in northern Kosovo shall be integrated in the Kosovo Police framework. Salaries will be only from the KP.
8. Members of other Serbian security structures will be offered a place in equivalent Kosovo structures." (Brussels, 2013)

This agreement clearly defines the form of the Association of Municipalities with Serb-majority in northern Kosovo, determining that "In accordance with the competences given by the European Charter of Local Self Government and Kosovo law the participating municipalities shall be entitled to cooperate in exercising their powers through the Community/Association collectively" (Point 4). "The Association/Community will exercise other additional competences as may be delegated by the central authorities" (Point 5). Local government as a form of decentralization represents one of the most essential and necessary principles of governance and democratic institutions. In Kosovo this is so in the municipal level and is the most advanced in the region.

Municipalities are enjoying a high degree of local self-government in the decision-making process of local authorities and are providing the necessary participation of all citizens. Kosovo's constitution in Chapter X on Local Government and Territorial Organization Article 123.4 [General Principles] defines "Local self-government is based upon the principles of good 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".

Municipalities have the right to inter-municipal and inter-border cooperation in areas of their own and enhanced competences. This is defined in Chapter X, Article 124 [Local Self-Government Organization and Operation] p. 3-7:

“3. 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.

4. Municipalities have the right of inter-municipal cooperation and cross-border cooperation in accordance with the law.

5. Municipalities have the right to decide, collect and spend municipal revenues and receive appropriate funding from the central government in accordance with the law.

6. Municipalities are bound to respect the Constitution and laws and to apply court decisions.

7. 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.”

Municipal governance represents advancement of democratic governance according to European standards and practices of local government. Chapter X on Local Government and Territorial Organization Article 123.3. states “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”. This is a requirement of all citizens and ethnic communities of the Republic of Kosovo, for development and prosperity for all.

To realize all these rights and purposes of local interest municipal competencies have also been regulated and functionalized: a. Local economic development; b. Urban and rural planning; c. Usage and land development; d. Implementation of building regulations and building control standards; e. Local environmental protection; f. Affiliation and maintenance of public services and utilities, including appropriate water supply, sewerage and drainage, waste management, local roads, local transport and local heating schemes. Central authorities in Kosovo delegate responsibility to the municipalities as municipal powers in the following matters: a. Territorial registry; b. civil registers; c. Voter registration; d. Registration and licensing of businesses; e. Distribution of social assistance payments (excluding pensions) and f. Protection of forests.

Municipal activities in areas of their own competencies are defined in ensuring compliance with the Constitution and the law in force. This is done by administrative review of municipal acts as foreseen in the Article 6-7 of Constitution's Chapter X:

“6. Municipalities are bound to respect the Constitution and laws and to apply court decisions.

7. 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.”

Municipal Local government is carrying out its functions successfully in all municipalities even in the Serb-majority ones in other parts of Kosovo, except the north. Even the Association of Municipalities with Serb-majority in northern Kosovo, has no reason not to work as in other municipalities. Northern Municipal Association will be established in order to implement the constitutional and legal local government and in accordance with the competencies of central authority. Now the question is how to integrate this part as fast and as successfully for it to be institutionalized and governed in accordance with the Constitution; according to the quite advanced central government and local municipal government, according to the European Charter of Local Self-Government. The constitution and the legal and political order of Kosovo is unique with its advanced and functional local municipal governments and with substantive representation and participate in decision-making of minority communities in the central level. Therefore, there is no reason for any form of destructive presence that would ultimately undermine the multi-ethnicity and the democratic determination of kosovar governance.

Kosovo by empowering institutions and governance quality, best exceeds these obstacles and together with positive international partners consolidates the integrity and international position of the state of Kosovo. Even the International Community in the basic requirements for integration is seeking quality and efficiency in governance, institutionalization and a democratic culture. Governance and democratic order in Kosovo reflects international peace and security in the region and beyond. Strengthening democratic institutions and the Kosovo government at all levels will affect the quality integration of this community and territory.

Relations with Serbia consolidation without planning for regional cooperation and without investing in concrete projects. Specifically, investments in regional road infrastructure are essential contributors to enable quality collaboration and development. Cooperation between states, Kosovo and region, should lead in this process, and the support of regional and global financial organizations as a result will not be lacking. Because the integration processes are moving at a fast

pace and present a development need and a development instrument. This cooperation will rather enable the circulation of goods, people and ideas. This cooperation will powerfully and immediately affect economic development and the development of all other areas on both sides. Consequently, this will affect the integration and development of municipalities, states and the region. Projects and ideas are those that lead, and after them come investments and support. Kosovo by empowering institutions and governance quality, best exceeds these obstacles and together with positive international partners consolidates the integrity and international position of the state of Kosovo. Even the International Community in the basic requirements for integration is seeking quality and efficiency in governance, institutionalization and a democratic culture. Governance and democratic order in Kosovo and in Serbia, reflects international peace and security in the region and relations Kosovo-Serbia.

6. Conclusion

The constitutional politics effects in the independent Kosovo, has faced adverse conditions: the absence of a plural democratic tradition; low level of economic development; transition reforms; the concentration of power on the existential resource sectors; negative phenomenon in institutions; regional and international circumstances lack of genuine opposition; etc. All these circumstances are affecting directly the characteristics of governance and institutional efficiency; the rule of law, democracy, respect for human rights and respect for minority rights, bring peace in Kosovo and the region. They provide safe conditions for investment, regional cooperation, integration and ultimately development.

Governing quality represents an essential factor in the development and integration process minority. Legal solutions to the Ahtisari Plan included in full in the Constitution and the political and functional legal system of Kosovo, as well as the successful integration of the Serb minority (except north), are undeniable arguments, and successful practices for solving problems of the north i.e. its integration. Even the international attitudes are clear that there is no change of borders on ethnic grounds. Therefore, Serbia's destructive role in the institutionalization of government in this part of Kosovo is being restricted. The Ahtisaari plan, Kosovo Constitution and the integration of the Serb minority in other parts of the Republic of Kosovo, are facts that indicate the guarantee and most advanced solutions in the region for the rights of the Serbian community in local and central government, the most significant democratic standards. Negative impacts from Serbia reflected directly in the governing effects and the institutionalization in Kosovo.

And all these factors created obstacles and delays in government reforms, integration and hence in the democratic consolidation in Kosovo. But global integration processes and activities of international organizations are affecting Kosovo, in order to incorporate conventions and practices of democratic governance which is useful in the constitutional order in respecting human rights, minority rights, rule of law and order. Therefore, the need for political, institutional, economic, legal and cultural reforms is evident. The constitution and the legal and political order of Kosovo is unique with its advanced and functional local municipal governments and with substantive representation and participate in decision-making of minority communities in the central level. Therefore, there is no reason for any form of destructive presence that would ultimately undermine the multi-ethnicity and the democratic determination of kosovar governance.

Kosovo by empowering institutions and governance quality, best exceeds these obstacles and together with positive international partners consolidates the integrity and international position of the state of Kosovo. Even the International Community in the basic requirements for integration is seeking quality and efficiency in governance, institutionalization and a democratic culture. Governance and democratic order in Kosovo reflects international peace and security in the region and beyond.

Competition between parties is unprincipled: followed by accusations, slander and insults and not enough coordination in positive decision-making. There is a lack of genuine opposition forces. As a result, there is low participation in elections and lack of qualitative and quantitative participation of citizens in the political process. Impunity by the courts of holders of negative phenomena in institutions and the interference of politics in law. Failure to punish subjects and their leaders by citizens through their vote as a result of emotional voters with a charged political awareness of the past and not enough cognitive, as well as the high concentration of power over public resources and the not sufficiently independent media. Serious violations of democratic principles in the electoral process which are affecting in the decrease of legitimacy, authority and effectiveness of government.

The proportional electoral system influenced somewhat the coordination, cooperation and inter-party tolerance and reduced tension between them in the governing process and institutional functions. As a result of electoral proportionality, we are not faced with two tyranning majorities, but with some medium level parties forced into alliances and

cooperation in order to create a position and opposition. Law enforcement is not at the right level, but everyone is becoming aware about the situation and consequences. There are concrete efforts and demands, pressures and support from abroad to improve this essential area for democratic governance, without which there are no democratic government functions and effects in any sphere.

The proportional system is enabling the emergence and consolidation of new parties that are initially small in membership and supporters. It enables pluralism as democratic element. The fragment more political parties and forwarded to the difficulties in the institutional consolidation of the decision; but, is forcing create political culture of cooperation, compromise and reconciliation parties. For initial democracies such as Kosovo, a majority electoral system is not entirely ideal, since it produces „ tyranny of majorities” and emotional confrontations both major parties, the extremities of intolerance and deepening of negative phenomena party state.

