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The ICISS 2017 is organized in Budapest by MCSER-Mediterranean Center of Social and Educational Research in cooperation with the Italian Academy of Science and Education, Sapienza University of Rome and Richtmann Publishing. The conference addressed all studies across the social and human sciences. In the spirit of interdisciplinary interchange, the Conference has involved scholars, teachers and researchers working in a broad range of areas including: Education, Anthropology, Applied Sciences, Behavioral Sciences, Cognitive Science, Literature, Language, Communications, History, Economics, Environmental Sciences, Health Sciences, Humanities, Interdisciplinary Studies, Law, Management, Media, Politics, Public Policy, Psychology, Qualitative Methods, Quantitative Methods, Social Welfare, Sociology, Technology, Geography and many other areas related to the social and human sciences. The conference provides an opportunity for academicians and professionals from various social and human fields all over the world to come together and learn from each other. An additional goal of the conference is to provide a place for academicians and professionals with cross-disciplinary interests to meet and interact with members inside and outside their own particular disciplines.

Vision of the conference

The ICISS is a global annual event with the mission of furthering the advancement and innovation in human and social sciences. The Conference serves as a means to connect and engage professors, researchers, consultants, innovators, managers, students, policy makers and others to offers an opportunity to meet and share ideas. It also inspire a new generation of global scientists and leaders in countries around the world.

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Collective Action Right as a Basic Human Right

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Abstract

According to The European Social Charter, the European Convention on Human Rights, the ILO Conventions, the decisions of the European Court of Human Rights, the decisions of the European Social Rights Committee and the ILO supervisory bodies, the right to collective action is a democratic right that aims to protect and correct the economic and social interests of workers in the workplace or in another place appropriate for the purpose of action. The above-mentioned institutions accept the right to collective action as a fundamental human right. According to the decisions of the European Court of Human Rights, the right to collective action is regarded as a democratic right, including strike. In particular, the right to collective action is being used as a resistance mechanism against new working relations, which are imposed on working conditions, right to work and the right to organize. However, the tendency of this right to political field, leads to some debate about the legality of the right to collective action. In this context, In the decision of the European Court of Human Rights, the ILO's supervisory bodies and the European Committee on Social Rights, it is emphasized that collective action rights should be a basic human right. In this study, the legal basis of the right to collective action will be discussed in accordance with the decisions and requirements of the European Court of Human Rights and the decisions of the ILO supervisory bodies.

Keywords: Collective Action Right, Human Right, International Labour Organization, European Court of Human Rights

1. Introduction

Collective action right is a democratic resistance right that workers collectively resort to against decrees and applications with adverse affects on their economic, social and working conditions. Collective action right is a fundamental human right evaluated within the scope of freedom of thought and expression. Collective action right is based on decrees by European Human Rights Convention, European Council European Social Charter, ILO Conventions and ECHR decrees, European Committee of Social Rights and ILO Supervisory Machinery.

Collective action right covers strikes but has a wider scope. Protests similar to strikes, slowdowns and general strikes, solidarity strikes and sympathy strikes are evaluated within the scope of collective action right. The benefits that workers are bound to protect by way of collective action are not only directed at occupational or working conditions. It can also be directed at economic and social policy issues that interest them as well as the solution of problems that their workplace faces. In this scope, collective action right that is actualized within the scope of the right of association as is reflected in the decrees by ECHR, should be seen as a collective appearance of the freedom of expression. More clearly, the defense of economic and social interests by way of
collective action should be evaluated on the basis of freedom of expression.

The contribution of “evolutive interpretation” matured over time by ECHR has made a significant contribution to collective action right gaining legality. ECHR considers trade union freedom as a special part of the freedom of association when interpreting EHRC item 11, in addition it also evaluated item 11 together with the freedom of expression right included in item 10. In all its decrees, ECHR does not see EHRC as the only reference with regard to the rights and freedoms it contains but also takes into consideration all principles and rules of international human rights law. Therefore, it protects the principle of the “integrity and universality” principle of human rights by taking into consideration all social, legal and political developments that took place starting from the day the convention went into effect and emphasizes the “living” characteristic of the convention. The decrees of ECHR related with collective action take place in this scope. Therefore, in its decrees related with collective action, ECHR sees collective action as a part of the trade union right and also as a right which is an extension of the freedom of expression. This study focuses on the legal foundations of the collective action right, the legibility of the right as well as the criteria sought for in order to ensure that the right is considered legitimate.

2. Concept of Collective Action and its Legal Bases

Collective action right the legal basis of which is European Social Charter, European Convention of Human Rights, ECHR decrees, European Social Rights Committee and decrees by ILO supervisory machinery is a democratic right aiming to protect and improve the economic and social interests of workers which takes place at the workplace or other places suited to the objective of the action (Engin, 2016: 148 et.al.; Tutal, 2013: 453 et. al.). Collective action right is a democratic right to resist of the workers against decrees and applications which have adverse effects on their economic, social and working conditions.

Collective action right is accepted as a human right in human right documents (Güzel, 2015: 422; Gülmez, 2014: 235 et. al.). Collective action right is adopted as a higher concept in ILO conventions, European Convention of Human Rights, European Social Charter, Social Committee and ECHR decrees that encompasses strikes as well (Gülmez, 2002: 5 et. al.). In this framework, actions such as “protests such as strikes, slowdown…” (TR Supreme Court (TC, Yargıtay) 7 H.D E 2014/7643; K:2014/12368: 04.06.2014) have been evaluated within the scope of collective action right. ILO supervisory machinery have put forth in their decrees that strikes for a political purpose, general strikes and sympathy strikes should not be banned in issues which affect the interests of the trade union members.

According to the ILO supervisory machinery: right to strike is not limited only with industrial conflicts which can be solved with the signing of a collective agreement. The vocational and economic interests that workers protect by way of the right to strike are not related only with better working conditions or collective demands related with their occupation. It also includes the economic and social policy problems as well as the problems that the business faces which are directly related with the workers. The declaration that the national strike for protesting the social and employment related results of the economic policies of the government is illegal and the banning of the strike are severe breaches of the freedom of association. According to the Committee on Freedom of Association, “It is a fundamental element of the freedom of association that trade unions have the right to organize meetings in their own buildings without prior permits and without any intervention by the officials for discussing their occupational problems. And therefore, administrative authorities should refrain from any interventions that will limit or prohibit the use of this right unless public order is disturbed or the protection of the order is under severe and close danger...” The committee sees the trade union meetings and the right to strike as the basis of trade union rights and asserts that meetings and actions which are open to public are important aspects of trade union rights (ILO, 1996: 29-30; Güzel, 2015: 422; Yorgun, 2016: 1176).

This approach is also observed in the decrees by the European Court of Human Rights and European Committee of Social Rights. When interpreting the “collective action right including the right to strike) included in item 6/f.4 of the European Social Charter, European Committee of Social Rights accepts that “… the right to strike cannot be used only during the collective agreement
procedure and in conjunction with this procedure”. According to the committee: the actions by a group of workers during a period when their labour contracts are cancelled or their actions for revocation of the layoffs are included as part of their collective action right excluding the collective agreement procedure preventing cancellation of their labour contracts” (TR Supreme Court (TC, Yargıtay) 7 H.D. 2014/7643, K.2014/12368, 9: 04.06.2014, 1-2) ECHR considers the international agreements for fundamental rights and freedom such as European Human Rights Convention, European Social Charter, UN Agreements and ILO agreement as comprehensive elements of a whole. In addition, it emphasizes that collective action right covers the right to strike while establishing an absolute relationship between the freedom of association and collective agreement right. Therefore, it evaluates the collective action right within the scope of protecting the freedom of thought and their right to protect the interests. The court emphasizes the basic principles of the EU law in its decrees and tries to establish a balance between the economic and social goal of the Trade union (European Commission, 2012: 2).

The fundamental principle matured over the years by ECHR regarding the interpretation of the basic rights and freedoms is the “integrity and the universality principle of human rights” (Engin, 2015b: 16 et. al.). Indeed, starting from 1975, ECHR has interpreted the European Human Rights Convention taking into consideration the social, legal and political developments that took place from the date when the convention went into effect to until now (Engin, 2015b: 16). The Court expressed in its Belgium Police National Trade union / Belgium (App no 4464/70) Decree dated 1975 that European Human Rights Convention item 11/f.1 gives the discretionary power to the state for selecting the tools it will use and that collective agreement is one tool but not the only one and as a general principle that trade unions reserve their rights to protect the rights and interests of their members by way of collective action in accordance with item 11. In addition, it has also been put forth that the state is obliged to allow and make possible this collective action (Dorssemont, 2016: 68). While interpreting the European Human Rights Convention item 11 in its 1976 dated Schmidt and Dahlström/Sweden (App no 5589/72) Decree, the Court put forth that the trade union members did not gain the right for obtaining a certain treatment from the state and especially that no right for collective agreement has been provided. However, it has been emphasized by the same decree that there is a right to rest for protecting the rights of its members (Dorssemont, 2016: 68; Köksal, 2015: 68). Hence, it was concluded that the trade unions defending the rights of their members as specified in item 11 is not a vain expression but that protecting the rights is part of the freedom of association (Dorssemont, 2016: 68). Following this decree, ECHR considered in its 1996 dated Gustafsson/ Sweden (App no 23196/94) decree that the trade unions making collective agreements in the names of its members is an effective tool for the right to organize a collective action for protecting the rights of its members and the collective agreement right. Thus, the court expanded the scope of the trade union rights with this decree (ECHR 2016: 2 et al.). Six years after this decree, new expansions were made by way of the 2002 dated Wilson et.al./United Kingdom (App no. 5493/72 ) decree regarding the scope of the trade union rights. After declaring by way of this decree that the lack of imposing an obligation for collective bargaining to the employers in the British law does not bear consequences resulting in the breach of item 11, the court reached a conclusion that the trade unions have the right to organize a collective action encompassing strikes for convincing the employer to start a collective bargain. As a result of the Wilson decree, the court established an organic bond between the trade union right arranged in item 11 and not only the collective bargaining right but also with the collective action right thereby accepting that collective action right is a part of trade union right and collective bargaining right (Çoban Wiles, 2012: 5-6).

The attitude of the court regarding the fact that the trade union right encompasses the collective action right based on the “protection of interests” clause in item 11 of AIHS by way of evolutive interpretation matured during the 2000’s and reached its peak with the 2008 dated Demir and Baykara/Turkey (App. No. 34503/97) decree. The Demir and Baykara decree of the court is qualified as a “historical and founding” decree (Mouly, 2012: 230 et.al.). The Demir and Baykara decree represents the methodological as well as normative maturation of the judicial opinion
developed by the Court over the years. It should be noted that, different than the decree by ILO and the European Social Charter, ECHR decrees may give a ruling with execution power in the domestic law of the country that is a party to the agreement. To put it more clearly, ECHR is a real judicial organ with the authority to express what the “Juris dictio” law is for each case (Engin, 2015b: 16).

3. Characteristic of Collective Action Right

Collective action right has different characteristics in comparison with strikes due to its nature. In a technical sense, strike is a collective action that is called on as an effective tool of the collective bargaining process within the scope of trade union rights which is intended for protecting the interests in professional relations. Thus, even though the collective action right encompasses the right to strike, it is based on freedom of expression and the right of peaceful assembly and association.

The nature of the collective action right has solidified as a result of the decrees by ECHR based on items 10 and 11. As has been expressed in items 10 and 11 of the European Human Rights Convention, “everyone has the right of freedom of expression” and “everybody has the right of peaceful assembly and association”. It should be noted that the enrichment by ECHR of the content of item 11 of the European Human Rights Convention based on expression and demonstration march is no coincidence. Item 11 of the European Human Rights Convention which regulates the right of organization comes after item 10 which regulates the freedom of expression. As is seen clearly in the decrees by the court, the right of organization is handled as the collective appearance of the freedom of expression. In the Energy Structure and Yolsen/Turkey decree (App no 68959/01) dated 2009, the public authority gave a ruling that those who participated in the strike shall receive a disciplinary punishment following the carrying out of the strike by the public workers despite its prohibition with a memorandum. In this lawsuit, the court emphasized that the right to strike is an important factor for defending the interests of the trade union members and considered the disciplinary punishment imposed on the public workers for participating in the strike as an intervention within the scope of item 11. In addition, the related interpretation was based on the ILO Convention No. 87 between the European Social Charter (Köksal, 2013: 69). Therefore, when interpreting item 11 of the Agreement, the Court takes into consideration the protection of the economic and social interests of the workers as well as handling the the issue of defending the economic and social interests from a wider perspective based on the freedom of expression (Engin, 2015a: 22).

On the other hand, in the decrees they made, ILO supervisory machinery did not limit the right to strike only with industrial conflicts that may be solved by the signing of a collective agreement. According to CFA, the occupational and economic interests protected by the workers by way of the right to strike are not related only with better working conditions or collective demands of an occupational nature. In addition, it also includes economic and social policy problems that are directly related with the workers as well as solutions for the problems that the business faces directly. According to the committee, trade unions may use the right to strike for providing support at the point of resolution against economic and political policies with direct effects on its members

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1 ECHR expanded the scope of the trade union right arranged by Demir and Baykara decree EHRC item 11. The court refuses the limitations that will affect the core of trade union right. With this decree, the court has not made a decision based literally on the convention but also by taking into consideration the social, legal and political developments. Therefore, it has taken an important step in institutionalizing the evolutive interpretation method. In this decree, the court made an evaluation regardless of whether a state made a reservation on the related items of the European Council Social Charter and in addition specified that the convention is not the only basis when interpreting the rights and freedoms in EHRS thus handling international human rights norms as a whole regardless of state approval. When examining the discrepancy, the court included its previous decrees as well as the decrees by ILO and UN regarding trade union rights convention and supervisory bodies. In addition, it used the related human rights documents as a justification for its decrees. Therefore, it has paved the way to the triability of social rights while expanding the scope of trade unions (ECHR, Case Of Demir Baykara v. Turkey: 20-24 and 29 et. al.)
and in general on the benefits of the workers. However, these actions that can be called upon for affecting the economic and social policies of states should in principle be in the form of putting forth a protest and should not pursue the disruption of peace. According to the committee, demands put forth by way of collective action may carry both occupational and trade union qualities as well as a political quality. In this case, it should be evaluated when determining the legitimacy of the strike whether occupational and trade union demands are used as a tool for hiding the purely political goals independent of the objective to protect and improve the interests of workers. The banning of strikes which protest the economic and social policies of states at a national scale is a serious breach of the freedom of association (Alpagut, 2013: 142). Therefore, the collective action right is a last resort when all means for demanding a right have been tried. Collective action of workers is a difficult decision that is taken when no other solution can be found for solving the problem at the end of a difficult process (Engin, 2016: 156).

In short, the human rights attribute of the collective action right is based on item 11 of EHRC. ECHR evaluates the collective action right within the scope of the freedom of expression. The basis of collective action is the protection of the interests of workers. The action may be towards the workplace in order to protect a right. Or, it might gain a political attribute for the protection of the general socio-economic interests. Whatever the reason is for the action, it should protect its validity condition, it should be based on a legitimate cause and it should retain its peaceful attribute.

4. The Requirements that the Right to Collective Action be Legitimate

4.1 There should be a legitimate aim

First of all, the collective action should bear the purpose of protecting and improving the economic and social rights of workers. However, if the workers use their collective action right against the employer, a fair balance should be established between the right to react for common economic, the property right of the employer and the collective bargaining right. Apart from this, if the collective action right is used for the protection of a right outside of the workplace such as political strike or general strike, it is possible damage to the employer due to the fact that the employer who is under pressure through collective action and the action-ending employee are separated and the oppressed person does not have the initiative of the employer. For instance, workers can carry out protests by asserting that the completed or desired legal arrangement threatens their own rights or to attract attention to the already existing or possible unjust treatment they are facing.

The statement, behavior or action put forth for this purpose are directed towards a legitimate cause. However, this action should not withhold the workers from working for long periods of time and therefore should not cause any irreparable damages to the employer (Engin, 2016: 153-154; Doğan, 2014: 313). In its 2009 dated Kaya and Seyhan/Turkey (App No 30946/04) decree, ECHR decided that item 11 of EHRC is violated on account of the fact that the right to effectively use the freedom for demonstration has been disproportionally overridden when Eğitim-Sen member teachers were issued a warning after participating in a one day national action organized for protecting the public administration law draft following the call by KESK to its member teachers on 11/12/2003 and that even though this punishment is a minor one, it might lead to the teachers to give up on participating the action and that the disciplinary punishment does not correspond to an “immediate social need” and hence it is not “required in a democratic society” (TR Constitutional Court (TC, AYM) Justification of Decisions, 2013/8517, Decree:2015, Date: 06.01.2015).

4.2 It Should be in Accordance with the Principle of Proportionality

In essence, the principle of proportionality is a principle that is applied in administrative law and implies that the restriction tool is suited for actualizing the restriction goal, that the tool does not pose an obligation with regard to the restriction goal and that the tool and goal are not disproportionate (Kılıçoğlu-Şenocak, 2010: 181; Gülmez, 2002: 9).

The principle of proportionality may be divided into three sub-principles. These are; convenience, proportionality principles. Therefore, the measure that will be taken in accordance
with the principle of proportionality should be adequate to reach the desired goal, should be necessary with regard to the desired goal and the intervention that will be the result of the measure to be taken should not be disproportionate to the desired goal (Kılıçoğlu-Şenocak, 2010: 185). With regard to the collective action right, the principle of proportionality indicates that the duration and scope of the collective action are proportionate with the demand put forth via collective action.

The collective action should be a fair tool for the struggle for rights. Hence, it should be suited and necessary for reaching the goal put forth when using the collective action right. It is possible to state that actions which exceed the declared demand and which last a long time do not comply with the principle of proportionality. In addition, whether the work can start again following the collective action as well as the measures required for personal and public needs will determine whether the action has taken place in accordance with the principle of proportionality or not (Doğan, 2014: 328).

The only losses that will render the collective action illegal are irrecoverable losses. For instance, the participation of the main service staff to a collective action by health staff may result in irrecoverable losses (Engin, 2015a: 32). In its decrees, ECHR sought for the principle of proportionality in the interventions of public authorities towards trade union rights. According to ECHR, it should be evaluated with regard to the requirements of a democratic society whether “there is a balance between the restriction goal and tool” towards trade union rights. Democratic society criteria should be interpreted on the grounds of “pluralism, tolerance and open-mindedness” (1976 dated Handyside/ United Kingdom, App No. 5493/72, 1999 dated Başkaya and Okçuğlu/ Turkey App. No. 23536/94, 24408/94). The assurance that comes into play in limitations against rights and freedoms is the principle of proportionality. Proportionality reflects the relationship between the goals and tools for limiting the basic rights and freedoms. Therefore, it should be evaluated in interventions against trade union right whether the intervention is adequate, necessary and proportional for reaching the determined goal (TR Constitutional Court (TC, AYM), App no 2012/1051,20.02.2014, App no: 2013/409,25.06.2014). ECHR explained the 10th and 11th items of the Convention. According to ECHR, the concept of “necessity” implies a “compulsory social need” (1976 dated Handyside/ United Kingdom, App No. 5493/72). It will be necessary to look at whether the structural or administrative interference with the freedom of association and trade union's right to meet the pressure of a social need. An intervention within this framework should be proportional with the legitimate cause; secondly, the justifications put forth by the public authorities for the legitimacy of the intervention should be sufficient and related with the issue (2001 dated, Stonkov and Ilinden/Association of United Macedonians/ Bulgaria, App No: 29221/95, 29225/95). Therefore, the balance between the disciplinary action taken against the collective action of not coming to work within the scope of trade union activities and the public benefit aimed should be proportional. If not, the public benefit sought will not have credible and therefore will not be legitimate (TR Constitutional Court (TC, AYM), App No: 2013/7199, 25.03.2015: 8).

4.3 It Should be in Accordance with the Ultima-Ratio Principle

Ultima-ratio principle in labour law is a method that is frequently used for protecting the worker in cases when the labour agreement is terminated by the employer and which implies refraining from termination. It is used in modern labour law as a last resort (ultima ratio) if contract termination is required in case a solution cannot be reached when all means are used. The term “ultima ratio” was first used on the inscription of “ultima ratio regum” on French cannons and it should be noted that it means “the king’s last resort”. What is meant by the aforementioned inscription is that the armaments should be used as a last resort if it is not possible for the political power to solve the issue without the use of armaments. War should be a last resort only when other means of solution are not possible.

It should be noted that ultima-ratio has been included as a principle for the cancellation of contracts in decrees by the German Federal Court of Labour since the 1970’s. According to the decrees by the German Federal Court, termination of contract will be used only as a final resort when the worker has no means of working at the workplace even under worse conditions in cases of termination due either to the insufficiency of the worker or to issues related with his/her behavior regardless of whether it is an ordinary or an extraordinary termination (Kılıçoğlu-Şenocak, 2010:
198-199). Whereas with regard to collective action right, the ultima-ratio principle implies all negotiations and peaceful means that should be tried before collective action. As is the case in legal strikes, a balance should be established between the proprietary right of the employer and the demand put forth by the action when using the collective action right.

Collective action right should not result in irrecoverable damages whether it is used against the workplace or for political purposes. The possible damage to the employer should especially be regarded (Engin, 2016: 153-154; Güzel, 2015: 413 et.al.; Doğan, 2014: 328). The most important limitation related with the trade union freedom in German law is the ultima-ratio principle for strikes. According to the German law, all means of negotiation should have been tried for resolving the conflict. Only then may strike be considered as ultima-ratio for the resolution of the conflict (Doğan, 2014: 326).

4.4 It Should be Peaceful

Another criteria used by the European Court of Human Rights and the ILO supervisory machinery for inspecting the legality of the collective action is considering whether the action is peaceful or not. It is actually a fundamental condition of the principle of proportionality that the collective action is peaceful. Committee on Freedom of Association which is one of the audit bodies of ILO, the right to strike cannot be limited only with collective agreement conflicts; the workers and trade unions have the right to express their dissatisfaction with economic and social policies at a wider scale if the consider that it is necessary to do so. According to the committee, actions of slowdown, stoppage and workplace occupation are within the scope of the freedom of association. It is not proper to impose a general ban with regard to strike types; however, actions such as slowdown, stoppage, workplace occupation may be limited in case they are no longer peaceful (Engin, 2016: 157). On the other hand, “No one should be deprived of his/her freedom or be subject to penal sanctions for organizing or taking part in a peaceful strike” (ILO, 1996: 123).

Freedom of association and trade union rights are among the freedoms that embody political democracy and make up one of the fundamental values of a democratic society. Discussion and resolution of issues as open to public make up the basis of democracy. In this scope, individuals who use their trade union rights including collective action right benefit from the preservation of the fundamental principles of democratic society such as pluralism, tolerance and open-mindedness. Even if opinions that do not encourage violence or that are put forth within the framework of trade union rights as long as they do not involve the rejection of democratic principles or their means of expression cannot be accepted by public authorities, ensures for eliminating the freedoms of expression, association and trade unions endanger democracy. Different opinions should be allowed to be expressed by way of trade union freedoms or other means in a democratic society based on the supremacy of law (TR Constitutional Court (TC, AYM), Application No.: 2013/8463, 18.09.2014). Hence, the sustainability of the democratic social order should be observed when using the right cor collective action be it for the protection of the interests at the workplace or against the economic or social policies of states. According to the ILO Committee on Freedom of Association, actions should put forth a protest and should not seek to disrupt the peace (ILO, CFA, Report, Case Nr.: 1562, Pgrph. 518(a)).

According to the committee, the strike should be among the types of actions that can be used by labour organizations in case of a general strike. For instance, a 24 hour strike for the increase of minimum wages, revision of economic policies (decrease of prices and unemployment), demand from the employer to comply with the collective agreement that is in effect are legal and are within the scope of the normal activity area of trade union freedoms (ILO, CFA, Report Case Nr.: 1381, Pgrph. 412 and 413). Similarly, actions such as stoppage, slowdown and workplace occupation are legal as long as they retain their peaceful attribute (ILO, CFA, Report Case Nr.: 997,999, 1029, Pgrph. 367, 260 and 39).

5. Conclusion

Collective action right is a fundamental human right protected by international human rights law.
Even though collective action encompasses the right to strike, there are some technical differences in comparison with strikes. Whereas strike is a right used within the scope of collective bargaining, collective action right is based on freedom of expression.

Collective action right that takes place within the scope of the trade union right which is a special appearance of the freedom of association is included among the fundamental values of democratic societies. It serves to the protection of the rights of workers to found trade unions and carry out trade union activities as well as to the protection of their economic, social and cultural rights. Peaceful and measured actions carried out collectively by workers against applications at their workplace with adverse effects on their economic and social status are evaluated within the scope of the use of a democratic right in democratic societies. It should be noted that it is a ultima ratio decision that is used when there are no other means left but to protect a right due to the nature of collective action right.

In its decrees, ECHR considers collective agreement right and collective action right as parts of the trade union right whole based on the “protection of interests” statement included in item 11 of EHRC. ECHR interprets item 11 of the contract that regulated trade union right together with item 10 which regulates freedom of expression. In addition, it also bases the decrees related with trade union rights and freedoms only on the arrangements in the convention thanks to the “evolutive interpretation” method it uses. It also bases the decrees on the European Council European Social Charter along with the conventions of UN and ILO related with human rights. ECHR evaluates collective action right within the scope of the workers’ right to protect their occupational interests. However, ECHR points out that there should be a legitimate goal when using the collective action right, that all means of struggle should have been used, that the action should be peaceful, measured and that it should not result in irreparable damages.

Similarly, Social Rights Committee and ILO Committee on Freedom of Association evaluate the collective action right within the scope of trade union right in their decrees. According to both committees, the limitations that will be imposed should not harm the rights and freedoms but that collective action right should be used in accordance with the principle of proportionality and thus not result in any harm in public order, public safety and general health. Therefore, collective action right is a legitimate right as is openly emphasized in the decrees by ECHR, Social Rights Committee and ILO Committee on Freedom of Association. However, the workers should ensure when using this right that the action takes place in a peaceful manner within the scope of a legitimate goal and should not cause any irreparable damages.

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At the Crossroads of Science and Religion: A Sociological Approach

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Abstract

The relationship between science and religion has recently become the topic of intense discussions in the public sphere. However, up to now empirical social sciences have neglected qualitative reconstructions of scientists’ worldviews in this area. The material for my analysis is 50 in-depth interviews with biologists and physicists, employees of scientific research institutes of Polish Academy of Sciences and universities in Poland. The largest group of the respondents agreed with the idea that the areas of science and religion do not overlap. Besides, the majority of Polish natural scientists including a little less than half of all non-believers demonstrates aversion to the conflict narrative. My study reconstructs narrative strategies of the respondents that refer to the science-religion interconnection.

Keywords: science-religion relationship, in-depth interviews, natural scientists, narrative strategies

1. Current State of Knowledge

Most data on the subject is based on quantitative surveys of religious commitment among academics, which focus mainly on the United States and show that the level of religious belief is lower in the academy when compared to the general population. This data is interpreted, in general, within two paradigms: the paradigm of epistemological conflict between science and religion, and one that rejects this conflict. A pioneer of the conflict paradigm, the American psychologist James Leuba, suggested in the early 20th century, that conflict between the two fields was the reason why elite scientists would more often reject religion. He found that 58% of American scientists disbelieved or expressed doubt in the existence of God, and that this rose to 70% among the “greatest” scientists. Leuba repeated this survey in 1934 and found that this tendency was even more significant (67 and 85%, respectively) (Leuba 1916, 1934). As Leuba stressed, “in order to be again a vitalizing and controlling power in society, the religions will have to organize themselves around ultimate conceptions that are not in contradiction with the insights of the time” (1934, 300). In 1997-98 Larson and Witham replicated Leuba’s research with similar results (Larson and Witham 1997, 1998).

Data from a 1958 poll of American graduate students was also analysed in secondary research by Rodney Stark. He found that those who attend elite institutions are the least likely to have a religious affiliation or regularly participate in worship services (these ideas he later rejected, Stark 2003). He wrote in 1963: “If this results in men of science having greater influence on our culture and value system (...) and if by becoming a scientist a man is likely to be detached from traditional religious orientations, then we must suspect that future American society will either become increasingly irreligious, or that religion will be extensively modified. In the latter case, the historical conflict between religion and science may be finally resolved” (Stark 1963, 14).

The second paradigm of sociological research into religious commitment among scientists challenges the idea of conflict. For example, Robert Wuthnow drew attention to the fact that natural scientists that embody the ideal of scientific method proved to be more religious than social scientists. He suggested the “boundary posturing mechanism” explanation –social scientists used it in order to create distance between themselves and the general public and in this way to be “more scientific” (Wuthnow 1985). Further, Edward Lehman and Donald Shriver spoke of a “scientific distance from religion” specific to social scientists where religion for them was an object of
research. Elene Ecklund also emphasized, among other things, the religious socialization that remains the strongest predictor of religiosity among scientists (2010).

There are few surveys of the scientific community in Poland; all of them use quantitative methodology. The existing data confirms the lower religiosity of Polish scientists compared to the general population. The most extensive survey of Polish professors, carried out by M. Libiszowska-Zółkowska, provides valuable information in a variety of worldview areas of Polish scientists from various disciplines. The postal questionnaire (N = 447) received a score of 71.6% believing scientists compared to approximately 96-97% in the general population. "It seems that it is reasonable to say that professors are the group with the highest rate of atheism in Polish society," the sociologist says (2000, s.83-84, 95). This tendency is also evident in smaller samples: only 72.5% of the scientists employed at the Gdańsk University and 56.3% scientists surveyed by Andrzej Gołąb were believers (Erenc 2010, N = 281, Gołąb 2013, N = 186).

The only extensive qualitative analysis that focuses on the "cultural strategies" concerning science-religion relations employed by 275 scientists (in different disciplines) with regards to the science-religion relationship was carried out by the team of Elene Ecklund (Ecklund 2010). According to her data, scientists selectively employed different cultural strategies to explain the relationship of science and religion, such as: redefining categories (the use of institutional resources from religion and from science), integration models (scientists employed the views of major scientific actors to legitimate a symbiotic relationship between the two fields), and intentional talk (scientists engaged in discussions about the boundaries between science and religion). 15% of scientists said that religion and science were always in conflict, another 15% said they were never in conflict, and about 70% gave specific contexts in which religion and science are in conflict and others where they are not (Ecklund 2010).

There are no qualitative studies of the religious worldviews of scientists in Poland. Despite a broad discussion it is still unclear which factor is responsible for the lower religiosity of Polish scientists, and whether it lies within science itself or in the earlier biography of the scholar.

2. Methodology and Characteristics of the Research Group

The material for the analysis will be 50 in-depth interviews with biologists and physicists, employees of scientific research institutes of Polish Academy of Sciences and the largest universities in Poland, carried out in 2013-2014. The interviews were conducted at the Institute of Theoretical Physics, Institute of Biophysics and Biochemistry, Nicolaus Copernicus Astrophysics Center, in the departments of physics and biology of the Jagiellonian and Warsaw Universities. The purposive sample consisted of 25 physicists and 25 biologists, the search for which was carried out using the “snowball” method. They included 41 professors, 4 Doctors of Science without professorial titles, 2 PhDs and 3 MSc. 28% of the respondents were women, 72% of them were men.

The interviews were semi-structured in a very general way. We made every effort to allow respondents to spontaneously reveal their ideas and make it possible for them to share their reflections, arguments or discuss some difficult points. Only after the respondent spoke out in response to the first general questions do we entered into conversation using the topics of the interview guide. These can be joined into 4 sets: a). Science and religion. The starting question is: What, according to you, is the relationship between science and religion? Is there a conflict between the two? The next questions concerned understanding science and religion, the boundaries of both fields and their ability to provide answers about the universe and the human being, and among others, some ultimate questions. b). (Non)belief. This set includes questions concerning the “content” of faith (for believing respondents), the image of the supernatural, possible crises of faith and difficult points in belief; nonbelievers are asked about their reasons for rejection religion. We attempted to capture all possible contexts, which in this respect may refer to science. c). Image of the universe and human being.

The opening questions were: Do you think that the image of universe that is known to modern science makes a room for any form of the supernatural? Are there any scientific facts that make you think about the possibility of the supernatural or reject it? The answer created an opportunity to talk about ideas about the universe and the human being important for the respondent with regard
to the topic of supernatural and some ultimate questions. When the respondents’ spontaneous response was exhausted we asked questions formulated on the basis of the other collected interviews (in the Polish sample there were such topics as: the genesis of human being, the existence of the soul, life after death, conscience and mind, free will; the genesis of the universe, determinism in nature and human fate, human place in the infinite cosmos, the end of the world, the meaning of life and the universe). D). Biographical data. The last part of the conversation used an autobiographical narrative interview. The task of the respondent was to remember those episodes from their life story (childhood, school, college, adult life, scientific career, their own children) that were associated with her/his decisions concerning faith, attitude to institutional religion and choice of scientific career. The respondent tried to capture all moments in which they saw any interaction between science and religion.

3. Worldview and Science-Religion Relationship

It is advisable to briefly discuss the basic models of the relations between the science and religion in the human discourse. As discussed, they reduce themselves to the conflict and non-conflict paradigms. The conflict models are uniform: they assume that the epistemological conflict between the science and religion occurs since these areas respond to the same questions differently. We distinguish three models among the non-conflict ones: a) Non-Overlapping Magisterias Model (Gould 1998: the science is focused on the facts of the world structure, and the religion is focused on the values, meanings and purposes); b) complementary model legitimizing both the ways of reality description (they relate to the same reality, but speak of it in different, complementary, languages); c) synthesis model, which attempts to integrate the religious and scientific claims into a single system. Let these four models become the theoretical framework for the further theoretical analysis: we look for their elements in the empirical material. In view of the above-mentioned openness of the human worldview, we cannot talk about the integral models, therefore, we will use the term “strategy” to denote a method of the respondent reasoning, which refers to one of them.

On the base of the interviews it possible to characterize the faith of the respondents. 36% of respondents (22% of physicists and 14% of biologists) were traditional Catholics, 14% (2% and 12%) were Catholics but employed a broad interpretation of traditional Catholic doctrine, and 10% (2% and 8 %) believed in an impersonal supernatural power. Thus, the majority (60%) of respondents believed in a supernatural reality, while the biologists were less likely to identify themselves with Catholicism in a traditional form. In contrast, 36% of respondents identified themselves as non-believers using term “atheist” (20%, or 12% of physicists and 8% of biologists) or “agnostic” (16%, or 10% and 6%).

The first questions (What, according to you, is the relationship between science and religion? Is there a conflict between the two?) gave data that makes it possible to estimate the respondents’ general orientations toward models of the science-religion relationship. The largest group (42%) agreed with the idea that the areas of science and religion do not overlap, 24% said that science and religion are compatible but only if certain conditions are met, 8% spoke about their efforts to synthesize science and religion, and 4% were sure that synthesis is possible under specific conditions. This aversion to the conflict narrative demonstrated by the majority of Polish natural scientists (78%, including a little less than half of all non-believers) is significant and deserves attention. Only every fifth respondent (20%) proved to be a supporter of the conflict model.

Below we will reconstruct the main strategies of the scientists concerning relations between the science and religion.

4. Relations between the Science and Religion: Worldview Strategies

4.1 Non-Overlapping Magisterias Strategies

The Non-Overlapping Magisterias thesis is often cited by the respondents, who want to emphasize the fact there is no conflict between the science and religion. However, different attributes were related to each of the areas. For example: - the science was seen as a sphere of rational inquiry,
and the religion was considered an area of “something the science cannot rationally cognize” (physicist-believer); the science was guided by the principle of empirical evidence, while for the faith “logical laws are not affective” (physicist-believer); the religion told “that the world was created by God”, and the science explained “how exactly it happened” (biologist-believer); the science was a verifiable knowledge, while the faith was the property of the brain (physicist-non-believer).

While the image of science was quite versatile and coincided with the criteria of the scientific method (it is empirical, rational, based on the intersubjective method and verifiable facts of the physical world), the concept of religion had different meanings (subjectively significant features were highlighted). The argumentation strategies postulated the following theses:

Limitation of human knowledge, based on which we can neither accept nor deny the existence of the supernatural. The monopoly of the scientific method in the field of the reality cognized was emphasized: “Even if Christ appeared before me, I would not be convinced; there is no natural-science evidence for this” (physicist-believer).

Impossibility of the synthetic worldview as such due to the constant changeability of science: “… the attempts of such integration (...) is preparing of other catastrophes such as Darwin’s. Even if we can put it together in a holistic concept, the science does not change” (biologist-believer).

No need for reflection on the theme of science and religion, at least in relation to their area, which the respondents perceived as an area of narrow knowledge that has no metaphysical implications: “I am far from the human biology, so, as a scientist, I am quite far from the matters of human nature and existence” (biologist-believer).

Rejection of religion as it is cognitively untenable is characteristic of both atheists and agnostics. Moreover, while atheists were sure that the supernatural does not exist, some agnostics conceded such possibility, but did not take it into account in view of its unprovedness: “I am an agnostic (...), but I am not sure there is no God, I just do not know it. In fact, you may not know it, as you may not know whether there is life on Mars” (physicist-non-believer).

4.2 Complementary strategies

The respondents, the responses of which had the elements of complementary models, declared there was no conflict between the science and religion, and also, as a rule, cited one of the versions of Gould’s models. Complementarity appeared where there was a suspicion of intersection of two areas (for example, in matters of the origin of the world and men). The metaphorical language of the Scripture was emphasized, which complemented rather than competed with the scientific description: “Imagine me standing before the Jews four thousand years ago (...) and telling them how the Universe emerged. That there was a big bang, and then the quark-gluon matter appeared (...) it would be unclear, it would be some nonsense, so I cannot say such things at his level” (Professor of Physics, Catholic believer).

It is essential that a symbolic reading of the truths of faith opened a broad space for individual interpretation for many scientists, which sometimes was far beyond the traditional Catholicism: “Almighty God can perform miracles (...) I do not need any Divine Powers! (...) They are just stories!” (Physicist-believer).

4.3 Synthesis strategies

Synthesis strategy was used by the respondents-believers, who felt the need to create a consistent worldview: “For many years, I agreed with Gould’s theory of two Magisterias (...), but I feel that we need to look for a more consistent worldview, and it’s a little contradictory” (biologist-believer). The task, which a synthesis supporter set oneself, was so wide that the harmonization of the two areas was fragmentary, focusing on the subjectively difficult issues or points, where the harmony of science and religion was particularly obvious for the respondent. The synthetic strategies used the following arguments:

Limitation of human knowledge for the “Synthesis supporters” was a subjectively sufficient evidence of the potential possibility of the supernatural. Often, engagement in the science pushed for such a conclusion: “we see only what we need to survive. I look at this with a Darwinian view.
So, even if fifteen different spirits were sitting here, if they do not affect us and we cannot contact them, we will not see them” (biologist-believer).

Realizing where the knowledge ends and faith begins, the scientists drew conclusions about the limitation of the synthesis itself: “The existence of the rules of physics (...) is a fact for me, which cannot be justified within the worldview (...) there is something superior (...) It’s transcendence. What is transcendence? (...) I cannot understand more from the physics” (physicist-believer).

Possibility of “other religions” was mentioned by the scholars, who had their own ideas about the supernatural, and were sure that other religions would be more suitable for the science than the traditional Catholicism. However, they did not practice any of these religions.

Expansion of the scientific method, the revision of its naturalistic approach was mentioned very rarely. An example of it is the mathematical physicist-believer’s reasoning of miracles, which were a confirmed evidence to him, but a fact not explained by the science: “I think that the question of supernatural phenomena is a key question (...) recognizing them as an element of the worldview, a part of this world of phenomena. And I think that hiding our heads in the sand because we cannot recreate them, because we cannot repeat them in the laboratory, is a bad solution.”

4.4 Conflict strategies

For the conflict supporters, the objectivity of knowledge was of great importance, and they took the religious statements as evidence of the empirical world, which, consequently, related to the same reality as the scientific ones. The similar criteria of truth were applied to them. In this perspective, the religion was losing its credibility: “let’s go back to the beginning, to a few amino acids. So, that Act of Creation means that God mixed the amino acids, which existed beyond the Earth, in a cup? This is primitive. It did not help me, and it is illogical” (biologist-non-believer); “Upon closer look, we can see the science and religion will be in conflict, because putting of questions, way of obtaining knowledge, search for answers in the science and religion are diametrically different” (biologist-non-believer).

4.5 Delayed response

The last small group of respondents included those who were not ready to give a definite answer to the question of the relations of science and religion. Their worldview was dynamic; they were torn between the belief and unbelief, confidence and uncertainty “it can be one way or another. Maybe I’m wrong. I always suggest several possible solutions, as well as the science does” (biologist that did not make a decision).

5. Conclusions

Although the interview analysis gave an idea of the huge variety of individual answers for the question of religion, we can draw some conclusions.

First of all, it should be noted that the majority (78%) of the respondents denied the conflict between the science and religion. This shows the unwillingness of Polish scientists to participate in the ideological “wars”, but it does not mean that the clash between the science and religion is not in their everyday experience. This confrontation can take place at one or multiple levels: logic level (attempt to reconcile the scientific data and the truths of religion), social level (reflections on the institutional relations between the two areas) and practical level (personal experience of their combination).

Further, the analysis of interviews helped to better understand the mechanisms of the demarcation between the science and religion in the Polish natural science community. The respondents have a clear understanding of the limits of scientific method and the competence of science. On the one hand, they have internalized the norms of scientific method, which is a legitimate source of knowledge about the world and men for Polish scientists. However, the respondents are responsible in relation to the boundaries of objective knowledge, knowing where the knowledge ends and the faith begins. At the same time, they tend to feel the limitation of
scientific knowledge and human cognition. However, they make different conclusions out of this thesis. For some of them, the weakness of cognition indicates the potential possibility of the supernatural. Others tend to refuse the rationalization of faith and its acceptance through an act of will. The third group come to the conclusion about the impossibility of religion, which operates the unprovable assertions. The reasons for these differences can be partially explained by the biographical and social factors, but it seems that their idea of religion is important too.

While the scope of science is strictly defined, the religion is less regulated, inclusive; it allows a great interpretive maneuver. Even if the respondents feel that they are consistent Catholics, as a rule, they tend to accept the symbolic interpretation of the Scriptures, and sometimes of the Catholic dogmas too. In other cases, the traditional religion is rejected in favor of a vague “other religion”, the search for which, however, is not conducted. Its purpose is obviously an extension of the individual interpretive field.

We can assume that the point of view of the conflict paradigm supporters is based on the refusal to consider the religion as a semantic field with “soft” boundaries, commitment to the scientific criteria of objective knowledge, which these respondents are inclined to apply to the religion truths, the question of supernatural being exclusively in the cognition area. This observation partially confirms the study conducted in 1998 by Polish sociologist Maria Libishovskaya-Zhultkovskaya among Polish professors (representatives of different sciences). For most respondents, the science and religion were not in conflict: 71.6% of the professors were believers and only 25.3% of them claimed their antireligious position. At the same time, 54% of respondents non-believers named the “scientific interpretation of reality” one of the reasons of their being non-believers. According to the sociologist, the main type of a professor-believer is a man for whom the crucial faith is the one that gives our life some meaning and supports in difficult times. For such a person the belief sometimes becomes a conscious choice, and sometimes is developed in the childhood. As for the non-religious type of a scholar, the disbelief for such people is an intelligent choice first. This group values the credibility of worldview above all, and questions the credibility of religion [6]. Our study has shown this conclusion is correct, with the only proviso that for the believing participants of our study the intellectual credibility of the worldview is as important as it is for the unbelieving ones. However, they did not apply the methodological requirements, developed in the framework of science, to the religion, allowing for the existence of other principles of cognition in the area of supernatural. In general, we can say that the more exclusive the scholar's understanding of the religion was, the harder it was for him to adhere to the paradigm of conflict-free relations between the science and religion.

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The Professional Figure in the Relation to the Family of Special Need Children

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Abstract

Most of the professionals that work in the field of special needs help in development of the healthy relations with the families that have a child with special needs. Others continue to hide their profession behind the analyses conducted through medical diagnoses, and further more others judge the families, laws, conditions and what we normally have, a family of growing problems. The professionals should be active partners together with the families for the future of the children with special needs, by creating a relation based on respect and empathy. The attitudes of the professionals towards the families of the special need children make the relation to head to positivity or negativity. Normally these attitudes come from the perception that the professionals have for the feelings that parents experience, the impact of the child on the family, what they consider important to construct a collaboration and to assess when and how the parents need the professionals, or the characteristics that the relation present with these parents. The aim of the study is to point out the opinions that the professionals have in relation to the family; these opinions will help us to evaluate the attitudes of the professionals and their impact in the development of the collaboration with the families.

Keywords: professionals, parents, relations, special needs, opinions.

1. Instruments and the Sample

In order to achieve the objective of this study to get the opinion of the professionals of the area related to their service to this category of people, we conducted a survey in the field, exactly with these specialists such as doctors, teachers, physiotherapists, speech therapists etc., who take care directly for the special needs persons.

In this survey attended 80 participants, but the final database contains only 70 answers, as the other 10 did not have the necessary information to be included in the study. The participating professionals were randomly selected, different gender, profession and age groups making the sample more representative.

The methodology used in this study will function to achieve this goal. It combines primary data with secondary ones. Secondary data are the result of reviewing a wide and contemporary literature about the service provided by this category of specialists, the problems and expectations of patients (special need persons) who receive this service. This literature is provided by various electronic research, similar studies of neighboring countries and the region, etc., as well as from a variety of other sources serving to complement the theoretical part of the study. The use of the questionnaire as a method for data collection has its own advantages and disadvantages. The main concerns in the use of questionnaires relate to assessing their validity and reliability (Saunders et al., 2009). According to the American Association of Psychology (1985, Quoted in Hinkin 1995) the measuring units of the questionnaire should indicate the validity of the content, the validity related to the criteria, the validity of the construction and the internal stability. The first three criteria relate to the assessment of the internal validity of the questionnaire, which indicates the ability of the
questionnaire to measure what the applicant intends to measure (Saunders et al. 2009). The content validity refers to the extent to which the questionnaire provides proper coverage of investigating questions. One way to do this is by using the peer review to evaluate the questionnaire. The validity of the criteria is related to the ability of questions to make the appropriate prediction. This can be used for statistical analysis of correlation. Reliability (reliability testing) is whether the questionnaire will produce or not reliable results in different times and in different choices. One way to evaluate it is to measure internal consistency, for example by calculating Cronbach alpha correlation.

That’s why during the development of the questionnaire we kept in mind two main elements which are the reliability which has to do with the fact that the questionnaire will give or not the consistent results in different times and different choices, and also the reliability of the questions. In order to evaluate the reliability of the contents we used the methods of Peer Review, who participated in developing the questionnaire. The questions are developed in such a way so to be easier to understand from the participants, by choosing the answer with alternatives written in the questionnaire evaluated with the Likert Scale.

During the construction of the questionnaire an important attention was given not only to the structures of the questions, but also their proper formulation in order for them to be valuable and to serve the main objective.

As for the reliability testing, a method to assess it is to measure the internal consistency, for example calculating the Cronbach Alfa coefficient. Based on this we noticed that the calculations showed that the value was higher than 0.7 (allowed values) by showing a consistency of the questionnaire. Knowing that each of the questions represents a variable which may have more than one answer, we thought that the closed questions the alternatives should be as real as possible in order to get the necessary information.

We distributed the questionnaire in the cities of Vlore, Fier, Tirane, Berat and Lezhe. The questionnaire consists of two sections. The first section provides general information on field professionals who participated in the survey, by providing information on work experience, gender, employment, type of field in which they are certified or graduated. The second section provides information about their work according to their respective fields, so we get their opinions about the importance of communicating with parents for the problem of their children, or by pointing out the impacts of these problems in their daily live such as work, education, social life, stress, etc.

The questions have mostly affirmative answers (Yes) or negative answers (No), but also measured with Likert scale. The questions are mostly closed.

The field survey lasted about 3 weeks, and interviews were conducted face-to-face with the participants (professionals) at their workplaces. They were randomly selected. Part of this process was the development of a database with the collected data as well as processing and analysis. Processing and analysis were carried out through software packages SPSS 17.0 and Excel.

Data analysis was performed through descriptive analysis, cross-tabulations, independence tests, correlations between variables, factorial analysis, construction and hypothesis examination, etc. Our analysis was not only descriptive, but also analytical. We performed a pilot testing on 10 randomly selected participants to see if there were any problems or ambiguities in filling it. The test result indicated that questions were formulated correctly and clearly understandable.

2. The Results of the Study

We included 70 professionals of the fields and different professions from whom 34.3%, were teachers, medical doctors 18.6%, therapists 617.1%, psychologists 15.7% and lastly physiotherapists and speech therapists respectively 8.6% and 5.7%, for the simple reason that the last ones are in low numbers in their professions, even though the numbers are getting higher in the last years (Table 1). In order for us to have a more varied sample, we included such variety of professionals; this variety gave us a more view of the data collection. As for the professional formation, all the professionals had various levels of knowledge for the treatment of special needs children.
Table 1: The distribution of the participants according to their profession

<table>
<thead>
<tr>
<th>Profession</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teacher</td>
<td>24</td>
<td>34.3</td>
</tr>
<tr>
<td>Medical doctor</td>
<td>13</td>
<td>18.6</td>
</tr>
<tr>
<td>Psychologist</td>
<td>11</td>
<td>15.7</td>
</tr>
<tr>
<td>Therapist</td>
<td>12</td>
<td>17.1</td>
</tr>
<tr>
<td>Physiotherapist</td>
<td>6</td>
<td>8.6</td>
</tr>
<tr>
<td>Speech therapist</td>
<td>4</td>
<td>5.7</td>
</tr>
<tr>
<td>Total</td>
<td>70</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Graphic number one shows that 86% are female and 14% are males. This for the reason that the number of female teachers and psychologists is higher than males and all the questionnaire is conducted in the city, where the population or higher, mainly the specialists of physiotherapy and speech therapy work in the city.

Graphic 1. The gender of the professionals

The data on the experience of these professionals is presented in Table 2 and it ranges from 2 years to 13 years and the average is 7 years, which is a considerable value to receive valid feedback as this type of service for special needs children is fairly new. We are all aware that, not too long ago, parents or relatives kept people with special needs at home. This is probably for many reasons, whether it is non treatable, but also it was considered a shame for families to have a child with special needs. We cannot say that the family neglect or system of treatment of these people has disappeared today, as there are evidence that many families still keep children with special needs at home and, in some cases we can say that they also keep tied up, a fact that was also published on our television media a short time ago. However, the problems for the special needs people have received the attention of the professional field for the reason of their inclusion in the social life of the society, with a support and special promotion from their families.

Table 2. Descriptive statistics for the work experience

<table>
<thead>
<tr>
<th>Experience</th>
<th>Nr</th>
<th>Min</th>
<th>Max</th>
<th>Mean</th>
<th>Standard deviation</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experience</td>
<td>70</td>
<td>2</td>
<td>13</td>
<td>7.06</td>
<td>3.310</td>
<td>10.953</td>
</tr>
</tbody>
</table>

Related to the question – what do you think it is important to the parent in the moment of communication? The professionals of the field responded as followed:

*The detailed information* for 38.6% or according to the opinion of 27 professionals is very important, where the most part are the therapists, with 75% of the numbers of professionals, followed by the medical doctors and physiotherapists respectively with 53% and 50% followed by the psychologists and teachers with 45% and 12%, *(Table 1 in ANEX).* For 21.4 % of the participants the detailed information is very important, the same number stated that is is sufficient to be known by parents. Meanwhile, the opinion of 13 professionals or 18.6% of them state that this information is somewhat important.

Related to – *data on the future of disability,* we notice that in 48.6% of the cases the professionals stated that it is sufficient important (mainly form the medicine professionals), where 100% are physiotherapist, psychologists in 82% of the cases, speech therapists in 75% followed by
medical doctors and teachers (Table 2 in ANEX) with 31.4%, who state that the future of this disability is very important to be taken into consideration (mainly said from medical doctors, teachers and psychologists). For 2.9% this matter is very important or not at all important and only 14.3% or 10 professionals state that the future of special needs of children is not at all important to parents.

This maybe for the fact that the disability of their children continues for a long time and economic inability and not being able to get the specialized services in the country or abroad has made them very tired sooner than the parents previously thought.

Related to – psychological help – for 42.9% of the professionals (where the logopeadists are the first with 100% support, 63% of the psychologists, followed by 46.2% of medical doctors and 45.8% of teachers etc..) this help is stated to be very important for the fact that the psychological behavior of the parents remains an important element for follow up and treatment of their special needs children, also may serve as a powerful means of their improvement.

In 34.3% this help is sufficient (mainly for physiotherapists and therapists and less for medical doctors and psychologists) and for 5.1% it is considered extremely important from the parents side. Only in 2 cases is seen as not important at all.

Some professionals state “…often, the parents are tired and it is impossible to have them as partners in treating and working with the child…”, “….the anxiousness that often the parents suffer makes them to unrealistic in their requests…”, “…often it is needed that parents pass that feeling of suffering and denial in order to start the life project of their child …”

Sometimes, the personal experience of the parents or their individual research are not sufficient for them to get all the information needed for treatment of special needs, this for the lack of information, time, tiredness, or poor results, or few results that they may have achieved, especially the non disbelief for a considerable part of them, around 57%.

Addressing to different parents’ organizations, is considered as not important. For 22.9% as normal, and only for 12.9% sharing information and going to such organizations is very important, this being said and said over and over again mainly from the teachers in 33.3% of the professionals and 7.7% of medical doctors. This is explained by the fact that there is not enough information for the existence of such organizations, and their number is limited, as they operate in large urban areas. The most important fact is the lack of culture or civil education for sharing the information for their children special needs and especially the presentation as a family which has a child with special needs (Table 3).

The professionals state: “…if…the parents’ organizations are often non confirmed and do not offer any direct service to parents …”, “…parents’ organizations wait to profit some projects to be active, in contrary they do not operate at all …nothing…”

Table 3: The evaluation for the importance of the information for the disability

<table>
<thead>
<tr>
<th></th>
<th>Not important</th>
<th>%</th>
<th>Little important</th>
<th>%</th>
<th>Sufficient</th>
<th>%</th>
<th>Very important</th>
<th>%</th>
<th>Extremely important</th>
<th>%</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detailed information</td>
<td>0</td>
<td>0.0</td>
<td>13</td>
<td>18.6</td>
<td>15</td>
<td>21.4</td>
<td>27</td>
<td>38.6</td>
<td>15</td>
<td>21.4</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>Data on future of disability</td>
<td>2</td>
<td>2.9</td>
<td>10</td>
<td>14.3</td>
<td>34</td>
<td>48.6</td>
<td>22</td>
<td>31.4</td>
<td>2</td>
<td>2.9</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>Psychological help</td>
<td>2</td>
<td>2.9</td>
<td>9</td>
<td>12.9</td>
<td>24</td>
<td>34.3</td>
<td>30</td>
<td>42.9</td>
<td>5</td>
<td>7.1</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>The address of the parents organizations</td>
<td>5</td>
<td>7.1</td>
<td>40</td>
<td>57.1</td>
<td>16</td>
<td>22.9</td>
<td>9</td>
<td>12.9</td>
<td>0</td>
<td>0.0</td>
<td>70</td>
<td>100.0</td>
</tr>
</tbody>
</table>

For the question – In which moment have you asked for the help from a professional? – Graphic 2 shows that in 45.7% of the cases this is required since the early moments of identifying the disability in the child, which often happens in the first years, in 38.6% during childhood and only in 15.7% during the teenage years, this for the reason that the disability may be psychological or physical from an accident that has happened during growth.
In the data presented in graphic 3 we notice that the parents with special needs children see the participation of a professional in the treatment of their child as little important in 54.3% of the cases, and in 37.1% as sufficient important, this for the reason of the culture and mentality of the parents not to make public of their child disability or sometimes the economical ability to treat the child to the specialists. For 2.9% this is considered as very important and in 5.7% as not important at all, exactly the most pessimistic part of the parents.

“…..sometimes it is paradoxal when the parent brings the child for therapy and does not want the child to participate, by stating that the child is fine and does not need therapy. In this moment, during my work I think …. Then why are you here??!! I am a special needs therapist …”, “…..a parent brings the child and wants me as a therapist to confirm that everything is fine with the child, but in fact this is not real. Then…? The parent goes and never returns. I think they do that to make peace with their conscience by justifying that the specialist is incompetent …”

The professionals are asked the question: how is the first aid offered to this category of children? According to the data of graphic 4, the first aid is given mainly when it is asked for from the parents to the teachers, medical doctors, psychologists, etc and only 10% declare that this help is given without any request.
The question- Which of these characteristics do you assess more important in parents in relation to developing the life projects of their children?

The professional participants responded: in 41.4% of the studies cases, the professionals declare that the **good quality in communication** is very important. Is there to be achieved a good communication with parents, then the work to construct and function the life project would be easier to realize, as if there is communication between the parents and the professional will be partnership in responsibility for each partner.

**Family relationship**, for 20% of the participants this relation is important. For some of them the way the family functions affects the work with their child. However, most of the participants do not assess this element as very important.

Nearly in the same levels stays the **organizational skill**, where only 15.7% declare that the **good level of information and the feeling of no repetition** are of special importance.

**The relation as a couple** is assessed to be very important in 17% of the cases. So, mainly the family environment has a considerable importance in the continuous treatment of the children and relation with the field professionals.

There are professionals that state that the information has little importance, as there are others that state that the relation as a couple or organizational skills are of great importance. In relation to The perception that the professionals have for the parents who treat their special needs children in their practices the answers are: in 65.7% they are neutral so do not give any feedback, in 32.9% these perceptions are positive for the reasons of satisfactory collaboration between them, and only in 1.4% this perception remains negative, for the reasons of the relations that are created, expectations, the parents’ culture etc.. The most part of the professionals state that they are neutral and this is not satisfactory, as it is not clear, and would be important to be treated in another study.

**Graphic 5:** Impression for the parents with special needs children

In relation to the hypotheses – the family relationship of the families that work with professionals has an impact in developing the construction of life projects for the child we have these results:

**Relationships in family**, for 20% of the professionals who participated in the study, think that this relationship is important. This for some of the professionals is justified because the way they work in the family affects their work. However, most of them do not value this element as very important.

**Relationship in couple** is estimated to be very important in 17% of cases. So, primarily, the family environment has significant importance in the ongoing treatment of children and the relationship with field professionals.

The professional participants in the study responded in this way: in 41.4% of cases, professionals report that **good quality in communication** is very important. If there is good communication with parents then the development of a life project will also be easier to achieve, as if there is communication between the parent and the professional there will be partnerships in the responsibility that each partner will receive.

Approximately at the same level is the **organizational skills**, 15.7% state that the good level of information and the feeling of non-repetition are of particular importance.

There are also some professionals who say that information is of little importance, as there are others that stated that relationship in the couple or organizational skills are of great importance.

According to a study from Chatelant (2009), conflicts in the relationship between parents and
professionals are faced in the beginning of receiving the communication about the child's disability. Earlier we mentioned negative factors of receiving this communication, where negative judgments between the parent and the professional emerge. One hypothesis is that relations between parents and professionals develop in times of crisis for the family but also because they are limited. However, this indicates that the situation within the couple or family significantly affects the relationship with the professional.

Studies with professionals point out parents' cooperation as the greatest source of stress in their work on developing life projects as they (parents) are experiencing a state of anxiety and it is undisputed that the relationship of a parent or family affects the relationship with the professional. (Turnbull and Turnbull, 1986)

It is important for parents to understand what causes the problem. It is important to overcome anxiety that many parents have, because they believe they are the cause of the problem. Collaboration and assistance must be mutually supportive.

According to Ndriu and Zeva (2011), this problem becomes even more apparent in our society because the family that has a child with special needs adds a great measure of experiencing everyday social and economic problems. Among other things, the level of information is low or confusing for the parents, which causes problems for a quality communication between parents and professionals.

Various professionals state:

...he had a child with autism problems and every time he came for therapy the father was drunk, starting to tell the family problems, was impossible to discuss with him the child project ..... 
...during my work I have encountered parents who often were dominant in the family by transmitting this not only to the child but also to the therapist, the wife offended the husband and told him he was careless, that she did everything, she knew everything..... and it was such a stressful situation...... 
...I have worked with many families which had many economical, social and educational issues, but I want to mention one of them which was one of the most collaborative families that I have ever worked with. One day I wanted to tell the mother of the child that she should have been a colleague of mine ...

By referring the data of the study we reach into conclusion that the family relationships affect the relations with the professionals in developing the life project.

Table 4. The evaluation for the life programme

<table>
<thead>
<tr>
<th></th>
<th>Not important at all</th>
<th>%</th>
<th>Little importance</th>
<th>%</th>
<th>Sufficient</th>
<th>%</th>
<th>Very important</th>
<th>%</th>
<th>Extremely important</th>
<th>%</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizational skills</td>
<td>5</td>
<td>7.1</td>
<td>26</td>
<td>37.1</td>
<td>23</td>
<td>32.9</td>
<td>14</td>
<td>20.0</td>
<td>2</td>
<td>2.9</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>Good quality of discussion with the child</td>
<td>0</td>
<td>0.0</td>
<td>14</td>
<td>20.0</td>
<td>26</td>
<td>37.1</td>
<td>29</td>
<td>41.4</td>
<td>1</td>
<td>1.4</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>Good level of information</td>
<td>0</td>
<td>0.0</td>
<td>37</td>
<td>52.9</td>
<td>22</td>
<td>31.4</td>
<td>11</td>
<td>15.7</td>
<td>0</td>
<td>0.0</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>Feeling of nonadoption</td>
<td>4</td>
<td>5.7</td>
<td>25</td>
<td>35.7</td>
<td>30</td>
<td>42.9</td>
<td>11</td>
<td>15.7</td>
<td>0</td>
<td>0.0</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>Good couple relationship</td>
<td>1</td>
<td>1.4</td>
<td>20</td>
<td>28.6</td>
<td>34</td>
<td>48.6</td>
<td>12</td>
<td>17.1</td>
<td>3</td>
<td>4.3</td>
<td>70</td>
<td>100.0</td>
</tr>
<tr>
<td>Good relationship in family</td>
<td>1</td>
<td>1.4</td>
<td>7</td>
<td>10.0</td>
<td>48</td>
<td>68.6</td>
<td>14</td>
<td>20.0</td>
<td>0</td>
<td>0.0</td>
<td>70</td>
<td>100.0</td>
</tr>
</tbody>
</table>

3. Conclusions

On the other hand, there are professionals who, outside the profession, are people who, in daily work, have to face different emotions, problems and conflicts. As for professionals, they should have the capacity to build and use patterns in their intervention, adapting patterns according to context and situation. At the ethical level of realization of professional competences, the professional must respect the expectations and values of the parent, be able to transmit his knowledge and practical knowledge, favor exchanges between parents, practice adaptation and determination, and teach the parents how to share and take decisions. In the pedagogical aspect we have a Social Intervention Pedagogy (J.M.Bouchard, 2009), (J.C.Calubi 2009), where the professional learns from the parent and parent by the professional. The parent teaches the child
and child from the parent. It is created interdependence in personal, family and professional development. They all mutually learn to feel better together.

If we would talk for a more efficient intervention for the integration of the special needs children, we should assess initially this relationship, which means to firstly understand the parents of these children and the professionals too, and to determine the resources of help that connect these two actors of partnership. This was the goal of this study.

As for the hypotheses that the earlier in time the intervention form the professional, the higher the results for the life project, we took into consideration the elements of the life project by noticing which of these elements get more impact from the start. We concluded that:

The earlier the treatment of the child from the professional starts, the better the personal wellbeing of the child is. The normal course of the special needs child depends from the early treatment, as a considerable part of the various disabilities depend on the time of diagnoses. The earlier the diagnoses, the better and faster may they be prevented. The treatment of these issues since the early age gives better results; the same results are shown in the studies of J.M.Bouchard 1999, but contrary data are seen in rehabilitation centers or schools such as Emiglia Romagna 2011.

The study show that not always is true the fact of early treatment at the medical doctors, psychologist, therapist etc the faster the rehabilitation time.

In the relation to the other elements of life project, the school performance does not depend on the time of intervention from the professionals, the most appropriate time for school performance is the childhood, which is the moment when the child follows school and it is the phase where the effect belongs to the school performance. Another study of the author has similar results (A. Zhapaj 2009).

Regarding the other element of the life project, the daily autonomy and the timing of child intervention by the professional indicates that the autonomy of the child with disabilities is not necessarily dependent on the time of treatment from the professional, as there are cases requiring attention and continuous dedication, without interruption, although they can be frequently treated or always to the field specialist. For this issue, there are many cases and we know very well that the autonomy of a person with disabilities more than the time the professional devotes to, is what the person learns in daily life, so at home. Similar data result from other studies such as A. Zhapaj 2009, Lipsky 2008, where the most important and largest part of the child's autonomy is the family. However, this does not mean that a professional can not help and influence in terms of practical independence.

Fulfilling the emotive needs and the time of professional intervention of the child does not have an impact necessarily from the time of treatment. Friends, and the relationship between them does not depend on the time of the professional treatment, neither does sport.

As we have seen from the analysis of the time of treatment of a child by the professional and the project of life, we notice that not all the elements of the project depend on the time of the professional intervention. Part of the project elements are influenced by the family, making the relationship between family and professionals important as their partnership can give us a lifelong life project. The timing of intervention would be important for a good part of life project implementation, but the introduction of ecosystemic treatment is a strategic goal in order to continuously improve the quality of services to favor implementation in clinical processes, especially in Life Projects and implementation from the participants. Similar conclusions come from other studies that have addressed the plan of ecosystemic organization of C.R. Le Bouclier (2002).

According to Andolf (2000), in organizing the Life Project according to the systemic orientations, family is considered a complex ecosystem of the relations and relationships of interdependence with other social systems. He states that the family is a constant, active and open system, which means that the family is an adoptive system that adapts to the various needs in different development levels, it is self regulatory and is modified through the proofs-mistakes which allows the parents to experiment the relations of different natures till the definition of a stable relation such as the one with the professionals, as a system in relation to other systems such as schools, therapeutic institutions and other interest groups. This process comes as a result of keeping the balance between the partners, parent-professional. This means the the interfamily
relations are supported in the relations that they have with social relations.

Regarding the hypotheses that the experience of the professionals' formation is more self-taught, we reached in the conclusion that: professionals are more self-taught in issues of maltreatment and abuse, problem solving and prevention. The professionals believe on their practice and some of them have encountered these issues only at the beginning of their professional careers. The work in groups has considerable values, especially the ones that relate to the help, collaboration and problem solving.

As we mentioned before, we have some model professionals, who are experts, directors and partners.

The capacity of the professionals to use these three models in the intervention, by adopting the models with the context and situation, is the best way to make an expert professional. If we would refer to the study data where the professionals remain autodidactic, in the relation to the family will the professional be able to realize the professional competencies in the ethical and rights level? Would the professional be able to respect the expectations and the values of the parents, be able to develop the knowledge in theory and practice, favor the exchanges between the parents and practice the adaption and determination, and finally to teach the parents to share and make decisions? Would the professional be able to get the new scientific knowledge and know how to build partnerships? Would they be able to consider the family as a part of the ecosystem? The data of our study show that we cannot compare to other studies on other countries as this data is far from these studies, because the continuous development are the right of each professional and are included in the work code (are being implemented) (J.M.Bouchard, 2009), (J.C.Calubi 2009).

Regarding the hypotheses of the family relationship of the families that work with professionals affects in the development of life projects, we have concluded that: the family relationship nad the couple relationship is estimated to be very important in most of the cases. So, primarily, the family environment not only has a considerable importance in developing the life projects, but also in the continuous treatment of the children and relationship with the expert professionals. This for some professionals is justified that the methods of the family functions affect the daily work in realization of the child project. However, on the other side the professionals declare that the good quality in communication is very important. If a good communication is achieved with parents, then the work for developing and functioning the life project will be easier to be implemented, as it would be a partnership in sharing responsibilities between the parents and the professionals.

According to a study from Chatelant (2009), the conflicts between the parents and professionals are encountered in the beginning of receiving the news of child disability. Earlier we mentioned the negative factors that this kind of information has, the negative judgment between the parent and professional. A hypotheses is that the relationship between both of them is developed in a crises moment for the family, and they are limited too. But, this shows that the relationship within the couple affects the relation with the professional.

The studied conducted with professionals state that the collaboration with the parents is the highest source of stress in the professional’s work in developing the life project, as the parents are experiencing a stressful and anxious situation and it is undisputable that the relation in the family affects the relation with the professional (Turnbull and Turnbull, 1986)

It is necessary that the parents understand the cause of the problems. It is important to take away the stress of the parents, as they mostly think it is their fault. Collaboration and help should be dual and continuous.

According to Ndriu and Zeva (2011), this problem is more obvious in our society as the family with a special need child has a huge burden of experiencing daily social and economical problems. Among others, the level of information is really lacking, which brings problems for a qualitative communication between the parents and professionals.

4. Recommendations

Strengthening the concept of family enables the improvement of life quality for the child and family. In this perspective the professionals, family and community organizations, the government should
facilitate the implementation of these families for recognition, capacities and resources that are necessary to use their responsibility and to be included in independent life. To favor the family in the social, educative and health services, for a partnership between the family and professionals and that the families get closer to community, here are some recommendations that can be given:

1. Institutions, especially health, education and rehabilitation ones, in cooperation with parents, should develop training programs to sensitize professionals about the expectations and reality and expectations of families with a disabled child, since partnerships of parents and family are the most important element for life programs and integration.

2. Adding services for parents by providing counseling and guidance on both the rights and the emotional state that parents go through.

3. Programs and curriculums dealing with integration and programs of people with disabilities and their families should be privileged. In this recommendation it would be worthwhile to study social pedagogy in the faculties of social sciences.

4. The government should establish by law joint contracts signed by parents and professionals for taking care and treating the child.

5. The participants, in cooperation with state and community organizations, should periodically receive information from the family regarding problems and resources, so they are treated equally.

6. Increasing the number of doctors/specialists of special areas such as speech therapists etc. who are in limited number and mostly concentrated in Tirana.

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Public Interest Opposite the Freedom of Contractual Will in Administrative Contracts in the Republic of Albania

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Abstract

The protection of the public interest is the main principle governing the activity regulation of the administrative bodies. This activity, traditionally, has been developed through administrative acts, as an expression of the unilateral and authoritarian willpower of public authority, which creates legal consequences. The administrative act has been and remains the most important instrument for the administration bodies to accomplish their mission, but it is no longer effective. Particularly this lack of efficiency is noticed in recent years when the development of the economy and the needs of the ever-growing society have prompted the administration to adapt its activity by making use of other mechanisms “borrowed” from private law. An important part of public activity can also be achieved through the contract as a way that brings the state closer to the private, mitigating its dominant position and leaving space for the efficiency of private activity to fulfil public engagements. Such contracts today are known as “administrative contracts” or “public contracts”. The terms mentioned above are instruments that establish legal relations, for the regulation of which the principle of public interest is opposed and competes with the principle of freedom of the contractual willpower. The regulation of these types of contracts is reached through the private law, which constitutes the general normative framework of contracts (lex generalis) even for the administrative contracts. But this general arrangement will have effect for as long as it does not contradict the imperative provisions of the specific act of public law (lex specialis), which regulates the administrative procedure for the completion of these contracts. This paper aims to bring to the spotlight the way our legislation predict and regulates administrative contracts, by emphasising particularly the features of their dualistic nature. The coexistence and competition of the principles of the freedom of contractual willpower and the protection of the public interest, evidenced in administrative contracts, is presented in this paper through the legal analysis of the Albanian legal framework which regulates these contracts. Under the terms when the role of the state in providing public services tends to increase and our legislation aims the harmonization in accord with the European legislation, it is necessary to improve the administrative contract regulation and extend its scope of action.

Keywords: administrative, public, contract, authority

1. Introduction

The new conditions for the development of the society have changed the way of exercising the administrative activity. When public administration, in the performance of its public activity, does not use the administrative act but concludes contracts, these are called administrative or public contracts, which have the characteristics of a private contract but at the same time aim to fulfil the general interest. Private law is used by the public administration because public law does not provide all the opportunities to achieve its objectives, while private law provides a wider scope in this direction1. To this end, the contractual structures may be adopted in public law, with the particularity that the contract is administrative, since it expresses the willpower and the authority of

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the administrative power\(^\text{2}\). Therefore, the administrative contracts are dualistic because at their essential they are contracts, but in the mean time they are administrative actions. For these contracts, the private law acts like a general fundamental right, as long as the public/administrative law does not regulate them\(^\text{3}\).

In Albania, only after the 1990s, was the way opened to the contemporaneous adjustment of the administrative contract. There were constitutional and legal changes that allowed the private property and the free enterprise\(^\text{4}\), as well as the right of the compensation in case of violation of the unlawful administrative acts\(^\text{5}\). Law No. 8485, dated 12.05.1999 “Administrative Procedure Code”, was the one foreseeing for the first time the administrative contract, by giving two basic criteria in its definition: “Administrative contracts shall be those agreements, (a) where at least one of the parties is a body of public administration and (b) intending to create, amend or annul legal relations in the field of public law”\(^\text{6}\).

By that time, though there were legal arrangements of some types of contracts\(^\text{7}\) which today we call administrative, such a concept was unknown in our legislation and doctrine. According to the definition made by this code\(^\text{8}\), the activity of administrative bodies is the entirety of the acts and actions through which the willpower of the public administration is formed and manifested, as well as the execution of this willpower. The form of administrative activity regulated by this law, besides the administrative act, is the administrative contract as an agreement through which a legal relationship of public law is created, modified or extinguished\(^\text{9}\). The Code of Administrative Procedures of 1999, though vaguely, laid the foundations for a new understanding of the administration's activity, on the basis of a particular type of contract, such as the administrative one, and even listed the contracts that were called such\(^\text{10}\).

2. The Current Arrangement of Administrative Contracts in Albania

The new Code of Administrative Procedures (abbreviation C.A.P)\(^\text{11}\) which came into force in 2016 gives us a more complete approach to this legal instrument. Initially, this law gives a similar definition to the old code for the administrative contract: “An administrative contract is an agreement that creates alters or extinguishes a concrete relationship under public law and in which at least one of the contracting parties is a public body”\(^\text{12}\).

The administrative contract, as currently adjusted, is foreseen as an instrument used by the public administration body to better fulfil its public functions, but it must naturally also respect the economic interests of the other party (private party) because in its essence it remains a contract. Thus, the law itself has taken care to incorporate the two basic pillars upon which administrative contracts are established, which are (a) the purpose of the contract for the realization of a public interest (public orientation of the contract) and (b) the non-violation of the interests or rights of third parties, as we are dealing with a contract (private orientation of the contract)\(^\text{13}\).


\(^{3}\) Law No.44/2015 “Code of Administrative Procedures of the Republic of Albania “, Article 124: “For the issues that are not explicitly regulated by this Code regarding the administrative contract, shall apply the relevant provisions of the Civil Code of the Republic of Albania or of special legal foreseeing”.

\(^{4}\) Law No.7491, date.29.04.1991 “On the main constitutional provisions”, article 10, 11, 12.

\(^{5}\) Idem., article 14.

\(^{6}\) Law No.8485, date.12.05.1999 “Code of Administrative Procedures”, article 6.

\(^{7}\) For example. Procurement, Auction and Concession Contract.

\(^{8}\) Law No.8485, date.12.05.1999, article 2.

\(^{9}\) Idem., article 151, paragraph 2: “The following contracts are considered administrative: a) undertakings of the public works ; b) public works procurement; c) public service procurement; c) licensing of gambling; d) continuous supply contracts; dh) contracting services of private entities in cases of natural disasters”.

\(^{10}\) Law No.44/2015 “Administrative Procedure Code of the Republic of Albania”.

\(^{11}\) Idem., article 3, paragraph 4.

\(^{12}\) Idem., article 119, paragraph 1.
Also, the current regulation has increased the possibility for the public administration body to use the administrative contract, foreseeing the freedom of the administrative body to conclude this contract, enough to comply with certain conditions. These conditions, as foreseen by law\textsuperscript{14} in the form of insurmountable limits or borders are: a-the administrative contract can be concluded if the contract form is not expressly prohibited by law or does not contradict the itself nature of the administrative matter; and b-the administrative contract may be concluded if the public body is authorized by the law to decide on the matter with discretion. These two conditions must be fulfilled in a complementary way.

The connection of administrative contracts is foreseen, in special cases, by specific laws and this is due to the importance that this form of expressing the willpower of the public body, regulating the relations of that field, such as the law on public procurement, auctions and concessions\textsuperscript{15}. In these cases, the conclusion of an administrative contract is always the product of an administrative procedure, such as a competition for the selection of the most successful contract operator. This administrative procedure, which is concluded with a contract, is implemented through administrative acts. So e.g. for the conclusion of a procurement or auction contract, it is necessary in advance to adopt a decision (administrative act) for the ranking of bids and for the announcement of the winning operator\textsuperscript{16}.