But even entirely proportional system is creating excessive fragmentation. Therefore, a mixed electoral system / mix may be more appropriate. The combined system will absorb all the positive aspects of both electoral systems and relativizes negative reflections of both systems, in particular, national-parliamentary elections. So in the process since voters appears most-position over 51%. Legal and constitutional changes to the electoral system / election must protect the democratic principles of the system; however, the improvement of the process Kathy mixed electoral system will affect the efficiency and more efficient consolidation of institutions

In local elections, the existing proportional system is sufficient. Mayors are elected directly, so the voters. This is and is raising legitimacy, efficiency and effectiveness of this institution in many respects. According to constitutional provisions, the president must be non-partisan, at least during the term, because represents unity. He/she now is elected by Parliament. But he / she should be elected directly by the electorate, to be qualitative and functions required by the constitution. The powers and responsibilities are advanced and should be the same for not changing the government parliamentary, but choosing from citizens directly, issues more qualitative candidates and President for Competencies, roles and functions than this institution has.

References

- The Ahtisaari, M. Plan (2007). Comprehensive Proposal for the Kosovo Status Settlement. In print.
- Constitution of the Republic of Kosovo (2008). Amendments I-XXIII. Available online at http://www.gjks.org/repository/docs/Kushtetuta_RK_ang.pdf.
- Deklarata e Pavarësisë 17 shkurt 2008. Kuvendi i Kosovës, Prishtinë (<http://www.google.com>)
- European Commission (2013). The result was a 15-point "First Agreement of Principles Governing the Normalisation of Relations". Available online at http://en.wikipedia.org/wiki/Brussels_Agreement_%282013%29#Conclusion.
- European Commission, (2011), "Kosovo 2011 Progress Report", Brussels. Available online at http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index_en.htm
- European Commission, (2012), "Kosovo 2012 Progress Report", Brussels. Available online at http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index_en.htm
- European Commission, (2013), "Kosovo 2013 Progress Report", Brussels. Available online at http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index_en.htm
- European Commission (2012). Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo. Available online at http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ks_feasibility_2012_en.pdf
- Freedom House (2011). Parts of Kosovo. Available online at <http://www.freedomhouse.org/>
- Freedom House (2012). Parts of Kosovo. Available online at <http://www.freedomhouse.org/>
- Freedom House (2013). Parts of Kosovo. Available online at <http://www.freedomhouse.org/>
- Fukuyama, F. (2010). State Building—Governance and World Order in the Twenty-First Century in Albanian, AIIS, Tiranë, p. 174-177.
- Fule, S. (2012). MSA për Kosovën. Gazeta Koha Ditore, Prishtinë, p. 2.

- Galluci, G., M. (2011). The Ahtisaari Plan and North Kosovo. Retrieved from http://www.transconflict.com/10/wpcontent/uploads/2011/11/PolicyPaper_AhtisaariPlanNorthKosovo.pdf
- GJND (2010). Opinioni për Deklaratën e Pavarësisë 2009. Koha Ditore, Prishtinë
- Government of Kosovo (2008). Declaration of Independence. Available online at <http://www.assembly-kosova.org/?cid=2,128,1635>
- Grupi i Kontaktit (2005). Gjashtë parimet mbi zgjidhjen e problemit të Kosovës. Available online at <http://www.bing.com/search?q=Grupi+i+kontaktit+gjasht%C3%AB+parimet+e+zgjidhjes+se+problemit+t%C3%kosoves>
- Grupi Ndërkombëtar Drejtues (2012). Përfundimi i mbikëqyrjes ndërkombëtare të pavarësisë Kosova sot, Prishtinë, p.1
- International Court of Justice advisory opinion on Kosovo's declaration of independence. Available online at http://en.wikipedia.org/wiki/International_Court_of_Justice_advisory_opinion_on_Kosovo%27s_declaration_of_independence
- Instituti Demokratik i Kosovës (KDI) (2013). Raport monitorues: Mbi 10 vjet parlamentarizem në Kosovë, Koha ditore 04.08.13, p. 2.
- Rambouillet Conference (1999). The failure of the Rambouillet conference Available onle at <http://www.wsws.org/en/articles/1999/02/kos-f26.html>
- Rohan, A. (2012). Plani i Ahtisarit përmbanë autonominë e serbëve.
- Sekretari i përgjithshëm i OKB-së (2012). Raporti tre mujor për Kosovën, Kosova Sot, Prishtinë, p. 1.
- Statistical Office of Kosovo (2008). Statistics on population. Available online at: <http://www.ks-gov.net/ESK/eng>
- Sterio, M. (2009). The Kosovar Declaration of Independence: "Botching the Balkans" or Respecting International Law. Georgia Journal of International & Comparative Law, 267. Available online at http://engagedscholarship.csuohio.edu/fac_articles
- Merkel, W. (2010). System transformation. Eine Einführung in die Theorie und Empirie der, Wiesbqden, p.30.
- UNDP (United Nations Development Programme), (2009). Human Development Report 2009.
- UNDP (United Nations Development Programme), (2012). Overcoming barriers: Human mobility and development
- UNDP (2010). Kosovo Human Development Report 2011: Social Inclusion.
- United Nations. Resolution 1244, adopted by the Security Council, 4011th meeting. Available online at https://www.essex.ac.uk/armedcon/story_id/000367.pdf

Sustainable Regional Development in Albania and the Challenges to European Integration

Alma MARKU, PhD Cand.

Abstract

Minimizing or eliminating regional disparities is one of the priorities and challenges of the governments nowadays. Regional disparities are characteristic of large countries, but mostly of developing countries. Studies have shown that these disparities are two to six times more than in developed countries. Using different approaches to eliminate disparities, governments attempt to help economic activities of certain regions in order to be more competitive. In this paper, firstly I will conduct a theoretical and empirical assessment of the regional development approach as per se. The purpose of analyzing the theoretical approach is to introduce the differences between the early approaches of developing the infrastructure and attracting inward investments in the different regions of the country with the latest one of effectively using the public resources and significantly better policy outcomes. This approach includes some measures to increase the competitiveness among the regions of the country. Secondly, in the paper I will observe the approach followed by European Union and especially focus on the Albanian government approach to address the inequality of regions in Albania. The purpose of this analysis is to understand if regional development policies, legal and institutional framework put in place by the government, are consistent with those of the community in which Albania wants to join in, the European Union. The analyzes will show that there are some adjustments that Albania has to do in its regional development policy and legal and institutional framework in order to benefit from the financial instruments that European Union gives to candidate countries, in the process of the European integration.

Keywords: regional development, integration, government, legal framework, strategy

1. Introduction

Regional development is one of the priorities for governments all over the world. Studies have shown that regional disparities are attributes not only of large countries but also developing countries (Shankar & Shah 2003, 2008). These studies indicate that these disparities are two to six times more than in developed countries.

In this paper I will analyze the early and the new approach on regional development. We will see that the early regional development policies which tended to try to minimize or eliminate disparities by developing the infrastructure and attracting inward investment of a region has led to that of effectively using the public resources. Then I will review the European Union approach to minimize regional disparities, taking into consideration that this is one the largest region that has put an emphasis on this subject. This review will led to the analyses of the Albanian case in her attempts to gain the full membership into the European Union.

In the last section I will include the findings and recommendations which may serve for other studies in the future.

2. Theoretical Framework

During these last years, governments of the countries have used different approaches to address the issues of regional developments. For sure, some of them have been successful and some not. Nevertheless, these approaches have raised some questions regarding the role that the government should have while implementing regional policies (Shankar, Shah, 2009).

These questions have to do with the role of the government such as: should it be a regulatory policy in order to develop policies to help poor regions to implement policies which may enhance the competitiveness among the regions by creating a free market.

According to Shankar and Shah (2009) these questions have to do with the nature of the regional developing policy. Should it be a regulatory approach using different economic tools to minimize the differences among the regions, or it should create a free common market and remove internal barriers for goods and people? The second question has to do with the distribution of power among the central and local government. Should it be the central government that decides what is the

best distribution of public funds for the regions, or should local government develop its region with its own economic activities?

2.1. Early Approach

As we mentioned above, regional development is concerned with reducing regional disparities by supporting economic activities in regions (OECD definition). This include those economic activities that increase employment and of course those activities that generate wealth for population.

According to the early approach, governments tried to achieve these objectives by implementing regional development policy with the focus on development of the wide range infrastructure and inward investment.

Studies and research have shown that the past policies have failed to reduce regional disparities in a significant way. These policies have not been able to help the poorest regions, which have been left behind to catch up with the richest and the most developed ones, despite the allocation of significant public funds.