Provisions of special laws are now generalized by the provisions of the Code of Administrative Procedure, which provides, that regardless of whether or not it is expressly provided for in a specific law, the public administration body may enter into an administrative contract if the above 2 conditions are met as provided for in article 119 of the Administrative Procedure Code. Moreover, according to the current regulation, the public body is free to choose whether to use the administrative act or the administrative contract to fulfil its public function but if it chooses to use the contract it is obliged in the body of the administrative contract to justify that the public interest is better protected by the signing of this contract\textsuperscript{17}. Thus, the new code for the first time mentions the concept of a substitute administrative contract, foreseeing that the public administration body may conclude a substitute administrative contract with the party to whom an administrative act could present if the public interest is better achieved through the administrative contract\textsuperscript{18}. The only limitation of this freedom is the need to always meet the two above-mentioned conditions (“the contract form is not explicitly prohibited by law” and “the public body is authorized to act discretionarily”). This is a prediction that for the first time is part in the Albanian legal regulation and represents a very important step for the intensive application of administrative contracts.

According to C.A.P, administrative contracts are two-way contracts, in other words impose obligations and rights on both contracting parties, which are simultaneously debtors and creditors of each other. The other party, not a public body, is obliged to perform or not to perform an action or to give something against the conduct of an action by a public body\textsuperscript{19}. In any case, this obligation assumed, serves to the public body for the fulfilment of an administrative public function, according to the purpose set out in the contract.

3. **Conditions of Validity and Causes of Cancellation of Administrative Contract**

The terms of validity of the administrative contract, due to its dual nature, must be sought at the same time in both laws that govern the private and public nature of the contract. Referring thus, in an integrated manner to the provisions of the Civil Code\textsuperscript{20} and C.A.P\textsuperscript{21}, the necessary conditions for

\textsuperscript{14} *Idem.*, article 119, paragraph 1, letter “a” and “b”.
\textsuperscript{17} C.A.P., article 120, paragraph 3.
\textsuperscript{18} *Idem.*, article 120, paragraph 1.
\textsuperscript{19} *Idem.*, article 120, paragraph 2.
\textsuperscript{20} Civil Code, article 663.
the assignment and validity of the administrative contract result to be:

a. **Free contract willpower**, expressed, of the parties should not be wasted (defective). In the case of a public body, his free willpower shall be levied if exercised in violation of the law. It should not be forgotten that we are dealing with an administrative body which, to reach the signing of the contract, expresses its willpower through administrative acts, which should be valid. Absolute invalidity of any of these acts automatically leads to a lack of constitution of willpower by the contracting authority for entering into a contract with the other party, which affects the related contract.

b. **The legal cause of the conclusion of the administrative contract** should always be the provision of services, works and goods, in the public interest.

c. **Object of the administrative contract** must always be defined at the initial moment of an administrative proceeding ending with such a contract. In the case of public procurement, the object of the contract is defined in the administrative acts: the Procurement Order and the Contract Notice, which precedes the administrative procedure and should be made transparent (to be published)\(^2\)

d. **Form of the administrative contract** it should always be written, unless the law provides another specific form, such as, for example, contracts related to a notary act or electronic form. At this point, the provisions of the C.A.P stipulates that administrative contracts are always formal contracts, prevail over the Civil Code, which provides for other "liberal" forms of private contracts. Also, C.A.P is also rigorous in terms of signing the administrative contract, stipulating that this contract must be signed by the parties or representatives manually or electronically, in accordance with the modalities set out in the legislation in force. The signature on behalf of a public body is based on an authorization issued by the relevant body\(^3\).

e. **The contract form is not explicitly prohibited by law or does not contradict the nature itself of the administrative matter**: In fact, the ban on the signing of the administrative contract generally does not appear expressly in this form but rather in the form of *imposing the issuance of an administrative act*. As interpreted in this way, we conclude that the public administration body can not conclude administrative contracts when the issuance of an administrative act is an explicitly mandated legal obligation, so that the lawmaker obliges the body to fulfil its function only through an administrative act and not through the contract. It should be noted, therefore, that administrative contracts are invalid when a particular relationship in the field of public law cannot be regulated by contract but only by an administrative act (e.g. the employment of employees in the civil service)\(^4\).

f. **The public body is authorized by the law to decide on the issue with discretion.** The discretion of the public body is the right of the above to exercise public authority to fulfil a legitimate aim in cases where the law partially foresees the modalities to achieve this, giving room for assessment of the election of the public body\(^5\). Discretion itself can be exercised legally when it is in compliance with the following conditions: a) it is provided by law; b) does not exceed the limits of the law; c) the election of a public body is done only to achieve the objective for which discretion is allowed and is in accordance with the general principles of this C.A.P; and; c) the choice does not constitute an unjustified departure from previous decisions taken by the same body in the same or similar cases\(^6\).

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\(^1\) C.A.P., article 119, paragraph 1.


\(^3\) C.A.P, article 119, paragraphs 2 and 3.

\(^4\) Sokol Sadushi, “E Drejta Administrative”, Tiranë 2005, Shtëpia Botuese “ORA”, pg.312, where it is mentioned the impossibility of appointing employees (civil servants) under contract, as the law expressly provides that such a thing is done only by an administrative act.

\(^5\) C.A.P, article 3, paragraph 3.

\(^6\) Idem., article 11.
3.1 The invalidity of administrative contracts as a legal and administrative action.

a. As legal action of the public administration body, the administrative contract can also be affected by the causes of the invalidity of legal actions. Thus, according to the provisions of the C.A.P., the invalidity of the administrative contract is governed by the provisions of the Civil Code which provide for the invalidity of legal action. In that sense, the administrative contract will be absolutely or relatively invalid if it is in contravention with a law order, is committed to deceive the law, is made in the agreement of the parties without the intention to bring legal consequences (fictitious or simulated), when one of the parties has no capacity to act as and when the party has committed the legal act by being deceived, threatened, unloosens or because of the great need.

Taking into consideration the manner of concluding the administrative contract and the parties participating in this contract, the decline in contravention of a provision of the law is exactly where the legal requirements governing the administrative procedures that precede the conclusion of an administrative contract have been violated. Thus, the law foresees regarding the invalidity of the administrative contract ex lege if the interests of third parties are violated by this contract in the form of non-compliance with the deadline and the administrative appeal procedure. For example, the Public Procurement Law provides that only non-compliance with the deadline for complaints by operators for the bid’s evaluation procedures, as well as failure to comply with the appeal procedure, invalidates the related procurement contract. Such a contract, concluded in the abovementioned conditions, is absolutely void because it is inconsistent with a provision of the law, in the sense of Article 92/a of the Civil Code, but also because the specific procurement law itself provides for such nullity. Therefore, the administrative procurement contract becomes absolutely invalid and this invalidity can be claimed at any time and by any interested subject solely because the contracting authority in the expressed willpower has not left the possibility of exhaustion of the possible administrative control of this willpower, by not giving to the third parties the opportunity to administratively appeal against the illegal actions of the administrative body. This invalidity can be claimed to be found in court, e.g. by each e-auction participant, since the above has a present interest in being the contractor of the administration.

The purpose of such a provision was, firstly, to ensure legality through the control of acts by which the contactor authority expresses his willpower at the administrative stage prior to the conclusion of the contract (which is wholly dominated by the rules and principles of administrative law) and secondly, it ensures the granting of the possibility of dissatisfied entities from this proceeding to complain about it.

Under the terms when the contract is absolutely invalid, it should be considered as non-existent, which means that the contracting party cannot, in such an administrative contract, benefit from the remuneration for the work performed under the terms of the contract. Regarding such a case, the Supreme Court stated in one of her decision: “The party cannot claim reward on the basis of a contract, as it is invalid, but may claim this reward on the basis of extra-contractual liability”.

b. Also, as administrative action, the administrative contract is invalid even in cases when

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27 Idem., article 122.
28 Civil Code, article 92 and 94.
29 Law No.9643, date 20.11.2006, “On public procurement”, as amended, article 58, point 6 “The assignment of the contract prior to the end of the notice of classification or before the administrative review has been completed, according to Chapter VII of this law, makes it absolutely invalid”.
30 Idem., Article 63/1: “Any person who has or has had an interest in a procurement procedure and when it has been damaged or threatened to be damaged by a decision of a contracting authority that is in contravention with this law, may appeal the decision”.
31 Decision of the Supreme Court No.822, date 12.05.2005 (“Curri” l.l.c vs. Ministry of Culture, Youth and Sports, with subject the obligated payment of additional work).
are not respected the two legal conditions for signing this contract, as provided in article 119, paragraph 1, letter "a" and "b" of the C.A.P (explained above), and when are not respected the requirements for concluding a substitute administrative contract 32.

As we have said, the administrative contract is an administrative action because it is preceded by an administrative procedure to reach the signing of the contract. Consequently, in principle, the invalidity of administrative acts forming the contractual willpower affects the invalidity of the administrative contract. In regard to this, the doctrine further supports the thesis that distinguishes in these contracts two stages, the administrative procedure stage and the contracting stage, but the first affects the inefficiency of the second since the beginning. This is the latest verdict held by the Italian Court of Cassation 33. Therefore, in the field of procurement, the absolute invalidity of administrative acts of the procurement phase can affect the validity of the procurement contract. If the contract is invalid, the administration is not obliged to execute it, but if it has allowed the execution, the private contracting entity must be rewarded and its financial interests should not be harmed. At the same time, precisely for the violations it has committed at the administrative stage, the contracting authority may be punished by paying the indemnity to any non-winner bidder.

4. Dominance of One-Sided Public Authority's Willpower in the Administrative Contract Where he is a Party

4.1 The ability of the contracting public authority to unilaterally terminate the administrative contract, if the public interest is violated.

The administrative contract is concluded at the conclusion of an administrative procedure, which is carried out through one-sided administrative acts through which the public administration forms and executes its contractor's willpower. It should be emphasized that, with the conclusion of the administrative contract, a new phase and that of the contractual relationship, regulated by civil law, begins for as long as it does not conflict with other more specific arrangements of public nature of these relations 34. Therefore, the provisions of the Civil Code should be applied but with the change that the features of the administrative contract as administrative action will always have to be taken into consideration.

If we will narrowly assess the private aspect of the administrative contract, we must acknowledge that the parties cannot give up contractual obligations unilaterally without the consent of both parties. This is the general rule, except in the cases expressly provided in the law, when (a) the contract itself or the law allows unilateral withdrawal from the contract or (b) the termination of

32 C.A.P, article 122, paragraphs “a” and “b”.
33 In decision No.7481 date.27 March 2007 of the “Corte Civile di Cassazione” Italy, the court, among other things, has stated that: “The contract of entrepreneurship, given with the announcement of the winner, signed at a second phase, has no pure autonomy and does not constitute a source of rights and obligations between the parties, but has merely the value of a formal and reproductive act destined to incur flaws that represent the administrative procedure with which it is inseparably linked and falls immediately and automatically without the need for another decision, but only of a decision proving the invalidity of the administrative procedure. The judicial or administrative downturn, the acts of the forming phase, through which the present contractual willpower of the administration is formed, deprives the above mentioned, with “ex tunc” effectively in legitimizing to negotiate. Substantially, the administrative body that has signed the contract, whenever ex tunc falls, one of acts of the administrative procedure, which constitutes the willpower of the administration (such as the decision to contract, announcement or winner announcement) is in the conditions of the “in jure” signing, deprived from the legitimacy granted to it by administrative acts. The annulment of the essential phase of the winner announcement, marks in an overriding manner, the absence of one of the terms of the contract’s validity, which, however, is private in terms of its legal effects”.
34 Law No.9643, date. 20.11.2006 “On public procurement”, article 60(3): “Without prejudice to the provisions of this Law and any other provision applicable by the contracting authority, procurement contracts shall be governed by the provisions of the Civil Code”.
the contract is a sanction of non-performance by the other party. Thus, the Civil Code provides, strictly, a one-sided termination of a contract only in 2 cases, which, by nature, are covered by the administrative contract:

i- The right to withdraw from the contract unilaterally may be valid only if the parties expressly provide for such a right in the contract. The parties may also foresee for the payment of compensation against the opposite party towards whom the withdrawal is directed. Such a provision of the Civil Code may be used in the case of administrative contracts, providing for the possibility of withdrawing a public party as a clause in the General Conditions of the Administrative Contract. Thus, procurement contracts can be envisaged as a general condition that the public administration body (the contracting authority) may withdraw from the contract implementation even after it has been concluded in the case when the public interest is proven to be affected in relation with this contract. It is understood that for this purpose the public administration body has to pay compensation to the other party because of this withdrawal, as it is presumed in good faith.

The right to withdraw from the contract unilaterally, according to the Civil Code, may be valid even if the law with a special provision provides for the right of one of the parties to withdraw from the contract even after it has begun to be implemented. In the case of an administrative contract, this right is generally, but explicitly provided by the provisions of the Code of Administrative Procedure (Article 123, paragraphs 2 and 3). According to this forecast, the public body may withdraw from the administrative contract unilaterally to avoid or stop the violation of the public interest. Such withdrawal must be made with an administrative act, written and reasoned, of the contracting authority, as well as compulsorily compensation for the damage caused to the other party. In this way, the foreseen of the Code of Administrative Procedures is not contradicted, but is in line with the provisions of the Civil Code.

ii- The termination of the contract may be conducted unilaterally from one party and also as a sanction of non-fulfilment of obligations from the other party, if non-compliance is of such relevance as to justify the extreme extent of the termination of the contract unilaterally. Even in this case, the public administration body may benefit from an administrative contract to terminate the contract unilaterally, claiming that the public interest has been violated, since the private party has not fulfilled the contract, which means that has not providing any public service. The termination of the contract in this case can be justified based on both the Civil Code (article 698) and the C.A.P (article 123). The particular in the administrative contracts is that the violation of the public interest allows the administration to terminate the contractual relationship at any moment without being necessarily linked to the fact of the execution or not of the contract by the other private party. This fact substantially distinguishes the administrative contract from private law contracts. A one-sided solution for public interest reasons constitutes a discretionary power to the administration that is known for all administrative contracts even if it is not provided in the terms of the contract.

4.2 Possibility of unilateral amendment of the administrative contract by the contracting public body

In special cases, the administration may change the size of the contract's object by adding or reducing it, as unforeseen contingencies arises. Such a possibility is based on the requirements of public service, which is based on a very important principle, such as the continuity of public service, a principle which is not explicitly expressed in our legislation. Such a possibility exists in all administrative contracts, but is not unlimited for the administration. The change of the administrative contract must be such that it is in the interest of the functioning of the public service, but on the

35 Civil Code, article 696.
36 Civil Code, article 698: “In mutually agreed contracts, where one of the contracting parties fails to meet its obligations, the other contracting party, as the case may be, may require the fulfillment of the obligation or termination of the contract, except for compensation of the damages caused”.
37 Civil Code, article 699: “The contract can not be settled if the non-performance of the obligation by one of the parties is of little importance to the interests of the other party”.
other hand, it should in no way affect the financial interests of the other contracting party\textsuperscript{38}. The administration, in making these changes, is limited by law, for example, public procurements may be made up to 20% in additional work and further procurement procedures need to be developed. It may require the performance of an addendum, but up to this limit set by law, otherwise, the other party is not obliged to execute and may seek termination of the contract. Thus, C.A.P provides that if due to the circumstances revealed after the conclusion of the contract and unforeseeable at the time of its assignments, the continuation of the performance of contract obligations becomes very difficult for one of the contracting parties; they may agree to change or cancel the contract\textsuperscript{39}.

A very important problem after the conclusion of the administrative contract is how a private contracting party can be protected if the public party (administrative body) interferes in this contract with unilaterally administrative acts. In regard to this case, judicial practice has maintained the position that the private party cannot protect its contractual rights by affecting the administrative act, but only by seeking the protection of the contractual relationship. So in a decision of his own, the Supreme Court\textsuperscript{40} has tatted that “Regardless of the content of the administrative acts, they are issued by the contracting authority and are compulsory for it, while for the other party they do not have any consequences, as their merger is regulated on the basis of the respective contract and each party, for what the claim might be, can address to the court to protect the rights alleged as violated in the contract. Under these conditions, the private party is not legitimized to defend its alleged rights by seeking the annulment of the administrative acts of the contracting authority, which, if they affect the contingency provisions, the protection of rights should have been made on the basis of legal protection of the contractual merger. As a matter of principle, administrative acts may be necessary for the connection of contractual relations, and then upon the conclusion of contractual relations, the respective disputes between the parties will be resolved on the basis of legal requirements, regulating the respective contractual relations...”.

4.3 Limited capacity of the public body to negotiate in administrative contracts

It should first be acknowledged that the public administration is deprived of contractual freedom and is not able to base its rights and obligations solely on its free willpower; hence it is not characterized by the autonomy of the private willpower and contract freedom. Its activity to conduct an administrative contract is under the influence of the permitted powers by law and to the extent that it determines. Otherwise, the contract would be invalid because it would be in contravention to the law. Therefore we say that in administrative contracts, the public body has \textbf{no negotiating autonomy} or this autonomy is quite limited.

This restriction is noticed in the fact that the public administration is not free in the choice of the other contracting party, as the above is elected by competitive and equal procedures between the bidding candidates, where operate the principles and rules of administrative law. Also, the restriction is noticed in the impossibility of the public administration body to set the terms of the administrative contract completely freely, which in some cases implies the imposition of the general conditions of the contract as standard models previously approved by the competent authorities\textsuperscript{41}. Moreover, the willpower expressed by the administration in the choice of the contractor will be subject to administrative control through appeal\textsuperscript{42}, or mainly\textsuperscript{43}, in order to verify the implementation

\textsuperscript{38} C.A.P, article 119, paragraph 1: “The public body, for the realization of a public interest to which it serves but without prejudice to the interests or rights of third parties, may conclude an administrative contract...”
\textsuperscript{39} Idem., article123, paragraph 1.
\textsuperscript{40} Decision of the Supreme Court No.513, date 11.03.2003 ("Arberi" l.l.c vs. Municipality of Ballsh, with the subject of revocation of administrative act).
\textsuperscript{41} For example: General Terms of Contract, adopted through Standard e-Auction Documents, drafted, approved and made public by PPA (www.app.gov.al).
\textsuperscript{42} For example: The control exercised by the Public Procurement Commission (CPC), which is the highest procurement body reviewing complaints about procurement procedures, ... The CPC, at the conclusion of the review of complaints, makes decisions which are administratively final (article 19/1 of the CCP).
\textsuperscript{43} For example: Verification for the implementation of public procurement procedures, after the phase of signing the procurement contract done by the Public Procurement Agency (PPA), article 13 of the CCP.
of the legal provisions that authorize the administration to make this selection. However, the contract cannot be entered if it is not possible to control the willpower of the administration on an administrative basis and if it is signed, under these conditions, it is invalid.

Regarding the capacity for the negotiation of the administration, broadly exist the idea that in the category of defects of legitimating to contact, are included of all those defects, other than the lack of legal capacity and that to act, from which derives the ability of the subject to be official of subjective rights and to perform the functions effectively and efficiently. The willpower expressed by the administration in the choice of contractor (the will expressed through administrative acts) must be legal; otherwise the shortcomings of pre-contractual acts are translated into defects of the negotiating capacity of the administration. If the administrative act of selecting the contractor is invalid, this means that the willpower of the administration to choice the other contracting party is invalid and this has an impact on the contract, as the administrative body is in the conditions where it has contracted without the necessary legitimacy.

5. The Possibility of a Third Party to Impinge the Administrative Contract

The violation of the interests of a third party may become the cause of the disruption of the administrative contract, in some way, which is analysed as follows:

i. If the damaged party requests the public administration body to withdraw from the contract due to a violation of the law, the above may decide to withdraw from this contract that is related to the third party's interest if you consider it a violation of the public interest. The unilateral withdrawal from the administrative contract, in order to avoid the violation of the public interest, as mentioned above, is provided by the provisions of the C.A.P.45

ii. The third person to whom the interests have been violated may require the administrative court to repeal the administrative act through which the public administration body has decided to enter into an administrative contract. Thus, the third affected entity, who claims to be a winner, in the case of the procedures for concluding a procurement contract, concession, or PPP,46 may require the abrogation as absolutely void of the administrative act by which the administrative body has concluded the contract signing. The repeal of this act should oblige the administrative body to break the administrative contract in agreement with the other contracting party, or to withdraw unilaterally from the administrative contract, as we are in the conditions when the will of the public body is overthrown. This conclusion is a consequence of considering the administrative contract as an administrative act. If the administrative body fails to do so (does not break the contract in agreement with the other party or does not withdraw from it unilaterally), then the third person, who has abolished in court the administrative act of creation of the willpower of the public body, may seek compensation for the signing of an administrative contract which has violated his legitimate rights.

iii. A third person, as a rule, can not seek direct court termination of an administrative contract, concluded between an administrative body and another entity, due to the action of the principles of private law. Thus, in principle, the court can not resolve the conclusion of a contract concluded between the two parties, if such a request is not directed by one of the parties of the contract. But if the absolute invalidity of the administrative contract is foreseen by the specific law itself, because of the violation of the mandatory provisions, then a third party (not party to the contract) may seek its nullity. Such is the case of the procurement contract, which is qualified by the law itself as absolutely invalid if it has been concluded without respecting the deadline and procedures of administrative appeal.

If we refer to the legal framework regulating the activity of an administrative court, which limits

44 Nicola Durante, “Arresti giurisprudenziali in tema di annullamento dell’aggiudicazione ed effetti sul contratto medio tempore stipulato”.
45 C.A.P, article 123/2: “The public body may withdraw from the administrative contract unilaterally to avoid or to stop the violation of the public interest”.
46 Law no.125/2013 “On concessions and private public partnership”. 
the types of lawsuits that may arise, we should say that the third person, affected by the
administrative contract, may request separately, or jointly:

a. **ascertainment of the illegality of the administrative action** (in other words of the
administrative contract) that no longer produces legal consequences for the plaintiff, since
it is already signed between the two parties, always if the plaintiff has a reasonable
interest in this; and

b. **the accuracy of the rights and obligations between the plaintiff and the public body**, in
other words, the determination of the compensation that the administrative body has to
pay, or other actions which he has to take in order to put in place the rights of the plaintiff

Whereas, if an administrative contract, which violates the legitimate interests of a third party,
is not yet concluded, a third party may require the public body to prohibit the performance of an
administrative action (contract signing), which is necessary to protect the rights or interests of the
plaintiff

6. **Features of Administrative and Judicial Appeals for Administrative Contracts**

6.1 **Appeal for public procurement procedures**

With regard to procurement procedures, the highest body that reviews the administrative appeal
and makes administrative decisions for the procurement procedure is the Public Procurement
Commission (CPC). Final decisions are considered the decisions made by the appellate review
body, which itself resolves the administrative conflict and does not return it for reconsideration to
the lower body that initially issued the act, giving a final settlement to the case. The appeal to the
court against these decisions does not suspend the procurement procedures nor the contract
signing or the execution of the contract concluded by the respective parties. The question arises
as to what the complainant (the non-successful bidder) will ask the court and to whom?

- before the signing of the contract, it will be a lawsuit that will challenge the decision of the
competent administrative body (of the contracting authority or the CPC). In this case,
therefore, prior to the signing of the contract, the administrative and judicial appeal may be
made in order that the respective administrative body may order the cancellation of the
contract award procedure.

- after the signing of the contract, article 64 of Law No.9643, date 20.12.2006, foresees
that: "(4). Upon the conclusion of the contract, when the CPC determines that a decision
or action by the contracting authority is in contradiction with any of the provisions of this
law, it is entitled ... to make a declarative decision under which the judicial power may
compensate the complainant, which has suffered loss or damage as a result of the
violation of this law". From this legal provision it results that the procurement law itself in its
content, does not allow the cancellation of the procedures after the contract is concluded,
by not allowing the administrative body to intervene in the related administrative contract
as the above will continue to show the effects. Here, the exception is only the case when
the procurement contract is absolutely void, as it contravenes a provision of the law. In this

47 Law no.49/2012 “On the organization and functioning of administrative courts and adjudication of
administrative disputes", as amended, article 40, paragraph 1, letters “d” and “dh”.
48 Idem., article 40, paragraph 1, letter “e”.
51 Law No.9643, date. 20.11.2006 “On Public Procurement”, as amended, article 64/3: “(1) The parties have the
right to file a lawsuit for review of the administrative dispute against the decision of the Public Procurement
Commission at the Tirana First Instance Administrative Court. (2) The examination of this appeal to the court
does not suspend the procurement procedures, the conclusion of a public contract for the procurement of
goods, services or works by the contracting authority or the execution of the obligations, according to the
procurement contract by the respective parties".
52 Idem., article 64, paragraph 3.
If we are not dealing with the absolute invalidity of the contract, which is explicitly provided by the law, the procurement contract will continue to be in force despite the violation of the e-auction procedures. Such a legal provision in our legislation, in line with the community one, serves the legal certainty and also the continuity of the performance of works, services and public supplies. Of course, it is guaranteed the right to claim compensation to the court for the damage sustained by the legal violations of the administration bodies in these proceedings. Regarding the claim for compensation of damage, we will have to do a claim for extra-contractual damage compensation according to the Civil Code 53, which should be judged by the administrative court, as it relates to damages incurred by the enforcement of administrative acts.

6.2 Judicial appeal in respect of administrative contracts

Any dispute between the contracting parties, resulting from an administrative contract, is solved directly by the competent court for administrative issues 54. The lawsuit that may be filed in any case is the lawsuit to be filed if we were in front of a private law contract. In addition to this legal basis, should be taken into the consideration the specific provisions of the public law, such as, for example, public procurement legislation.

If the administrative body intervenes unilaterally in the contract and the contracting party disagrees, then the above may be in front of the dilemma: to oppose the intrusive administrative act or to base its claims solely on the basis of the contract. The Supreme Court has established a consolidated practice by not accepting the protection of contractual rights by complaining about the act issued by the other party (administrative body), but based on the legal requirements for the protection of the contractual relationship between parties 55.

As for third parties, our jurisprudence has been based on the view that the third party that has been damaged by an administrative contract cannot break this contract. In this case, the third may impinge the act/administrative acts that have led to the conclusion of the contract as unlawful public administration actions, seeking damages for the illegal actions of the administration for the incurred damage. However, in cases where the specific law itself provides for the absolute invalidity of the administrative contract, due to irregularities in the constitutional acts of the public contracting willpower, this invalidity (since it is of an absolute nature) may be required by any third interested person.

7. Conclusions

Administrative contracts are a sui generis type of contract, because the foundations of their legal regulation are in the private law and, in the same time, they are subject to specific arrangements of the public law. In this way, the civil law is applied to the extent that it is not provided otherwise in these special regulations of public law. This dualistic nature of administrative contracts places opposite each other the two main principles of both private and public law. Freedom of contract willpower and equality of the parties shall apply to such contracts, as long as the principle of public interest protection, provided in the special administrative legislation, does not impose the dominance of the unilateral authority of a public body. The direct consequence of this nature is the fact that the necessary conditions for the connection and validity of the administrative contract are cumulatively found in Civil Code and C.A.P.

The direct consequence of the above conclusion is the fact that the violation of the public interest allows the administration to terminate the contractual relationship at any moment without

53 Civil Code, article 608 and following.
54 C.A.P, article 125.
55 Decision No.513, date 11.03.2003 of the Supreme Court: “..... In these circumstances, the plaintiff is not legitimated to challenge the administrative acts issued by the respondent body as in the present legal and factual situation the parties between them have contractual relations".
being necessarily connected to the fact of execution or not of the contract by the other party. A unilateral termination for public interest purposes constitutes a discretionary power to the administration associated with its obligation to reward the other party. In special cases, the administration may change the size of the contract object by adding or reducing it, as earlier unforeseen contingencies are raised. Such a possibility is not unrestricted for the administration, as the public interest does not have to affect the financial interests of the other contracting party but the private party cannot protect its contractual rights by affecting the administrative act but only by seeking protection of the contractual relationship.

The collapse in contravention of an ordinate provision of the law is an invalidity clause which, in administrative contracts, is manifested in the case when the legal requirements governing the administrative procedures which precede the conclusion of an administrative contract have been violated. Thus, the law on specific contracts expressly provides the invalidity of the administrative contract *ex lege* if the interests of third parties are violated by this contract in the form of disrespect of the deadline and the administrative appeal procedure. In these cases, the absolute invalidity of administrative acts of the procurement phase may affect the validity of the procurement contract. For this reason, the third person to whom the interests have been violated, in addition to the compensation, may request to the administrative court the abrogation of the administrative act through which the public administration body has formed the willpower to conclude the administrative contract and as consequence the invalidity of the administrative contract itself.

The importance of protecting the public interest brings the limitation of the negotiating autonomy of the public body. This restriction is noticed in the fact that the public administration is not free to choose the other contracting party and the impossibility of the public administration body to set the terms of the administrative contract completely freely, which implies in some cases the imposition of predetermined contractual standards models.

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Social Networks and Civic Mobilizations (Portugal, 2012)

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Abstract

In Portugal, in 2012, the movement “To hell with troika! We want our lives!” emerged from digital social networks and with demonstration on the street on September 15. This social movement has patented new forms of public mobilization and protest motivated by citizens' dissatisfaction with the austerity measures of the Portuguese government, but it is part of the line of protest that has been taking place at the international level. Social networks were used to trigger mobilization, but the protest did not dispense with the traditional forms of expression in the public space, such as gatherings in the squares, rallies, marches and posters. Using a corpus taken from the written press, the event was analyzed using a theoretical and conceptual framework of theories of public space, social movements, and social networks. In this article we intend to reflect on the current protest movements, social networks and collective action, at a time when activism is exercised in electronic connections and in the street. Through this movement we aim to question whether we are facing new configurations of mobilization, visibility, public action and the creation of a common space, and / or if we are facing a continuity of the traditional social movement with the incorporation of new "repertoires of action”.

Keywords: Portugal, social networks, civic mobilizations

1. Introduction

Digital technologies of communication have been used in recent public demonstrations of protest, in different parts of the globe, from the Arab world to Western capitals, from Turkey to Spain or Bulgaria, from the USA to Brazil, establishing new modalities of expression and public mobilization. Following the eruption of demonstrations in the Arab world, in 2010-11, various movements have used technological connections, while calling for participation, unleashing complaints, protests, and claims, and occupying the streets – Geração à Rasca (Portugal, 2011), Occupy Wall Street (2011; expanding from New York into other cities in the world), Movimiento 15-M or Indignados (Spain, 2011), Que se lixe a Troika! (Portugal, 2012 and 2013), demonstrations in Bulgaria (2013), Não vai ter Copa (Brazil, 2014; against the World Cup). Digital social networks have become the main medium for public mobilizations in large cities, leading to new forms of activism that escape the established powers. These new demonstrations of protest use the internet and mobile connecting devices with unlimited possibilities of exposure of images, word spread, and dissemination of messages. They may erupt online and rapidly expand into the streets or any other territory, being reported in real time, with live transmission of images, sounds, and speeches. Our aim is to consider these recent protest movements, focusing on the way activism has been exercised in the electronic media and in the streets, with a brief analysis of the Portuguese protest movement Que se lixe a Troika! Queremos as nossas vidas! (To hell with the Troika! We want our lives!).

2. The Role of Digital Networks in the New Forms of Activism

The new communication technologies have introduced changes in the practices of mobilization
(Granjon, 2011) and reconfigured the practices of interaction and activism. Considering the cases previously mentioned (Geração à Rasca, Occupy Wall Street, Indignados, Que se lixe a Troika, etc.) it is possible to notice that there has been a progressive change from collective mobilizations, included in a political, party-based, and ideological framework, to "individualized forms of expressive commitment" (Cardon and Granjon, 2013) on the internet, without any party or trade union structure. In fact, there is an individualization and self-organization of communication at the level of networks, with a tendency to the individualization of informational mobilizations – "mass self-communication" (Castells, 2009) or "mass-interpersonal communication" (Baym, 1998, apud Mercklé, 2011: 11), articulating what would once be irreconcilable: personal and individual communication with mass communication, as it can reach a global audience.

In net-activism (Di Felice, 2012, D. Cardon and F. Granjon, 2013), which is based on a new type of action in social digital networks (Di Felice, 2012), in accordance with the kind of reticular sociability that is created in them, there are no leaders nor structured social organizations to convene and coordinate the demonstrations. These new forms of diffusion, protest, public mobilization, and civic action that have emerged (Neveu, 1999; Cefaï, 2007; Rouet, 2013) have introduced changes in the forms of collective action and social movements, giving rise to demonstrations whose strength is more emotional than ideological, displaying expressions and often adopting a creative register of proclamations and claims, frequently marked by ethical principles of values and pluralism. This was the case of the demonstration "Que se lixe a Troika", which took place in Portugal, on 15th September 2012. The mobilization revealed a new form of activism and public protest; it was not linked to any organization and there was plurality and heterogeneity in terms of participation.

However, and considering the movements we are referring to, it is important to emphasize that the new modalities of communication and public exposure allowed by the electronic media coexist with collective action in urban spaces, either by unleashing or incorporating it. Cyberactivists resend actions of protest to urban spaces and mobilizations which start on the internet are rapidly transferred into the streets, with the symbolic meaning of the places and the scenic dimension created by the presence of all protesters in a common space (Tahrir Square in Cairo, the Gezi Park in Istanbul, Puerta del Sol in Madrid, etc). As Massimo Di Felice (2012) argues, user-actors, devices, technologies, networks, and databases are all involved in these mobilizations, which constitute new ways of inhabiting urban spaces. Net activists launch slogans, unleash protests and claims, start petitions, establish different logics of sociability, sharing expressions, gestures and emotions; they endow themselves with discursive, rhetorical, aesthetic, and expressive registers and repertoires; they intervene as activist-participants in public spaces.

These features are to be found in the demonstration of the 15th September, a protest that started in social networks: citizen-users incited the mobilization in Lisbon and in other parts of the country, as well as in other European cities and in Brazil, claiming that the slogan was not to stay at home. On Facebook and Blogger, the protest that was felt throughout the country, and which spread to other parts of the world, was called "To hell with the Troika! We want our lives!"^2^

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1 "The organizers of today's demonstration explained that the protest was not motivated by political parties or trade unions (headline).The organizers of the demonstration "To hell with the troika! We want our lives!" held today a press conference in Porto to clarify that this protest is spontaneous and has not been organized by political parties or trade unions. (...) The demonstration "To hell with the troika! We want our lives!" aims to unite the Portuguese so that they say "Stop!" to the austerity measures announced by the Prime Minister, said João Lima, (...) 'we are not politicians, but we are intelligent enough to see that these policies are incredible harmful, he added "We demand a retreat from the Prime Minister" (expresso.sapo.pt/promotores-da-manif-desvinculam-se-de-partidos-e-sindicatos=f75357; Lusa |17:35 Sábado, 15 de setembro de 2012).

2 "In Lisbon, thousands of people are already on their way to the Plaza de España and in Oporto there are also thousands of people parading on Avenida dos Aliados against the austerity measures announced by the Government, in a protest that will also take place in other 40 Portuguese cities" (DN 15/09/2012).
3. The Movement “To Hell with the Troika! We Want Our lives!”

On the 15th September 2012, there was a major demonstration in Portugal. This movement was organized by a group of citizens as a reaction against the crisis the country was facing as well as against the measures politicians were taking to solve it.

On the 6th April 2011, the Portuguese government asked for external help to solve the country’s financial crisis. The failure to pay the public debt, to lower the public deficit, and the need to obtain funds to inject into public companies that were technically bankrupt led the country to sign a memorandum of understanding with the Troika (the International Monetary Fund, the European Central Bank and the European Commission). Since then, both the economic difficulties and political instability increased.

This context of difficulties and the widespread dissatisfaction led to the creation of the platform "To Hell with the Troika! We want our lives". It was a spontaneous, horizontal movement, with no political affiliation, which quickly disseminated in social networks as a movement of ordinary citizens, from distinct areas and political persuasions. Its purpose was to channel popular discontent, while organizing a major national demonstration of democratic citizenship, so that the Portuguese could protest against the severe austerity measures.

In their manifesto they claimed:

"We must do something extraordinary. We must take the streets and squares of the cities and our fields. We must join the voices, hands… We must do something against submission and resignation, against the bottleneck of ideas, against the dying of the collective will. We must call upon the voices, arms and legs of all people who know that the present and the future are decided in the streets. (...) The sacking (loan, help, rescue, names that are given to it, depending on the lie that they want to tell us) came together with the application of devastating political measures… The austerity imposed on us destroys our dignity and our life, it does not work and destroys democracy. We must overcome the fear that has been skillfully widespread and, once and for all, realize that we have almost nothing to lose and that the day will come when we will have lost everything because we have shut up and given up. (...) They divided us to oppress us. Let us join together to free ourselves!" (queselixeatroikablogspot.pt 15th September 2014)

Despite the fact that the 29 subscribers of the movement presented themselves on the internet as a group that was not organizational nor had any party affiliation, the original idea for the movement seems to have come from the organization "Inflexible Precarious" (IP). (vice.com/ptauthorrurimarçal - August 8, 2013).

The four mentors of this movement were all activists of this organization and one of them was also a militant of a party (Portuguese Communist Party). The role of these four elements was to gather people, ordinary citizens, not embedded in organizations, who shared the same goals, in order to achieve a consistent group of anonymous protesters. This initiative was carried out outside the IP and the first meeting, which occurred in mid-June, took place at the home of one of the activists. The Prime Minister himself would give the demonstration proponents the idea that would serve as a motto to convene the protest. In July of that year (two months before the local elections), the Prime Minister used the phrase "to hell with the elections" in a speech, during a dinner of his parliamentary group (PSD) at the Assembly of the Republic. This same sentence was reused to create the slogan "To hell with the Troika! We want our lives!", which would turn against the government.

The group meetings were intensified and, in mid-August, João Camargo, a member of the IP and the leader of the party Bloco de Esquerda, joined them to coordinate the movement (vice.com/ptauthorrurimarçal). The main worry was to increase the number of subscribers and to prepare the demonstration, expecting the logistical support of the IP. The date for the public mobilization was set, considering the moment when "the social divide" would be at its maximum, close to the presentation of the first package of the austerity measures. This way, and according to João Camargo, a "moment of rupture" would be created (vice.com / ptauthorrurimarçal). A large demonstration took place on the 15th September 2012, as the group had planned. On that day, about a million Portuguese were in the streets of their cities to protest. It was the biggest
demonstration that occurred in the country after the revolution of the 25th April³.