2.2. The New Approach

While the early approach was proved to be not so much effective in addressing the regional disparities a new approach to regional development is emerging (OECD). This approach promises more effective use of public resources and significantly better policy outcomes. The new approach is much more in favor of measures to increase the competitiveness of all regions.

Some key features of this new approach to regional development include: a strategic concept or development strategy that covers a wide range of direct and indirect factors that affect the performance of local firms; a focus on endogenous assets, and less on exogenous investments and transfers; an emphasis on opportunity rather than on disadvantage; a collective/negotiated governance approach involving national, regional and local government plus other stakeholders, with the central government taking a less dominant role¹.

Nowadays researches show that in order to have real results on the field of regional policy we need to put in place crosscutting frameworks and strategies and also multi-level governance mechanisms. The challenge is to find the right balance between the different levels of government to use better their capacities, consequently more effective public policy outcomes.

In these two last decades, multi-level governance which can be understood as the exercise of authority and the various dimensions of relations across levels of government has changed. In particular, decentralization has made local and regional governments more powerful and supposedly increased their capacity to formulate and deliver policy. Local and regional governments, concerned that their economies are increasingly exposed to global competition, now expect to influence public policies so that they have a real and positive impact on improving the competitiveness of the regional economy and the well-being of residents. These trends have made governance of public policies both more complex and more demanding, involving multiple actors (public but also private) and requiring a rethinking of how central and sub-national governments should collaborate (OECD).

3. European Union Regional Policy

Since the creation of the European Union, reduction of regional disparities has been a main concern (EC 2004a). In its history, EU has created different funds for member states, such as sector-based funds, regional funds and structural funds and later on cohesion funds to support this objective. Nevertheless, only in the late 80s significant changes leading to allocations for regional development has been made, by introducing the cohesion policy to neutralize the differences between the southern countries and others less favored regions operating in one single market.

Other changes were made with entering into force in 1993 of the Treaty of European Union. These changes have putted cohesion as one of the main objectives despite economic and monetary union and one single market. European Union allocated one-third of its budget to cohesion policy for the period 1994-1999. Another major step on the side of the cohesion policy was made on the next planning period (2000-2006), in which European Union allocated 40% of its budget to the structural funds.

¹ <http://www.oecd.org/gov/regionaldevelopment/regionaldevelopment.htm>

In 1999, European Council adopted the regional policy of European Union, which consists of reforming a number of policies and re-establishing four structural funds:

- The European Regional Development Fund, which invests in infrastructure and employment;
- The European Social Fund, which supports programmes to integrate the unemployed or disadvantage groups;
- The Guidance Section of the European Agricultural Guidance and Guarantee Fund to support farmers and programmes for the rural development;
- The Financial Instruments for Fisheries Guidance, which support the modernization of the fishing fleet.

Most of the structural funds go to support regions that are not in the same socio and economic development level than the rest of Europe (regions with a GDP per capita of less than 75% of the community average).

In the EC 2004 report it is mentioned that the process of deciding on the allocation of the regional funds is a process in which regional and national governments and European Commission interact with each other. European Commission is the responsible institution for preparing the budget distribution and decides on the rules and policies for the planning period, while the Council of Ministers and the Parliament review and approve the policy. After the approval, the budget is divided to the member states according to the recommendation of the European Commission for each objective. At this stage, member states or region prepare the regional plans and after taking the approval of the European Commission these plans are translated into projects and actions.

4. Albanian Regional Policy

4.1. Policy and Legal Framework

Albania has finalized the Stabilization and Association Agreement with European Commission on 12 June 2006. This agreement entered into force on 1 April 2009, which gave us the potential candidate status and to profit from the contribution of the first (capacity building) and second (cross-border cooperation) components of Instrument of Pre Accession (IPA). On 28 April 2009, the Government of Albania applied for the candidate status in the European Union. On 2010 and 2011 the European Commission's decision concerning the application of Albania was negative, because according to them the country has not reached the level required to comply with the accession criteria. Albania is working on 12 priorities set out from the European Commission. Gaining the candidate status, Albania should be able to benefit from three other components of IPA (regional development, human capacity building and rural development).

While still working on the criteria set out from European Commission to receive the candidate status, Albania has undertaken a number of its initiatives to address the phenomenon of regional development such as:

Adoption of the National Strategy for Regional Development 2007-2013, which aims at "A sustainable and balanced socio-economic growth between the regions of Albania, in general, and mountainous and remote areas in particular, in order to support the rapid development of the whole country and accelerate the process of integration into European Union and NATO membership".

According to the strategy, there are two strategic objectives that will enable sustainable and balanced growth through the regions of the country:

1. Counties are able to contribute to the sustainable development and competitiveness - and thus reduce social and economic disparities across the country. This will be achieved through the implementation of two programs: the National Programme for Regional Development and Program Development of Disadvantaged Areas.
2. The creation of an efficient management framework for regional development, through the drafting of the Law on Regional Development and the development of necessary institutional structures to manage policies for regional.

Regional Development Draft-Law aims to determine the objectives, principles, instruments and institutional framework for the management of regional development and promote balanced regional development in the Republic of Albania.

Economic development of communes, municipalities and regions, should not be seen as a separate problem or as an issue of the local authorities, but rather than an issue that is directly related to economic development at the national level, establishment of an encouraging climate for business through investment in infrastructure and the fight to reduce poverty. To encourage the development of smaller unit such as commune, municipality and county it is necessary to harmonize

national budgetary policies with local ones. In view of this philosophy, it is necessary to integrate the sectorial policies of the central government at the regional level. In order to focus the budget policy on local and regional development problems, combating poverty and avoiding maximum fragmentation of the budget, the government established a fund called "Regional Development Fund".

According to the government, this policy is a preparatory exercise for the regions, in order to prepare them to be able in the near future, to apply for structural and investment funds from the European Commission. In addition, this policy will encourage local communities, institutions, and Albanian politics to carry out an administrative reform aimed at increasing the local units and their transformation into larger units and with better potential absorption of funds, thus enabling them to carry out their investment funds, those of the state budget and EU funds.

4.2. A Picture of Regional Inequalities in Albania

In order to address the existing inequalities in the regions, the government should have better recognition of social and economic differences among them. This will help the government to choose necessary political and financial instruments to address the issues of regional development.

In this context, European Commission and UNDP are supporting the Government in its attempt to minimize regional inequalities. In this regards, a study of regions inequalities (2009-2010) was prepared pain attention on five main axes: economy, demographics and spatial development, social cohesion, sustainable development and access to infrastructure, and finally local finances. Different indicators were selected and comparisons were made through districts and municipalities. Regarding the development gap in relation to the EU and other countries, were observed inequality as per GDP per capita (10% of the GDP of the EU 27) and very high employment rate in agriculture (about 45% of the population country). Also the report points out that the country has very high difference between the developed pole, where Tirana (the highest regional development index 151) and Durres are the more developed regions and the less developed regions are Dibra and Kukes (the lowest regional index 75).

Bearing in mind these differences important policies may derive such as: implementation of specific local development plans; municipalities or communes with lower economic performance and acute social problems should be offered development assistance or different incentives. While rural development or social inclusion, should be addressed through other more specific interventions.

5. Conclusions

The analysis of the entire system by which Albania addresses regional development in the context of European Union requirements, reveals the lack of strategic orientation of regional development policies. Bearing in mind the timeframe and human and financial capacities it is necessary for the government to merge the actual institutional, legal and policy framework with that required by the European Union. Afterwards, the government can review the political framework of the regional development, according the recommendations of the European Commission by using the actual structures experience. In this regards, the focus might be the capacity building of the existing structures in local and central level.