In Lisbon⁴, more than 500 thousand people joined the movement. The concentration started at Praça José Fontana and ended at Praça de Espanha. There were thousands of people at the square, the music was echoing and was interrupted now and then by the speeches delivered by some of the participants. At five o'clock, the protesters followed the planned path, with their clenched fists in the air and bearing the national flag, or posters, in which one could read the phrases that expressed their emotions: "thieves"; "the people united will never be defeated"⁵ (Diário de Notícias [DN] 15/09/2012). Along the way, they passed by iconic locations such as Saldanha and Praça da República. The fact that the movement ended at Praça de Espanha was not occasional. Besides being an area with considerable dimensions, allowing to safely accommodate the many people who were there, therein lies the official residence of the Spanish ambassador, the country where protests against austerity would occur synchronously. On the 12th, in the text with the itinerary that had been published on Facebook, the group had referred to that they wanted the movement to be an "Iberian protest". In the city of Porto, Avenida dos Aliados was also full of people who shouted slogans against austerity. In other adhering cities, the scenery and action were identical.

At a press conference in Porto, on the same day of the demonstration and just before the protests, the organizers reinforced the fact that the movement was spontaneous and nonpartisan. One of the demonstration subscribers, stated that they did not want a protest with protagonists of political parties, trade unions or other organizations. The goal was to unite the Portuguese so that they would say "Stop!" to the austerity measures announced by the Prime Minister (Jornal de Notícias [JN] 15/09/2012). These people believed that the political inflexibility was "sinking" the country and that other measures should be taken. Therefore, they proposed solutions such as:

The renegotiation of the Portuguese debt, the negotiation between the Government and the oil companies for dropping the prices to stimulate the economy and ease the wallet of the population, increasing the rigor in terms of public asset management. (JN, 15/09/2012).

The indignation of about one million people was not totally ignored by the Government. The contribution to social security⁶, one of the most controversial measures of the executive, turned out to be reviewed.

The movement did not end with this demonstration of the 15th September 2012. In 2013, there were two other major demonstrations: one on the 2nd March, under the motto: "To hell with the Troika! – the people have the power"⁷; the other on the 26th October "To hell with the Troika! – there are no dead ends". The repertoire of social criticism intensified, as well as the demands for the solution of the economic and social problems.

This movement has raised many issues, namely the perception that if we are facing new ways of mobilization and acting in public, we must consider the repercussions these will have in the context of the contemporary public space.

4. The 15th September 2012: a Networked Social Movement?

As it was previously mentioned, many of the demonstrations that took place in the streets of some European cities, as well as in other cities in the world, were called through social networks. The promoters of these mobilizations of protest, using digital platforms, presented themselves as common citizens, without any formal organization or party and ideological affiliation, claiming that these large public demonstrations would express the social discontent caused by the economy and

³ The Portuguese revolution of the 25th April 1974 marked the end of the fascist regime and the establishment of a democracy in the country.
⁴ The capital of Portugal.
⁵ A slogan that marked the period around the 25th April revolution.
⁶ It is a body set up by the Portuguese State that is constituted by the Providential System and the System for the Social Protection and Citizenship.
⁷ This slogan also marked the period around the 25th April revolution.
the policies of the various nation-states. Portugal faced this scenario, too, with the movement QSLT, in 2012. The analysis of this movement will help us understand whether we are before a new social phenomenon or a change in the "repertoire of action" of social movements.

Over time, the concept of social movement has evolved as society has transformed, but it has always involved collective action in the public space. The social movement was associated with the collective action process of a particular social group and the way this same group, through public demonstrations, acquired consciousness and power (Tilly, 1978); hence the relation of the concept to the industrial society of the West and the rise of the labour movement – it was organized, it had a program and a context. However, Eric Hobsbawm (1978a) showed that there were pre-industrial social movements, which he designated as "archaic" or "primitive" movements, because they were spontaneous, sporadic, localized and apolitical. These forms of action were limited to the constraints of the historical moment. There were changes in the forms of collective action, but only in the nineteenth century, with the great economic and social changes that occurred during the industrialization.

Due to these permanent mutations and proliferation of collective actions in the turn of the twentieth century to the twenty-first century, Tilly considered it necessary to clarify that not every collective action corresponds to a social movement. The social movement is a kind of protest that goes beyond the mere occasional protest. Thus, in his work Social Movements: 1768 - 2004, he concluded that only a movement that displays a combination of certain elements, which result in a certain "formula", can be considered a social movement.

This formula combines three elements: 1) Campaigns, collective claims directed to target authorities; 2) Repertoires of action, which include a set of claiming performances such as demonstrations, public meetings, marches, petitions, statements to the media, etc.; 3) Demonstrations of WUNC (worthiness, unity, numbers, and commitment), that is, concerted public representation to demonstrate respectability, unity, numbers, and commitment on the part of the elements of the movement, members and/or followers of the cause in question.

Does the 15th September movement display the elements that constitute a social movement? The "campaign" presupposes everything that precedes the action, which allows to sustain the motivations of the movement, giving it consistency. Within this context, we must consider all mobilization actions of the group responsible for the manifesto against the Troika, which circulated in social networks, as well as in traditional media, through the interviews of the movement subscribers. The protest had a very specific goal: to end the austerity that the government had imposed on the Portuguese people, by accepting the presence of a supranational entity - the Troika. All actions of this campaign eventually establish a relationship between the group of proponents, the group of demonstrators and the government, which resulted in the acceptance of the demands of the protest – the review of the single social tax.

Regarding the "repertoire", or action strategies, there were public meetings, demonstrations, and statements to the media. The movement did not end on the 15th September; other events were held throughout the year 2013, including participations in other events organized at national and international levels, which shows that there were claiming performances within the movement “To hell with the Troika”. As for the "demonstration" WUNC, the respectability of the actors was ensured by the heterogeneity of the people who participated in the movement, in terms of age, social class and ideology, showing intergenerational and motivational cohesion. In addition, there were nonpartisan subscribers with recognized public merit, as the composer António Pinho Vargas or the actress San José Lapa. There was an impressive number of protesters. One million people in the streets can only mean unity and identification with a cause. The commitment was certified in subsequent actions. On the 13th October 2012, promoters and demonstrators of the 15th September movement integrated the international protest Global Noise. In 2013, they promoted two major demonstrations, one on the 2nd March and another one on the 26th October, they attended the trade union (CGTP) demonstration on the 4th July, and they organized small actions, such as the protest at the residence of the Prime Minister and boycotts during official government acts, singing

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8 We also find "pre-industrial" movements in Portugal in the nineteenth century (Silva, 2013).
emblematic songs of the 1974 revolution, which shows a continuity plan and the responsibility of the activists.

It seems that the movement “To hell with the Troika” gathers all elements of Tilly’s formula and also what Tarow (1998) and then Tilly (2004) named as modular character. The adoption of strategies, the innovation and the sharing elements that were seen in other movements and contexts were transposed into the Portuguese reality, with no loss in terms of national uniqueness.

Within this perspective, the protest QSLT corresponds to a social movement with a new repertoire of action, particularly the mobilization in technological social networks. A social movement understood structurally, with historical importance, only happens in the streets; the street is the scenario where collective action takes place. In digital networks, as far as net-activism is concerned, there are individual actions connected through technology. These individual actions of protest or claim, with a proposal for collective mobilization, may not leave the network. The conditions for the common action and claiming are only established when the subjects physically meet in a common space. As Zygmunt Bauman observes, "you belong to the community, but the network belongs to you" (El Pais, 9th January 2016). There is no online community, at most there is an "imagined community" or an "unprecedented dwelling condition" (Di Felice, 2013). Bauman also argues that networks do not unite people, they isolate them. Dialogue, physical proximity, and the feeling of what is happening in the streets are of major importance to deepen the sense of identity and solidarity that leads to group emotion and fosters the social movement, the claiming, and the production of political, institutional, or cultural changes. In social networks there is no ideological or even utopian hegemony; the subjects are only motivated by a feeling of discontent, disenchantment, and indignation before the economic and political conjuncture (Gohn, 2014: 13).

Massimo Di Felice (2013: 59) has a different view on the subject. According to Felice, "modern social movements" are quite distinct from "networked social movements", once the latter present these characteristics: 1. Anonymity and absence of collective political identity; 2. Discourse without ideology; 3. Multiple cosmopolitical objectives; 4. Strange action towards the struggle for power; 5. Networked non-hierarchic organizational format within a network; 6. Elliptical action, which is not only directed to the exterior; 7. Refusal of any kind of institutionalization; 8. Unpredictability; 9. Synchronous temporality; 10. Space of action: atopia and info-localities.

The movement QSLT, though it was created in and fostered by social networks, lacks some characteristics of the "networked social movements", suggesting the continuity of traditional social movements ("modern social movements"). There was no absolute anonymity, since it is known that it was an idea of four members of the Inflexible Precarious, according to the interviews they gave at the time (this association, which emerged as an informal movement in 2007, became institutionalized in July 2012, with statutes and social bodies). Moreover, there was no total absence of political identity, once two political parties were represented: the Portuguese Communist Party and Bloco de Esquerda, through their militants. On the other hand, the sense of struggle was at the basis of the discourse, with the occupation of streets and squares, showing that the will of the people must prevail. In fact, it was possible to notice a clear association with the revolutionary movement of the 25th April, 1974, which led to the fall of a dictatorship with more than 40 years. The discourse inherent to the demonstration QSLT was undoubtedly ideological. The protesters were defending freedom, human rights, and democracy against the tyranny of the austerity policies of the Portuguese government and the international economic organizations. The sarcastic and bitter messages of the posters displayed against the prime minister and the members of the government were quite obvious. In addition, the active participation of the IP members reveals that the ideology of their organization existed in the movement QSLT. The objectives of the IP – “to regain confidence, the sense of usefulness and the strength of collective action to defend employment, fight for better wages and against precariousness” (manifesto of the Association IP) – were always present during the demonstrations. The objective of this movement was very clear and it was more nationalistic than cosmopolitical; the aim was to end the excessive austerity the country was facing because of the Troika.

In terms of performance, the movement QSLT was also alien to the logic of the struggle for power, similarly to other movements initiated in social networks. The feminist, ecologist, or pacifist movements had no links to parties or unions and organized demonstrations, rallies, and parades in
the public sphere, i.e., non-institutional processes of political action to obtain political rights. As Claus Offe states, the acquisition of political rights is fundamental for the emancipation from the state (1992: 166) and citizens must come into the streets to obtain the benefits of political power or to emancipate themselves from the state.

Though the institutionalization of the movement did not occur, it is worth noting that, in July 2014, militants of "Podemos" (Spanish party) came to Portugal to talk to QSLT activists and others about "new forms of organization". At the time, one of the organizers of the Iberian meeting referred to the need of political organization: "It is time to realize that, in addition to demonstrations, we must assume forms of political organization because the demonstrations have been inconsequential" (Público, 17-07-2014), which was actually accomplished by activists of the Spanish movement 15M ("Indignados"). In Portugal, one may assess whether the movement QSLT created a dynamics that was beneficial to the emergence of the movement Free/Time to move forward, in 2015.

5. Incorporation of the Internet into Public Mobilizations

In digital networks the spatio-temporal coordinates are simulated and altered; the relations before space and time are transfigured by synchrony and atopy. There is a synchronic temporality (Di Felice), an instantaneity and "a kind of chronological implosion" (P. Lévy, 1990) or a present continuum; there is a space in which technological mediations create an "atopic dwelling" that "involves communicative and informative ecosystems" (Di Felice, 2012: 43), which is understood as a space of flows (Castells, 1999), a-spatialized, de-territorialized, "floating", "hanging", "out of the ground" (Paquot, 2009: 106).

The movement QSLT emerged on the internet, but it was transferred into the streets. The use of digital communication was maintained, though, mixing virtual and physical spaces or virtual and real territories of circulation and communication. A new way of inhabiting urban spaces has emerged – the corporeal and temporal occupation cohabit, in a hybrid way, with the "constant present" and the "atopic dwelling" of the network. The urban space remains the place for collective action and public mobilization, even if these are generated in the virtual space and the nature of the occupation of physical spaces has changed. The presence here and now incorporates a new regime of visibility (and existence) that depends on digital media. The protestors, through their personal electronic devices, release images of themselves and others, information, comments, videos, and sounds. They are user-actors; each one can be user-actor-emitter-receiver-viewer, the individual-in-the-crowd, the individual-public, the individual-in-the-network (Paquot, 2009).

Nevertheless, traditional media (press, radio, television) still play an important role, as well as their regime of communication and visibility. Actually, it is within these that the narrative of events is woven and, therefore, that the diachronic temporality, or the narrated time, is set.

Any person can start or join a petition or manifesto online, mobilize or be mobilized to participate in a demonstration, create a mobilization anywhere, send and receive messages and images. This new scenario surely leads to various theoretical challenges: does the incorporation of the Internet in the communicative processes of activism imply changes in the forms of collective action and social movements? Are we before the emergence of new forms of individual and collective expression, as well as citizenship, in urban public spaces? Are we before new regimes of visibility, exposure, and action, breaking or not with precedents, and incorporating new performances and repertoires of public action?

6. Final Considerations

Digital networks have allowed and fostered new ways of organizing collective actions. The movements programmed by political parties and unions have given way to new forms of social action and new modalities of protest and public mobilization, often without leaders and organization, emerging in digital social networks or using them as a support. These new movements, these new modalities of mobilization or public action, present themselves as a complex social challenge, questioning the institutional, political, and party structures.

The movement QSLT, emerging in and being supported by digital networks, revealed a new
form of mobilization and action in the public space. However, this social action cannot be considered a totally new phenomenon, as there is a certain continuity in terms of modalities of collective action, i.e., the de-territorialization in the network was converted into movements of protest in the streets, linked to public places. We can say that the discontent with the austerity measures, the economic crisis, and the political institutions has fostered modalities of net-activism, while enhancing collective action in public places, thus allowing traditional areas of protest (squares and streets) to recover their major role as places for public expression. A comparative analysis of various social movements and public mobilizations, such as the movement QSLT, allows us to understand this ongoing transformation and the scope and repercussions of the use of digital networks in social movements, which both emerge in these networks and incorporate them.

Even in the digital age, and with the support of new communication and information technologies, public protest and collective action remain linked to the public space or to the common space of being-together. The fact that these mobilizations use digital social networks as well as traditional media and the public space as mediation interfaces, and as places of appearance and visibility, creates new challenges in terms of a conceptual analysis of these new movements and the emergence of new forms of citizenship in the urban environment linked to net-activism.

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Investigating Student’s Needs for English Language as Foundations for Syllabus Design

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Abstract
Efforts to integrate into the European Union and a rapid economic growth in Albania have led to the growing prevalence of English language, which has become the leading foreign language for communication between experts not only at the international but also national level, as various business documents, contracts, reports, etc., have been widely used by graduates in the field of economics in their daily work. Thus, English language teaching in universities should reflect these changes that are taking place extensively in Albanian society. New syllabuses should put more emphasis on the new skills that current students of economics need to be integrated into the labour market. Through semi-structured questionnaires administered to 420 students of the first year studying Business English at the Faculty of Economics and Agribusinesses, Agricultural University of Tirana, this study aims at identifying their needs for language and communication for future use either for employment or further education purposes. Program design and course development of Business English needs to respond to future student needs for future employment or study purposes. In general, needs analysis plays a key role and is the first step in the process of drafting each subject in the English Language for Specific Purposes, a course characterized by the student centered approach. The results of this study will serve as input to be taken into account for the design of the Business English course at the Faculty of Economics at AUT. The analysis of the research data has provided teachers insights into business English teaching related issues and an essential input in BE syllabus design.

Keywords: English for Specific Purposes, Needs analysis, Target situation analysis, Learning situation analysis, Present situation analysis

1. Introduction

Needs analysis is the starting point of every course and is of utmost importance for ESP course design. CEFR encourages the parties involved in language learning "to base their work on the needs, motivations, characteristics and resources of the students", and this means that they should answer these three questions:

"What will the learner need to do with language?", "what do students need to learn in order to be able to use the language to achieve these goals?" and "what does they want to learn?".

Many efforts made to increase workforce engagement in English are not coordinated with the education system, are not really in line with job requirements, and not enough in their objectives and the quality offered (CEFR, 2001).

Needs are classified as necessities, wants and lacks (Hutchinson and Waters, 1987), objective and subjective or process-oriented or product-oriented (Brindley, 1989); and perceived or felt (Berwick, 1989). However, Dudley-Evans and St John (1998), further divided it into three larger categories: a target situation analysis (TSA, including objective, perceived and product-oriented needs); a learning situation analysis (LSA, including subjective, felt and process-oriented needs); and a present situation analysis (PSA, including learners’ present levels of knowledge and skills).

Needs analysis conducted before a course works for teachers in setting teaching goals, selecting teaching content and materials, and exploring approaches of teaching and learning. Besides, it is a learner-centered approach, which is believed to stimulate learners’ interest of
learning to a large extent and show respect to the active role of learners in processes of learning. Furthermore, courses which are based on the findings of pre-course needs analysis will surely meet the needs of both language learners and employers.

2. Methodology and Objective of the Study

This study aims at examining the TSA, LSA and PSA of students studying Business English at Agricultural University of Tirana, Albania. Questionnaire is to be used as a major instrument for collecting the data from 420 student from faculty of Economics and Agribusiness. The questionnaire was based on the model of Dudley-Evans and St John (1998) on need analysis. This model can be seen as the most comprehensive model for the study of ESP needs. This model focuses on:

a. professional information on students (tasks and activities during which students will use English, language analysis of the target situation (TSA) and the objective needs);
b. personal information about students (overall student profile, previous experience of learning the language);
c. language information on students about the target situation (what are their current skills and the use of language);
d. students' "lacks"( the gap between (C) and (A);
e. students' needs from the course (effective ways to learning skills and language);
f. the language learning needs (knowledge on how language and skills are used in targeted situations, linguistic analysis, discourse analysis and genre analysis);
g. information on communication in the target situation (students' needs from the course, what is required from the course?), and
h. the information on learning environment (condition of the learning environment, information about the setting in which the course will run- means analysis).

The paper aims at answering the following questions:

Research question no. 1: What is the current level of language skills and communication skills in the English language of students at the Faculty of Economics and Agribusiness at the Agricultural University of Tirana?

Research question No. 2: What are the learning difficulties, teaching aids and language learning facilities for these students?

Research question no. 3: What are the intended perceived needs for future communication for academic reasons or employment of students at the Faculty of Economics and Agribusiness at the Agricultural University of Tirana?

3. Findings

Firstly, the questionnaire collected information on students participating in the study. The data, which are largely quantitative, are related to the gender of the participants, the languages studied and the years for each language, the perceived or certified level for each language studied. Further the practices of communicative situations in the classroom, and the perceptions of the students concerned with their language needs in the future for study or employment purposes have been described in details. Below are the relevant tables.

3.1 Students participating in the study

The study included 420 students, of whom 144 were boys, 275 girls and 1 unspecified person for gender.

Table 1: Gender of the students.

<table>
<thead>
<tr>
<th>Gender</th>
<th>Boys</th>
<th>Girls</th>
<th>Undetermined</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of students</td>
<td>144</td>
<td>275</td>
<td>1</td>
<td>420</td>
</tr>
</tbody>
</table>
All students of the first year of the FEA at AUT participated in the study, where there is a nearly
double the presence of girls versus boys.

3.2 Foreign language studied

Regarding foreign languages studied during university studies, 420 stated that they studied English.
Further, from these 420 students, 180 students studied Italian, 78 French, 42 German, 30 Turkish,
18 Spanish, 6 Macedonian, 6 Greek and 6 Arabic as second and third foreign languages.

Table 2: Number of students and foreign language studied

<table>
<thead>
<tr>
<th>Language</th>
<th>English</th>
<th>Italian</th>
<th>French</th>
<th>German</th>
<th>Turkish</th>
<th>Spanish</th>
<th>Macedonian</th>
<th>Arabic</th>
<th>Greek</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of student</td>
<td>420</td>
<td>168</td>
<td>78</td>
<td>42</td>
<td>30</td>
<td>18</td>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
</tbody>
</table>

As noted from the table, all students studied English during their pre-university education. This was
an expected result since for years the English language is a compulsory subject in the curricula of
pre-university education, mainly starting from the third grade as well as compulsory state matura
exam.

3.3 Years of studying each foreign language

Table 3: Number of students and years of studying foreign languages.

<table>
<thead>
<tr>
<th>No of years</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>Total</th>
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<tbody>
<tr>
<td>Language</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>English</td>
<td>30</td>
<td>24</td>
<td>18</td>
<td>6</td>
<td>24</td>
<td>48</td>
<td>114</td>
<td>54</td>
<td>18</td>
<td>12</td>
<td>420</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italian</td>
<td>60</td>
<td>30</td>
<td>42</td>
<td>18</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>168</td>
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<tr>
<td>French</td>
<td>12</td>
<td>18</td>
<td>6</td>
<td>36</td>
<td>6</td>
<td>78</td>
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<tr>
<td>German</td>
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<td>12</td>
<td>6</td>
<td>42</td>
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<td>Turkish</td>
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<td>Spanish</td>
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<tr>
<td>Macedonian</td>
<td>3</td>
<td>3</td>
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<td>6</td>
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<tr>
<td>Arabic</td>
<td>6</td>
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<td>6</td>
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<td>Greek</td>
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</table>

The study found out that the largest groups in the study related to the number of years were 10
years of study with 114 students, 8 years with 72 students and 11 years with 54 students. These
data go in line with the fact that in most of the pre-university education schools English language
teaching begins in the third grade of the lower cycle as mentioned above.

3.4 Level of proficiency in foreign languages

Data from student' responses revealed that most of them result in a level of knowledge of English
B2 according to CEFR, and only 12 students with A1-A2 levels. This means, in other words, that
students claim to stay above the average level of knowledge. This is an important factor in
language learning for specific purposes as, as mentioned earlier in this study, students should be of
advanced age and with good prior knowledge of English for general purposes, preferably at the
level of Independent language user (B1-B2).
Table 4: Level of proficiency in foreign languages, CEFR.

<table>
<thead>
<tr>
<th>Language</th>
<th>A1-A2</th>
<th>B1</th>
<th>B2</th>
<th>C1</th>
<th>C2</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>English</td>
<td>12</td>
<td>101</td>
<td>240</td>
<td>57</td>
<td>10</td>
<td>420</td>
</tr>
<tr>
<td>Italian</td>
<td>66</td>
<td>66</td>
<td>24</td>
<td>156</td>
<td></td>
<td></td>
</tr>
<tr>
<td>French</td>
<td>42</td>
<td>18</td>
<td>12</td>
<td>72</td>
<td></td>
<td></td>
</tr>
<tr>
<td>German</td>
<td>30</td>
<td>6</td>
<td>6</td>
<td>42</td>
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<tr>
<td>Turkish</td>
<td>6</td>
<td>6</td>
<td>18</td>
<td>30</td>
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<td></td>
</tr>
<tr>
<td>Spanish</td>
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<td>12</td>
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<tr>
<td>Macedonian</td>
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<tr>
<td>Arabic</td>
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<tr>
<td>Greek</td>
<td>6</td>
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</tbody>
</table>

Not all students determined the level of knowledge regarding the third foreign language. A high level of Macedonian language is noticed compared to the years of study (1-2 years). These students belong to minority group who consider the Macedonian language as their mother tongue.

3.5 Perceived importance of English language.

Student perception about the importance of English language is fundamental to the study as they indirectly point out their motivation for language learning but at the same time their interest in contributing valuable data to the study.

Table 5: Students’ perception on the importance of English language in the future.

<table>
<thead>
<tr>
<th>Very important</th>
<th>Averagely important</th>
<th>A little important</th>
<th>Not at all important</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>412</td>
<td>8</td>
<td>0</td>
<td>0</td>
<td>420</td>
</tr>
</tbody>
</table>

The data show that almost all students are of the opinion that English is very important for future ambitions.

3.6 The intended use of English language in the future

In this part of the questionnaire, the students declared the purpose of using the language in the future. Identifying the purpose is a step closer to the needs and as such is important in defining the objectives in language teaching as well as the definition of language tasks. Students were asked to circle all possible options and add if there were any other options unlisted questionnaires they might add.

Table 6: The purpose of using the language in the future

<table>
<thead>
<tr>
<th>Purpose of study</th>
<th>Percentage of students</th>
</tr>
</thead>
<tbody>
<tr>
<td>For employment in the country</td>
<td>100%</td>
</tr>
<tr>
<td>For employment opportunities abroad</td>
<td>100%</td>
</tr>
<tr>
<td>To study abroad</td>
<td>89%</td>
</tr>
<tr>
<td>To study literature</td>
<td>87%</td>
</tr>
<tr>
<td>To travel</td>
<td>62%</td>
</tr>
<tr>
<td>Other reasons, specify</td>
<td>0%</td>
</tr>
</tbody>
</table>

Responses indicate that there are two purposes with the same answer value (100%), that of employment both at home and / or abroad, followed by study opportunities abroad.
3.7 Need for English language measured in skills

Table 7: Perceived need for skills

<table>
<thead>
<tr>
<th>Language skill</th>
<th>Necessary</th>
<th>Moderate</th>
<th>Little Necessary</th>
<th>Not Necessary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Listening</td>
<td>6%</td>
<td>92%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Speaking</td>
<td>76%</td>
<td>24%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Reading</td>
<td>35%</td>
<td>64%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>Writing</td>
<td>21%</td>
<td>63%</td>
<td>16%</td>
<td>0%</td>
</tr>
<tr>
<td>Interacting</td>
<td>44%</td>
<td>51%</td>
<td>5%</td>
<td>0%</td>
</tr>
</tbody>
</table>

The questionnaire data revealed that students consider speaking skill necessary with the highest of 76% and the writing as little needed with 16%. Further, listening, reading, writing and interacting skills were considered on average with 92%, 64%, 63% and 51% respectively.

3.8 Difficulties in using sub-skills

3.8.1 Students' difficulties in listening

Table 8: Students' difficulties in listening.

<table>
<thead>
<tr>
<th>Sub-skills</th>
<th>A lot</th>
<th>Averagely</th>
<th>A little</th>
<th>Not at all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Listening to presentations, discussions</td>
<td>0%</td>
<td>2%</td>
<td>84%</td>
<td>14%</td>
</tr>
<tr>
<td>Listening the instructions</td>
<td>0%</td>
<td>4%</td>
<td>86%</td>
<td>10%</td>
</tr>
<tr>
<td>Following the descriptions and explanations</td>
<td>0%</td>
<td>0%</td>
<td>84%</td>
<td>16%</td>
</tr>
<tr>
<td>Participating in trainings</td>
<td>0%</td>
<td>2%</td>
<td>82%</td>
<td>10%</td>
</tr>
</tbody>
</table>

Difficulty in listening by sub-skills results to be low for students, presenting a value of 0 in the "very difficult" evaluation. The sub-skill rated as "not at all difficult" with the highest value of (16%) is following descriptions and explanations. Meanwhile, the highest value in the "a little difficult" column results in listening to instructions.

3.8.2 Students' difficulties in speaking

Table 9: Students' difficulties in speaking

<table>
<thead>
<tr>
<th>Sub-skills</th>
<th>A lot</th>
<th>Averagely</th>
<th>A little</th>
<th>Not at all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speaking in a formal presentation</td>
<td>13%</td>
<td>64%</td>
<td>21%</td>
<td>2%</td>
</tr>
<tr>
<td>Speaking in an informal presentation</td>
<td>11%</td>
<td>59%</td>
<td>25%</td>
<td>5%</td>
</tr>
<tr>
<td>Providing instructions or demonstrating a task</td>
<td>9%</td>
<td>66%</td>
<td>21%</td>
<td>4%</td>
</tr>
<tr>
<td>Describing and giving explanations</td>
<td>7%</td>
<td>62%</td>
<td>24%</td>
<td>7%</td>
</tr>
</tbody>
</table>

Unlike listening sub-skills where students expressed in higher values as "less difficult", the sub-skills of speaking have a shift of values to the "moderately difficult" column. From the listed sub-skills, students say they encounter difficulties in holding a formal presentation with the highest value in the column (13%). While in the column "not at all difficult" describing and giving explanation reaches the highest value by considering it as easy from the listed sub-skills.
3.8.3 Students' difficulties in reading

<table>
<thead>
<tr>
<th>Sub-skills</th>
<th>A lot</th>
<th>Average</th>
<th>A little</th>
<th>Not at all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reading e-mails, letters, faxes, memos and brief reports in detail</td>
<td>0%</td>
<td>14%</td>
<td>23%</td>
<td>63%</td>
</tr>
<tr>
<td>Reading fast for general information in magazines and professional texts.</td>
<td>6%</td>
<td>24%</td>
<td>21%</td>
<td>49%</td>
</tr>
<tr>
<td>Analysis for specific points in long reports, contracts and legal documents as well as technical and specific manuals.</td>
<td>5%</td>
<td>32%</td>
<td>46%</td>
<td>17%</td>
</tr>
</tbody>
</table>

Reading sub-skills have been generally regarded as "not at all difficult" for students except for analysis of particular points in long reports, contracts and legal documents, technical and specific manuals which are assessed as "a little difficult" with 46%. E-mails, letters, faxes, memos and short reports are not considered "difficult" by any student.

3.8.4 Students' difficulties in using writing sub-skills

Sub-writing skills are considered "moderately difficult" and "difficult". Editing letters and reports of others and writing long reports and articles are considered the most difficult with 63% and 62% respectively. Only 3% and 2% of students have considered writing e-mails and writing letters and faxes as not at all difficult. These sub-skills also have the highest values as "moderately difficult" with 51% and 56%.

<table>
<thead>
<tr>
<th>Sub-skills</th>
<th>A lot</th>
<th>Average</th>
<th>A little</th>
<th>Not at all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Writing e-mails</td>
<td>19%</td>
<td>51%</td>
<td>27%</td>
<td>3%</td>
</tr>
<tr>
<td>Writing letters and faxes</td>
<td>23%</td>
<td>56%</td>
<td>19%</td>
<td>2%</td>
</tr>
<tr>
<td>Writing long reports and articles</td>
<td>62%</td>
<td>25%</td>
<td>13%</td>
<td>0%</td>
</tr>
<tr>
<td>Editing letters and reports of others</td>
<td>63%</td>
<td>28%</td>
<td>9%</td>
<td>0%</td>
</tr>
</tbody>
</table>

3.8.5 Students' difficulties in interacting

<table>
<thead>
<tr>
<th>Sub-skills</th>
<th>A lot</th>
<th>Average</th>
<th>A little</th>
<th>Not at all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receiving visitors</td>
<td>0%</td>
<td>39%</td>
<td>46%</td>
<td>15%</td>
</tr>
<tr>
<td>Visiting a company</td>
<td>4%</td>
<td>33%</td>
<td>45%</td>
<td>18%</td>
</tr>
<tr>
<td>Participating in discussions and informal meetings</td>
<td>2%</td>
<td>29%</td>
<td>58%</td>
<td>11%</td>
</tr>
<tr>
<td>Participating in formal meetings</td>
<td>5%</td>
<td>44%</td>
<td>41%</td>
<td>10%</td>
</tr>
<tr>
<td>Chairing meetings</td>
<td>22%</td>
<td>43%</td>
<td>33%</td>
<td>2%</td>
</tr>
<tr>
<td>Interviewing</td>
<td>12%</td>
<td>54%</td>
<td>20%</td>
<td>14%</td>
</tr>
<tr>
<td>Conducting negotiations</td>
<td>44%</td>
<td>39%</td>
<td>17%</td>
<td>0%</td>
</tr>
<tr>
<td>Making calls</td>
<td>3%</td>
<td>42%</td>
<td>33%</td>
<td>22%</td>
</tr>
</tbody>
</table>

The evaluation of interacting sub-skills results mainly with "average" and "less difficult" values. Negotiating has a higher percentage (44%) being considered as the most difficult interacting sub-skill and at the same time reaching a minimum of 0% where no student has considered it difficult at all. Also, receiving visitors was assessed at 0% where none of the students said it was too difficult.
3.9 Communicative situations during Business English classes

Table 13: Frequency of use of communicative situations and teaching tools in the classroom

<table>
<thead>
<tr>
<th>Communicative situation</th>
<th>Very frequent</th>
<th>Frequent</th>
<th>Sometimes</th>
<th>Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>Simulation of company presentation to clients</td>
<td>0%</td>
<td>0%</td>
<td>82%</td>
<td>18%</td>
</tr>
<tr>
<td>Simulation of presenting a product or service to clients</td>
<td>0%</td>
<td>0%</td>
<td>81%</td>
<td>19%</td>
</tr>
<tr>
<td>Simulation of participation and chairing meetings as well as negotiating with clients</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>100%</td>
</tr>
<tr>
<td>Discussion on various topics on aspects of the economics (marketing, accounting, services, policies)</td>
<td>0%</td>
<td>34%</td>
<td>54%</td>
<td>12%</td>
</tr>
<tr>
<td>Simulation of telephoning (search for information, analysis report, feedback, fixing a date, etc.)</td>
<td>0%</td>
<td>0%</td>
<td>25%</td>
<td>75%</td>
</tr>
<tr>
<td>Interview simulation</td>
<td>0%</td>
<td>0%</td>
<td>16%</td>
<td>84%</td>
</tr>
<tr>
<td>Conducting written inquiries / requests / complaints</td>
<td>0%</td>
<td>0%</td>
<td>12%</td>
<td>88%</td>
</tr>
<tr>
<td>Text translation</td>
<td>84%</td>
<td>16%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Summary of the text</td>
<td>77%</td>
<td>23%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Doing class tasks with matching / filling in / options, etc.</td>
<td>90%</td>
<td>10%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Reading compulsory text</td>
<td>90%</td>
<td>10%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Reading and understanding articles, websites.</td>
<td>0%</td>
<td>0%</td>
<td>74%</td>
<td>26%</td>
</tr>
<tr>
<td>Writing reports and memos</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>100%</td>
</tr>
<tr>
<td>Writing instructions</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>100%</td>
</tr>
<tr>
<td>Filling in an application form and / or CV</td>
<td>0%</td>
<td>0%</td>
<td>65%</td>
<td>35%</td>
</tr>
<tr>
<td>Using Audio and / or video in the field of economics</td>
<td>0%</td>
<td>0%</td>
<td>71%</td>
<td>29%</td>
</tr>
<tr>
<td>Authentic texts taken from real life in the context of work</td>
<td>0%</td>
<td>0%</td>
<td>35%</td>
<td>65%</td>
</tr>
</tbody>
</table>

It is evident from the data that speaking and writing communication situations are almost never or rarely encountered in teaching activities. Meanwhile, most frequent are the reading of the text, its summary, the translation and doing class tasks with matching / filling in / options, etc. which mainly check the vocabulary with 90%, 77%, 84% and 90 respectively. It is clear that teaching focuses mainly on form (i.e., grammar, vocabulary, pronunciation) and not on functions (i.e., communication acts). Also the writing sub-skill of communication situations of writing reports, memos, and instructions is never encountered during the teaching activity.

3.10 Need for future communication (analysis of target situation)

Table 14: Students perception on the needs for future communication.

<table>
<thead>
<tr>
<th>Communicative situation</th>
<th>Necessary</th>
<th>Average</th>
<th>Little necessary</th>
<th>Not at all necessary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Presenting the company to clients</td>
<td>55%</td>
<td>30%</td>
<td>15%</td>
<td>0%</td>
</tr>
<tr>
<td>Introducing a product or service to clients</td>
<td>51%</td>
<td>33%</td>
<td>16%</td>
<td>0%</td>
</tr>
<tr>
<td>Taking part and conducting meetings as well as negotiating with clients</td>
<td>42%</td>
<td>44%</td>
<td>14%</td>
<td>0%</td>
</tr>
<tr>
<td>Conversation with colleagues on different aspects of the economics field (various areas, services, company actions)</td>
<td>56%</td>
<td>41%</td>
<td>3%</td>
<td>0%</td>
</tr>
<tr>
<td>Telephoning (search for information, report analysis, feedback, fixing appointments, etc.)</td>
<td>66%</td>
<td>34%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Socializing in Business Situations: small talk in business fair, before meetings / Interview / negotiations</td>
<td>57%</td>
<td>37%</td>
<td>6%</td>
<td>0%</td>
</tr>
<tr>
<td>Conducting written inquiries / requests / complaints</td>
<td>15%</td>
<td>60%</td>
<td>25%</td>
<td>0%</td>
</tr>
<tr>
<td>Reading and understanding articles, web pages</td>
<td>20%</td>
<td>47%</td>
<td>33%</td>
<td>0%</td>
</tr>
<tr>
<td>Text translation</td>
<td>12%</td>
<td>36%</td>
<td>52%</td>
<td>0%</td>
</tr>
<tr>
<td>Writing reports and memos</td>
<td>2%</td>
<td>45%</td>
<td>53%</td>
<td>0%</td>
</tr>
<tr>
<td>Writing instructions</td>
<td>3%</td>
<td>45%</td>
<td>52%</td>
<td>0%</td>
</tr>
<tr>
<td>Filling in an application form and / or CV</td>
<td>30%</td>
<td>58%</td>
<td>12%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Students considered "necessary" communication situations involving sub-skills of speaking, as "averagely necessary" situations that include reading sub-skills and as "little necessary" writing sub-skills. None of the communication situations has been considered as "not at all necessary."
3.11 Selecting three situations for immediate improvement.

At this point in the questionnaire, students were asked to determine the three situations they would like to improve as quickly as possible keeping in mind a target situation where they would use the language.

Table 15: Situations selected for immediate improvement

<table>
<thead>
<tr>
<th>No</th>
<th>Communication situation</th>
<th>Percentage of students</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Chairing and participating meetings as well as negotiations with clients</td>
<td>50%</td>
</tr>
<tr>
<td>2</td>
<td>Presentation of the company to the clients</td>
<td>46%</td>
</tr>
<tr>
<td>3</td>
<td>Writing reports and memos</td>
<td>17%</td>
</tr>
<tr>
<td>4</td>
<td>Conversation with colleagues on different aspects of the economics (various areas, services, company actions)</td>
<td>16%</td>
</tr>
<tr>
<td>5</td>
<td>Introducing a product or service to customers</td>
<td>15%</td>
</tr>
<tr>
<td>6</td>
<td>Socializing in business situations: small talk in business fairs, before the meeting / interview / negotiations</td>
<td>12%</td>
</tr>
<tr>
<td>7</td>
<td>Doing written inquiries / requests / complaints</td>
<td>10%</td>
</tr>
<tr>
<td>8</td>
<td>Telephoning (search for information, report analysis, feedback, leaving appointments, etc.)</td>
<td>9%</td>
</tr>
<tr>
<td>9</td>
<td>Writing instructions</td>
<td>9%</td>
</tr>
<tr>
<td>10</td>
<td>Filling in an application form and / or CV</td>
<td>6%</td>
</tr>
<tr>
<td>11</td>
<td>Reading and understanding articles, web pages, marketing texts etc, for professional purposes</td>
<td>3%</td>
</tr>
</tbody>
</table>

Data on communicative situations that students think they need to improve quickly show almost the same value with the perceived situations as needed in the future. Thus, 50% and 46% of students said they needed to improve their skills in situations where chairing and participation of meetings, customer negotiations and the presentation of the company to clients were required. The largest number of communication situations is related to speaking and interaction skills, while on the other hand the least selected number of situations for improvement is that of reading and writing.