In the sum, the experience of European Union regional development policies suggests the following lessons:

- Merging the actual institutional structures, with those suggested by the European Union;
- Taking advantage of the actual structures to review the national regional development policy framework;
- Capacity building of the regional and local level in order to develop their regional and local plans, and be able to profit from IPA funds;
- Clear definition of roles and responsibilities of central, regional and local government (approval of the regional development law);
- A better strategic and coherent distribution of the Regional Development Fund;
- Different and specialized projects for remote and undeveloped areas;

References

- Bachtler, J and Michie, R., 1997. The Interim Evaluation of EU Regional Development Programmes: Experiences from Objective 2 Regions. *Regional Studies*, **31**(9), pp. 849-858.
- Boldrin, M. and Canova, F., 2001. Inequality and Convergence in Europe's Regions: Reconsidering European Regional Policies. *Economic Policy: A European Forum*, (32), pp. 205-245.
- Carrington, A., 2006. Regional Convergence in the European Union: A Stochastic Dominance Approach. *International Regional Science Review*, **29** (1), pp.64-80.
- Shankar, R. and Shah, A., 2003. Bridging the Economic Divide within Countries: A Scorecard on the Performance of Regional policies in Reducing Regional Income Disparities. *World Development*. **31**(8), pp. 1421-1441.
- Shankar, R. and Shah, A., 2008. Regional Income Disparities and Convergence: Measurement and policy Impact Evaluation. In Anwar Shah, editor, *Macro federalism and Local Finance*, Chapter 4:143-192.Washington, DC: World Bank.
- Martin, P., 1998. Can Regional Policies Affect Growth and Geography in Europe? *World Economy*, **21**(6), pp. 757-774
- World Bank (2008). *Reshaping Economic Geography*, World Development Report, 2009. Washington, DC: Oxford University Press for the World Bank
- World Bank (2002), *Expenditure Policies Towards European Union Accession*.
- Barca, F., (2009), an Agenda for a Reformed Cohesion Policy
www.eurada.org/site/files/Regional%20development/Barca_report.pdf.
- OECD, (2009), How Regions Grow. www.oecd.org/publications/Policybriefs
- European Commission, (2010), EUROPE 2020, A Strategy for smart, sustainable and inclusive growth, Brussels.
- European Commission and UNDP ISD Project, (2010), Towards a Revised Regional Development Policy Framework for 2010-2020.
- McClements, C, (2010), Cross-cutting strategy for regional development Albania, Review
- European Commission, (2009), Albania 2009 progress report.
- Marinov, V., D. Malhassian, (2002), Measuring and assessment of disparities and their policy implications: the case of Bulgaria.
- European Commission, 2004b. *Third report on economic and social cohesion – COM (2004) 107 of 18 February 2004*. Luxembourg: Office for Official Publications of the European Communities.
- European Commission and UNDP ISD Project, (2010). Regional Disparities in Albania.
- An inventory of local capacity for regional development in Croatia, (2009), CARDS 2004 "Regional Development Capacity Building Facility" (EUROPEAID/123369/C/SER/HR) Commission Regulation (EC) No 718/2007, (2007).
- Implementing Council Regulation (EC) No 1085/2006, Establishing an instrument for pre-accession assistance (IPA).
<http://eur-lex.europa.eu>
- European Union Regional Policy – working for the Regions. www.Publications.eu.int
- European Council (1999), *Presidency Conclusions, European council. 24 and 25 March 1999*, available at www.inforegio.cec.eu.int
- Eurostat (2000a), *Statistics in Focus, Economic and Finance, Theme 2, European Union FDI with Candidate Countries: an Overview*, 26/2000

Judicial Control of the Administration in the Republic of Kosovo

Hysni BAJRAMI

European University of Tirana
Faculty of Law, Public Administration

Abstract

In all countries with developed democracy, the control of the work of the administration by the courts is an acceptable and applicable principle in the best European practices and wider. The building of a modern, professional and efficient administration is the goal of every country that is aspire the integration to the European Union. The development of the public administration and the reforms in this sector aims to bring closer the public administration with the citizen and offering more effective and quality services. But all this important and wide variety of activities offered by the administration cannot remain uncontrolled, because the lack of control may result in violations and abuse of the rights of citizens. In this aspect the judicial control is considered as the most effective mean to protect the individual rights of the citizens from eventual violations and abuse by the administration. The Republic of Kosovo has made some important steps in this direction. The adoption of the new Law on Courts and the recent amendments to this Law, present the clear steps which have been undertaken with the purpose of improving the performance of the judiciary. The establishment of a special department within the Basic Court of Pristina, is expected to efficiently and effectively impact the hearing of the administrative cases, and at the same time it will have an impact on improving the work of the administration. The administration needs to be aware that there will be a substantial control over the legality of the acts such administration passes.

Keywords: Administration, legality, court, control, judicial.

I. INTRODUCTION

In all countries with developed democracy, the control of the work of the administration by the courts is an acceptable and applicable principle in the best European practices and wider. The building of a modern, professional and efficient administration is the goal of every country that is aspire the integration to the European Union. The development of the public administration and the reforms in this sector aims to bring closer the public administration with the citizen and offering more effective and quality services.

But all this important and wide variety of activities offered by the administration cannot remain uncontrolled, because the lack of control may result in violations and abuse of the rights of citizens. In this aspect the judicial control is considered as the most effective mean to protect the individual rights of the citizens from eventual violations and abuse by the administration.

The Republic of Kosovo has made some important steps in this direction. The adoption of the new Law on Courts¹ and the recent amendments to this Law, present the clear steps which have been undertaken with the purpose of improving the performance of the judiciary.

The establishment of a special department within the Basic Court of Pristina, is expected to efficiently and effectively impact the hearing of the administrative cases, and at the same time it will have an impact on improving the work

¹ Law on Courts, Nr. 03L – 199, as amended with Decree of the President of the Republic of Kosovo. DL-047-2010, Date 09.08.2010 (Official newspaper of the Republic of Kosovo / Pristina: Since V / no. 79/24 August 2010).

of the administration. The administration needs to be aware that there will be a substantial control over the legality of the acts such administration passes.

II. DEVELOPMENT

1. The Overall review of the work of the administration and control

The public administration represents an important sector within the country. The average workload of its sectors commitments is significantly large. The control of the work of administration is considered to be means of prevention or elimination of intentional or unintentional mistakes of administration employees.

The control of the work of administration is performed in two different ways: 1. the internal control and 2. the external control.

The internal control is conducted by the higher bodies of the administration. In the contemporary administrative systems there are two types of internal control of the work of administration: a) the institutional control, as a rule is accomplished based on a dissatisfaction expressed by a party, namely, according to the appeal. Through the appeal the concrete lower administrative body act is ahead the highest administrative body. b) The hierarchical control, is the form of control realized on the hierarchical authority, and hence the higher authorities not only have the right to supervise the work of lower bodies but they have an obligation to perform it. This type of control is committed through the inspection and audit.

The external control is conducted by specialized bodies that have the competence and the right to operate in this field. This type of control is committed by several bodies, among them may be, the parliament, the ombudsperson and the courts. Among the most important forms, what in theoretical aspect is also considered to be the most controversial form of work control of the administration, is the judicial control, consequently this is going to be the key part of this analysis.

2. The judicial review of the administrative actions

The judicial control of the administration, implies the authority that is given to the political and administration independent body, to resolve conflicts that have been incurred by the functioning of the administration¹. The conflict in the administrative field arises when a party alleges that through a particular administrative act subjective rights have been violated, respectively there were legal violations. In this regard the institution of judicial control is presented as a constitutional guarantee for the protection of the freedoms and human rights through the fair and public trial from independent² court.

2.1. Forms of the judicial control

Courts during the inspection of the work of administration, actually do the control of the legality of administrative acts, which control is performed or accomplished in two main forms:

1. The general control, accomplished through administrative conflict procedure and
2. The judicial protection of human rights, conducted by the Constitutional Court, when it is determined that the specific administrative act violated human rights.

¹ Esat Stavileci, "Hyrje në shkencat administrative", Prishtina, 1997, p.129.

² Sokol Sadushi, "E drejta Administrative", Tirana, 2008, p.266.

Typical form of administrative judiciary is an administrative dispute (conflict).

2.2. Administrative conflicts

The aim of administrative conflict is provision of judicial protection of rights and interests for legal and natural persons and other parties, the rights and interests that have been violated by individual decisions or by actions of public administrative authorities, as well as the protection of lawfulness.

The issue of administrative conflict in the Republic of Kosovo is regulated by the Law on administrative conflict¹.

With this law are regulated competencies and composition of the court as well as the rules of procedure, based on which the competent courts shall decide on lawfulness of administrative acts by which the competent authorities of public administration shall decide on rights, obligations and legal interests of legal and natural persons, and other parties, as well as for the lawfulness of actions of administrative authorities²

Based on a law, an administrative conflict can start only against the administrative act issued in the administrative procedure of the court of appeals, but in some cases an administrative conflict procedure can also start against the administrative act of the first instance, against which in the administrative procedure, complain is not allowed³. But there is another situation where a party can open an administrative procedure that occurs in the case of inaction of the administrative body, even after the appeal in second instance. Therefore, the party who is dissatisfied with the decision of the first instance authority, carries the right to appeal within the legal deadline⁴, but the body does not issue a decision on the appeal⁵, what then arises the right to address the court⁶.

Administrative Conflict begins with the claim. The plaintiff of administrative conflict may be a natural person, legal person, the ombudsperson, the associations and other organizations, that act for protection of the public interest, who considers that the administrative act has violated directly or indirectly any right or interest, based on the law.

2.3. The judgment of administrative acts by the Constitutional Court

In the theory of law it is considered a very controversial issue, the ratio of the constitutional court with the regular courts, that adjudicate administrative issues, therefore which acts are the subject of which court. Clarifying the above mentioned division of control, it should be said, that there is an agreement that the acts of general character (normative) should not be subject of the regular courts interpretation, but that competence should be left to the Constitutional Court.