3.12 Expectations from Business English course.

Table 16: Students expectations from BE course

<table>
<thead>
<tr>
<th>Expectation</th>
<th>% of students</th>
</tr>
</thead>
<tbody>
<tr>
<td>To understand Business English terminology</td>
<td>53%</td>
</tr>
<tr>
<td>To gain the best communication skills</td>
<td>32%</td>
</tr>
<tr>
<td>To improve the spoken skills</td>
<td>30%</td>
</tr>
<tr>
<td>To understand conversation of people working in the field of economics</td>
<td>6%</td>
</tr>
<tr>
<td>To read professional articles and give feedback</td>
<td>6%</td>
</tr>
<tr>
<td>To face work situations in the future</td>
<td>6%</td>
</tr>
<tr>
<td>To improve essay writing</td>
<td>5%</td>
</tr>
<tr>
<td>To improve memos writing</td>
<td>4%</td>
</tr>
<tr>
<td>To improve communication in everyday life</td>
<td>2%</td>
</tr>
<tr>
<td>To have better knowledge in grammar</td>
<td>1%</td>
</tr>
<tr>
<td>To get a high mark</td>
<td>1%</td>
</tr>
</tbody>
</table>

It is noticed from the responses that more than half of the students state that the main expectations from the course are the acquisition of Business English terminology. These data contradict the student's thinking about the situations needed for the future where they declare that communication situations are more important and useful for employment or study opportunities. Consequently, these expectations from the course are due to the classroom practice which, as noted above, consists mainly of translation and reading. At the end of the list of expectations are improving the knowledge in grammar and obtaining a higher mark with 1% of the students expressed with this option.
3.13 Duration of the course

Scheduling classes for the course is important. Students have BE 2 classes (60 minutes) a week with a total of 60 classes per academic year. Students were asked if these classes were enough, less than what they needed or more. From the answers provided, 222 students said that 2 classes of 60 minutes per week were sufficient. 198 of them declared that it was not enough and among them 110 think that 4 classes would be needed and 80 would think 3 classes a week would be appropriate.

Table 17: Students’ suggestions for the course

<table>
<thead>
<tr>
<th>Suggestions</th>
</tr>
</thead>
<tbody>
<tr>
<td>I would like to learn new words about economics.</td>
</tr>
<tr>
<td>Special English language used for management and banks.</td>
</tr>
<tr>
<td>We need to learn more about professional terminology.</td>
</tr>
<tr>
<td>It is necessary in some classes to read financial papers, because they are</td>
</tr>
<tr>
<td>difficult to understand.</td>
</tr>
<tr>
<td>To develop our speaking skills by practicing with English speaking people,</td>
</tr>
<tr>
<td>perhaps by communicating with professionals from foreign companies and</td>
</tr>
<tr>
<td>banks.</td>
</tr>
<tr>
<td>It would be good to communicate with professionals or students from other</td>
</tr>
<tr>
<td>universities. But to do this we need to do more interacting.</td>
</tr>
<tr>
<td>ESS should not be boring and full of terminology. It is necessary to</td>
</tr>
<tr>
<td>include some reading assignments, movies and projects. I think these</td>
</tr>
<tr>
<td>things will develop students’ skill more.</td>
</tr>
<tr>
<td>The instructor should help students correct their mistakes in grammar and</td>
</tr>
<tr>
<td>pronunciation.</td>
</tr>
<tr>
<td>I know that learning languages without grammar is impossible, but for me,</td>
</tr>
<tr>
<td>if I can speak fluently, it is more useful in life.</td>
</tr>
<tr>
<td>More role play, group work - this is useful to develop our speaking skills</td>
</tr>
<tr>
<td>More group work, conversations, discussions.</td>
</tr>
<tr>
<td>There may be short presentations prepared by students to develop</td>
</tr>
<tr>
<td>communication skills, research and presentation skills. This will help us</td>
</tr>
<tr>
<td>in our future work and when we write the diploma thesis.</td>
</tr>
<tr>
<td>We need more AB, at least 3 hours a week.</td>
</tr>
<tr>
<td>If the time is good, can we have classes outside?</td>
</tr>
</tbody>
</table>

4. Conclusion

Based on the research questions set out earlier in this paper, this study came to the following conclusions:

4.1 Students’ current and perceived need for communication in English language.

Students at the Faculty of Economics and Agribusiness at the Agricultural University of Tirana consider the BE subject very important in meeting their needs. Since their level of knowledge is average, their needs for language are toward skills which enable them to increase the competence of communication in the language. They stated that the main purpose for studying BE was for further studies and employment abroad. The study highlighted a greater tendency for languages for professional communication aimed at employment purposes rather than English language for academic purposes in student needs.

4.2 Perceived target needs for future communication.

Of the five language skills, students appreciated the need for speaking skills and the ability to write in the future. Meanwhile listening, reading, writing and interacting were considered as needed on average. In relation to communication situations, tasks such as: telephoning (requesting information, report analysis, feedback, etc.), socialization in business situations (small talk at business fairs, before the meeting / interviewing / negotiating) etc., are "necessary", while situations involving sub-skills of reading are considered as "averagely necessary" and the sub-writing skills were determined as "a little necessary". The largest number of communication situations required for improvement is related to speech and interaction skills, while on the other hand, the least selected number of situations for improvement is that of reading and writing.
4.3 Difficulties in learning, teaching aids and learning environments.

Students encounter average difficulty in using writing, speaking and interacting skills, while reading and listening are considered to be a bit difficult. Using writing skills is considered to be very difficult. ESP language teaching practices in class are not conducted by having the student centered and continue in the traditional teaching approach of form and vocabulary and not into functions, the student's tasks, and goals for learning a foreign language. Thus, from the communication skills of the language, the data clearly show that communicative speech and writing situations are rarely encountered or never in the teaching activities. Meanwhile, the highest values with greater frequency are exercises that mostly check vocabulary.

The audio-visual aids are not used in the classroom neither are additional authentic teaching materials while classes focus on basic compulsory texts and accompanying grammar that are prepared for non-native speakers.

References


Assurance of Evidence

Dr. Adrian Leka

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Abstract

This paper reflects the detailed theoretical and interpretative treatments of criminal evidence and the process of proving according to criminal procedural legislation, based on the Constitution and E.C.H.R. Theoretical and interpretative deepened treatments, are based on the scientific research closely connected to the judicial practice of the implementation of this legislation, the positions held by judicial practice. Special attention is paid to all criminal evidence, meaning, object, features, procedural rules of receiving, verification and evaluation of them throughout the penal process, the rights and obligations of the parties in this process. The implementation of legal provisions onto evidence, evidence search tools and the process of proving, by procedural subjects in judicial practice has recognized and shown the most important issues in relation to other institutes of criminal procedural law. The terminology used in this paper is supported and conditioned by the terminology used by the legislator in dispositions of the Criminal Procedure Code. Provision of proof is a relatively new institute in the criminal proceedings. It first became known in the procedure code of 1995, in order to preserve the value of the data found during the preliminary investigation. Providing of proof would be applied in all those cases where evidence risks to be damaged, disappear, et lost and receiving it can not be deferred until the trial. Regarding to the relevant literature in Albanian language, only few authors have mentioned it sporadically, not emphasizing the real importance of evidence assurance institute. Even in the commentary of criminal proceedings this institute is dealt with very little, in summary, if we refer to its importance. Assurance of proof is provided in the Criminal Procedure Code in Articles 316-322. In these provisions is expressed the whole procedure of securing evidence, from the definition of specific cases in which it might apply (Article 316 Criminal Procedure Code), continuing with the presentation of evidence and the application for evidence assurance and subjects legitimized in its appearance (Articles 317,319 Criminal Procedure Code), as well as the right of the court in disposition of this requirement. An important element to be treated is to determine the scope of the institute of evidence assurance. Often in practice it is said that the demand for evidence assurance, is applied more in criminal offenses smuggling of women for sexual exploitation, trafficking of minors for other exploitation purposes, sexual relations with minors etc. In this paper is also treated the evidence assurance institute as well as that of the research means of evidence, these institutes closely linked to criminal trials and the process of proving. Of the most important institutes of criminal procedural law is that of "criminal evidence and proving process" which is rightly considered as the backbone institute of this right. The importance of criminal evidences and the process of proving is determined by the purpose itself and content of the criminal legislation. These institutes are directly related to the content and task of this science, to what is the process of detecting and proving the truth in criminal trials. While acknowledging the special place it occupies the evidence assurance institute it is not yet determined its importance really. In this brief theoretical material, I tried to treat through a slightly wider framework assurance of evidence focusing on its importance, theoretical and practical problems in determining the scope of these institutes.

1. Historical Development of Evidence Assurance

Institute of evidence assurance for the first time was recognized in 1995 in the new code of criminal procedure. Only then the court was able to provide proof in the preliminary investigations. Previously the existence of this institute was not seen as necessary for reasons of procedural
system. The first code of criminal procedure after release, is that of 1953, which defined the basic rules of criminal procedure. Its changes were reflected in the 1957 code, and then that of 1979 which came into force on April 1, 1980. Until the 1990s, in our country is implemented a procedural system based entirely on inquisitorial elements as codes themselves support the inquisitorial system applied in almost all of the east countries. In the inquisitorial system evidence took value in the preliminary investigation and there was no fear of damage, disappearance or the impossibility of making it up in anticipation of the court hearing. So the court provided the evidence without making a direct administration of it at the hearing, it is sufficient just to read the statements submitted in the organs that deal with investigation. This is because in such a system lacks the publicity and fluency, as well as the equality of the parties before the court, so the basic principles of the procedure. Also the court was not independent, what prevented it from making a direct evidence administration at the hearing, in which it will be determined the value of each of them. Therefore the investigations get a particular importance and many times become decisive for the way of development and completion of the investigation. Passing to a new level and with the establishment of standards and democratic state, made possible an improvement of the code of criminal procedure. The new Code of 1995, took as a basis the Italian model and were oriented more towards the accusatory system by recognizing the equality of the parties in the process, the principle of immorality, position of the judges, etc. The adoption of elements of the accusatory system in the criminal proceedings has introduced new concepts and has made changes in terms of taking, evaluation and assessment of the evidence. All these changes have come as a result of new principles that were sanctioned in the code, as the principle of innocence, the independence of judges etc. Also the code brought a juridical regulation of the position of procedure of all the subjects of the criminal proceedings, as well as a change of theoretical understanding and practical means of evidence seeking and assessment of them, compared to what we have known in the inquisitorial system. Preliminary investigations aim the finding and fixing of exhibits, documents, and objects related to the criminal offense which preserve the value of evidence and in other stages of the proceedings. Unlike the inquisitorial system, the evidence does not take its value in preliminary investigation but only in the judicial debate which gives the parties the opportunity to actively participate in the review and evaluation. The active role of the defendant and his defense in judicial debate, known in democratic systems, and that apply widely in countries with adversarial system. A system that is distinguished for its progress and guarantees a high degree of equality of parties in the criminal process. Evidence does not have a predetermined value, it gets its value only in the judicial debate. The court makes a straightforward administration of it by taking it into consideration with other evidence. In this system the court begins the judicial review with a general knowledge of the case based on acts that contains the judicial fascicle, unlike the way of proceeding in the inquisitorial system, where it possesses all actions performed from the preliminary investigation and only makes their verification. This is the reason that when an evidence might be damaged, lost, or changed, the court at the request of the prosecutor takes it from the preliminary investigations. Preliminary investigations fail in forming the evidence, but allow the prosecutor to get information about the accusation evidence and to compile acts for the circumstances and facts that can not be repeated (inspections, confiscations, interceptions, etc.). Thus arose the need for evidence assurance from this stage of the proceedings, which was defined also as a special institute, giving thus the value and place it deserves in our system. Regarding to the features of our code we can not say that it has the characteristics of a pure accusatory system. Of course it has a dominant accusatory nature which has substantially the equality of the parties, the role of debate etc, but it still retains features of an inquisitorial system code, especially regarding to the rights of the parties and the court functions.

2. The Meaning and Importance Evidence Assurance

Based on our procedural system accepted by the criminal procedure code, verification and evaluation of the evidence takes place during the judicial debate. But it may happen that the data for the criminal offense, because of their nature may be damaged, may get lost. In order to preserve the value of the data found during the preliminary investigation, it is allowed the evidence
assurance, taking it at this stage of the proceedings. The evidence is taken by the court upon the request of the prosecutor, defendant or injured accuser. The judge should make the assessment of the claim filed if it is in accordance with the requirements of procedural law and only after that it decides on the acceptability of it or not. The fact that the judge makes such an intervention during the initial investigation does not give him a leading or administrative role of investigation because he is simply put into motion only on the request of the parties. The judge has no power in search of evidence, they remain still in the hands of the prosecutor, who administers them in the file of the trial. In this way the principle of institutional independence is not compromised. Assurance of evidence should be done only in cases explicitly defined by law and the judge must be in the role of guardian of law and the principle of contradiction. It must take action that this institute does not exceed legal limits. The institute also has not escaped debates regarding the prosecutor-court relationship. In the Italian literature is alleged that the judge intervening in this way in the investigations could affect the independence of this institution and the prosecutor seeking the formation of evidence in this phase of the proceedings, it will diminish in some way the role of debate in the hearing session. So we would not have a proper session where the formation of evidence would be subject to debate. However such an argument does not rests because the court is put in motion only at the request of the parties, who through their requirements clearly define the objective and subjective limits of the institution. Institute of evidence assurance is reflected as a procedural space that appears before the judge during the preliminary investigation and aims the formation and acquisition of evidence that at this stage of the proceeding according to requirements determined in the law for judicial debate and at the request of the parties. Submitting application for the security must be made within the timeframe limits prescribed taxatively and only when it can be proven the need for the formation of the evidence in advance. The aim of this institution is to allow the parties to obtain the evidence that represent importance to the case, and that can not be postponed until the judicial process. This institution is considered as an incredible tool, to which we refer whenever we find ourselves in front of situations that pose the need to freeze or crystallize an evidence in the state that it is because due to its nature it can be ruined, lost or damaged. In such a case it would have no more probative value in the criminal process. So the assurance of evidence is presented as a tool that applies only in exceptional way when it can be proved the importance of the formation of evidence before the matter has gone to court. The demand for evidence assurance can not find application analogically. However, if we refer to the Italian system different opinions are thrown about this point, where one of the arguments for the acceptance of analogy is that of its application in cases not included in the code. So evidence assurance cases are numerous and therefore not all can be set in code. Practice puts us in front of different and unpredictable situations that need to turn to this institute for assistance.

3. Cases of Evidence Assurance

Assurance of evidence cases are foreseen in the Article 316 of the criminal procedure, which are:

- Obtaining testimony from a person, when there are reasonable grounds to think that he could not be questioned due to serious illness or other obstacle.
- Obtaining testimony when there are reasonable grounds to believe that the person may be object of violence, threat or promise to give money or other benefits in order not to make statements or to make false testimony.
- The questioning of the defendant on the facts relating to the responsibility of others, when the grounds mentioned above exist.
- Confrontation of the people who have made contradictory statements to the prosecutor when the grounds mentioned in letters "a" and "b" exist.
- Surveying or experimenting when they relate to people, objects or places, the state of which may vary inevitable.
- Identification of persons or objects when for particular reasons the action of recognition can not be postponed til the judicial process.

Most of these cases are included in the category of those actions that can not be postponed
until the judicial process, while others go into unrepeatable actions such as: obtaining the testimony of a seriously ill person, or when there are serious obstacles to appear at a court hearing, as well as expertise and experimenting related with objects or places that may be subject inevitably changes. The term action that can not be postponed until the judicial process is anticipated in the code. By clarifying the boundaries within which the institute of evidence assurance can find application, the law wanted to provide to the judge the correct parameters on the basis of which to verify and assess the present case that may present if it is included in the requirements of Article 316 of the criminal procedure code. In this way the court turns into a guarantor of law at this stage. These goals that aim to achieve procedural law may appear even better on concrete analysis that can be done in each separate case. Lack of spaces for the practice of this institution can be critical, especially for those who see it as a necessary tool in the investigation of organized crime. The cases in which applies this institute are those of taking testimony, questioning of the defendant, questioning of his responsibility to others, confrontations, experiments, expertise and knowledge. For each of these cases the law has provided conditions that should be fulfilled by everyone, so that assurance evidence can find application. In the case of the testimony some of the terms are valid also for some other acts.

3.1 Taking of testimony from a person, when there are good reasons to think that he can not be questioned due to serious illness or other obstacle.

In this case it is about those people who are harmed by criminal offenses, their life is in danger, for those who are elderly, what prevents them to appear at the hearing or when for the same people there is fear that over time they can die without stating what they know about the crime or even lose memory. In such a situation where the witness carries important facts that present importance about the issue and can not be questioned in a court session, the judge allows their statements made before the judicial police or the prosecutor to be read. In the criminal procedure code there is no precise definition of the term "serious obstacle" and how the court shall assess such a case, which could possibly turn into even an abusive situation. We mentioned that a disease should not only be obvious but also verified by medical specialists, which somehow facilitates the work of the court, but the case of "serious obstacle" has not found a definition in our legislation, but is evaluated case by case.

3.2 In taking of testimony, when there are reasonable grounds to believe that the person may be subject to violence, threat or promise to give money or other benefits, in order not to testify or to give false testimony "

The second case of obtaining the testimony relates to the existence of reasons to believe that the person may be subject to violence, intimidation, different threats and promises to make a false testimony or make no testimony at all. Such elements should be concrete and specific, that may result due to interception of telephone collected by the investigating body. So in this case the person is exposed to such actions, actions that might be undertaken by the authors or there is a great opportunity to be carried out over time.

4. Obtaining of Evidence and Its Use

4.1 Obtaining of evidence

Assurance of evidence aims the preliminary formation of evidence, from the stage of preliminary investigation. Assurance of evidence session mimics a normal session of judicial proceedings, based on debates. It should be developed with the necessary participation of the prosecutor and defense of the defendant. It has the right to participate also the representative of the injured party (Article 321/1). Their participation is necessary, because the evidence is formed by a judicial debate accompanied by questions and consquences between the parties. When from the offense results that there are damaged and he has a defense, the latter has the right to participate in the session of
assurance but his absence does not hinder the development of the proceeding. He also has no right to participate directly in debate, but is entitled the right to obtain permission from the session judge to direct questions. The defendant and the injured have the right to participate in the session only when a witness or another person shall be asked, while in other cases they can participate only with the prior authorization of the court. When the injured party has not been able to be present at the taking of evidence, this evidence has no value, except when he himself has accepted that, even in silence (Article 322 of the criminal procedure code). Accused person's presence in the session of evidence assurance has been criticized because it can be a potential source of embarrassment for the person who is called to declare. However it is not established a clear idea of how this presence may put in question the authenticity of the persons' allegations. During the session for evidence collection, the judge plays a very important role in preserving and presenting it as a guarantor of the procedural law and the defense of the principle of adversary.

4.2 The use of obtained evidence

In Article 322 of the Criminal Procedure Code is determined that evidence obtained according to the provisions of chapter on "Assurance of evidence", Can be used in judicial review only to the defendants, the defense of which have assisted in obtaining of them (evidence). This rule is an expression of the general principle, set in criminal proceedings, and relates to the ability to provide at the maximum the contradictions in the session of evidence assurance..

5. Conclusions

The changes that occurred in our country around the 90s, were also reflected in the legislation of the time. It was seen as a necessity the introduction of democratic principles and standards, which would be a guarantee more in protecting the rights and freedoms of the individual. For the first time the notion of evidence assurance was recognized, as an institution, whose purpose is to preserve the value of evidence. Providing of the evidence as a new institute in the criminal proceedings displays theoretical and practical problems. It is understood that after a theoretical treatment always stands a practical study. Undoubtedly the recognition and enforcement of the rules of procedure, must be accompanied by a literature of the time, built through practical debate. This literature would help particularly the judicial practice. Problems in practice are numerous and can come as a result of not consolidating. Number of judicial decisions for assurance of evidence is small, and their distribution is lacking in the cases stipulated by Article 316 of the Criminal Procedure Code. This practice remains loyal to Articles 316/a and 316/b of Criminal Procedure Code, therefore obtaining of testimony. Other cases are limited or missing. With regard to criminal offenses there is no defined field of application to this institute. What appears more problematic is the lack of reasoning of court decisions. Often decisions have no regular form of law where the wording referred in the relevant articles of the code is distinguished. There are instances when there are displayed incorrect application of the criminal procedural law.

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The Romanian-Russian Relations and the New Linguistic Hegemony: Towards Natural and Necessary Synergies

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Abstract

It is certainly and without fail that through a simple hovering over the present state of relations between Romania and the Russian Federation, the factual balance is not an encouraging one, the state of mind of the bilateral register being continuously dominated by the same issue: „history is a ballast, and the frame in which the two states perceive each other has been fixed a long time ago, clogged and jammed by momentarily political statements, and deprived of any heuristic nuances” (Dungaciu, Țănescu, 2013). Therefore and within such optics, based on an undeniable belief that a heuristic approach of the bilateral dimension is imperative, the present paper aims to provide a first concrete solution likely to create the critical mass necessary to achieve a complex regeneration process of normalizing Romania's relations with its neighbor to the East. Circumscribed to such a sphere of interest, the present paper assumes the fact that beyond the overwhelming historical legacy related to the bilateral register and implicitly, beyond its problematic receipt, the complex process of normalizing the relations between Romanian and the Russian Federation is unavoidably obstructed by an entire arsenal of terms such as „reset”, „thaw”, „recovery”, „blocking”, terms which maintain and support a certain negative perception, thus certifying the fact that it prevails a „freeze”, a „cooling” and an impediment in the bilateral dimension. Starting from this undeniable and undoubted reality, the axial objective of the present paper is to fundamentally reverse this lexical hegemony, thus operating substantive changes at the level of the linguistic universe specific to the bilateral register, in such a manner as to register a major change in regards to the behavioral pattern afferent to the bilateral reports.

Keywords: Romania, Russian Federation, bilateral register, constructivism, linguistic hegemony

1. Introduction

Undoubtedly and undeniably, fragmented rather than linear, the Romanian-Russian relation has unraveled and continues to presently unravel, in a sinuous and imprecise manner, with few concrete signals of mutual cooperation, obviously contrasting with the perpetual periods of recoil and suspension. „If in many Romanian circles there is an aprioristic reluctance towards any format of cooperation with the Russian Federation, for the Russians, Romania is often considered a fascist state, thus remarking, obviously, a two-way conflict relationship in the bilateral plan” (Hărșan, 2007). It prevails in a recurrent dialectics, an ambivalent mistrust, subordinate to a convulsed history, encumbered by light and shadow, responsible for shaping these relations. Integrally, the eventful balance is burdensome. „It is constantly speaking about pragmatism in the bilateral spectrum, however, the pragmatism evoked cannot eliminate from the Romanian mentality, the image of invasions, wars, deportations, executions, culminating with the repertoire of natural reaction feelings towards an oppressor” (Chifu, 2003). Any early attempt of normalizing the relations is obstructed by the recurrent past in which „the territorial annexation of Russia/Soviet Union in 1812, and respectively 1940, the seizure of the Romanian treasure and the imposition of the communist regime in the postwar period cannot be minimized” (Sava, 2001). In summary, the current state of Romanian-Russian relations is not a gratifying one, the perpetual reference to the past thus leading, with evidence, to the cessation of any constructive steps advanced in the bilateral plan.
Therefore and within such optics, based on an undeniable belief that a heuristic approach of the bilateral dimension is an imperative, the present paper aims to provide a first concrete solution likely to create the critical mass necessary to achieve a complex regeneration process of normalizing Romania’s relations with its neighbor to the East. In this regard, the present research attempt places at its nodal analysis center, the premise that a fundamental change and an essential mutation at the level of the lexical construct specific to the bilateral universe can generate substantial transformation of the behavioral pattern of bilateral reports. Accordingly, the novelty element which the present paper proposes lies in sounding the depths of the Romanian-Russian binomial through the perception and the approach lens of the constructivist paradigm, a paradigm specific to the theory of international relations.

Circumscribed to such a sphere of interest, the present paper assumes the fact that beyond the overwhelming historical legacy related to the bilateral register and implicitly, beyond its problematic receipt, the complex process of normalizing the relations between Romanian and the Russian Federation is unavoidably obstructed by an entire arsenal of terms such as ,,reset", ,,thaw", ,,recovery", ,,blocking", terms which maintain and support a certain negative perception, thus certifying the fact that it prevails a ,,freeze", a ,,cooling" and an impediment in the bilateral dimension. Starting from this undeniable and undoubted reality, the axial objective of the present paper is to fundamentally reverse this lexical hegemony, thus operating substantive changes at the level of the linguistic universe specific to the bilateral register, in such a manner as to register a major change in regards to the behavioral pattern afferent to the bilateral reports. Equally it is no less significant the fact that the results and the conclusion, which we engage with temerity to present, aim to provide a wider and substantial panorama afferent to the subject concerned, thus providing at the same time, a concrete landmark in setting out new directions and approach strategies with regards to the issue subjected to the investigative filter.

2. The Romanian-Russian Immediate Universe. A Synoptic Presentation Afferent to the Bilateral Constellation

Although it is undisputable that Romania’s relations with the Russian Federation are not historically exemplary and do not represent a defining landmark for harmony and good understanding in the register of interstates relations, it is equally true that in the present time the rapports between the two state entities do not take place under the most promising auspices and have reached the point where they can hardly benefit from a profound and far-reaching development. Practically, for almost two and a half decades, the relations between the two states fail to evolve into a natural and inherently normality area and to develop to the desired and expected capacity. The reasons for such a state of spirit are extremely complex and are mainly related to a series of problems specific to the bilateral framework. Thus, a first problem which is responsible for the delay of synergic and lasting horizons in the bilateral dimension is related to the sinous evolution of diplomatic relations and implicitly, ,,to the negative passive accumulated in the space of bilateral relations for almost two and a half decades” (Gosu, 2017).

As a result and under such circumstances, it can be said that shortly after the official disruption of the Soviet Union and the assumption of the main responsibilities by the Russian Federation, there had not been capital mutations and substance realities in the sphere of the bilateral Romanian-Russian relations because ,,at the political level, the relations between the two states fail to evolve into a natural and inherently normality area and to develop to the desired and expected capacity. The reasons for such a state of spirit are extremely complex and are mainly related to a series of problems specific to the bilateral framework. Thus, a first problem which is responsible for the delay of synergic and lasting horizons in the bilateral dimension is related to the sinous evolution of diplomatic relations and implicitly, ,,to the negative passive accumulated in the space of bilateral relations for almost two and a half decades” (Gosu, 2017).
impossibility to paraph the new Romanian-Russian basic political treaty, as a result of some objections communicated in the last moment by the Romanian side" (Buga, 2003). Naturally and somewhat predictable, this episode has been accounted in the bilateral dimension and significantly imprinted the subsequent trajectory of relations, matter for which during the 1997-2000 period there were no changes of substance and significant advances in the sphere of bilateral relations, thus prevailing an extremely complicated and controversial dialogue in the bilateral dimension.

However, ,,after 2000, the substantive dialogue with Russia came to the attention of the Romanian diplomacy and resulted in the signing in July 2003 of the Romanian-Russian basic political treaty ratified by the Parliaments of the two countries” (Hăşan, 2007). Despite all this and implicitly, despite this gratifying and gladdening reality, the treaty failed to confer a new dimension to the bilateral constellation, and failed to lead to a spectacular development of relations and to abrupt and forward-looking advances in the bilateral segment. In addition, ,,in 2005-2007 period but also later on, the Romanian-Russian bilateral relation gained new features, respectively became unpredictable and full of conflict, because instead of a natural and normal evolution in the sphere of the bilateral rapport, followed a bellicose rhetoric in the bilateral plan” (Hăşan, 2007), a rhetoric which has unavoidable affected the trajectory of the relations. At the same time, over the past three years, the complicated dossier related to the Romanian-Russian bilateral rapport, has been too little visible on the foreign policy agenda of the two countries, so, in such conditions, it can be advanced the idea that currently, the subject of the Romanian-Russian relations is extremely peripheral, a situation that explains to a great extent why the relevant and content dialogue in the bilateral area has become more and more a deserted reality and the high-level meetings between the two countries are beginning to become also, with celerity, ,,chapters of history”.

Beyond this aspect however, it is equally true that until the present moment the Romanian-Russian bilateral relations could not ignore also the historical ambiance consubstantial to the bilateral universe, rearranging and reconfiguring itself in relation to the burdensome dowry inherited in the bilateral plan. Thus, for more than twenty-five years, the major touchstone afferent to the bilateral framework continues to remain the dimension of a sinuous history, with its highly problematic and delicate valences, respectively:

“the territorial controversy (a big part of the Republic of Moldova but also parts of Ukraine, at which passed the territory of Bessarabia and Northern Bukovina after the 1940 annexation; the Romanian treasure filed in Moscow in 1916-1971 and not entirely recovered; the moral satisfaction by the conviction of the Ribbentrop-Molotov Pact (1939)” (Goşu, 2017). Naturally and unquestionable regarding this problematic issues with historical substratum ”nothing has changed and everything seems frozen in the project” (Dungaciu, Tănăsescu, 2013), a situation which is acutely felt in the bilateral sphere and only delays and especially prevents the perspective of profitable, continuous and content relations in the theater of bilateral arrangements.

In addition, beyond the perennial aspects consubstantial to the bilateral historic, until the present moment, the Romanian-Russian bilateral agenda has added a further set of burning subjects and topics (the Transnistrian problem, the opposition of the Russian Federation towards the integration of Romania in the North-Atlantic structures, the problem of the Black Sea region, the establishment of the American military bases on the territory of the Romanian state, the placement of the American missile shield from Deveselu) topics which, otherwise, don’t do but to complicate in a considerable manner the evolution and the devlopment of the bilateral tandem. At the same time, it is equally relevant the fact that in the Romanian-Russian bilateral dimension one can also identify a certain form of two-way adversity, result of a poor, critical and defective perceptual culture at both sides, a state that most often serves to wrong and counterproductive decisions in the bilateral plan.

Consequently and under such circumstances, the overall image that emerges from this synoptic presentation of the bilateral trajectory is the one that highlights the fact that currently the relations between Romania and the Russian Federation do not evolve under the best auspices and this situation is due primary to the sinuous diplomatic path, the historical meander and the additional frictions, and implicitly to the two-way state of adversity.
3. The Romanian-Russian Bilateral Relations and the Need for a New Linguistic Hegemony

Ultimately, given the fact that the Romanian-Russian bilateral register distinguishes itself by an extremely burdensome diplomatic, historical and perceptual ambiance, there is an urgent need for a new optics strategy but also for an heuristic approach related to the bilateral dimension, respectively an approach that is susceptible to eliminate the deficit existent in the bilateral plan. In this regard, such an approach can be the one that starts from the premise that an essential change and a substance mutation at the lexical construct specific to the bilateral register can generate substantive transformation afferent to the behavioral pattern of bilateral relations, the basis of this approach being thus, an in-depth survey of the Romanian-Russian binomial from the perception lens of the constructivist paradigm, a paradigm specific to the theory of international relations.

Basically, “the constructivism paradigm is consubstantial to the field of European integration, and can be defined as having at the base the ontology which insists upon the fact that the human agents do not exist independent the social environment and the common system of values shared, broadly defined as culture” (Popescu, 2009). In other words, the constructivists confer substance to the character rather social than material of the social structures, aspect which means that any perspective is designed by people and is not predetermined from outside. “The states, the societies and the individuals are not led and ruled by immutable forces, but rather by a widely shared knowledge which creates a way or other to get in touch. This culture is built over in time and through continuous interactions at all levels, being subjected to permanent developments. Change is a social condition and its engine are ideas” (Leucă, 2012). Equally, the constructivists highlight the fact that language structures our thinking mechanism, our cognitive life. “Certain words, a certain terminology and implicitly, a specific language used, shows the way in which we think and we legitimize various actions, the way in which we interpret an event, a political action or a certain behavior” (Leucă, 2012).

Therefore and under such circumstances, the language used is extremely important because it confers weight to the action undertaken, constructing or deconstructing substance realities in various spheres of interest and in different fields of activities. Practically, the language and implicitly its ultimate relay, the word “is an extension of the thought or simply a certification or an attestation of the thought. When a word is spoken, a contract with the quantum field is signed which means that this is how it has to be, and consequently it is agreed that everything should be carried out according to the observer’s intention” (Danc, 2017). The word is therefore a living force, susceptible of inducing essential mutation in the palpitable dimension, matter for which there is an urgent need to pay considerable attention to the way in which it is shaped and structured this indisputable and incontestable reality. In this sense, it is very important to appeal to creative words, words that are concrete vectors of action and to eliminate the negative language, language which blocks the materialization of any approach.

From this point of view, the Romanian-Russian bilateral register is an extremely conclusive example of interstate rapport at the level of which it prevails an implanted and pre-established language, with totally inadequate and defective terms, language that gives measure and confers form to these relations, structuring the evolution of the bilateral trajectory. Practically, at a simple ascertaining overflight afferent to the lexical construct specific to the bilateral constellation, one can easily notice the fact that it exists an entire arsenal of terms not exactly suitable and proper („reset”, „thaw”, „recovery”, „blocking”, „vitiated”, „failure”, „negative trend”, „deadlock”, „regression”), terms which construct a negative reality in the bilateral dimension and support a state improper for the natural and normal development of these rapport. Such terms, recurrent encountered in the universe of bilateral relations only confer weight to such a state of spirit, thus certifying that it exists a frost and an impediment in the Romanian-Russian bilateral dimension.

Starting from this undisputable reality, the Romanian-Russian bilateral relations need a fundamental change in the dimension of the manner in which they construct their own narrative, so implicitly they need a mutation transformation at the level of the linguistic ethos, the language which structures and shapes their universe. It is therefore necessary to carefully select a register of creative terms such as „positive dynamics”, „abrupt advance”, „synergy”, „convergence” „collaboration”, „solid base”, „friendship”, „good-understanding”, „harmony”, and implicitly to
abandon the current linguistic mechanisms, that generates inadequate realities in the bilateral plan. In other word, there is an urgent need for a new linguistic hegemony in the sphere of bilateral relations, a hegemony susceptible of inducing substantial mutations in the concrete dimension, thus constructing essential realities in the bilateral plan and structuring adequately and properly the course of these relations. Ultimately, there is a need for a new linguistic order, an order creative of natural and full of substance horizons, as an optimal solution for bringing things in the bed of the inherent normality!

4. Conclusions

Undoubtedly and indisputably, the current state of the Romanian-Russian bilateral relations calls for an urgent need of change in the bilateral plan and implicitly, calls for a profound optics mutation in the way and the manner of approaching these bilateral dimension. In this sense, it is imperative to fundamentally reevaluate and rethink the linguistic scaffolding and structure specific to the bilateral construct, ranging from the current linguistic order, an order which generates totally inadequate and inappropriate realities in the bilateral plan to a new linguistic hegemony carefully and responsible configured, hegemony that by its inherent force is truly able to dimension a natural and synergic universe in the Romanian-Russian bilateral sphere and to mark a substance change in the dimension of these vital and capital relations for both states!

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Italian Politics in Albania and Albanian Factors February - December 1918

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Abstract

The paper consists of these key ideas, first, Italy in Albania reflects cautious, which was accompanied by the formation of an administration with an Albanian element but in the care of Italy. While, on the other hand, felt anxious, due to the publication of the Secret Treaty of London, which was associated with the distrust of Albanians towards Italy's care. Secondly, on the other hand, Italy's politics urged the Albanians of Switzerland to wake up in these very important historical moments for Albania, for the fact that the post-war political conditions of the First World required Albania to be represented in European politics through Italy. Thirdly, the Albanian political class was on its way to maturity, at the same time experiencing disagreement, in the mere political terms, under such conditions Italy had drawn into its politics, some prominent Albanian elements, who sought Italy's help for The formation of the Albanian state. This intervention had created discussions and disagreements between the Albanian political segments that with the echo of the past were perceived as different political streams.

Keywords: Politics, Statehood, politic diaspora, political factors, political diversity.

Italy, even though the winner of World War I, felt concerned about its interests in Albania, and moreover the fact that the Bolsheviks denounced the secret treaty of London. This had put in place a very difficult situation and, consequently, sought to ease this animated animosity to Albanians, using the propaganda and civilian and military administration built for several years in Albania.

Thus, on February 21, 1918, the Command of the XVI Italian Corps directed the prefectural civilian commissars to a circular, where they were committing to propaganda in favor of Italy "to reduce the great hatred that had generated in the Albanian people the publication of the Covenant Treaty London from Soviet Russia "1For this, the circular attracted the attention by four points:

1. Italy had entered the alliance when the fate of Albania was compromised between the Great Powers and the Balkan states;
2. The London Pact "published in Petrograd"2 had undergone changes in the meetings that had taken place later between the representatives of the Entente;
3. These changes were not published because "the German philosophical Leninists were not interested in publicizing them"3These changes were made at the time Italy had proclaimed Albania's sovereignty under the shadow and defense of Italy;
4. Therefore, Albanians should have confidence in the Italian government's policy, because they were always interested in love for the future of their country.4

Whereas, on 23 February 1918, Sonino stated in the Italian Parliament that "Italy supported the general principles of respect for nations and the self-determination of peoples, which inspired international alliances. But the fates of Albania sought a special interest from Italy, because they are completely connected, both with our own possession and with the general regulation of its

1 -Academy of Sciences, Institute of History: The War of the Albanian People for National Liberation 1918-1920, p. 17, Tirana, 1975
2 - GazetaPopulli, Shkodër, year II, no. 59, dt. May 4, 1920, p. 3.
3 -GazetaPopulli, Shkodër, year II, no. 59, dt. May 4, 1920, p. 3.
4 -GazetaPopulli, Shkodër, year II, no. 59, dt. May 4, 1920, p. 3.
territory "Thus Italy, according to Soninos, had no other interests than to protect Albania against threats that might come from other powers". In this focus, François Guizi, a clerk at the Italian Consulate in Lausanne (Switzerland), addressed the Albanians: "In such moments, you should raise your voice in defense of the Albanian interests. Italy is ready to help you in all ways, as it has promised, but you also need to help her to help, you should seek this help without which, as you yourself see, your cause so risky is compromised to miss".