In this regard only the acts of individual character can be treated in administrative judiciary contexts, and they may be the subject to regular courts⁷. This attitude, in a way is the matter of the law on administrative conflict, wherein in article 15, paragraph 3, states: "Administrative conflict cannot be developed against administrative acts that constitute a general obligation issued by administrative authorities, unless they violate legitimate rights of the parties". Constitutional Court of the Republic of Kosovo, in many cases has decided on institutions decisions, by which decisions the rights and freedoms of citizens have been violated, as defined in the constitution. Only in 2011 there were 18 cases or 10.98% of the requests to the court, referring to the decisions of government institutions⁸. The decisions that allegedly violated human rights and freedoms are guaranteed by the Constitution.

¹ Law No.03/L-202 Administrative Conflict, 16 September, 2010

² Ibidem, article 1.

³ Ibidem, article 13

⁴ Legal deadline for appeal in second instance is 30 days. Article 131, Law no. 02 / L-28 on Administrative Procedure

⁵ In theory this is known as "administrative silence"

⁶ The current law on administrative proceedings, refers incorrectly to civil proceedings rather than the law on administrative conflict, probably this will be changed by this law amendment.

⁷ For more information read, Sokol Sadushi, "Kontrolli Kushtetues", Tirana, 2004, p. 96

⁸ Constitutional Court of the Republic of Kosovo, Annual Report, 2011,
<http://www.gjk-ks.org/repository/docs/Raporti%20Vjetor%202011%20Versioni%20Final.pdf>.

3. Judicial administration control systems

There are mainly two administrative judiciary systems in the world, the French system and the Anglo-Saxon system. The French system envisions the creation of specific administrative courts that will have the competence of judgment on administrative issues, exclusively. Whereas Anglo-Saxon system foresees that administrative issues should be resolved within the regular courts.

This system is a characteristic of Anglo-Saxon countries (common law), but it is also implemented in other countries. According to this system the public administration activities are subject to the ordinary jurisdiction trial.

In theory, there are various discussions about the factors that influence the country to choose the specified type of judiciary administrative acts control. At present, in sixteen¹ European Union countries particular administrative court exists. Whereas in eleven² other countries, administrative rights are being operating by specialized subsidiaries, within the framework of regular courts, commonly within the Supreme Court.

The great importance given to administrative judiciary within the European Union, has influenced various debates, to talk about what is already called the "Europeanisation" of the administrative judiciary. 'Europeanisation' implies the standards within the EU, as regard the field³.

Kosovo has selected to meet the Anglo-Saxon system of administrative judiciary, where the administrative litigation are resolved within the regular courts. Until January the 1st of 2013 the Supreme Court was responsible of judgment on administrative matters, respectively the special room for administrative disputes, which operated besides it⁴.

After the reforms and after the new law for the courts has come into force, administrative issues are within the exclusive competence of the Court in Pristina⁵.

4. The functioning of the administrative judiciary in Kosovo

Since the end of the war the Republic of Kosovo has been the target of criticism from both local and international stakeholders. Numerous international reports⁶ have revealed major deficiencies in functioning, ascertaining major violations of human rights and freedoms in many judicial proceedings.

The judicial protection of the rights of citizens guaranteed by the Constitution of the Republic of Kosovo⁷, the Law on Courts⁸, and the European Convention for the Protection of Fundamental Human Rights and Freedoms with its Protocols being directly applied in Republic of Kosovo⁹, continues to be accompanied by the numerous challenges. Despite

¹ Germany, Austria, Belgium, Finland, France, Greece, Italy, Latvia, Luxembourg, Netherlands, Poland, Portugal, Czech Republic, Sweden, Romania and Bulgaria.

² Cyprus, Estonia, Denmark, Ireland, Lithuania, Hungary, Malta, Spain, Slovenia, Slovakia and the UK

³ Esat Stavileci, "Gjyqësia administrative, mundësit dhe përparësitë", Paper presented at the conference organized by the University "Marin Barleti" në Tiranë, on 4.02. 2011

⁴ Article 31.5 Law on Regular Courts, Official Gazette of SFRJ, no. 21, April 28, 1978.

⁵ Article 11.3 Law No.03 / L-199 on Courts, July 22, 2010

⁶ European Commission, "Communication from the Commission to the Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo", Brussels, 10.10.2012.

http://ëëë.meiks.net/repository/docs/Dokumenti_punues_i_Komisionit_Evropian_mbi_SF_per_MSA_mes_BE-se_dhe_Kosoves.pdf.

⁷ The Constitution of the Republic of Kosovo, Article 54: "Everyone enjoys the right of judicial protection if any right guaranteed by this Constitution or by law has been violated or denied and has the right to an effective legal remedy if found that such right has been violated".

⁸ Law on Courts, no. 03L-199, Article 7. p. 3 (Official newspaper of the Republic of Kosovo / Pristina: Year V / no. 79/24 August 2010): "Every person has the right to address the courts to protect and enforce his or her legal rights. Every person has the right to pursue legal remedies against judicial and administrative decisions that infringe on his or her rights or interests, in the manner provided by Law"

⁹ The Constitution of the Republic of Kosovo, Article 22, p (2) European Convention on the Protection of Human Rights and Fundamental Freedoms and its Protocols.

the efforts, many promises and declarations of progress in this field, due to poor conditions in the judicial system in the country¹, great difficulties in realizing of this right has been faced.

Since January of current year, the Law on Courts², came into force in its general form, through which the judicial system in Kosovo has conducted the reform. Will these reforms prove success, it remains to be seen in the future, for it is still early to make judgment, as only few months have passed since the judicial system has started to function based on the new law.

5. The judgment of the administrative issues

Kosovo is at a very important stage of the reforms on public administration, with the intention to establish an administration that functions according to the European parameters and which is able to provide efficient services to all, services that are based on the law and with no violation of them.

On ensuring that the administrative acts issued by public administration are in accordance with the law, the process of judicial control is considered. As regards the above mentioned judicial reforms, besides other changes, it has also brought changes in judgment of administrative issues. Currently, in this course, the judgment of administrative conflict issues, is the exclusive competence of the Court in Pristina³.

This court is the only one in Kosovo that is going to have the Department for Administrative Affairs. In this department, the law provides that the administrative issues are judged by a professional judge. If the party is not satisfied with the decision taken in the framework of the Basic Court, then the Court of Appeal can be addressed, which has jurisdiction to review all appeals against the decisions of the Basic Court⁴. In the Court of Appeal issues are judged by three professional judges⁵.

The Department of Administrative Affairs in the Basic Court in Pristina, consists of three judges that adjudicate cases of administrative dispute. Commitment in this department, regarding the review of lawsuits has started on 28 of March⁶. Since January the 1st, when judicial reform in this department has started, cases from Supreme Court have been received, this procedure lasted until March 25th. During this time 1,800 cases in total, have been received. So far, the department has not released any judgment⁷. Not issuing any judgment, leaves no reason of justifying the commitment of the department, although the judges of the Basic Judge, associate the delay with the reform process. They say that the transfer of cases from the Supreme Court has created difficulties in this regard.

The greatest problem in this department remains small number of judges, there are three judges at the present time, what is considered to be very small number, regarding the large number of cases that were transferred from the Supreme Court.

6. The necessity of establishing the administrative court in Kosovo

Current approaches of administrative issues settlement, that are conducted by regular courts of Kosovo makes it to be the part of the Anglo-Saxon system, where special administrative courts exists.

Due to the need of the time and the processes through which are passing, most countries in the region have established these courts. Building the rule of law, first of all, is based on the protection of human rights and freedoms, which protection can best be accomplished by issuing legal decisions that affect individual interests. Therefore, in this respect Kosovo should review the possibility of establishing a specialized court for administrative matters⁸.

¹ The Ombudsman of the Republic of Kosovo, Annual Report, 2011, pp 98-105.http://www.ombudspersonkosovo.org/repository/docs/91976_RAPORTI%202011%20shqip.pdf.

² Law on Courts, no. 03L-199, Article 7. p. 3 (Official newspaper of the Republic of Kosovo / Pristina: Year V / no. 79/24 August 2010).

³ Law No. 03 / L-199 on Courts, Article 11.

⁴ Ibidem, article, 18.

⁵ Ibidem, article, 20.

⁶ Personal interview with Mr. Krenar Berisha, a judge in the Basic Court in Pristina-department administrative issues, date April 2, 2013.

⁷ Ibidem

⁸ The Chairperson of the Judicial Council Mr. Enver Peci, in a personal interview declared pro on the establishment of the Administrative Court.