On October 7, 1918, he asked one of the most prominent Albanians Mihat Turtullit to be orientated by Italian politics, saying, "We can not keep you away from this and awaiting us to implement our wonderful plan of Action, in such important moments, you should raise your voice in defense of the interests of Albanians". While expressing Italy's readiness to help with all sorts of ways, on the other hand, he insisted that "you help him to help you. You should seek this help without which, as you yourself see, your right cause is jeopardized". While the Albanians of Switzerland, according to him, did not show any activity, "which is very harmful in these moments"; And stated that they did not feel political responsibility even after they had elected their mayor: "they must not do anything without your participation".

In the course of these political situations, it seems that Italy wanted to manipulate Albanians to get into the scales of its interests. This required the attraction of other figures that had emerged in the politics of the time, such as the Beyonce of Vlora, who in October 1918 had started in Geneva to elaborate a "memorandum" to meet Ali Këlcyra, Pandeli Calen and Spiro Kolen. That was exactly what the Italian politics liked, but at the same time it was a concern that they should not have been free, as otherwise unpopular situations would arise for Italian politics in Albania.

Meanwhile, Mehmet Konica in early December 1918 traveled from London to Rome and from there to Switzerland. The Department of Justice of this country had been informed in time for Konica's entry into Switzerland, either from Italy or from France, "and promised to give all the facilities" so that he would cooperate with many other Albanians Who were in Geneva. It seems that in adapting to these interests, the Swiss Albanians on 12 October 1918 sent a telegram to Soninos, seeking the establishment of the Albanian state under the protection of Italy. Pending the final decisions of the Peace Congress, they expressed their wish that "the entire territory of our country should be fully occupied by the Italian military forces, which had declared our full independence." This, according to them, should be done to calm the unfortunate Albanian people and to create the possibility of forming a national administration.

On October 22, 1918, with a special instruction by Foreign Minister of Italy, S. Sonino, Albanian representatives Mihat Turtulli, Myfit Libohova, Turhan Pasha were called to Rome to talk about forming a government, and for this there was no time for two reasons:

First, the intersections of neighboring states of Albania were appearing for the concrete implementation of the London Treaty of 1915.

Secondly, Albania was at a critical stage and had an administration which did not work. This instruction consisted of six points:

1. Immediate call to Rome Turhan Pasha, Turtle of Myfit Libohova, as they should be the governing council and should immediately be in touch with the major Albanian centers and decide on the approach of two or four other members "who To be fairly represented by the
different provinces and beliefs of Albania. Meanwhile, the name of BiboDodad was particularly evident, because, being Catholic, it was more appropriate; But also, according to them, during the First World War in Shkodra had maintained a dignified attitude and enjoyed a special authority in the mirditor and highlanders in general. "This prestige and authority enjoyed by mirditor and highlanders, - they noted - can make a remarkable contribution." This document also mentions the issue of government, which would take measures to appoint a council.

2. He pointed out that "at first the government should be located in Shkodra but after it was first assembled in Gjirokastra, in conjunction with the statement of 3 June 1917," That the government should immediately announce the establishment of all European powers, and that organization should not come out of the control of Italian politics, which should think without delay and immediately "about appointing a representative to it." After the establishment of order and tranquility, the established military authorities had to leave the administration of the Albanian territory after a very short, strictly defined transitional time was recorded, which would be regulated in agreement with the military authorities and The representative of the government in question. The military authorities would be limited to maintaining public order and guarding the Albanian territorial boundaries they would have under control.

3. The military authorities for all the needs of the troops "shelter, guarding" could turn to the Albanian government through a royal government representative, except in cases of absolute urgency.

4. In principle, it was thought that a model state could not be built. It should be worked from Italian politics in Albania to keep it under Italian influence on the general lines of "our Balkan and Adriatic politics", without forgetting that "it is part of the Balkan Peninsula".

5. The military command in Albania had to act as quickly as possible and avoid unpleasant surprises, such as those of Serbs who were progressing rapidly in northern Albania.

Below it was stated that, after the rule was established, the military authorities would have to leave the territory of Albania after a very short transition period, which would be permanently regulated in agreement with the command and representatives in word. "The military authorities - according to them - will be limited to maintaining public order and guarding the Albanian territorial boundaries they will have occupied." The military authorities of the invasion should not intervene in this government, because the intervention and protection of military authorities, for this very fact, "would remove the government that independence, at least formally, in its actions." Sonino as Head of Italian State Diplomacy specifically instructed that in the new circumstances that were being created, new people were needed and each should adapt to those activities for which he had the skills and competences.

The military authorities, after establishing order and calm, should leave the administration in its work. For all the needs of the troops "requisitioning, shelter, etc.", they should turn to the Albanian governmental authorities through an intermediary royal representative, but cases of

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18. Bib Doda
20. There again. Pg31
21. There again. Pg328
24. Serbian Progress in Albania 1918
25. There again.
26. There again.
"absolute importance" were singled out. For all other cases, they should seek authorization from the highest command, which, in agreement with the Ministry of Foreign Affairs, should provide the appropriate provisions to its representative.

Basically, Italian politics propagated that a state should be formed in Albania, a fact which, apparently, appears through the letter of the Italian office that corresponds to the issues of Albania and the Balkans in general. This paper noted that "We must work in order for Albania to be held under our influence on the general lines of the Balkan and Adriatic policies of Italy," always noting that Albania was a country with a very favorable geopolitical position.

In these conditions Albania was, at least from a political point of view, taking into account the domestic element, drawing attention to the fact that there should be as many Albanians in the institutions as well as technical advisers coming from Italy. These should be not numerous in number, but provided with prudence, influence, and wisdom. Italian politics was press in this movement for the fact that Italy's interests were being threatened by Serbs, who were advancing toward the south. This political movement was regarded as important to national interests, as the Albanians of Vatra considered Italy as the most important factor, not only that it was directly interested in the Albanian issue, but also that Italy was the winner of World War.

These two reasons sufficed for this grouping to propagate the view that it was important for Albania to have the support of Italy at the Paris Peace Conference. The political movement of the Albanians took place in due course for the fact that Paris was also targeted for EsadToptani, who had shown all possible premise to be considered a rival force in discussing the Albanian issue.

He was now considered "a good card in the hands of Serbian politics against Italy". Though he owed much to Italy, "they should protect him, support him, because they knew he could betray him, as he was able to cross the other side." This was appreciated by Italy, making it more interested in securing a political support force in Albania that could fulfill its protectionist interests. These were some reasons that made the political compromise of Albanians more urgent with the fragrance of Italian politics. According to the Albanian newspaper, the government of Italy, through the three Albanians called to Rome, sought to influence American Albanians with both political and cultural organizations, especially Vatras, but without forgetting and the diaspora of Albanians in other European countries.

But forecasts do not go according to Italy's political will. One of the most listening representatives of Albanians, MihalTurtulli, who according to the newspaper Albania had openly expressed his thoughts regarding his attitude towards Italy, had refused to go to Rome, for he had long doubted how he was acting Politically Italy to Albania. He was placed in Switzerland and published the newspaper "Albania" in French, while Vat, a year later, would appoint a delegate to the Paris Peace Conference. In a Gramenos telegram she is told of MihalTurtulli's patriotic stance, considering him as a political collaborator with MidhatFrashëri and opposed to the political views of MyfiliLibohova, who was pro-Italian, saying that "Italy will not do Albania a colony and would not keep it as a simple mortgage, as a commodity to exchange as Germany wanted to do with Belgium." This is a factor that clarifies Turtulli's unequivocal attitude, as a continual opponent of Italian politics in Albania, and this is confirmed by all the research we have done so far.

29 - KristoDako, key east and west Albania, Tirana 2015
30 - Winning Italy of First World War
31 - Reflections and Visions of the Great War in Albania - GVIDO Carni, MCMXXVII, f. 160
32 - There again. Pg168
33 - Italian Protectionism in Albania
34 - Newspaper, Albania, Worcester, December 1918-1919, no. 432
35 - Newspaper, Assembly, Rome, November 9, 1918, p. 3 "The Myth of LibohovaProitalian Political Program" As in 1914, MyfiliLibohova was a representative of Albania in the KNK, consisting of six representatives of the Great European Powers, staying in the city of Vlora. This commission worked until the outbreak of the First World War.
Turtle's doubts increased even when Italian agents in Switzerland exerted pressure on him to persuade him to accept the Italian protectorate in Albania, with the idea that this would condition the increase of Italy's aid to Albania. But Turtulli denounced the memorandum of 12 October, which was signed by the Geneva National Committee headed by Turhan Pasha\(^{36}\), supporting the Italian protectorate over Albania. He also objected to the proclamation of 3 June 1917, because he thought that Albania could come to a difficult position at the Peace Conference in Paris if there were no support of a large political force, a role that Italy could make neighboring. Thus, even though he conceived the Italian protectorate in Albania as a great danger, at the same time he was able to appreciate and silently accept it as the lowest risk. But always imposing on Italy certain conditions that were deemed necessary to avoid colonization of the country and to find US support.

Rome, seeing Turtulli's views, found it unreasonable to seek his substitution with a more appropriate element, such as Mehmet Konica, with a more diplomatic experience to adapt to the political situation with Italy. This asked Italian officials a passport to go to Switzerland and deal there with the organization of Albanians. After July 1918, Mehmet Konica had held talks with Swiss Albanians, but without losing sight of contacts with Italian policy officials.

This movement of Konica encouraged the political direction of the Albanians. Thus, on October 14, 1918, Swiss Albanians sent Soninos a letter asking for help and support of Italy at the Peace Conference, which had not yet begun its work, but there had long been written media of Albanians Out of Albania had begun lobbying for the solution of the Albanian issue through this conference, which would be dictated by the winners of the World War I. While, on the other hand, the possibility of attracting foreign troops from Albanian territory was extended, excluding the Italian troops, which at this time were stretched to the north of Albania. Not only that, but they, through a memorandum addressed to the Minister of Foreign Affairs of Italy, demanded the establishment of the Albanian state under the protection of Italy. They prayed to him to accept their previous thanks and "expressing our highest consideration"\(^{37}\).

Mehmet Konica in November 1918 also managed to embark on a trip to Rome. As an object he had contact with the Albanians of Rome and those of Switzerland, and through this they came to common conclusions and conclusions regarding the very important event to be organized in Paris. Mehmet Konica did not see the solution of the Albanian issue without talks, contacts, compromises and with foreign diplomats, especially with the diplomats of the government of Rome, on the possibility of a cooperation between the Albanian national movement and Italy for resolving the Albanian political situation after the first war world.

Through the newspaper "Sun" we understand that Mehmet Konica was in charge of presenting to the Italian government the views of the federation "Vatra" for a free, independent Albania, with its ethnographic, natural and historical boundaries. Konica at the Corriered'Italia newspaper in March 1919 stated that the basis on which the Albanians would speak at the Peace Conference would be the whole and the independence for the whole of Albania, because the full restoration of national and human rights Of the Albanian people in any part of his plot after the First World War would be a necessary condition for the peace and stability of the Balkan peninsula.

Such views were also expressed by Kolë Tromara in his talks with Italian diplomats in Washington. They had remained dissatisfied with the fact that, while acknowledging the usefulness of the Italian-Albanian compromise, on the other hand, Albanian demands, to national interests, meant the resolution of the London Treaty\(^{38}\) and the unification with the national trunk of the two ethnic Albanian regions, Kosovo and Chameria. Mehmet Konica stated that Kosovo Albanians were overwhelmed and could never accept to lower their head under a foreign yoke; That they accepted nothing but the voice that came from their heart, and demanded nothing other than the

\(^{36}\) L'Albanie, Lausanene-Gare, No. 7/18 December 25. 1918, f. 59-60 "The telegraphic memorandum of a group of Albanians of Geneva in Switzerland of twelve people headed by Turhan Pasha and the Minister of Foreign Affairs of Italy, S.Sonino requesting the deployment of the Albanian state under the protection of Italy. Geneva, 12 October 1918. " MyfidLibohova on 27 December 1918 will be elected as the head of the Government of Durres and a representative of the official delegation of this government at the Peace Conference in Paris 1919.

\(^{37}\) -Albania, Lausane - Gare, nr. 7/18, 25 December 1918, p. 60.

\(^{38}\) The Treaties of London 1915
principles proclaimed to the whole world to be applied even in their helpless country.

This agreement was supposed to be in the political interest of the Italian government because it would complement Italy's geopolitical interests in the Adriatic and the Balkan Peninsula, but at the same time would complement Albanian national interests. Thus, politically inspired that Albania and Italy would link a strong friendship between them, the premise would be created to lay the foundations for political agreements that would establish lasting co-operation and friendship, and this would bring Albania's integration into the world of European civilization. First, in this context, it is of interest to refer to the newspaper "La Nazione Albanese", which, through famous scholars AnselmioLorechio, laid the idea that Albania is a country for Albania and the Adriatic is the Italian Sea, but also the Albanian. Lorechio put in front of the public an interesting question that sought to intrigue and revive their interests: how does it seem that although Albania was a small underdeveloped country, it represented so much interest in European politics. This, according to him, was about the geographical position of Albania, which, as a crossing bridge between East and West "is a favorable location for commercial transport in the Mediterranean basin." Albanians, following compromise and ongoing talks with Italian politicians, insisted Italy to pursue an open policy towards Albania and to influence the great European powers to remedy the errors of the London Underground Treaty of 1915. That, Naturally came the Italian politics in difficulty, because Italy itself had been one of the main actors of the fateful decisions of this treaty, which had created hostility between the Albanians and Italian politics.

But even though politically-juridical views between Italy and Albania were still unsettled issues, Vatra's leadership had expressed of a cooperation with Italy but under the condition that this would lead to the formation of an independent Albanian state, including within its borders All the territories dominated by the Albanian population.

This political movement had sparked a reverse reaction, especially in Albania, which accused him of signing a document (that is, of Geneva, who left Vlora to Italy, and then he forgave him as a representative of Vatra). Konica was criticized by the newspaper Albania that the dollars accumulated by Albanian emigrants were broken and all the writings sent by Lady Durham were not published because Konica was unable to provide any journalist friend. While MihalGrameno, in the Albanian newspaper, stated that in the critical period Albania was, he considered Mehmet Konica's initiative for compromise as a damaging political move and simply as a personal move. But contrary to this view was Turhan Pasha who addressed to Soninos, seeing in Italy the possible support for Albania to be politically represented in the official institutions of modern Europe. Although there were contradictions between the Albanian politics, the political situation was in their favor because they managed to organize politically and draw the political attention of Rome, a fact which proved that this was a political achievement for Albanians because they were becoming aware of the national self-government, Which could not be achieved without Italy's political support and other factors in the European policy world. From the other Albanian political class benefited from the support of Italy and through it, it was being prepared for the formation of the Albanian government in the city of Durres on December 25, 1918.
Statistical Evaluation of Seasonal Effects to Income, Sales and Work-Occupation of Farmers, the Apples Case in Prizren and Korça Regions

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Abstract

This paper is focused on the statistical assessment of seasonal effects on farmers' income, their work-occupation in farm, and sales of apple products. In focus of this study we have taken two regions Prizren and Korça. By making a comparing between Albania and Kosovo, with regard to significance of the model of seasonal effects for apples. In this paper we have used several statistical and econometric methods to evaluate the seasonal effects on economic phenomena taken in the study. We have used the variation indicators to show the distribution of the observed phenomenon. We also have used dummy variable models. Dummy variables are often used in time series analysis, in seasonal and qualitative analysis of applied data. Each dummy variable is set to 1 if the point of datas is received from a specified season and otherwise 0. To evaluate the seasonal effects in a time series through dummy variables, we need to use four dummy variables, one for each quarter, or three dummy variables and a constant. These variables use them as inputs or factors in a regression model. In our paper, we have categorized sales, for apples in 5 different periods. To estimate the magnitude of seasonal effects and to test their significance are used four dummy variables. The purpose of this paper is to show whether the pattern of seasonal effects for apples is significant

Keywords: seasonal effect, model significance, variation indicators, dummy variables

1. Introduction

In this paper we have used several statistical and econometric models to estimate seasonal effects in the economic phenomena taken in this study:

We are based on variation indicators to show the distribution of the observed phenomenon.

We have collected data on farmers who cultivate apples. For two regions of Korça and Prizren, we have collected data to analyze the impact of seasonal effects on the economic phenomena taken in the study. We have collected the data through surveys and questionnaires for the two regions studied.

Also are used the dummy variables model to estimate the magnitude of seasonal effects and to test their significance.

2. The Research Problem

The research problem is to estimate the magnitude of seasonal effects and to test their significance using DUMMY variables:

We have categorized the sales for these different periods.
DUMMY Sales2 = 1, for September-October period, 0 for other periods.
DUMMY Sales 3 = 1, for November to December period, 0 for other periods.
DUMMY Sales 4 = 1, for January-February period, 0 for other periods.
DUMMY Sales 5 = 1 for March to June period, 0 for other periods.

Osmani, M (2010), Econometric analysis with dummy variable (pp.129-130) Tirane, Albania 2010
To estimate the magnitude of seasonal effects and to test their significance use 4 dummy variables.

Another important problem is determination of influence of external factors on the economic phenomena taken in the studies.

Which is determined through the coefficient of variation that is a relative indicator that expresses the magnitude of the ratio between the standard deviation and the arithmetic mean of the mass phenomenon.

As smaller is the coefficient of variation more homogeneous are data of the quantity of the phenomenon, so the influence of external factors is in min and vice versa.

3. Methodology

**Primary data** have been collected through surveys and questionnaires about farmers who cultivate apples in Korçë and Prizren regions. In total, we surveyed 100 farmers cultivating apples in the Korçë region and 30 farmers surveyed who cultivate apples in Prizren region based on interviews.

The purpose of data collection through these surveys is to highlight the impact of seasonal effects on these economic phenomena, farmer's income, sales and employment of farmers in apple cultivation over a year and quarterly, making a comparison between two Regions, Korçë and Prizren.

Also, purpose of the primary data collection is to determine in which quarters are more expressed seasonal effects in regions taken in the study.

**Secondary data.** Regarding the collection of secondary data, we have collected considerable information from Statistics module and from applied Econometrics. Also, we have collected considerable information from the internet, and we have used Eviews 3 program to analyze data through statistical and econometric models to test significance of the seasonal effects on economic phenomena taken in the study.

**Regarding the methods** we have used, this paper also includes descriptive and analytical methods.

We are based on variation indicators to show the distribution of the observed phenomenon. The coefficient of variation is a relative indicator that expresses magnitude of the ratio between standard deviation and arithmetic mean of the mass phenomenon.

As smaller is coefficient of variation more homogeneous are the data of quantity of the phenomenon, So the influence of the external factors is in min and vice versa.

We also have used dummy variables model to estimate magnitude of seasonal effects and to test the significance of seasonal effects.

regard to sample taken in the study, it consists of 130 farmers:

1. In Prizren region, we have received 30 questionnaires (polls) from some farmers in Prizren that deal with apple cultivation in relation to seasonal differentiations in the economic phenomena taken in the study: Income, work occupation of farmers in farm, and sales.

2. In Korçë region, we have received 100 questionnaires (surveys) from some farmers dealing with apple cultivation in relation to seasonal differentiations in the economic phenomena taken in the study: Income, work-occupation, and sales.

As far as the sample selection method is concerned, we have used accidental selection technique.

Regarding the questionnaire: We have paid particular attention to: question sorting, identifying independent and dependent variables, contacting farmers, collecting data, and evaluating of questions.

Types of questions are in a closed form, which provide various tabular and sorted options where the interviewer can respond by selecting or marking the appropriate option.

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4. Analysis and Findings

4.1 Sale apples Korča

For apples sale in Korča region we have evaluated the following model:

Dependent Variable: Sale
Method: Least Squares
Sample: 1 500
Included observations: 500

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>Std. Error</th>
<th>t-Statistic</th>
<th>Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td>C</td>
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<td>1.136735</td>
<td>2.067324</td>
<td>0.0392</td>
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<td>DUMMY S4</td>
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<td>DUMMY S5</td>
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<td>1.607586</td>
<td>-0.342128</td>
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</tbody>
</table>

R-squared 0.882437     Mean dependent var 18.73000
Adjusted R-squared 0.881487     S.D. dependent var 33.01996
S.E. of regression 11.36735     Akaike info criterion 7.709317
Sum squared resid 63962.25     Schwarz criterion 7.751463
Log likelihood -1922.329     F-statistic 928.8784
Durbin-Watson stat 2.348607     Prob(F-statistic) 0.000000

SALE = 2.35 + 78.1*DUMMY S2 + 6.25*DUMMY S3 - 1.9*DUMMY S4 - 0.55*DUMMY S5

The pattern of seasonal effects for apples case is significant for a very high probability. The overall effect of seasonal factors is very high on sales by periods. It is evidenced by a high 88% determination coefficient.

Seasonal effects for January-February and March-June are not significant, while are significant for other periods. It is noted that the seasonal effects for September-December are positive and significant.

4.2 Sale apples Prizren

For apples sale in Prizren region we have evaluated the following model:

Dependent Variable: SALE
Method: Least Squares
Sample: 1351 1500
Included observations: 150

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>Std. Error</th>
<th>t-Statistic</th>
<th>Prob.</th>
</tr>
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<tbody>
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<td>0.5319</td>
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<tr>
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<td>3.723437</td>
<td>-0.358092</td>
<td>0.7208</td>
</tr>
</tbody>
</table>

R-squared 0.819746     Mean dependent var 18.50000
Adjusted R-squared 0.814874     S.D. dependent var 33.50724
S.E. of regression 14.42081     Akaike info criterion 8.207987
Sum squared resid 30154.17     Schwarz criterion 8.308341
Log likelihood -610.5990     F-statistic 164.8567
Durbin-Watson stat 2.391429     Prob(F-statistic) 0.000000

SALE = 4.166666667 + 74.66666667*DUMMY S2 + 2.333333333*DUMMY S3 - 4*DUMMY S4 - 1.333333333*DUMMY S5
The pattern of seasonal effects for apples case is significant for a very high probability. The overall effect of seasonal factors is very high on sales by periods; It is evidenced by a high 81% determination coefficient.

The seasonal effects for January-February and March-June are not significant, while are significant for other periods. It is noted that the seasonal effects for September-October and November-December are positive and significant.

4.3 The work-occupation of farmers in Korça region in apples activity

For apples work-occupation in Korça region we have evaluated the following model:

\[
\text{Work-occupation} = 3.07 + 1.19 \times \text{DUMMY work-occup2} + 1.71 \times \text{DUMMY work-occup3} + 0.04 \times \text{DUMMY work-occup4}
\]

The model of seasonal effects related to work-occupation of farmers in apples activity for Korça region is significant for a not very high probability. The overall seasonal factors effect of factors is significant over farmers work-occupation by periods; With a determination coefficient by 68%.

The seasonal effects related to farmers' work-occupation in apples activity for Korça region in all periods, April-June, July-September, October-December, are positive and significant.

Based on coefficient values in the periods April-June, July-September, seasonal effects are more significant than in the October to December period, where the respective coefficient in this period is lower, that means seasonal effects are little significant in this period.

4.4 The work-occupation of farmers in Prizren region on apples activity

For apples work-occupation in Prizren region we have evaluated the following model:

\[
\text{Work-occupation} = 2.10 + 2.42 \times \text{DUMMY work-occup2} + 2.72 \times \text{DUMMY work-occup3}
\]

The model of seasonal effects related to work-occupation of farmers in apples activity for Prizren region is significant for a very high probability. The overall seasonal factors effect of factors is significant over farmers work-occupation by periods; With a determination coefficient by 68%.

The seasonal effects related to farmers' work-occupation in apples activity for Prizren region in all periods, April-June, July-September, October-December, are positive and significant.

Based on coefficient values in the periods April-June, July-September, seasonal effects are more significant than in the October to December period, where the respective coefficient in this period is lower, that means seasonal effects are little significant in this period.

The model of seasonal effects related to farmers work-occupation in apples activity for the Prizren region is medium significant. The overall effect of seasonal factors is significant over periods of farmers employment on apples activity; With a determination coefficient of 55%.

Seasonal effects related with farmers' employment in apple activity for Prizren region in all periods, April-June, July-September, October-December, are positive and significant. Based on the coefficient values in periods April-June, July-September, the seasonal effects are more significant than in the October to December period, where the respective coefficients in this period has lower value, which means seasonal effects are little significant in this period.

4.5 The income of farmers in Prizren region on apples activity

For apples income in Prizren region we have evaluated the following model:

\[
\text{INCOME} = 1.000000 + 0.450000 \times \text{DAMIAR}2 + 35.20000 \times \text{DAMIAR}3 + 60.35000 \times \text{DAMIAR}4
\]

The seasonal effect model in relation to farmers' income in apple activity for Prizren region is significant for a high probability. The overall effect of seasonal factors is significant over incomes by periods; With a low coefficient of determination 22%.

The seasonal effects for apples in all periods, April-June, July-September, October-December, are positive and significant. Based on coefficients values in periods July-September, October-December seasonal effects are more significant than in April-June period, where the respective coefficients in this period are lower. That means that seasonal effects are little significant in this period compared to other periods.

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4.6 The price of farmers in Korça region on apples activity

For apples price in Korça region we have evaluated the following model:

\[
\text{PRICE} = 1.155 + 7.515 \times \text{DUMMY Price2} + 6.355 \times \text{DUMMY Price3} + 1.635 \times \text{DUMMY Price4} - 0.375 \times \text{DUMMY Price5}
\]

The seasonal effect model in relation to the price of apple for Korça region is significant for a high probability. The overall effect of seasonal factors is significant over the price of apple according to periods; With a determination coefficient of 60%.

Seasonal effects for apples, in September-October, November-December, January-February, based on the coefficient values are positive, that means seasonal effects are significant in these periods. Mainly in September-October and November-December seasonal effects on price of apple are very significant, while for the March-June period the respective coefficients have negative values which means seasonal effects on apple prices are not significant in this period.

4.7 The price of farmers in Prizren region on apples activity

For apples price in Prizren region we have evaluated the following model:

\[
\text{Price} = 0.783333333 + 8.15 \times \text{DUMMY Price2} + 6.355 \times \text{DUMMY Price3} + 1.635 \times \text{DUMMY Price4} - 0.375 \times \text{DUMMY Price5}
\]
The seasonal effect model in relation to the apple price for the Prizren region is significant of a high probability.

The overall effect of seasonal factors is significant over apples price according to periods; With a determination coefficient of 62%.

Seasonal effects for apples, in September-October, November-December, January-February, based on the coefficient values are positive, which means seasonal effects are significant in these periods, mainly in September-October and November-December. The seasonal effects on apples price are very significant, while for March-June period the respective coefficients has negative values which means seasonal effects on apple prices are not significant in this period.

5. Conclusions and Recommendations

Concerning the conclusions, in this study, impact of seasonal differences on economic phenomena taken in the study by quarter was very important for the regions studied in Korça and Prizren.

It is also noted that these seasonal differences in economic phenomena are highly expressed in both regions, slightly more are expressed in the Prizren region.

Through dummy variables we made an estimate of the magnitude of these seasonal differences according to periods studied.

Through variation indicators we show the distribution of the observed phenomenon. Using the coefficient of variation.

By the analysis we saw that the coefficient of variation had generally high values for regions studied, indicating that influence of seasonal effects or external factors is important.

Some of the recommendations for two regions would be to provide more support for farmers by government.

By Investing in setting up protection systems for apple-farms.

It is needed More investment by the government on infrastructure, transportation, warehousing of products etc

References

The Use of Immunity Doctrine in Commercial Activities in Mesopotamia and Ancient Greece

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Abstract

This study traces the history of the formation of immunities concept and its application in commercial activities in ancient Mesopotamia and Greece. The doctrine of immunity is discussed based on the historical process starting from the myth, concept, and its implementation in the commercial/trade activities. By using historical approach, this study shows that in Mesopotamia and Greece, traders or merchants enjoyed absolute immunity due to their position as the representative of their King or polis in which their commercial acts and diplomatic mission were combined. In Mesopotamia, merchants enjoyed the full confidence of the King, and one would not be wrong to suppose that in such enterprises commercial activity and diplomatic mission were combined. Compared to the Mesopotamian practices that granted all traders with the status of immunity from public obligations, in ancient Greece only traders with honorific conditions could enjoy the status of proxenos.

Keywords: immunity, commercial activities, history, Mesopotamia, and ancient Greece

1. Introduction

None ever found the immunity doctrine when the first time born in history. However, many experts agreed that immunity was born and developed in line with the emergence and development of the power of diplomacy. Moreover, supported by Oppenheim, he considered that diplomacy is an area of study as old as history itself.¹

Tracing the use of immunity in commercial practice is not easy work. In other side, lot of trusted periodicals explaining the ancient nations did commercial activities. Those periodicals also give the historical’s information when simply immunity used as a type of protection during political diplomacy. Such reflected publications influenced this study to keep the original information on how simple protection on trade did by the powerful authority began to developed up and down in the history.

By using historical approach, this study shows that the conception of immunity has begun to be used to protect the merchants in ancient Mesopotamia. After that, the concept of immunity developed by practices in ancient Greece. This development is greatly influenced by the power of trade and political diplomacy.

2. Analysis and Results

2.1 Beginning Practice in Mesopotamia

In ancient history, Mesopotamia was well known as the ‘land between the rivers’ reflecting their land was widely fertile due to seasonal rains and good for growing crops.² The lack of natural

² Mesopotamia’s land lies between Tigris and Euphrat’s river. The word Mesopotamia comes from the Greek means “the land between two rivers”. Kasak, E. & Veede, R. (2001) Understanding Planets in Ancient
resources urged people of Mesopotamia to make trade to other cities. Trade became integral to the economy, custom, and culture of Mesopotamia. Aware that they were surplus in agricultural products then a vigorous trading system developed.3

The third dynasty of Ur (2112-2004)4 promoted foreign trade policy while at the same time the King ordered his peoples to increase agricultural productivity.5 This dynasty became the capital of Sumer and Akkad.6 At that time, merchants were the leading actor of the trade relations. They transported the goods from and to Mesopotamia and other cities even outside the Kingdom’s territory, and also mostly made exchange for rare commodities needed by the people. They travelled by donkey caravan, river barges, and sea-going ships to all parts of the Fertile Crescent, Persia, Tilmun, Magan, and Melukka.7 They imported copper, precious stones and woods, and ivory8, and they also exported agricultural products (such as: barley, wheat, dates, leather and wool), dried fish and goods manufactured from local materials (such as fine woolen textiles, perfumed ointments and oils).9 Cohen argued that merchant groups are culturally distinct, organizationally cohesive, and socially independent from their host communities while maintaining a high level of economic and social ties with related communities who define themselves in terms of the same general cultural identity.10

During the Ur period, the majority of the goods they transported were furnished by state (palace or temple) investment and the merchants also carried small quantities of goods on their own behalf.11 The nature of trade describe that state was an important customer for the merchant12 though their relationship questioned by the history and texts.13 However, Karen wrote that merchants at that time were the true agent of state:14

"Texts referred to the same routes used for centuries for transportation of goods, the movement of troops, and the journeys of merchants or diplomatic envoys, who were often the same persons. The Akkadian term showed the wide range of activities of this agents; the Akkadian word could be translated "messenger", "envoy", "ambassador", "diplomat", "deputy", and even "merchant...."''

As everybody else working for the third Ur state, merchants enjoyed the status of éren, i.e., state dependents.15 Their work for the state entailed the procurement of foreign goods and even

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8 Ibid.
9 There is still unclear connection that the exported products used in exchange of imported goods for Mesopotamians. McIntosh, Jane. (2008) The Ancient Indus Valley. California: ABC-CLIO. p.188.
more importantly the distribution throughout the state economy of perishables and other commodities that could not efficiently handled by the central redistributive mechanisms held by the state.16 Those works seem that state distributed the power in such areas to merchants and as consequence they enjoyed protection at times.17 Such protection covered freedom of movement and protection against raids, hold-ups, and robbery.18 Beside earned silver19, they also receive state funds to acquire foreign goods.20 One record, for example, lists thirteen individual or groups of merchants from all over the third Ur state who received amounts of silver for the purpose of acquiring gold.21

Merchants enjoyed the full confidence of the King, and one would not be wrong to suppose that in such enterprises commercial activity and diplomatic mission were combined.22 This means that merchants enjoy the protection as similar as diplomatic mission while they worked as state’s commercial agent and even for their private purpose in business. The protection enjoyed by merchants classified as simply immunity protection since no separation of the use of the privilege as the agent of the state and as private individual. It influenced by their dominant closed relation with the royal institution of third Ur. Eventhough this protection was simply or primitive conception but it was the first basis of protection by the agent of state acting for commercial purposes during the historical timeline.

2.2 Practice in Greece

It is quite challenging when tracing the economic activities done by ancient Greece since this site wellknown as a source of philosophical, political, and legal thoughts. Based on anthropological found during the Archaic (776 – 480 BCE) and Classical (776 – 480 BCE) period Greece was actually divided into city-states or ‘polis’.23 The obvious increase population and expanding territorial occupation had positioned market as fundamental part of Greece’s way of living in the past.

Agora had built in each polis as public city centre that had major function as internal market.24 Products sold in the market commonly came from domestic market and those market mostly limited to local exchanges within the countryside. There was little possibility but demanded import for luxury products from Asia, Africa, and Northern Europe.25

In the ancient Greece, government had no dominancy to the market. The main economic concerns of the governments of the Greek city-states were to maintain harmony within the private economy (make laws, adjudicate disputes, and protect private property rights), make sure that food was available to their citizens at reasonable prices, and obtain revenue from economic activities

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16 Ibid.
17 Jane McIntosh. Loc. cit.
(through taxes) to pay for government expenses.26

The poetry of Hesiod, an 8th BC poet from Central Greece27, reveals the existence of emporoi28, traders who hired of others ships for their economic benefits. Reed takes emporoi and naukleroi (traders who owned their own ships for their ventures) in the same group of traders29 while the other group consisted people who pursued in trade as complementary living.30 Emporoi has some distinct characteristics such as: carried on interstate trade, relied for much (or probably most) of their livelihood on interstate trade, traveled by sea, traveled in someone else’s ship, owned the goods they trade in, and did not produce the goods they trade in. Naukleroi also has only single main characteristic: one who was the owner of a seagoing merchantman.31

The earliest written sources of Homer and Hesiod attest to the existence of trade (emporia) and merchants (emporoi) from the 8th century BC, although they often present the activity as unsuitable for the ruling and landed aristocracy.32 Those written sources refers to both Emporoi and Naukleroi envolved from being largely agents of aristocrats or part timers to mostly independent professionals.33

Most traders in ancient Greece were xenois rather than metics but not all of them having status as proxenos.34 Proxenos is citizen appointed in his own polis to look after affairs of another polis or citizen representing one Greek community in another polis.35 Proxenos has special privilege that

28 In his poems, Hesiod explains about sailing ships and commerce but this just part-time work of peasants because they could not leaved their farm in a long time. HASEBROEK, J. (1933) Trade and Politics in Ancient Greece. London: Biblo and Tannen Publishers. p.67.
31 Ibid. pp.7-12. The word Naukleroi has direct meaning in commercial activity. See also Finley, M. I. (1935) Emporos, Naukleros, and Kapelos: A Prolegonema to the Study of Athenian Trade. 30 Classical Philiology 320. pp.335-336. Merchantman is any non-naval vessel, including tankers, freighters, or cargo ships, but not army ships.
33 Ibid.
34 Proxeny or Proxenia (Greek: προξενία) in ancient Greece was an arrangement whereby a citizen (chosen by the city) hosted foreign ambassadors at his own expense, in return for honorary titles from the state. The citizen was called Proxenos (προξένος; plural: Proxenoi or Proxeni, "instead of a foreigner") or Proxenos (προξένος). The proxeny decrees, which amount to letters of patent and resolutions of appreciation were issued by one state to a citizen of another for service as proxenos, a kind of honorary consul looking after the interests of the other state’s citizens. A cliché phrase is euergetes (benefactor) and proxenos (προξένος τε ευεργέτης). A Proxenos would use whatever influence he had in his own city to promote policies of friendship or alliance with the city he voluntarily represented. For example, Cimon was Sparta’s Proxenos at Athens and during his period of prominence in Athenian politics, previous to the outbreak of the First Peloponnesian War, he strongly advocated a policy of cooperation between the two states. Cimon was known to be so fond of Sparta that he named one of his sons Lacedaemonius. Being another city's Proxenos did not preclude taking part in war against that city, should it break out - since the Proxenos' ultimate loyalty was to his own city. However, a Proxenos would naturally try his best to prevent such a war from breaking out and to compose whatever differences were threatening to cause it. And once peace negotiations were on the way, a Proxenos' contacts and goodwill in the enemy city could be profitably used by his city. The position of Proxenos for a particular city was often hereditary in a particular family. See Thucydides and Crawley, R. (trans.) (2006) The History of the Peloponnesian War. New York: Barnes and Nobles. p.33. Hazel, J. (2002) Who’s Who in the Greek World. New York: Routledge. p.56.
usually called as proxenia. Some Emporoi and Naukleroi as benefactors to the Greece community were rewarded the titles of proxenos with proxenos decree and immune from the public obligations. Demetriou (2012) describes this privilege by giving real practice in Rhodes island:

“The grants of proxenia are reminiscent of the honors given by the island of Rhodes to the two residents of Naukratis. One of these inscriptions, dating to 440-411 BC, records the honors given to a man appropriately named Damoxenos (foreigner to the deme), who is described as living in Egypt. The mention of the Hellenion later on in the inscription suggests that this man’s residence was probably Naukratis. Damoxenos was named proxenos and euergetes of the Lindians and was also given tax exemption on imports and exports for himself and his descendants both in times of war and peace. The other inscription, slightly later (411-407 BC), gave Pytheas’ son, a resident in Egypt from Naukratis, and his descendants, the title of proxenos of All Rhodians. Phyteas’ son and his descendants were also given the right to sail in and out of Rhodes both in times of war and peace. Although these two inscriptions are not Attic, they fit into Whitehead’s scheme. Their earlier date may explain the fact that the inscriptions explicitly mention that these two men were residents of Naukratis and not Rhodes, where the were given the title proxeno. The Rhodian inscriptions also gave the men they honored tax exemption on imports and exports and the right to sail to and from Rhodes at any time. This implies that they were probably emporoi or naukleroi, the same professionals as those of the honorees of the Attic inscriptions, and that even though their official residence was Naukratis, they were mobile, as were traders who received the Athenian rewards. The grant og tax exemption on the specific route from Naukratis to Rhodes, even if it was restricted to specific individuals, is similar to the legislation that the Thracian authorities enacted that made several trade routes from Maroneia to Pistoiros and from Pistoiros o the Belana emporia tax exempt. The recipients of the Athenian honors, however, do not receive tax exemption either on their import sor exports, although their status as proxenoi implied that they received some relief on their residency taxes. In any case, the Attic and Rhodian inscriptions suggest that Athens and Rhodes had similar ways of rewarding their foreign traders: both poleis often granted the status of proxenos to them. If each polis whose traders dealt with a given emporion probably had a proxenos there, then proxenia should be understood as another network that connected various poleis with each other across the Mediterranean.”

Compare with Mesopotamian practices that granting all traders with status of immune from public obligation, in Ancient Greece only trader with certain condition got status of proxenos. These proxenos titles were not simple honors with no tangible advantages, as might be inferred from the fact that the polis often added privileges such as ateleia (immunity from public burdens), asylia (freedom from seizure of one’s goods), and epimeleia (an injunction to the officials of the state to watch over the proxenos’ interests). Having status as proxenos implied admission to a category of foreigners with privileged status, although the concrete privileges were ill defined. There are laws regulated the privileges of proxenoi in some poleis but not in all poleis. However this was not always the case, and even when a law existed, furth privileges could be added. Privileges are therefore often mentioned explicitly, although this habit in no way prohibited explicit reference to others that were already attached by law to the titles of proxenos since reference to these as well

36 Ibid.
39 Reed, C. M. op.cit. p.xi.
41 Ibid. The proxenos decrees were also provided certain privileges such as: safeguarding the proxenos and his families from civil wrong, exemptions from all or specific taxes (ateleia), the right to own real property at Athens (enktensis), the right to sail and carry on trade in certain areas under Athenian blockade, compensation for losses or special payments, exemption from taxes on the import of shipbuilding materials, the establishment of a special commission to examine a case brought by the proxenos, guarantees that land or moneys will be inviolable.
served to further highlight the polis' liberality.  

Occasionally, proxenos were awarded Athenians citizenship but seldom awarded in the fifth BC. However, Michell (2002) assumed that proxenia and citizenship were incompatible with each other since, it is claimed, a proxenos could not by a definition be a citizen of the state (polis) he was representing:

“It is generally assumed that proxenia and citizenship were incompatible with each other since, it is claimed, a proxenos could not by definition be a citizen of the state he was representing – but we should resist the temptation to make the Athenians this legalistic. Since he role of a proxenos was to look after the interests of the honouring state in his natal state, a subsequent grant of citizenship did not disenfranchise him in his own polis or nullify the proxenia. His status as proxenos would be threatened only if he was unable to fulfill his obligation to look after the interests of the awarding state. A good fourth-century example of the compatibility of citizenship and proxenia is given by an inscription honouring a Philes of Rhodes. In the main body of the decree he is awarded proxenia, while in a rider to the decree he is awarded citizenship. Osborne finds this problematic, assuming that proxenia is 'a privilege clearly incompatible with citizenship', and argues that the rider supersedes the main decree. Although it is clear that Philes was in Athens at the time of the awards, there is no reason to assume that he remained in Athens or that he did not return to his native Rhodes to exercise his proxenia on Athen’s behalf while remaining an honorary Athenian citizen. In this case, the citizenship would have emphasised his rights in Athens and given him status there, but the proxenia would have emphasised his duties to the Athenians when in his natal state.”

Burke has pointed out the fact that from “the late fifth and fourth BC there are a number of instances where Athens and other states did designate as proxenoi men actively involved in maritime trade”. An inscription quoted by Kloppenborg and Ascough (2011) provides an example of the designation of a foreigner as a proxenos and their honors as stated as follows:

“... of the presidents, Epameinon has put to a vote (the motion) that NN son of NN of the deme Anagyrous proposed: Whereas the shippers and merchants have declared Apollonides son of Demetrios of Sidon to be a good man and well-intentioned toward the people of Athens, the People (demos) resolved to commend Apollonides son of Demetrios of Sidon and to crown him with a golden crown of the value of 1000 drachmae, on account of the excellence and good will that he shows to the people of Athens: and he and his children shall be (designated as) proxenoi and benefactors (euergetes) of the people of Athens; and in accordance with the law he shall have possession (enkesis) of property and a house. Let the secretary of the Council inscribe this decree on a stele and set it up on the Acropolis and let he treasurer of the People say for the inscribing of the stele (up to?) x drachmae, from the expenses designated for (the inscribing) of decrees.”

The interaction between public and private aspects in Greek political relationships is fascinating to study: when the polis behaved as a corporate body, it often assumed models for

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42 The tile proxenos normally denoted benefactions performed for individuals who resided in or were short-term visitors to the proxenos' polis. It is different with the title of euergetes which emphasized benefactions performed for an entire community that was nor the euergete's polis. A proxenos might also perform (or have performed) services for the entire polis from which he received the title – the title implied that its bearer was a benefactor of the entire city – and these services could be rendered in the polis that granted the title, rather than in the proxenos' own polis. But the purpose of mentioning both titles was to highlight the two directions in which benefactions could be oriented (toward persons in the benefactor's polis and those in another place) and the two levels at which it was possible to act (the individual and the communal). Gygax, M. D. (2016) Benefaction and Rewards in the Ancient Greek City. Cambridge: Cambridge University Press. p.110.

43 Ibid.


relationships which to modern sensibilities could be considered more appropriate to personal activities than for impersonal state relations. However, the corporate polis could appeal to ties of kinship, form proxenia relationships as if they were xenia, and award citizenship in order to elicit strong bonds of responsibility to the state. All of these relationships implied and appealed to duties and obligations that were more natural to personal relationships. Even if it was manufactured or artificial, this call to loyalty and duty was still strong: kin should help kin, proxenoi should help benefactors, citizens should help fellow citizens. How seriously this responsibility was taken depended on the individual and on individual situations, but it was part of what made these relationships work, and if it was rejected or ignored it could lead to the failure of the relationship with all the (real or assumed) disappointment and anger that entailed.

3. Conclusion

In Mesopotamia, merchants (with no certain conditions) received immunity protection from the King while they worked as state’s commercial agent and even for their private business. However, in ancient Greece, proxenos – (immunity from public burdens and freedom from seizure of one’s goods) were granted to trader only if they met certain condition which they must provide any tangible advantages to the community. Both of the privilege were absolute in the practice at that time.

Factors that Hasten the Integrity of Albania in the European Union

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Abstract

European Union is nowadays the most popular term used in Albania. Its integration means development, solidarity, justice, equality. Data of verified polls reveal Albania as the most enthusiastic country, bearing the highest percentage of popularity willing to join EU. Ben Rosamond defines European Union as an “endless, deep, broad process of the politic, economic and security cooperation among nations with the intention to restore peace”\(^1\). North Europe has been called Europe by greeks in the VII century B.C, naming it after the name of the Phoenician king’s daughter who was brought in Crete by her absconder Zeus. The integrity process is complex, complicated, multidimensional and deep in reforms of all fields. It is a long process with great responsibility that requires a big invest in fulfilling standards. The psychological factors have their role and impact in all other factors hasting this process.

Keywords: Albania, Integrity, European Union(EU), prosperity, development, poll.

1. Growth of faith, awareness and real efforts of the Albanians to become a part of the EU.

In the report of EU to Albania it is stated “Growth of awareness about real efforts and time that Albania needs to integrate in EU is crucial. Contrary, the chances of disappointmnet would be high.”\(^2\)

1.1 It is important to grow faith that the day of Albania acceptance in EU will not be too far and to create a positive enthusiastic atmosphere.

Recognition of achieved results, initiating a competitive spirit, praising and rewarding all those who work for and help in european integrity – are important psychological elements of growing faith and enthusiasm. In our way to integrity, we as Albanians need to be incouraged and stimulated in order to move ahead courageously and boldly.

According to the psychologists “Courage is not an isolated aspect, a momental impuls. It is a complete and complex action that should be followed till the final goal. It is not the initial efforts that are the most difficult, but rather those halfway trying to resist the weaknesses and unpredicted barriers. It is important to face these difficulties with patience and caution. Courage is not the virtue of starting a work but, rather its further continuance, completion and perspective.”\(^3\)

The creation of a positive, enthusiastic atmosphere is achieved when national consensus on major issues is achieved, such as the case of integration in EU. Our country needs a wise pragmatic politics in order to achieve this consensus. It is required the increase in level of Albanian politics wisdom to answer to European standards with the same norm. All Albanians are required to be aware of the reform cost and move together towards Europe without political discrimination.

With our eyes and efforts on the future, visions are possible and realisable, whether immediately or gradually, when they are relied on tangible reality combined with a clear political will. If we are to consider the survey results through years, we reach to the conclusion that the number

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\(^1\) Rosamond, B. (2000) Theories of European Integration. Basingstoke: Macmillan
\(^2\) Meksi, E. Challenges and perceptions, Publishing House Dudaj, Tirane, 2005, p.225
\(^3\) Alberon, F. To have courage, Dritëroi, Tiranë, 2001, p.41
of the Albanians defending the idea that integration does not depend on Brussels but on internal reforms, is rising\textsuperscript{4}. The internal call, belief, reliance on internal factors, as the most fundamental, create the possibility to get in touch with profound dynamisms that support and lead us, relieve from the fear, exhaustion so as to get as soon as possible where we aim at.

1.2 Citizens awareness of the integration necessity of our country in EU.

Individual awareness is an important factor of its motivation. European integrity is a motivated process of the Albanians to be member of the european family. This is connected to the affirmation wish of the Albanians as equal to Europe nations, to strong wish of solving economic issues, the same as Europe did, to the desire to adjust to technology, to lifestyle etc.

Our motivation, already focused on EU integration, requires:

Firstly, when dealing with people, the concentration must be on good behaviours, education of humanism, tolerance, solidarity and respect of law execution. Integration and moral values cultivation, rules and laws are very important. These are related to membership itself in EU, open to every European state that respects “liberty, democracy and respect principle of human rights, fundamental freedom and legal state”.

Secondly, all the citizens, but also the political class should be aware of their responsibilities in hastening or slowing the integration process by giving what they can. Psychological awareness or preparation must be an inseparable part. A song by some USA pupils mentions: “What an illuminated world would we have if each one of us lighted a single small candle”.

We should join EU with dignity, with our ethnopsychological features and with our identity. The motif of affirmation, success achievement, interest, curiosity, perfection and prestige stimulate the individual to reach self perfection and help others move towards the European integrity.

The typical Albanian is proud, sensitive, sensible and these qualities must be a reason to move faster towards integration. The support this process has from individuals is a positive aspect in the favorable politics compilation. As Prof. Dr. Ermelinda Meksi, Minister of European Integration in 2002-2005, stated “a fundamental factor speeding the European integration are we ourselves, through our vision perspective, leadership and awareness to our political compromises”\textsuperscript{5}.

The role of interest is great, especially from the part of the youth when it is strong, profound and long-term. Interest on activities that give success, also give a special satisfaction. Albanians want success and fight for it. This aspect should also be seen as positive integration stimulator.

1.3 Abilities, expressions, skills as part of faster integration in EU.

Skills are individual features of human personality that help them succeed in a certain field or activity. As far as kinds of skills are concerned, let’s mention intelectual, mental ones, the latter being the most important. An integrated school of the European educational system accomplishes the mission of integrity. Expressions are a set of learned movements based on systematic exercises applied automatically, whereas skills are the fast, correct executions of certain professional, sportive actions. They are human flexibility in work, play and other activities. Both of them economize the individual activity by providing premises and time to intelectual and productive actions. They are taught early in age. We see it necessary to taught our pupils, make them be aware of the time wasted and how to regain it. This might be done by changing our programmes and contexts.

2. New communication strategies of integration in EU

Strategy, methods issues and communication techniques with public and European negociators are the key to success of integration hastening. We as people of a country that aims at joining with the

\textsuperscript{4} Survey on Albanians integration in EU, Albania Paper, 14.12.2004, p.11

\textsuperscript{5} Meksi,E. Challenges and perceptions, Publishing House Dudaj, Tirane, 2005, p.230
great European family, already part of the integration process, need to know EU better, its history, essence, gradual integration and universal politics, benefits and liabilities of being its member, acceptance conditions, mechanism of mutual institutions function etc.

2.1 Communication is always a thought, sense and behavior.

“The flow of events must change but, first must change the spirit of people.”

The psychology of communication teaches us that in order to be communicative, guidelines in form of recipes are not sufficient. (Let alone when communication happens with ancient, civilized and prosperous Europe).

What must be learned about sending and receiving a message is understanding what happens when we communicate, as well as being able to adjust to communication circumstances. Our messages to Europe must be clear, friendly and applying widely.

Messages must also be understood and deciphered in time with intelligence. It is really important to teach communicative behaviour in order to develop abilities, skills and communication expressions that have civilised features. This must be part of the work in our schools. To establish a relationship it is important to reach people’s sense. The word power is the only real moving force in the invisible thought kingdom. According to the philosopher Umberto Eco “The integration culture is within the human being itself, it is the culture of planetary identification, survival but, always a culture with lively and multiple plurality.”

Starting from this, very important, with positive impact that leave imprints are the meetings in form of discussions and focus on:

1. Improvement of public knowledges and understanding of EU.
2. Explanation of the complications that will be present when each country is accepted as a member.
3. Explanation of the relations between efforts of membership preparations and negotiations progress.

Debates and discussions are present even in the position of the European citizen during his process of integration in countries of West Balkan. We should take the initiative to communicate with EU. This requires a serious preparation, wise attitude, excellent knowledge of EU countries, their psychology, a qualitative communication and finding the right moment to communicate. When communicating with EU, it is with great importance the role of observation strategy, interference, when necessary, the strategy of real approach to Europe, collaboration strategy, partnership, persuasion, incentive and situation dominance, persistence in main motif and national interest defense.

Albanians should be informed about integration politics of Albania in EU, the process and qualities of EU institutions functioning with the intention to develop their programmes on a well-informen bases. The school has an important role in its contemporary European curriculum.

Educational subjects that teach about EU institutions are: European Parliament, Council of Ministers, European Council, Court of Justice, Court of Accounts, Economic and Social Council, Regional Committee, European Bank of Investments. In the subject of “Economics” : What is the concept of EU on social politics (politics related to relationships in work and not in health, accommodation or social services which the Office of Social Aid deals with). Where do these politics focus on: work conditions, the improvement of work place so as to protect the health and safety of the employers, informing and consulting with them, equality of men to women, integrity of individuals expelled from the work trade.

In the subject “Knowledge on society”: it is intended to get extra informaton about “How is EU represented in the Common External and Security Politics”:

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8 Meksi, E. Challenges and perceptions, Publishing House Dudaj, Tirane, 2005, p.15
9 Çomo, Bekim, Communication Psychology, Pegi, Tirane, 2001, p.34
10 Pinder, Jon, European Union (Brief introduction), Publishing House Ombra GVG, Tirane, 2001, p.110
- EU Presidency
- Commissioner of External Relationships
- High Representative in Common External and Security Politics (General Secretaire of the Council)
- External Common Services of the Commission on External Relationships
- Development
- Expansion
- The Office of Humanitarian Aids – ECHO
- Council Secretariat
- Politics Planification and the Unit of Preliminary Signalisation.

Means of communication are various and interesting: quick information through internet, broadcast of TV spots, important release on media, documentaries and films on the work about European integration, videoclips, different exhibitions with the intention real image promotion of Albania, 3-6 months and annual bulletins, special publications of Integration Ministry, External Ministry, Justice Ministry, Internal Ministry, Economy Ministry, Finance Ministry, Wellbeing Ministry. Through these means and publications the Albanians know what standards should be achieved:

a) in economy – an active trade economy, price liberalization, trade liberalization, macroeconomic stability, rights on property, privatization, financial sector development, competition politics.

b) in way of governance – votes and responsibility, politic stability, government efficiency, regulative quality, law domination, control of corruption, vulnerability to reality (how vulnerable are we to reforms progress).

It is important to use communication techniques that provide a reciprocal confidence situation, both for Albanians and Europeans. These techniques have positive impact if there are applied ways of reducing the difficulty in dialogues and if there are selected proper attitudes that give results.

c) in administrative field – the ability to take on the membership liabilities, including the loyalty to political, economical and monetary unions.

European integrity and public politics are tightly connected to each other. The public politics lie on citizens acting themselves to gain a greater control on their income. It is the Albanians right to know more about the politics, economy, culture, traditions and history of Europe. They require a beat of public views about integration issue. This does not mean only discussion or understanding. Effective beat of thoughts cannot go without decisions related to public acts. Democracy is the vision of a willing cooperation which many important initiatives are based on.

These must be oriented and directed towards European integration of our school. Integration is realized by people with common views and based on the power of reciprocal vows. The new communication strategy should focus on participation increase and active role of the public even on important decisions.

2.2 Creative and qualified work in the European integration of our country.

Methods and ways to realize this work are various. We have the chances to make attractive and useful things. Two points are on our advantage: intellectual capacities and the experience of East Europe countries (almost all these countries overcame the great challenge of European integration)

What can be offered to Albanians in the future:
- A better qualified job so as to transmit the important message to the new generation.
- Hastening or slowing of integration is up to us, Albanians, political forces in our place, their consensus, reforms execution in all spheres etc.
- Albanians must know that “the European miracle” came with work, expenses, because it has its own financial cost and requires standard achievements.11

Before giving dates on EU acceptance, lets work together and give the best so as the process

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11 The action plan of priorities execution of the European partnership document. Publication of Integration Ministry of Albania, 2004, Tirane
flows naturally. It is required:
- To be established information centers of EU all over the country. In web pages near them new information related to developments and changes in EU gets in. In Latvia, before its membership in EU, there used to be 32 information topics in different regions.
- To supply libraries with books about EU. It is required also to be organized “The Day of European Poetry” and “The Day of European Prose”.

The European literature will help in knowing the life of European popularity, their psychology, traditions and manners, language and history. In history subject, especially in economic geography, new information is added. Contexts must be refreshed and new small books (appendixes) be published. Political changes and economic developments are really fast. EU consists of 27 states, new ones will soon be members and others aspire.
- Citizens should get constant information on EU negotiations in forms of leaflets, be stimulated to negotiate well and contribute on their country.
- A national information center should be established, where a specialist of European issues is available to take notes, deals with concerns which he replies directly or electronically to.
- To be planned “The Days of Europe”, “The Weeks of Europe”, festival of European film and music with participation of many citizens. The motto of Europe be: “Democracy-Dialogue-Debate”. Among the most important personalities in politics, art, culture and science, especially those who studied and worked in countries of EU are invited to give some clues on their experience and efforts to enter the EU. What are they doing right now, how do they feel and what is the future of their country?
- Competition between EU countries in different areas: history, geography, literature, art, music, sport. National competition “How to be a good negotiator” according to Polish experience. The winners will be awarded with a visit to one of the EU countries.
- Brochure in form of EU dictionary and ABC of community law. A special school book “European Integrity” be added as soon as possible to school curriculum.
- Polls on European integration issues. Results must be published and analyzed by qualified people who have good knowledge on EU countries, concerns and disagreements on specific topics.

3. Conclusions

The European integrity of our country is an objective, irreversible projects – the biggest one of the Albanians since the fall of totalitarian system. Albanians see they have a future in EU. “Europe” does not mean a geographical aspect but, rather a spiritual one.12

A century ago our Renaissance activists expressed the wish to be part of Europe. The lines: “Jak, blessed day that starts where it goes down” – are meaningful, actual and express the spiritual bond of Albanians with West. In surveys conducted years ago, 89% of the Albanians were pro integration to EU.13

Motifs are some: economic advantages, political stability, democracy and legal state consolidation, free movement of Albanians. Robert Schuman states : “Europe is not going to be formed immediately. It requires concrete achievements.”14

It is our turn now, through reforms and work, be part of EU as soon as possible. We need Europe and Europe needs us too. EU is the common home of European citizens. By becoming part of European Union we defend better our fundamental rights, provide safety, set justice, develop economy and strengthen the legal state. EU teaches us to find consensus on reforms and major decisions. Cooperation and responsibility of all political parties and citizens are the key words to the difficult and long way towards EU. Europe has given its critic and constructive view.15 Above all,

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12 A group of authors, European Union, Publishing House AlbPaper, Tirane, 2002, p.89
15 Morin, Edgar, Europe in our thoughts, Ora, Tirane, 2001, p.81
starting from the example and Europe values, we should be more human because humanism is the original and typical creation of European culture. United Europe projecters emphasized that Europe became a geographical notion after being historical. Albanians, like Betty Dovis character in his movie “Everything about myself”, will have to fasten belts because the travel will be difficult. The spring of Europe is always ahead.

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English Language and its Importance of Learning it in Albanian Schools

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Abstract

Taking into consideration many factors that indicate that the English language has taken an important place in communication and its use by millions in the whole world has become a necessity and not an unnecessary subject in the teaching process in Albanian universities. As a result of that many countries including Albania are seeing an increase of the demand for teaching the English language since the first grades. Also it is found necessary the addition of classes of foreign languages in Albanian schools and universities. The curricula of the language is enriched each year and the new methods are becoming more profitable in teaching the language. Naturally teaching the English at school is becoming important not only academically but also in the practical aspect of learning, such as using language for various purposes such as business purposes, communication, reading foreign books especially in literature or other types. In the aspect of learning the language in the school not only the book is important but also other factors need to be taken into account.

Keywords: English language, teaching, learning English curricula, Universities, learning

1. English at School

Taking into consideration the factors that are mentioned and also other factors that indicate that the English language has taken an important place in communication and its use by millions of people all around the world, the teaching of which has become a necessity and not a second hand subject in the process of teaching in Albanian universities. Due to that many countries and involving the Albania too are facing an increase of the demand for teaching English since the first grades. Seeing the importance of learning English and other foreign languages in Albania is seen as a necessity the increase of classes in Albanian schools and universities. The curricula of the foreign language is enriched each year and new methods have become more fruitful in teaching it also the testing of the language in state exams has played an important role in teaching learning process by the students. According to Broughton it’s no surprise seeing the great importance of English in all the world have been given more classes than any other subject developed in universities.

Naturally the subject of English in Albanian schools is becoming of a special importance not only in academic aspect but also in the practical aspect of the language as lingua franca in businesses, different works or daily communications. In the teaching aspect of the language at schools not only the books used for learning the language plays its role but also other factors are important too. According to Murcia to have good results in his work, the English teacher have to keep in mind certain factors.

First the teacher has to assess the need of the students to learn the English language. Why would they like to learn English? Secondly teacher has to assess some other factors in learning such as the frequency in learning, so how many times a week is the English course held? The size of the classroom and the number of the students in the class, the quality of the materials used (text books, syllabuses). Based in all of these things mentioned above the teacher may decide what to teach and what priorities can be taken into consideration.

Study of English language or other foreign languages in Albanian schools start early, since fifth grade or in some schools in third or forth grade or even earlier, but the early study of this language in Albanian schools does not correspond to the study of English language in other
countries of European Union when the study of this language starts at the age of three in pre-

elementary education, and according to this declaration the English language is the foreign most

learnt language in those countries. Nevertheless the knowledge gained in the elementary classes

are modest, students find it necessary to gain the knowledge of this language, to create their

normal behaviour in the study of the language, where the traditional teaching with the teacher at the

center of the method is developed normally in most of the schools of the cities and villages. In

Albania like in many other countries that study English the level of knowledge of students in classes

is homogenous, in which students may vary from beginners to advanced level.

If the teachers of foreign languages in Albania would teach a rare language such as Chinese

language or Swomi language, very few or none of the students would own it, an we would start

from very beginning for all the students and using the same method for every one which is not the

same case for English language.

According to Harmer English classes of various levels have their problems and the teacher

has always the responsibility to give an appropriate solution, starting to the work groups, use of

methods according to the level of knowledge and with topics in accordance to their level and age,

and of course to work in regard of motivation and stimulation to reach high results. Also according

to Brighton a continuous attempt in regard of learning the language is much more effective than a

spontaneous learning of language. The type of continuous exposure of students with the foreign

language and the daily communication with them makes possible the accomplishment of purposes

with the students of various levels of English knowledge.

From the learning point of view “the more someone is exposed to a foreign language the more

he learns” but learning the modern languages in schools has also an educational purpose, and the

student who decides to study English has clearly an instrumental purpose, he may want to visit

England or other places where English is the first language, he would like to communicate with his

English speaking friends, study abroad, or even find a better job, or get promoted.

Table 1: Purpose of learning English

<table>
<thead>
<tr>
<th>Questions</th>
<th>Alternatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. I would like to get a better mark that's why I learn it</td>
<td>6 20 18 37 18</td>
</tr>
<tr>
<td>2. Would like to study English because I would like to study abroad</td>
<td>16 24 12 27 20</td>
</tr>
<tr>
<td>3. I would like to study English because I would like to find a job</td>
<td>2 4 - 27 67</td>
</tr>
<tr>
<td>4. I would like to study English because I would like to study foreign literature in English literature</td>
<td>8 10 12 43 27</td>
</tr>
<tr>
<td>5. I would like to learn English because I think it is a beautiful language</td>
<td>- 8 8 33 51</td>
</tr>
</tbody>
</table>

About 50 students of the Informatics branch of the university “Aleksander Moisiu” Durres, answered

the questions of a questionnaire, that why they study English language. The answers were stored

below and the charts to understand the true reasons why the majority of students study the English

language

2. Conclusions of Questionaire

As it was seen from the questionnaire a considerable number of students 37% have admitted that

they study the language for a better mark and also a considerable number of students would like to

study English because they would like to follow their studies abroad, nevertheless this was not as

high as the first question, which is taking a good grade. Meanwhile it can be seen that a high

number of students who hopped to find a job where English is used was 68%. Also reading

masterpieces in English the motivation to learn the English language was high. It was 43%, but

surprisingly the number of students who wanted to learn English because they considered it

beautiful (even though considering the language beautiful is a little bit personal because in the
questionnaire were not mentioned the elements that make a language beautiful) was 53%.

3. English Curricula

According to Brown J.D traditionally, the developers of curriculas have supposed that (a) students need to learn English of the native speakers of English (b) educated native speakers must serve as a standard and as a model (c) should be taught the American or British culture (d) communicative teaching is the most productive way to learn English. Curricula developers also have supposed that students learn English because English is the key tool for global communication (b) English helps develop internationalism (c) English is important to continue studies for the higher education (d) English is the first language for global information. The control for designing curriculas has always been in the hands of native speakers of English, whom either have written the text books or have led the development of local curriculas by placing in doubt the valuability of pedagogic model based in the principles of competences of communication. With the standardised norm of the local speakers the model seems utopic, nonrealistic and obstacle in relationships of English as an international language.

Cultural content. Traditionally the British and American cultures have served as target culture of the curriculas of English language, however what the authors imply with culture very frequently is not very clear. Culture may mean with “C” that involves literature, art, music etc, or may mean calendar culture that deals with history, geography and politics etc, or with “c” focused to behaviour and social knowledge that people use to interpret the experience. While McKay argues that assumptions about the teaching and learning of the language of the local community have to be taken into account in the formation of the target culture especially for the things that have to do with the options of the target language, target culture and pedagogy culture. No doubt that many students would like to learn the English as native speakers for various purposes such as study abroad, emigration in the English speaking countries, but the majority of the people use the language for local purposes, or simply to meet the acquisition of the language at schools or at work.

3.1 What and who is involved in the curricula?

As it was mentionet above traditionally the native speakers of the foreign language have always controlled the curricula of the foreign language by writing the text books. According to Brown in the today’s world it is made clear that at least the following groups have an influence in each curricula and for this reason they should be involved in the process of curricula development at least as sources of information.

1. Students
2. English teachers
3. Curricula developers
4. Texts writers
5. Course teachers
6. Business Communities
7. Institutions administrators
8. Outer testers and institutions of testings
9. Other influences people etc.

Distinctions in those groups may prove that they are problematic in the designing of curricula, involving distinctions in (a) English that they use or percept, (b) their point of view that what may contain the learning of the sounds and education, (c) whom they think should teach (d) how they think the English should be taught etc.

Llurda stresses that the latest joint research on the English as an international language together with the assessment of the growing number of non native speakers of English are creating the appropriate conditions for the gradual admission of English as Lingua Franca and consequence of reducing the role of the local teachers in placing the norms and principles on which Lingua Franca will be learned in the future. Lin suggests to use the discourse to take decissions on what should be involved in sullabuses, argumenting that “Discourse is the level of the language that allows
the mutual understanding in communication with the distinction between the varieties in phonological, lexical, and syntactic levels, discourse according to her is to reach the scope with the language. According to Brown usually the choice that which structures, situations, topics need to be learned based in rationale such as use, importance etc.

Teaching English language in Albanian universities may not be complete without the teaching of English for specific purposes (ESP). Socio-linguistic researches have made teachers of English more aware for the functions of the language clarifying in this regard the purposes of teaching. The idea that many students of English need the language for instrumental purposes has led in teaching English for specific purposes."Show me what you need the English and I will show you what type of English you need" became the motto of English for specific purposes (ESP).

This thing led to the creation of courses and creation of specific methods for teaching English language in various branches of science, engineering, medicine, agriculture, economy, tourism etc. Naturally to learn English for specific purposes to the students is something very good for the globalized market of work.

Also new developments in educational psychology led in the increase of the number of the students that studied English for specific purposes, stressing the special importance of the students and their behaviour in learning.

The increase of students that learn English for specific purposes happened due to various factors such as, increase of demand for English language and to adopt to the special needs and developments in the language field and educational psychology.

The assumption for this method was that adjusting English with their needs would improve the motivation of the students making learning faster and better. At the same time since the demand to learn English in compliance with the needs of the students, became a necessity of the time and due to that, new ideas flourished for the study of the language. Traditionally the purpose of the linguistics was the description of the rules to use English, but the traditional learning of English pointed out the learning of grammar, but new studies changed the focus of language for true purposes. A discovery of this study was that the language that we use changes from one context to another one. The assumption for this method that was adjusting English with their needs would improve the motivation of the students making the acquisition of the language faster and better.

So the focus to the learning English for specific purposes at universities and schools make students to gain professional knowledge of the branch in which they study, which normally has its flaws. If the learning is focused only to the specific purposes English and is not combined with the general purpose English it will result in a mechanical learning of some expressions will not help the future specialists a normal communication in every day expressions in English. For i.e. an engineer that learns English language only for specific purposes is limited in the use of that language in other fields and it would be difficult for him to express simple demands such as invitations to his friends to visit his country etc. As matter of fact the more specialised becomes the learning of English the more it resembles to training and becomes less part of the process of acquisition. The importance of English for specific purposes is increasing and naturally there are many factors behind such as:

1. Increase of learning the professions and different trainings in all the world has made the education less academic and more practical, students would like to address their studies to something more valuable. Into knowledge that may be useful when they will start their work

2. Globalization continues to spread and globalization has chosen English as its own language. English is spreading rapidly, there are not only politicians, business leaders and academic professors that need to talk to their international colleagues, but there are also receptionists of hotels, phone call operators, construction workers that move within the EU that need to talk English language.

3. At the same time general English is taught in the whole world in earlier stages and with a great success. At this point students will finish successfully learning English and will not like to repeat the same things after their studies at universities and after the university markets and business trades would like to hire professionals.
4. English as a Business Language

English language comes to aid in various transactions in the whole world. The researches indicate that the communication of the business in the world and in various countries is made in English. English is overruling the business and has become almost a necessity for people to talk in English if they want to join the working forces. From what is said above naturally raises the question: what has made this language so necessary? The English language went so far that at the twenty century it could be considered in such terms such as: “Global English” or “English as an international language” or more involving “Global English”. According to Northrup one of the main reasons for this thing is because English has become the Lingua Franca of the business today in the world.

Some interesting examples come from Finland. Starting from 1990 Kone, a well-known for the production of elevators, extended its activity in Sweden, Austria, and Germany. Kone started to write its financial reports in English. This practice became official policy for its high officials that they have to become fluent in English. The other well-known company in the production of mobile phones Nokia also uses English for its communication inside the company. Also, the Siemens uses English as the corporation language in 1998. In 2011 Deutche Bank assigned as its manager a person whose knowledge in English were fluent, and so on, the official language of the European Central Bank is English, Luis Vuiton in France speaks English, Antonio Merloni too etc.

In the years the English language has become a key tool in the world leadership gaining in books writing, world economy, daily use for various purposes. It comes handy in trade transactions in all the globe, so the learning for the grown up adults is important for business management in the world. But while English became an international language of technology and business it created a whole new generation of scholars that knew why they were learning it. Businessmen that wanted to sell their products, mechanics that needed it to read the handbooks of instructions, doctors that need it for the latest developments in their fields and students, the course of whom involves textbooks, journals or different articles only in English language.

5. Difficulties in Learning English

It is common according to Broughton with any other subject of the curricula, teaching of English need to be done in accordance to the needs of students. The process of selection and breaking the body of knowledge or abilities in acquisition. Grading process is done for the teacher through the text, designers of syllabuses, teaching is structured and controlled by the fundamental theories.

But Alasgoff thinks that the fast distribution of the English language as an international language has raised some problems related to teaching it. The most important of all these has to do with the way how he challenges the key assumption of the connection between the language and identity and especially of what has to do with the “owning” of the language. In the majority of the cases is a tendency that learning the foreign language is treated simply as a distribution of the knowledge and values by those who know more (teachers) to those who know less (students). On other words teachers transmit to the students a kind of commodity called knowledge. This type of “learning” as a way of transition sees the knowledge as something static, public, written and formal.

Language allows that product of teaching can be treated as a measurable product. It considers teachers as “experts” and students as simply receptors and not responsible for any process of teaching. As a result of that students are characterized frequently passivity, create little experience and don’t understand what goes on. A typical experience of learning occurs frequently in lectures with “chalk and discussion” with very little opportunity for students to participate, contribute or share point of views about topic or various types of learning. As it is understood hardly any learning occurs under such circumstances. The process of learning should be much more than that. Individuals do not live simply reacting in mechanical way and without taking into consideration the external influences. People make choices, choices how to interpret events and how to respond to the various situations, what purposes they have and how to achieve them better. According to Bandura these choices influence by the exercise of self-regulations (ability of people to influence their fate. People are not only reacting but they influence positively determining their directions in life. This point of view is fundamental for the theories of constructivism. Salmon argues that to be
effective, educational plans must ease them in experimentation, teaching and understanding. Dewey believed that the way of learning happened.

However, the biggest difficulty of learning the foreign language in Albanian universities is mainly the overfilled classes with a number of students beyond the capacities and especially with various knowledge in English which makes the job of the teacher much more challenging and difficult to cope with.

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Urban Planning Terminology in Albanian and Foreign Languages

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Abstract

The following article aims to introduce a scientific work undertaken with the aim of producing an Urban Planning terminology Dictionary in Albanian, accompanied by French and English. The study and exposure of urban planning terminology will be treated in two works, part of one another: *The theory platform for the analyses of linguistic problems represented by this terminology. *The draft of a dictionary with the main urban planning terminology (Albanian – French – English). To accomplish these two works, a preparatory work has been done in the first stage as it follows: 1. A great quantity of urban planning terms has been taken from this branch’s literature (schoolbooks; books published by urban planners about the various urban problems; this branch’s periodical magazines; urban laws throughout the years alongside with the relevant regulations; etc) what makes up the factual material. 2. The theory material has been collected and studied and it includes monographs, articles, references and other editions which have dealt with Albanian terminology problems, obviously by Albanian authors. We have also used foreign literature about terminology problems, mainly in French. On this theory and factual bases and by following the scientific criteria which have been applied to draft the terminology dictionaries (Albanian – Foreign languages) by the terminology section of the Albanian language and literature Institute, we have launched the preliminary wordy of the dictionary and partially completed its equivalent in French. While working with this dictionary, we have begun dealing with one terminology problem which is used in this branch, the one of the meaning phenomena. During this whole process, there urged the need to complete the factual material and naturally to deeply exploit the theory literature.

Keywords: terminology, lexicography, urban planning

1. Introduction

The modern terminology expanded in the previous century, during the 1930s, when Eugen Wüster, the father of the modern terminology completed a study which was called Internationale Sprachnormung in der Technik, besonders in der Elektrotechnik (The international normalisation of the technical language)which is nowadays considered as the first theoretical work on terminology.

According to Rondeau (1984), four schools have enabled the development of modern terminology: Vienna school, Prague school, Moscow school and Canada and Quebec school.

1.1 Vienna School

Vienna School is the earliest one and is completely based on the work of Wüster who was somehow even its founder. His research work laid the foundations of this school by creating the basic concept of the term, its unisense, ensuring the importance of the notions system and the right definitions for each term. Wüster’s work was followed by the researchers H. Bühler, I. Dahlberg, H. Felber and G. Wersig. The terminology works of this school were focused on the standardisation of notions and terms because only in this way, a fruitful communication in technical areas would be guaranteed. A variety of recommendations about the principles and methods which should have guided the terminologists’ work were elaborated by this school. The influence of this school’s works crossed the boundaries of Austria, expanding in the largest part of European countries.
1.2 Prague School

Prague terminology School was developed on the grounds of functional linguistics. The aim of Czechoslovakia terminology work was the structural and functional description of speciality languages, in which the terms have a dominant role and in which the Czech and Slovak languages are reflected and protected. Even this school is guided towards normalisation, codification and standardisation of terms. Among the mostly mentioned authors of this school we can name L. Drozd, M. Dokulil, V. Brand, M. Roudny and R. Kocourek. Between Prague and Vienna schools there has always been and there still is an exchange of information.

1.3 Moscow School

The first terminology research in the so called Soviet Union, accomplished by Soviet researchers and engineers, date back to the beginnings of 1930s. Wüster's numerous writings were an urge to them. Moscow terminology school was officially founded in 1933 by two engineers S.A. Caplygin and D.S. Lotte. They also helped in creating the Commission for the technique terminology which was later called “The committee of scientific and technical terminology of the Soviet Union Science Academy". Even this school, as well as the Vienna and Prague school, aimed the normalisation of terminology. Lotte in particular dealt important issues among which we can mention: the methods for the normalisation of technical and scientific terminology; problems related to the selection of terms and structure of terminology; the creation of systems for notions and the elaboration of exact and accurate terminology. There was a difference from the Russian school between terminology and nomenclature; according to this approach the terminology collects terms corresponding to the notions which identify the area whereas the nomenclature lists the terms corresponding to the tools used in this area.

Apart from the above mentioned researchers of this school, other popular names are: T.L. Kandelaki, V.S. Kulebakin, V.I. Siforov and A.M. Terpigorev.

1.4 The Canadian and Quebec School

This school is more modern than the above mentioned schools because it was created in the mid '70s as a necessity to respond to the urgent terminology problems which had arisen as a consequence of bilingualism. As Rondeau mentioned (1984), the Canadian researchers have presented their studies in international articles and conferences based on the traditional theory of terminology. They have obviously been the first to use IT tools to collect and elaborate the terms. The tendency towards translation and moemalisation are characteristics of this school. This school has prioritised the French language and has worked to conserve it as a basic language for the scientific and technical terminology.