It should be stated that Kosovo, in terms of legislation, is close to the European Union ones, meanwhile it still has not passed the challenges that the region countries have faced in terms of harmonization of legislation with EU standards, thus this could be an advantage towards establishing an administrative court.

Reform which has occurred by the new law for the courts, seems that have been overshadowed, as well as it has not adequately addressed the issue of administrative judiciary. Changes on the law on administrative procedure, should have been a priority in this regard.

The academic Esat Stavileci while analyzing the advantages of establishing an administrative court, highlights three main aspects:

Firstly, in the effort to build the rule of law, the role of administrative judiciary is of particular importance, in terms of strengthening the protection of rights and interests of citizens.

Secondly, in the efforts to institutionalize legal protection in general, the administrative judiciary could be regarded a powerful impact on protection and safety of objective lawfulness, that in the past was violated and continues to be breached even nowadays.

Thirdly, in an effort to ensure that the same bodies are examining the law compatibility of the administrative acts, or with any higher legal norm, administrative courts should be presented as a powerful instrument of guaranty of that review¹.

II. CONCLUSION

Based on the reviews, studied in this paper, conclusions could be summarized in several key aspects:

Firstly, the process of reforming the judiciary under the new law on courts has brought improvement in the work and functioning of the judiciary. However, there were delays on the start of the work. The work on the review of the case, was supposed to start earlier and not having delays. The proof relays on the fact that the Department for Administrative Affairs of the Basic Court in Pristina has failed to decide on any case since January.

Secondly, the laws regulating administrative field in Kosovo, constitute a good foundation for the functioning of judiciary control of administrative work. But in this regard necessary changes should be made, particularly in the law on administrative procedure, as the current law allows the implementation of law on Administrative Procedure of Socialist Federal Republic of Yugoslavia, claiming that: "It replaces all of the provisions of the applicable law that are incompatible". As these two laws have the same scope, meanwhile the purpose of the new law is the development of completely new administrative procedure, reasonably the new law would have to completely replace the SFRY law. While not stating that supersedes the old law, the new law inevitably creates confusion, as both instruments remain effective, thus for each administrative issue, administrative authorities or court that addresses an administrative matter, need to determine which provisions of the old law are applicable.

Thirdly, the Republic of Kosovo needs to establish a special administrative court due to current conditions of the resolution of administrative issues. The small number of judges within the department on administrative issue at the Basic Court in Pristina, has no capacities to withstand.

Finally, the number of the judges in the Department on administrative issue should be increased as soon as possible. Available number of three judges, is considered too little to judge all those case that are already transferred from the Supreme Court, what leaves no space of consideration for new cases to come.

III. BIBLIOGRAPHY

Esat Stavileci, "Hyrje në shkencat administrative" Prishtina, 1997;
Sokol Sadushi, "Kontrolli Kushtetues" Tirana, 2004;

¹ Esat Stavileci, "Gjyqësia administrative, mundësit dhe përparësitë", Paper presented at the scientific conference organized by the University "Marin Barleti" në Tiran, on 4.02. 2011

Sokol Sadushi, "E drejta Administrative" Tirana, 2008;

Esat Stavileci, "Gjyqësia administrative, mundësit dhe përparësitë", Paper presented at the scientific conference organized by the University "Marin Barleti" në Tiran, on 4.02. 2011

Ina Puraveli dhe Julejda Gërxi, "Domosdoshmëria e krijimit të gjykatës administrative bazuar në gjendjen aktuale të zgjidhjes së mosmarrëveshjeve administrative", Albanian Journal of Legal Studies, Volume 2, 2011;

The Constitution of the Republic of Kosovo, June 15, 2008;

European Convention on the Protection of Human Rights and Fundamental Freedoms and its Protocols;

UNMIK Regulation No. 2001/9, on May 15, 2001, on the Constitutional Framework for Provisional Self-Government in Kosovo as amended by UNMIK Regulation No. 2002 UNIMK / 9.03 in May 2002;

Law No. 03 / L-199 on the Courts August 24, 2010;

Law no. 02 / L-28 on Administrative Procedure, July 22, 2005;

Law Nr. 03 / L-202 on Administrative Conflicts, September 16, 2010;

Law on Regular Courts, Official Newspaper of SFRJ, no. 21, April 28, 1978;

Organization for Security and Cooperation in Europe (OSCE) -Mission in Kosovo, " First report on the Administrative Justice System in Kosovo ", April 2007;

Constitutional Court of the Republic of Kosovo, Annual Report, 2011;

The Supreme Court of the Republic of Kosovo, Work Report for 2012;

The Ombudsman of the Republic of Kosovo, Annual Report, 20

The Influence of Teaching Methods in the Learning Process

Xhevdet ZEKAJ

xhzeka@yahoo.com

Lecturer at "Aleksander Xhuvani" University

Abstract

Continuous changes of the environment have influences the world in every field. This change does not exclude even the relationship between teachers and students, where the outer and inside stimulus influence in the psychological part of the learning process. The basic of this new learning process culture is seen as a shift from the mechanical learning process of educational content, to the learning of subject development. Today we tend to have not only memorization of information, but also a reaction related to it. What is needs is prepared citizenship related to changes that are taking place in the information and communicational technology and as a consequence even in the organizational structure of an institution. We tend to build a new didactic relationship between contents, strategies, other educational elements and high level in the development of subjects, capacities and their constructive opportunities. Everything for a purpose: Construction of a capable individual for a better life, development of society and economy by developing human resources competences in that level that a democratic society and job market ask for. Everything is determined in the method. Importance is not only in the information but in the way it is transmitted to students. From the other part, students take information and knowledge from different sources and most of the time they are not controlled by the teacher. This circle includes the whole society, so the whole society should give its contribution.

Key word: Student – teacher relationship; methods, stimulus; new learning culture; new didactic relationship

Introduction

Students' centered teaching has been transformed into a wide move aiming the improvement of teaching quality. There are involved specialist, educators, teachers, pupils, agencies etc. This progressive line in the improvement of the teaching process stimulates new concepts and practices. Teaching and learning are to process connected and depended from one another.

"Students' centered teaching starts a progressive movements in the improvement of teaching qualities. This initiative in order to be wide spread all over the educational environment, need the involvement of specialist in different level of the Albanian educational system"¹

Contemporary teaching means change of roles of teachers and students, with the main purpose, that of improving the learning process.

Teachers must be opened to students involvement in every step of the educational process. In this case, we have the increase of students responsibility in learning, so that the lesson hour is organized based on every students level. It is very harmful to not pay attention to students with a basic level because in this case they will never change their abilities and the didactic principles will be put in question, such as individual treatment and differentiated.

The inclusion in the teaching process at students' centered teaching process is very important. Teachers, must change their role from a transmitter to the encourager so that they can gain knowledge and information from different sources.

This kind of orientation must not be misunderstood. Teachers are not excluded from the role of a theme explanation. "Teachers should have a scientific level, lingual culture, pedagogical bravery, didactics and methodic, passion, professional conscience, love, respect, communicative abilities with pupils, parents and colleagues"².

Study Case

Lesson hour structure and teachers/pupils' roles in decades

¹ QTKA. (2005). *Mësimdhënia me në qendër nxënësin*. Tiranë. faqe 31

² Kraja, Musa. (2008). *Pedagogji e zbatuar*. Tiranë. faqe 312

1. In the '30s

Lesson hour was a sampler. It had this kind of structure:

1. Home work check
2. Questions that demands short answers
3. Teacher asks two or three pupils in the black board
4. Teacher explain the new lesson
5. Teacher does a summary
6. Teacher gives home work

"Today, the role of a teacher is that of supervisor. The teaching process must be interesting so that the cooperation, interaction, interest and action take place"¹

a) Teachers has many roles:

1. Teacher is an encourager
2. Teacher is a facilitator
3. Teacher is a co-worker
4. Teacher is a creator²

b) Pupils:

1. In an object and subject of the teaching process who is helped in his emotional and esthetic development
2. Collect his individual experiences, including proves, success and errors.
3. Is motivated for a maximum of his creativity
4. Expand his own individuality

In this time of period, we can face the term "objects learning"; in the contemporary education we have "integrated learning" or "topic learning" (topic is an object or a phenomena which in a specific time period, is studied in every subject and in every aspects).³

2. In the '70-80-90s

a) Lesson hour development (traditional method) was in this way:

1. Home work check
2. Questions over the last lesson hour (two parts: frontal evaluation where the last themes were treated, individual evaluation of two or three pupils over some specific question about the last time lesson)
3. New lesson
4. Summary of the new information, enforcement of the new topic
5. Home work

b) Teachers' role:

1. Controller of home work and knowledge acquisition, mostly those of the last time (pupils repeat them mechanically, principles, theory exactly as in the text material)
2. Explanation of the new lesson (theoretically, through examples, experiments, map charters etc)
3. Summarizer of the new lesson (some questions might be present to verify if they acquires the new topic or not; depending on time, there might take place even class work)

¹ Islami Sh., Revista "Normalisti", 1931)

² Grup autorësh, *Kur arsimi lëvronte shpirtin, Tiranë, 2002, faqe 25*

³ Grup autorësh, *Kur arsimi lëvronte shpirtin, Tiranë, 2002, faqe 28-29.*

4. Home work and some instructions over them

c) Pupils:

1. Is a listener, attentive one, just a few minutes after the explanation he had to reproduce it by the teacher
2. When was the time to be evaluated, he had to go in front of the class, reproduce mechanically theories and do some extra work on the black board.
3. Students started to be motivated about their maximum encouragement of his creativity at the end of the years '80s when active, creative and problematic learning started to take place
4. Pupils did not expand his own personality.

3. After the year 2000

a) Usually, lesson structure has three phases:

1. Prediction (Learning preparation), Evocation;
2. Knowledge construction (Elaboration of content); Realization; Information
3. Enforcement- (Acquisition consolidation) Reflection;

b) Teachers have new roles

1. Orientate, instruct, create real situations of communication
2. Make students do questions, of interpreting level, analyze and synthesis
3. Communicate with students, have discussions, exchange ideal
4. Involve students in evaluation and self-evaluation
5. Manage, organize, supervise and support
6. Active teaching process based in IT

c) Pupils have new roles

1. Discuss, arguments, reasons
2. Look for resources, interact, build, work in group, project work
3. Individual work in relation to the whole group, class
4. He feel active, equal, respects himself and others

SUMMARY

The continuous change of environment has transformed the world in all field and directions. Change does not exclude the teacher-student relationship, where external and internal stimuli have an impact on the psychology of learning. The core of the new culture is already perceived as a shift from the mechanical way of learning educational content to the development of teaching subjects. Nowadays it is not only required the development of the memorization of the information but also reacting to the information. The issue brought is the need how to educate well prepared citizens, to cope with the giant laps changes that are taking place in the field of the technology of information and communication, consequently even in the organizational structures of institutions. What we aim to achieve is the creation of a new dialectical relationship through content, strategies, and their education accessories on one side and the optimal level in the development of the subject, capacities and his contractor and realizable possibilities.

All for one aim: Training the individual for a better and more qualitative life, social and economical development, developing human recourses competences in the appropriate level required by the democratic society and labor market. The method define everything. The importance lies not only in the information but also in the way it is transmitted

to the student. On the other side, students receive information and knowledge through various means, often uncontrollable by the teacher. This vicious circle involves the whole society; therefore the whole society must contribute.

Bibliography

- AEDP. (1998). Studio gjithçka, arsyes vendin e parë (Përmbledhje artikujsh). Tiranë.
- Gardner, Hoëard. (2003). Mendja e pashkolluar. Tiranë,.
- Grup autorësh. (1986). Didaktika. Tiranë.
- Grup autorësh. (2002). Kur arsimi lëvronte shpirtin. Tiranë.
- Grup autorësh. (2001). Modele për mësimdhënie të suksesshme. Tiranë.
- Grup autorësh. (1995). Strategjitë e të mësuarit. Tiranë.
- Kraja, Musa. (2008). Pedagogji e zbatuar. Tiranë.
- Kraja, Musa. (2002). Pedagogjia. Tiranë.
- Muka, Petrit. (1995). Të mësuarit me objektiva dhe modeli A – 94. Tiranë.
- Orstein, Alan C. (2003). Kurrikula, bazat, parimet dhe problemet. Tiranë:ISP.
- CDE. (2008). Mësimdhënia dhe të nxënë të ndërveprues – Modele për zhvillimin e të menduarit kritik. Tiranë.
- CDE. (2005). Mësimdhënia dhe të nxënë të ndërveprues – Modele për zhvillimin e të menduarit kritik (Shkencat shoqërore, për klasat 6-12). Tiranë.
- QTKA. (2005). Mësimdhënia me në qendër nxënësin. Tiranë.

Connectivism and Connective Learning

Shqipe Husaj, PhD Cand.

Lecturer Univerity Haxhi Zeka, Peje, Kosova

Shqipehusaj5@gmail.com

Abstract

The rapid development in technology has brought the world to a small village enabling people to meet each other any time they want, exchange their knowledge and experiences being seated at home or office by using just a small equipment. Technology generates new affordances with new pedagogical options. In this sense the technology enables us distribute knowledge over network connections in an uncontrolled way, by being active member and committing ourselves to the whole process of communication and learning. The purpose of this paper is to bring some ideas on learning through technology respectively ideas on connectivism or connective learning, the principles of connective learning at numerous levels etc. As its name suggests connectivism is the knowledge distributed across a network of connections, and therefore that learning consists of the ability to put those networks into progressive use. It means the set of connections formed by actions and experiences. Some characteristics of Connective learning, online courses and knowledge sharing through networks will be compared to traditional classroom learning.

Keywords: connectivism, connective learning, network connection, traditional classroom, etc.

Introduction

Education has become one of the fastest growing “businesses” in recent years. There are many new universities and schools opened everyday everywhere in the world, be it in private or public sector accompanied with TV commercials or other advertising campaigns or promotions for their study programs whether online or at schools. Online education has become more popular in today’s fast growing society. Online courses allow students to take courses from all over the world in different study fields or interests. Simply, online learning is a form of electronic learning, using a computer to deliver or consume knowledge through a course organized, in your working place or at home. Even though online courses are really profitable both in time and cost, there is no substitute for traditional learning since students feel more confident in gaining knowledge being instructed by the teacher, in a friendly atmosphere using books, notebooks, blackboard, desks, chalk and other necessary learning tools.

What is Connectivism?

Connectivism is a learning theory promoted by Stephen Downes and George Siemens as network-based pedagogy. Siemens, G. & Downes, S (2005) claimed that connectivism is a learning theory characterized as the “amplification of learning, knowledge and understanding through the extension of a personal network”. Called a learning theory for a digital age, it seeks to explain complex learning in a rapidly changing social digital world. The rapid development in technology have brought the world to a small village enabling people to meet each other any time they want, exchange their knowledge and experiences being seated at home or office by using just a small equipment. Thus, the job of an educator has become much easier and more effective. However, the work of Siemens and Downes should be a model for the educators wherever. In their theory, learning occurs through connections within networks. The model uses the concept of a network with nodes and connections to define learning. Learners recognize and interpret patterns and are influenced by the diversity of networks, strength of ties and their context. According to Siemens, G (2005) the knowledge is transferred by connecting to and growing personal networks, sharing with the group everything we know, everything we believe in or imagine expressed in sentences and concepts. This way of transferring and exchanging knowledge pedagogically is much more useful because it should be treated more as communication. By continuously communicating with a large number of people in network new information is acquired and further processed. According to Siemens, G. & Downes, S. (2005, retrieved February 2015) in connectivist learning students discuss and learn course contents, give ideas and see that it is a fluid, variable, contextual and critical for the learners. Decision-making as one of principle of

connectivism according to the Siemens is itself a learning process. Choosing what to learn and the meaning of incoming information is seen through the lens of shifting reality. While there is a right answer now, it may be wrong tomorrow due to alterations in the information climate impacting the decision. Learning is a knowledge creation process not only knowledge consumption. Learning tools and design methodologies should seek to capitalize on this trait of learning. Siemens, G (2008, retrieved February 2015) stresses that Connectivist course therefore has two major modes: 1. a creation of an environment (and expectation) of great diversity, creating multiple points of view on an amorphous body of material, domain or discipline and 2. creation of new and unexpected knowledge as a result of the interaction of participants from those different points of view. Learning happens in many different ways. Courses, email, communities, conversations, web search, email lists, reading blogs, etc. Courses are not the primary conduit for learning. Different approaches and personal skills are needed to learn effectively in today's society. For example, the ability to see connections between fields, ideas, and concepts is a core skill.

In connectivism a generation that learns, works, entertains and expresses itself through open collaborative tools like YouTube, Google Talk, Flickr, eMute and Del.icio (Downes, S.2005 available in <http://www.connectivism.ca/>). It means, the social context provided by connectivism is a new way of learning developed under a collaboration framework;

- Collection; store data, organize resources, filtering formation and create new contacts.
- Reflection; think critically, choose and review information, set up new learning itineraries.
- Connection; spontaneously form working groups, integrate oneself into existing learning communities, share learning objectives, values and attitudes, link information.
- Publication; share learning experiences, edit content in a large variety of formats, convert collaborative tools into cognitive tools

Principles of Connectivism

According to Siemens (2008), "Connectivism is the integration of principles explored by chaos, network, and complexity and self-organization theories. Learning is a process that occurs within nebulous environments of shifting core elements – not entirely under the control of the individual. Learning (defined as actionable knowledge) can reside outside of ourselves (within an organization or a database), is focused on connecting specialized information sets, and the connections that enable us to learn more are more important than our current state of knowing.

Principles of connectivism according to Siemens & Downes (2005) are as follows:

- Learning and knowledge rests in diversity of opinions.
- Learning is a process of connecting specialized nodes or information sources.
- Learning may reside in non-human appliances.
- Capacity to know more is more critical than what is currently known
- Nurturing and maintaining connections is needed to facilitate continual learning.
- Ability to see connections between fields, ideas, and concepts is a core skill.
- Currency (accurate, up-to-date knowledge) is the intent of all connectivist learning activities.
- Decision-making is itself a learning process. Choosing what to learn and the meaning of incoming information is seen through the lens of a shifting reality. While there is a right answer now, it may be wrong tomorrow due to alterations in the information climate affecting the decision.

Traditional learning vs. connectivism

There is always the other way of doing something, by comparing advantages and disadvantages of both ways. Even though the technology has brought things closer and easier for everyone, the traditional way of doing and getting things still remains preferable for many people. Besides classroom and blackboard there are more differences between connectivist learning and traditional learning. Students participating in connectivist learning, experience different scores, different methods and a different lifestyle compared to those enrolled in institutions. (.studt.com, retrieved March 2015). Learning in a traditional

classroom, which by some students is considered beneficial, because they can interact with the teacher and their classmates. This true especially students who find it better to interact face-to-face and prefer activities and group work. The possibility of asking questions and receiving an immediate response from their teacher is important since it makes student feel more active and develop lifelong contacts, memories and experiences that humanize the educational experience in a way that online learning does not. (study.com, retrieved 2015). Some students need to feel sure that what they do is correct and that they are going in the right direction, so they need feedback to keep them moving. In addition, traditional classroom learning provides students with a fixed schedule and specific periods dedicated to learning. In traditional schools and classrooms so called "brick and mortar" people are comfortable with classroom structure and sometimes don't want to deviate from it. If you turn in a paper and have a question about grades or comments, you can usually talk to the teacher and analyze body language. In online learning- as we addressed in this paper as connectivism it is sometimes harder to gauge effective communication and you may have to wait until you get an answer or explanation. While many students relish new advances in technology, others aren't as comfortable with technology and prefer paper and pencil based methods. For these students, the familiarity and comfort of traditional schools is an advantage. Traditional classes may be a better fit for students with limited resources and limited computer access. Considering that most adults have jobs to earn for their studies, sometimes it is difficult to find time for personal study between working hours and computer meetings, or have no sufficient knowledge in technology so, students in this situation prefer schedule classes first and other school activities.

Traditional schools have a defined structure and classes meet at the same time each week on certain days while in connectivism there is a certain number of times to post your comments and if you lose your timing then there is no chance to get on the right track. Students who fail to make online connections with other learners in their group feel isolated and more stressed Typically, a student in a connectivist course read some of the writings and comments, listen to or watch some of the recordings , post comments in threaded discussion forums , create a blog and post comments and responses, that for some students is considered a waste of time sitting on the computer and waiting for the others to respond or to get an explanation, while in traditional classes comments and explanations are given immediately . Not everybody feels comfortable learning in a large group , especially if they understand things harder than other co-learners. Connectivism allows each individual to tackle the at their own pace, with interactive tasks being set in place to ensure a thorough understanding through each module. Online learning is ideal for those with unconventional work hours, those working full time, those serving in military or those raising a family and seeking a degree in a certain field. They are cheaper because there are no fees be paid for maintaining a large campus and its classrooms, so it is able to pass saving to students of all ages. Experts declare that the real promise of online education is "providing learning experiences that are more tailored to individual students than is possible in classrooms", which in turn fosters Kolbs concept of "learning by doing". (Kolb.1984, retrieved March 2015)Many students find this engagement more useful and more relevant therefore performing better than those receiving traditional instruction. But the personal engagement and motivation should be taken into consideration since, almost half of the participants don't have English as a first language. It means students need much more commitment than those who take lessons in their mother tongue . As Dr. Ralph Kuehn, Director of Mentors and Quality Assurance at Northcentral University (Kuehn.R, 2013. Retrieved Feb.2015) said: "in seeking an online degree, each student relies upon their own motivation to complete each course and to eventually graduate." Kuehn continues that this motivation is a strong proponent for success and it is considered that online education is an important and sustainable option in education. In the past online learning was not given a proper attention considering as unprofessional for the job market. It is still true because employers do not prefer hiring employees with online degrees, considering that traditional education students are have more knowledge because of their daily attendance at campuses and direct contact with their peers and teachers, sharing opinions and explanations. There is an impression of employers that many employees get degrees just to save their working place and being treated as a qualified person.

Some differences between traditional learning and connective learning

➤ **Traditional learning:**

- Learning in the classroom with large number of students.
- Black table, chalk, books, notebooks, pen, pencil, desks, Chairs- necessary for the process.
- Books edited many years before the year of learning process going on.
- Limited time of visiting school- no changes possible on the timetable.
- Opportunity to join on campus clubs and extracurricular activities



➤ **Online learning:**

- Learning with smaller virtual group in better infrastructure
- Table and a computer
- Updated Online books and articles
- Learning can take place in workplace, at home, school or anywhere else.
- Limited direct contact with colleagues and professors.



A face-to-face meeting in a classroom imposes accountability, inspires effort and promotes academic responsibility in subtle ways that we don't fully appreciate. On a campus, students attend class and stay alert because they worry what the teacher will think if they don't. Once they're in the classroom, the battle is mostly won. *Neil Kokemuller in his article Online Learning Vs. Classroom Learning* (available in www.everydaylife.globalpost.com . retrieved Feb.2015)adult students are more likely to succeed in online education than a traditional college student because adult students have more maturity and responsibility. At campuses teachers have to design their syllaby so that all learners can listen to the instructor, receive visual cues through PowerPoint images, handouts or whiteboard lists and participate actively in hands-on activities and case studies. Learners are given the syllaby prior to the study hours and can also follow whether the teacher/instructor is working according to plan or nor, learners also have direct access to the instructor in class.

According to ION (2010) article with the title Weaknesses of Online Learning the curriculum of any online program must be carefully considered and developed in order to be successful. It should be developed or composed to meet the needs of the online medium. An online instructor must be able to compensate for lack of physical presence by creating a supportive environment in the Virtual Classroom where all students feel comfortable participating and especially where students know that their instructor is accessible. Another issue that helps learners choose between traditional or online learning is learners personality. Introverted or extraverted? According to Sweeney (2005) introvert learners work better alone, are very self-motivated and prefer solitary activities, process ideas by thinking to themselves and would speak only when they will speak only when they have processed an idea, and prepared themselves to share the information. While extraverted learners are described by Sweeney as very social, who often read others, enjoy being part of a group and often work well with others. Extroverts enjoy provoking discussions, speak just to fill the silence, are interested in trying new things, and focus on the outer world.

Conclusion

In this paper there was given an attempt to explain what connectivism is, what does it offer and how does it differ from traditional learning in schools which offer students interaction with their teachers and classmates in a way that online courses do not. As connectivist learning is described by Siemens and Downes as form of sharing knowledge and ideas with the other part of the world by using advanced technology, it is a course does not give you the opportunity to raise your hand, ask question, give answers and get immediate feedback or discuss your opinion with others in the class. If compared to traditional learning in schools the level of interaction is lower, as there is more time needed to spend waiting for the other until they read or hear your comments and react. Learners have to attend apart from the advantages online courses are not always the best, meaning not at the right time. Many normal office hours which are not suitable for everyone, because it disrupts learners from their normal activities of the day in their office duties and responsibilities. However, as the learner is the one to decide which learning environment is right for him/her, they should not forget that the biggest difference is the impact of that education and the degree needed in learner's life. Online or traditional both seek profitability in life.

Literature

1. George Siemens maintains a blog and a wiki at <http://www.connectivism.ca/wiki/FrontPage>
2. Connectivism: a theory for learning in a world of growing complexity. By Kay Strong, Holly Hutchins. impact: Journal of Applied Research in Workplace E-learning, Vol 1, No 1 (2009)
3. Connectivism glossary, http://en.wikiversity.org/wiki/Connectivism_glossaryupdate
4. <http://www.irrodl.org/index.php/irrodl/article/view/902/1664>
5. Understanding Learning Style by T.Sweney, 2005, GoogoBits.com The Differences Between Online and Traditional Classroom Educations
6. <http://www.learningfromexperience.com/>
7. <http://www.businessballs.com/kolblearningstyles.htm>