In Albania the interest for a well organised and systematic work in the area of terminology started only after the Liberation. Work with terminology in Albania was mainly affected by the School of Moscow because of the political relations between the countries but even the School of Vienna recognising the fact that the Albanian linguists were very good at Russian and French. In the scientific sessions in 1952 the necessity and great importance of terminology work was emphasized. In the following years they created the basis for working to create terminology which resulted in making a series of terminology dictionaries from different areas. This methodic – theoretical work and the materials made the problem of terminology occupy a particular place even in the lexicography works and other linguistic works. The attention for the place that terminology would occupy, for eg: in various dictionaries, explanatory or multilingual, is noticed in their introduction or the principles for their composition. In the previous studies, important problems are

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1 A. Kostallari, “Parimet themelore per hartimin e Fjalorit te gjuhes se sotme shqipe”, SF, Nr. 2, 1968.
discussed as: the position of terminology in the literary language\textsuperscript{2}, the relation of the general language lexicon with the special lexicon\textsuperscript{3}, the position of terminology in the various areas of Albanian language dictionaries and the schoolbooks\textsuperscript{4} the position of dialectic lexicon in terminology\textsuperscript{5}, problems of the term’s semantics and the understanding phenomena\textsuperscript{6}, problems of the term’s formation, borrowed words and native lexicon\textsuperscript{7}, the terminology of some areas as the focus of articles in various scientific activities and problems of the terminology lexicon in particular periods.

2. Urban Planning Terminology in Albanian

A terminology area, for which there is no relevant terminology dictionary and a particular study, seen from the tools, ways and means of terms’ creation, is the area of urbanism. This article aims exactly to submit a summary of the work in progress which is being developed to enable the creation of a urban terminology dictionary and a theoretical summary in which we will analyse various linguistic problems which have found a solution on the dictionaries. In this theoretical part we will also ideal with the phrases of this terminology elaboration aiming to standardize it. Similar studies help in solving some problems and in elaborating, creating and perfectionating the terminology systems, because in general, the state of development of the terminology system in a particular area does not meet the needs of a special contemporary communication because of the inaccuracies caused by:

a) a lack of coordination of knowledge, content of the terminology system, inaccuracy of notions and not a clear distinction among them, the presence of old notions, lack of notions’ classification, the presence of notions without the relevant linguistic sign in the system of these notions and

b) a lack of coordination in the signs’ system: the presence of multimeaning, synonymity and homonymity, phenomena which positively characterise the general language, but negatively


\textsuperscript{3} H. Pasho, “Marrëndhëniet e leksikut të përgjithshëm me terminologjinë” (botuar në përmbledhjen e punimeve të Konferencës” Gjuha letrare kombëtare dhe bota shqiptare sot”, Tiranë, 2002.


characterise the terminology. Obviously the solution to these problems depends to some extent on how deeply and widely this lexicon area has been studied. Basically these problems consist of the duties which arise from the necessities coming by the advance of science and technique, an advance which is accompanied with the appearance of many other notions, with the alteration of others which were previously created and the elimination of those notions which are considered old – fashioned.

As these terms are used because of immediate practical needs, the need for their systemation and equivalence is not very evident. Their use in school or scientific editions introduces scientists of various branches a problem which is linked to the terminology regulation and at the same time it attracts the attention of linguists who notice the inadequate borrowing of foreign words and the creation of words – words in the wrong way. In this stage the terminology problem cannot be limited to its clearance of the unnecessary foreign words, but even its equivalence.

The development of the language terminology goes along with the social – economic and cultural development of the country where that language is spoken. Albania is a country which has historically known ancient civilizations, which has created lots of modern towns ans still continues to change the way of managing the territory by joining urban areas and by dividing the functions of inhabited areas according to a particular development policy. Despite the historical and political developments, the remains of civilization in the Albanian territory, ancient or modern, make us state that the urban area though not linguistically divided, has has its development in all times. Initially the documents that proved this development were in the form of sketches and drawings but Albania after the Liberation had a wide development and at that time, particular attention was paid to the opening of schools and different faculties at universities which aimed to increase the education level throughout the country. In 1969 we also have the opening of the architecture faculty near the construction faculty at the Politechnical University of Tirana. At that time we notice that the urban branch was part of the architecture branch and it was considered an independent subject. Later in 1984 we notice its separation from the architecture branch as a necessity for the creation of specialists who could undertake the detailing and updating of the first regulatory plans of towns, already composed by that time's Institute of projection. The frequent contacts with the foreign world and the great insecurities about the towns' development made urban planning, as an independent branch, expand rapidly by so multiplying the written documents and the schoolbooks in this respect.

Work to coordinate urban planning terminology started exactly with the collection of the written documents for this branch. Part of these collected documents are: schoolbooks, magazines about actual problems, newspaper articles, laws of all times, administrative writings, materials of technical practices, etc. For each of the terms they created a file which contained the term in the linguistic form it was found, literature or literatures where it came from, the year when this literature was published, the number of the page and the row, and also a part of the context in which it was used. These files only have a descriptive character. The collection of terms was made considering the theories about the term which nowadays are numerous, but the criterion that guided the work of the Linguistic Institute in Albania about the publishing of many terminology dictionaries in various areas which has been mentioned above.

In terminology, more than everywhere in linguistics, the relation of its lexical system to the terminology system is evident, that is why the need for a close cooperation between the specialist and the linguist naturally arises. To establish the term we need a detailed analyses of the notion it expresses. According to the researchers Ferdinand Leka and Sifika Morcka9 the linguist without the specialist of the respective branch risks to create terms which do not properly respond the content or create words which die prior to being properly born; on the other hand the specialist withouth the help of the linguist can unnecessarily adopt foreign words or Albanian words which have been „occupied” elsewhere and do not properly express the notion or do not meet the needs of the word – term. A similar collaboration is a necessity because the specialist of this branch waste too much

8 Studimet e para te doktoratures ne kete fushen e urbanistikes jane miratuar vetem ne vitin 2009.
time to understand terminology theories which make initial concepts for the linguist, whereas on the other hand it is impossible for the linguist to penetrate without the specialist’s work in the inside of all those new scientific notions and the naming of the modern technique tools which is getting more complicated and specialised everyday. Based on this collaboration criterion, even the elaboration of urban terminology in the Albanian language compared to other languages, a commission has been set up, consisting of two urban specialists and two linguists one of whom has a long experience in practical work with terminology in Albania.

The collection of terms in a particular area is made by considering a system of related and dependant elements because providing the lexicon with systematic creations is more emphasizes in terminology because this is closely linked to the system of notions in the respective area. The terminology lexicon is distinguished because of its more systematic and more organised character compared to the non terminology lexicon. The study of the terminology lexicon as a system in accordance with the system of notions is reflected concretically for the first time in the foreign linguistic literature in the works of E. Wüster and later on it is followed by a series of other researchers who have particularly worked on the terminology problems. The Albanian researchers have begun to consider terminology from its systematic relations. Focusing on these systematic relations which we naturally find in the terminology of a well established area, we also act to collect the system of terms of the urban branch in Albanian language. Naturally after collecting all the written documents in Albanian, one- part terms have been put aside. They identify the branch and sub branch as well as they express the basic concepts. After that we have collected around them all the possible phrases, thus identifying the absences in the system. This has also established the extend in number of the terms by setting boundaries in their extend towards the notions; detailing. Particular attention has been paid to the notions’ detailing even because of the fact that in a terminology dictionary we should maintain a balance established in proportion to the number of terms that every sub branch will include.

As in the dictionary we intend to create, one of the criterion set from the very beginning has been the identification of the branch and the annexation of its basic concepts, in a first attempt in this respect, we have avoided the nomenclature making the selected terms be part of the dictionary and have an identity. As previously mentioned, this criterion is based on the Russian school of terminology which distinguishes terminology from nomenclature.

Prior to preparing the dictionary, each term is analysed in the circle of the microsystems of the respective branch and sub branch. The whole of these terminology microsystems make the respective branch itself where the terms cretare systematic relations. These relations serve to make each of the terms occupy the right position in the system, in accordance with the respective notion, whereas on the other hand, it broadens the opportunity to select the appropriate terms among the secondary ones, leaving aside the unsuitable ones. Unsuitability is clearly noticed when we have to select those terms which will be called interdisciplinary. As urban planning is very close to architecture, the basic notions are similar but the tendencies that they take and develop on their own are completely different. To illustrate this case we can use the term banese. This term belongs to architecture but the relations it creates are not the same for both branches. From an architect’s point of view the word „banese“ refers to the building where people live and its type, as it is explained in today’s Dictionary of the Albanian language. In architecture we will also have phrases as banese me çardak, banese popullore, banese e tipit peristil, etc. Urban planning will enrich this word with groups of words which do not provide any longer the type of building but the way it is established in relation to the territory it possesses and in relation to other buildings which might offer it services such as educational, medical, commercial, etc. We do not find this relation to

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10 E. Wüster, Internationale sprachnormung in der Technik, VDI, Berlin, 1931.
the territory in the above mentioned terms of architecture. In the urban planning we also have the phrases *banese e vecuar, banesa te bashkengjitura*, etc. The same happens with the term *ndertese*. In architecture we find terms such as: *ndertese dyballore* or *ndertese industriale*, which provide the kind of building or its function. Meanwhile in urban planning we have terms as: *ndertesa te bashkengjitura, ndertesa te shperndara dhe ndertesa paralele*, which show the way that these buildings are positioned in accordance with the territory. So as we can notice, although they are interdisciplinary terms, the phrases that we will select for each branch will be completely different.

This terminology practice based on the creation of a system of terms, helps even in case when we need to create more correct terms or to replace foreign terms which are not part of international terms because as we know, the scientific – technical terminology is the busiest part of the general lexicon with foreign terms and numerous terminology varieties.

3. Terminology and General Literary Language

In the elaboration of different terminologies for various branches of science and technique we have emphasized an important criterion with deals with exploiting the great opportunities that our language has for word – terms and the tendency that the development of our literal language has acquired in our times.\(^{13}\) We have considered this criterion even in the elaboration of the urban technology. Despite the new terms that have entered recently in this area, we notice that urban planning is an area founded on the grounds of the Albanian language and has properly used it to create stable terminology phrases. The terminology lexicon used in today’s dictionary of the Albanian language (1980) perfectly reflects this fact. This recent dictionary is an indicator of the rapid development of science and technique in our country in the period when this dictionary was published. Urban planning terminology, though unidentified with a relevant shortcut in the dictionary, is a consistent part of it. Knowing that this dictionary has reflected the real lexical structure of the Albanian language\(^{14}\) we will notice that in this reality the terminology of the urban planning is present in the comprehensive structure of more than 200 words of the general lexicon taken from this dictionary. The main principles which establish the constitution of words in a lexicographic work with a normative character act even on the principles of particular criterion to include or not include a part of the lexicon of technical – scientific terminology in this work. Theoritically „The Dictionary of today’s Albanian language“ (1980) has started from the general principle that in it we should include technical – scientific terminology which has acquired general use, whereas the particularly special terminology used by a close circle of specialists, is not included in it\(^{15}\). The criterion of including a particular term in the „Dictionary“ has mostly been its social role and not its importance in the system of notions of this or that branch of science or technique\(^{16}\).

We notice that along all the process of language development, there is a converse inclusion; on one hand passing the terms into the general lexicon and on the other hand, the words of this lexicon into terminology. Based on the observations made on the above mentioned dictionary to identify the urban planning branch, we distinguish that this interaction of terms and general lexicon has naturally occurred although as we previously mentioned, we do not find a shortcut of this branch in the dictionary. This fact indicates the widespread of the terminology use and its closure to the general lexicon. We notice this in those cases when the word appears with a terminology notion or is illustrated with terminology phrases since the very first meanings of the comprehensive structure. After that the development of new meanings can gain meanings which do not have a terminology character. This happens with the words taken from today’s Dictionary of the Albanian language in whose meaning we have used italics and have underlined phrases which make terms

\(^{13}\) Fjalori i terminologjise tekniko-shkencore 1, Terminologjia e botanikes, Tirane 1963.

\(^{14}\) Fjalor i gjuhes se sotme shqipe, Botim i Akademise se Shkencave te Shqiperise, Tirane, 1980.

\(^{15}\) Th. Feka, Vezhime mbi leksikun terminologjik ne “Fjalorin e gjuhes se sotme shqipe” (1980), ne Studime filologjike, Nr 2, 1986.

\(^{16}\) A. Kostallari, Parimet themelore per hartimin e Fjalorit te gjuhes se sotme shqipe, ne Studime mbi leksikun dhe mbi formimin e fjaleve ne gjiten shqipe, Il, 1972.
of the urban planning:

ansambel m. - 2. Njësi, pjesë a sende të bashkuara në mënyrë të lidhur e të harmonishme në një tërësi të përblë. Ansambël arkitektural. **Ansambël ndërtesësh**.

hapsenior mb. - 1. Që ka të bëjt me hapësirojn, që i përket hapësirës, i hapësirojn. **Kufiri hapësinor**. ... **Pamje hapësinore. Shtrirje hapësinore**.

kompleks m. - 1. Tërësia e elementeve përblërëse të diçkaje, që lidhen ngushtë ndërmjet tyre dhe plotësojnë njëri-tjetrinin17; ... .

kufizim m. - 2. Diçka që përncaktanon se deri ku e sa lejohet të veprojë dikush. Me shumë kufizime.

Pa asnjë kufizim18.

lagje f. 1. Pjesa e një qytetit ose e një fshatit ... . **Lagje e qytetit.**

ndertese f. - Ngrehinë e madhe, që shërben për të banuar, si vend pune etj.; godinë. **Ndërtesë shumëkatëshe. Ndërtesat shkollore.**

pallat m. - 1. Ndërtesë e madhe me shumë kate, që shërben për banim, për zyra, për veprimtarë kulturore, sportive etj. ... . **Bllok pallatesh.**

perferi f. 1. Qesa që ndodhet në anë të një qendrë të banuar, larg nga qendra e qytetit a e fshatit, lagjet e jashtme të një qytetit; pjesët anësore të një vendi, ... . **Perferia e qytetit.**

plan m. - 1. Lloj vizatimi që paraqet që paraqet e çdo qytet me anëfjetë vijat e shenjash të përsosmë dhe në një shtëpi shumë të zvogëluar një sipërfaqe të vogël toke, ... . **Plani i qytetit.**

qytet m. - 1. Qendër e madhe banimi, me shumë shtëpi të ndara zakonisht në lagje, me rrugë me sheshme të rregulluara, ... .

skeme f. - 1. Vizatim që paraqet në mënyrë të thjeshtësuar e pa holli si vjeti kryesore të diçkajës, ... . **Shkema i qytetit** (i lagjes, i fshatit).

trull m. - 1. Copë toke, zakonisht e sheshtë, e caktuar për të ngritur një shtëpi a një ndërtesë, vend për ndërtrim; pjesë toke që shënohet a që caktohet për rrugën, për sheshe sportive etj. vendi që zë një ndërtesë me pjesët dhe me sheshet e saj.

urbanistike f. - 1. Teoria dhe praktika e ndërtimit dhe e rregullimit të qytetëve sipas një planit të caktuar, ... . 2. Sistemi i ndërtimit dhe e rregullimit të një qytetit: **Urbanistika e qytetit.**

urbanizoj kal. - 1. I jap një qendër të banuar tiparet e një qytetit, e kthej në qytet; rregulloj një qytet ose një qendër të banuar sipas një planit të caktuar për të krijuar kushte më të mira për jetës e për punë.

vendbanim m. - Vendi ku banojnë njerëzit për një kohë të gjatë, fshati a qyteti ku dikush ka banesën e tij; **gendet banimi.** ... 

These words – term we mentioned, though with no particular shortcut, either have on the dictionary first meanings of the urban planning, or in their first meanings are illustrated with examples of terminology phrases of this branch.

Always in the frame of collaboration of terms to general lexicon, many words from the general lexicon gain in their form even particular terminology meanings through specialising and usage in a particular science or technique branch20. In this case the term has or expresses the same meaning

17 Sipas A. Kostallarit, ne Parimet e kriteret themelore per zgjidhjen e problemeve te vecanta te Fjalorit te gjuhes se sotme shqipe, shprehet se per cdo fjale ose kuptim te nje fjaale polisemantike do te perdoren nje ose dy shembuj ilustrues por, numri i citateve ilustruese mund te jetet edhe me i madh kur egzistojne toje tipike fjalesh, te cilat duhet te jepen tek një kuptim i caktuar, per ta bere te plotë sërishin e perdorimit te fjales te kete kuptim. Duke u nisur nga kjo ko ne kete kuptim te pare te fjales, fare mire, do mund te shtonom, ne nje botim te ardhshn te fjalonit, togfjaleshin kompleks ndërtrimor, cka perben te fushes te urbanistikat.

18 Ketu do mund ta ilustronim kuptimin duke shtuar termi kufizim ne ndertim

19 Do te mund te shtonom te fjalon, sipas ketij kuptimi, termi skeme e qytetit.

20 Th. Feka, Vezhigime mbi leksikun terminologjik ne “Fjalorin e gjuhes se sotme shqipe” (1980), ne Studime filologjike, Nr 2, 1986.
as the general lexicon word and helps to broaden the area of its usage. Considering the structure of polysemantic words in the dictionary and the internal variations of meanings, Androkli Kostallari writes: “In the polysemic words, which have long had many meanings, the further development of new meanings in many cases has been made in the line of each of the previous meanings." In these cases the urban planning often stays beside other branches, thus helping to enrich the comprehensive structure of the general lexicon words. Jani Thomai claims that the new meanings of a word have arose one by one along the time. We notice that even nowadays at the comprehensive neologisms. The most characteristic example is terminology: apart from creating new terms, even words of the general lexicon are made into terms giving them a new meaning in this or that area of knowledge. So we notice words which in their comprehensive structure have one or two special meanings which refer to the urban planning or that in these meanings are illustrated with phrases that express notions of urban planning which we have highlighted below in italics and underline. So:

**faqe f. - 3.** Secila nga anët e një sendi; sipërfaqja anësore e diçkaje; _pjesa e përpare e kryesore e një ndërtese._

**njesi f. - 4.** Dyqan i veçantë ku shiten, grumbullohen a ndreqen sende të ndryshme. _Njësi tregtare_ (ushqimore, industriale). _Njësi shërbimi._

**mbyllur mb. - 7.** Që është i ngushtë e i kufizuar në hapësirë; _Qytet (fshati) i mbyllur._

**bllok m. - 4.** Grup ndërtesash, që shërbejnë për një qëllim ose që përbëjnë një tërësi me vete. _Bllok i ndërtesave_ (i banesave, i shtëpive).

**unaze f. - 3.** Pjesë e natyrës ose e vendit që shtrihet para syve; ajo që rroket nga vështrimi nga një pikë e caktuar. _Unaza e qytetit._

**zone f. - 4.** Vend a truall i kufizuar, ku zhvillohet një veprimtarë e caktuar ose ku ndodh diçka. _Zone fshatit._

These words in general language as well as in terminology preserve their content by serving even the system of literature language and the terminology subsystem. Giving close terminology meanings to common language words is a frequent phenomena in today’s Albanian language. As Ferdinand Leka states, in this way, not only the terminology systems are enriched, but in most cases the semantic structure of the word itself is broadened. As we noticed from the examples, the words of the general lexicon have sometimes acquired direct meanings of urban planning terminology and sometimes have increased the volume of information given to specify the word by bringing a considerable number of terminology phrases in this branch.

The terminology of urban planning also appears in a metaphorical meaning:

**Bërthama e një qyteti.**

In the general dictionary we encounter a category of words which come from books and have been signed in the dictionary with the abbreviation _libr._ A similar abbreviation in the dictionary is for the words _korpus_ and _forum_ which at the same time are urban planning terms and we find them in phrases use _korpus ndertimar_ and _forum romak_. The fact that this category of terms has such an abbreviation shows the tendency of the dictionary to distinguish them as terms though not classified

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21 A. Kostallari, _Parimet themelore per hartimin e Fjalorit te gjuhes se sotme shqipe_, ne _Studime mbi leksikun dhe mbi formimin e fjalave ne gjuhen shqipe_, II, 1972.


23 Ne kete kuptim pamja percaktohet si pjese e natyres ose e vendit duke dhene vetem _një shembull per natyren nderkohe ke mire mund te shtonim termin pamje e qytetit per te ilustruar per e qytetit si pjese e vendit.

in a particular branch.

According to A. Kostallarit, the enrichment of today’s Albanian lexicon is firstly made under the influence of the necessities for an exact terminology and the general requests to highlight the language culture. The development of a particular terminology and the creation of the relevant terminology system, as the example of urban planning terminology, consequently brings even the development and enrichment of the content which is reflected in the definitions provided in an explanatory dictionary. As we know, the essential duty of an explanatory dictionary is to establish and explain the meaning or meanings of the word, when it is polysemantic. This motivates the urban planning terminology inclusion in a future dictionary of today’s Albanian language considering the tendencies of the meanings’ development. In the following examples we try to explain how this terminology brings meaning variations nowadays:

shfrytezim m. - 3. Shtie në punë diçka, e përdor për një qëllim të caktuar;... Shfrytëzojnë maknat (makinëritë, pajisjet). Shfrytëzuam mbeturinat (rezervat e brendshme). Shfrytëzojnë hekurudhat (mjëjet e transportit). Shfrytëzojnë burimet ekonomike (energjinë e lumenjve, energjinë dieselore, energjinë atomike). Shfrytëzojnë ujin e lumenjve për ujitje. Shfrytëzoj librat (dokumentet, arkivat, literaturën, kartotekën). Shfrytëzon plotësisht kohën e punës. Shfrytëzon çdo minutë. As we notice, the concept of exploiting is given by using examples of mobile tools or materials. If we could add the urban planning term shfrytezim i territorit, we would extend the meaning of the word to something immobile and not transportable.

ingurte mb. - 3. fig. Që ngul këmbë në qëndrimin e vet a në bindjet e veta dhe nuk pranon të bëjë asnjë lëshim ose ndryshim sipas zbatimit ose ndryshim, i pandryshueshëm. Njeri i ngurtë. Qëndrim i ngurtë. Pikëpamje të ngurta. Normë e ngurtë. Metoda burokratike e të ngurta. We would bring concrete examples in this metaphorical meaning of the word, compared to the abstract examples provided for this word, by adding in the dictionary skeme planimetrike e ngurte, and struktura e ngurte.

parim m. 3. Rregull themelor a ide drejtuese, sipas të cilës ndërtohet diçka. Parimi fonetik (morphologik). gjüh. Parimi i ndërtimit të një makine. Here we would add the terminology phrase parime kompozicionale te urbanistikes thus providing an example of using the plural word and giving a help in enriching the uses of particular grammar categories of the noun.

amulli f. - Mungesë gjallërie, zhvillimi e përparimi, mbetje në vend (për ekonominë, punën, jetën mendore etj.); gjendje e fjërtur. Amulli ekonomike. Amulli e përgrithshme. Amulli mendimi. Amulli në prodhim. Në gjendje amullie. Bie në amulli. Dal nga amullia. In the dictionary, the word is explained only with abstract examples meanwhile in the urban planning the term amulli e lagjes is widely used, which would illustrate the word more concretely.

bosht m. 7. fig. Drejtimi kryesor i një veprës ose i një veprët e një veprë shkencore, letrare etj.; vija kryesor ideore e një veprë shkencore. Bosh ti ideologik. Bosh ti i punës. Bosh ti i dramës (i romanit). This meaning becomes more concrete if we could add the term bosht kompozicional i qytetit.

The connotations of the meaning are more precise comprehension divisions, that’s why terminology can help in their correct definition.

Terminology, as a subsystem of literature language, though it uses the same means and methods of wordformation which act in the general language, is characterised by particular characteristics in wordformation which are connected to the notable particularities of the term in relation to the word in the general language.

The difference in the formation of words in the general literature language and the terms in terminology is closely linked to the characteristics that a term should possess as a special nomination which is used in a particular branch.

The creation of terms is an aware linguistic activity which requests from the creator a careful work in using wordformation tools to make new terminology units which accurately provide the notion by distinguishing it from the similar notions within a certain branch.

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25 A. Kostallari, Parimet themelore per hartimin e Fjalorit te gjyhes se sotme shqipe, ne Studime mbi leksikun dhe mbi formimin e fjaleve ne gjyhen shqipe, II, 1972.
The synthetic character as one of the main features of special communication, basically expresses the terminology lexicon’s tendency to transmit as much information through economic means of speech. For this reason, during termformation we have prioritised the creation of new terms which clearly express notions in a particular branch through forms, from the expanding point of view, as short as possible. At the same time, during this process, particular importance was paid to the selection and combination of worformation elements so that the meaning of the term is understood from its external appearance or the nature of signs to be understood by the structure of the signaller.

The terms are signallers of different notions of an area. These notions constitute a system which is organised according to the degree of their complexity, thus influencing even in the creation of a similar system of terms which might be simple words expressing simple notions and not simple words (derived, composed) or phrases which express derived notions.

In terminology the continuous formation of new terms is not explained with great wordformation abilities of the terminology system in relation to the general language system, but it is established by the rapid rhythm of development in different sections and the continuous reestablishment of existing terms and notions. Enriching the terminology of a branch with new terms is achieved in these ways:

a) The general language is the main source for the formation of new terms in the terminology of different branches of knowledge through the wordformation and semantic process. Firstly a part of the terminology lexicon of a particular branch consists of new words created in morphological, morphological – syntactic and syntactic ways according to the degree of their production.

The formation of terms can be done by means of prefixes or suffixes which can be added to a word which serves as a productive topic, the alteration of its lexical – grammatical category, the unification of topics in compositions or the combination of words in phrases.

Secondly another part of the terminology lexicon is created through the process of terminologicalisation of general language words. These words of common usage, thanks to the alterations in their comprehensive structure, are specialised to nominate notions and characteristic phenomena of a branch by becoming part of the terminology system of that branch. Although they have come from the general language, the terms work as independent units compared to the word of the general language they originate from, and because of this reason they have new morphological and syntactical particularities. In this respect the terms and the words of general language they derive from, are united by a general idea created over the similarity of signallers while they are developed with their specific particularities within the respective systems. As a consequence, the word and the term create various synonymic and antonymic verses and respectively are: the word, a part of the lexical system of the general language and the term, a part of the terminology system in the respective branch. For eg: In urban planning we say **ruget dalin nga gendra** and to express its opposite we should use **ruget hyjne ne gender** whereas we use **ruget derdhen ne gender**. Everyone may think that this use has emotional connotations going against the theories of the term which is considered with no such connotations. The use of the word **derdhen** in this terminology use does not express emotional connotation but a degree of intensity. So does the term **strukture e lire**, in urban planning terminology, it is not an antonym of **strukture e zene** or **e shtrenguar** but of **strukture e ngurte**. The term **sistem i brendshem rrugor** is not an antonym of **sistem i jashtem rrugor** but of **sistem periferik rrugor**. **Ansambel urbanistik i gete** is not an antonym of **ansambel urbanistik i zhurmshem** but it is an antonym of **ansambel urbanistik dinamik**.

b) The terminology of other branches is a source to complete the terminology lexicon of a particular branch with new terms. Frequently the terms which come from other branches preserve their initial meanings, but in some cases they acquire new meanings which are characteristic only of the branch where they enter into. “In general the interdisciplinary terms come to a certain branch from branches which have more elements in common with that or which they have very close

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relations with. This does not mean that in the terminology of a branch there do not enter terms from other very different branches”. The passing of the term from the area of usage in a particular science into the area of usage in another science, undergoes the process of remeaning which is achieved in two ways:

Firstly, when the initial terminology meaning is altered in a mening of general language and through riterminology it is used to nominate notions which belong to a new branch. In this way from the respective branches they pass onto urban planning terms such as siperfaqe, berthame, kompozim, arterie, etc.

Secondly, when it is not the initial terminology meaning, but the metaphorical meaning which is transformed into the semantic nucleus of the new term which becomes part of the terminology system of another branch. So it has happened with terms like: amulli, ngulim, ajurme, etc.

Borrowings from other languages make another source for terminology in various branches. Borrowings in terminology generally enter as a unity of meaningful words, though there are even cases when borrowings do not enter with the meaning they have in the language they come from, but another meaning. For eg: the word masterplan in the language where it was borrowed from has the meaning of a plan for an area with relatively big measures whereas in the Albanian language it has come with the meaning of a plan which establishes the position of the building with the territory.

Regarding the morphological way in the process of creating new terms, we notice that there are, as well as in other terminologies: a) not correctly created formations which nominate different notions from the ones used as a consequence of the careless use of any suffixes or the use of suffixes instead of one; b) formations which do not correspond to the wordformations of Albanian language, c) not common formations which may have a similar form in the past; etc.

In the grammar texts of the Albanian language as well as in the works of various researchers, where particularities and various problems about this way of wordformation are treated, we emphasize that the composition is one of the most productive ways after affixes which enrich the spoken and written language with new formations and which particularly are greatly expanding in the technical – scientific terminology. This is explained with the fact that, created by joining two motivating topics, the compositions carry a greater semantic importance compared to the deriving formations, by providing a clearer and more direct notion through a same economic form of speech. The composition is a productive way even in terminology, in general, that's why we are mentioning some compositions which have a wide use in the urban planning terminology: rrërhrotullim, vendbanim, plan-organizim, planvendošje, projekt-ide, projekt-zbatim, qytet-kopesht, etc.

In the wordformation plan, we can generally say that in today’s Albanian there dominates the clear tendency to fulfill new lexical needs in all areas with its tools of wordformation system. This makes an essential functional characteristic of wordformation of today’s Albanian. Urban planning, as one of the sciences which is mostly linked with the everyday life environments, follows the route of general lexicon development, but tends even from the general terminology development as well as from the specific particularities of its science mostly.

If we analyse the syntactic way of creating terms, we will undoubtedly stop on phrases. The development of various knowledge areas has led to the creation of a great number of new notions which cannot be nominated with just word- terms and as a result, term-phrases were created as a nominative lexical - syntactic unit which make a considerate amount of the terminology lexicon in the relevant branches. In the approach with the general language and the terminology lexicon, based on the opportunity of replacement or not of the consistent parts, we distinguish free phrases and terminologically stable phrases. The stable phrases have a fixed structure and work as an

equal unit with the word which nominates different notions\textsuperscript{30}. The phrase has a structure which consists of two or more meaningful words. In this respect the phrases are simple, when they are created by joining two meaningful words, and broad phrases when they are created by joining a meaningful word with a simple phrase or by joining two phrases\textsuperscript{31}. In general, for the terminology phrase, there are ideas of specialists which do not treat them as terms, but as explanations and others which consider them as terms and justify why they are considered like that. In terminology, the broad terminological phrase has been fully thought as a term and it has been treated with the factual material of economy in a work about the terminology in this branch\textsuperscript{32}. Treating terminology phrases has become an object of study even by lexicographs for the place they should in the explanatory dictionaries of the Albanian language and the problems related to their appearance in these dictionaries\textsuperscript{33}.

The continuous discussions about the boundaries and the meaning of the broad phrase in terminology have established various attitudes. On one hand there are the supporters of the idea that these phrases represent difficulties during the use as terms because of the unification of a considerate number of components and that similar phrases may not be treated as terms as their meaning comes from the meaning of the components — term words and term phrases. On the other hand there are researchers that think that despite the great number of components joined in the phrase, which practically complicates its use as a term, from the meaning point of view every added component enables the exact expression of every new detail or feature of the notions nominated by them\textsuperscript{34}.

Phrases have enriched the urban planning terminology with new nominations which accurately provide the content of the term through the features of the notion expressed by the component elements\textsuperscript{35}. At the bases of the termformation process, apart from the clarity and accuracy criterion in expressing the notion, the selection of economic forms of expression that ease the term’s use, is an important pragmatic criterion, thus the tendency for synthesis is noticed in the phrases formation.

4. Conclusions

Work with terminology in the Albanian language started in the ‘50s. As a result of this work, institutionally organised, about 33 dictionaries for 33 various knowledge areas were published. Following these lexicographic works there comes the work for the creation of a terminology dictionary in urban planning, as an independent branch. To create this dictionary they have followed the methods and principles of general terminology as well as the tendencies of the branch itself in particular. While working with the words, they have solved various semantic, morphological and syntactical problems aiming to elaborate the terms according to the Albanian language nature and thus greatly avoiding the use of those foreign terms which do not have the status of international terms.

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\textsuperscript{31} Gramatika e gjuhës shqipe II, Tiranë, 1997.

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City: Melting Locus and Cross-Cultural Difference Versus Rural (The Case of Tirana after the 90s)

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Abstract

After the 1990s, with the recognition of a number of rights denied during the communist regime, such as free movement, there was a large movement of internal migration from rural areas to large urban areas, especially towards the city of Tirana. A number of factors, mainly economic and social factors, favored this massive population movement from rural areas to urban areas. Almost complete disintegration of the economic base in rural areas, as well as infrastructure shortages, have pushed large numbers of population into urban areas, especially towards the periphery, across migration flows. On the other hand, enormous rural migration not only redefined the physical boundaries of the city but also produced new social and economic forms. As a result of interaction and confrontation of the social and cultural mentalities between rural and urban population (the case of Tirana) emerged several phenomena that created a clear demarcation area under the cultural and social aspects, as well as semi-rural or semi-urban hybrid interaction. In this perspective, this essay attempts to use a multidisciplinary approach to explain the general factors of this massive internal migration but also some aspects of the newly-formed landscape of social and cultural mentalities after this migration. As a result of this cultural interaction, we attempt to understand the reality of various subcultures in the city of Tirana and social behaviors in order to clarify the effects of this process regarding the dilemma on the ruralization of the urban or urbanization of the rural population.

Keywords: Internal migration, ruralization, urbanization, intercultural distinction, subculture

1. Introduction

The internal migration in Albania after the 1990s, mainly directed towards the prefecture of Tirana, is a very complex phenomenon because of the length of time, the various reasons that favored this migration, the typological traits that emerged as well as the new hybrid rural-urban forms that this process developed. In this essay, through theoretical literature, the use of statistical data of Instat, WB, UN as well as empirical studies conducted by Albanian and foreign scholars, there is a need to explain the dynamics, typologies of internal migration as well as to understand the nature of some psycho-cultural phenomena through the process of fusion between incoming and host residents in the prefecture of Tirana. By studying these phenomena as well as the special nature of the urbanization process it is required to prove the fact that in some respects there is the form of urban ruralization rather than a typical urbanization that is encountered in contemporary classical foreign literature.

2. Several Socio-Economic Factors that Favored Internal Migration to the City

According to classical literature, internal migration is caused by the interconnection of economic, social and cultural factors. However, although the case of Albania, and in particular of the city of Tirana respects these global theoretical considerations, it still shows a particular typology. The latter is characterized not only by the historical tradition of the Albanian population to migrate, but also by specific factors, which, reversed in the particularity of this process, receive new shapes, not typical of classical studies conclusions. Specifically, there are some classic reasons why this internal
migration occurs.

First, after the collapse of the communist regime, some basic rights were legally recognized as was the case of free movement which constituted a favorable measure for internal migration. According to the law, it was stated that “Everyone has the right to choose his dwelling and to move freely around the territory of the country...” (Law on the major constitutional provisions, the Assembly of the Republic of Albania, 1993:166).

Second, this internal migration took the form of a movement that was seen as a challenge to the policies of the former communist regime. “Many villagers in rural areas wanted to enjoy a “forbidden fruit” for many years... Indeed, such moves were also motivated as a counterpoint to the politics of the communist state, which had controlled and hindered the free movement of people from villages towards cities” (Dervishi, 2001:33-42).

Third, prior to the 1990s, although conditions in Albania were generally bad, cultural and social living in rural areas was extremely difficult. Thus, “demotivated to live in the village, most of the villagers, especially the young, have aimed and aim to go to the city where they hope to provide a better lifestyle... and more opportunities to experience it in a variety of entertainment, arts and sports activities” (Dervishi, 2001,1 (8):33-42). Further, given that in rural areas prevailed different prejudices, mainly young people, “...Want to be free from rumors of prejudice, to be more independent, not only from cultural traditions, but also from the sometimes annoying influences of relatives in their own lives” (Dervishi 2001,1 (8):33-42).

Fourth, many negative phenomena and psycho-social behavior of rural residents that existed prior to the installation of the communist regime began to be alive after its collapse. Mainly, the phenomenon of honour killings and blood-feuds has been noticed, mostly in remote mountainous areas in the north of the country.

Fifth and among the most important, bad economic, aggressive and rural infrastructure situation throughout the communist regime as well as the collapse of this economy after the fall of this regime created a massive wave of internal migration, projected over a period of more than 20 years with certain dynamics. More concretely “the main pushing factors of internal migration are linked to the economic situation especially to persisting poverty, low income prospects, poor access to public utilities, unemployment and insufficient agricultural land” (Carletto et al., 2006). Of all the cities, mainly Tirana, was the most attractive pole for these urban residents. The reason that pushes us to see as a factor of internal migration the economic factor does not simply come from a reading of classical literature in this field but also from the empirical studies carried out in relation to the city of Tirana. Mostly, the family migration dominated as a migratory typology and according to Carletto (Carletto et al., 2004, 7), family-based migration is conditioned by factors such as the beginning of a new job, the search for a better job, or the scarcity of land (Carletto et al., 2004). The other aspect that strengthened this fact is also related to the collective attitude of urban dwellers to collective or public property after the 1990s. Almost the bulk of collective economic structures such as farms and farm cooperatives were destroyed, robbed, or had a very low economic profitability, resulting in a collapse of the economic base. Further, unlike urban areas that benefited somewhat from the privatization process (recognition of real property rights to their real owners or their heirs or privatization of housing), in rural areas this had a poor impact. An important factor was the fact that the agricultural land often had a poor quality and the agrarian machinery was primitive. The other criterion was related to the new agrarian reform which also produced the phenomenon of fragmentation of agricultural land that significantly reduced economic viability. Empirically “the evidence to date suggests that those with limited access to land and other assets are more likely to migrate” (Kundu, 2003: 3079-87). Further, the interconnection of these factors invalidated the qualification and occupation of the farmer, increasing the level of unemployment and the poor economic situation of rural people. Historically, the profound impact of the economic factor on rural-urban migration is further strengthened by national studies, where there is a rising trend after the 1990s, which culminates in the course of the ’97s (the collapse of financial pyramid schemes) and to continue with the gradual downward trend, when conditions and the economy at national level improve (See Banka Botërore, 2007:34). Carletto finds out that “internal migration peaked during the period 1990-1993 and 1996-1998, as a reaction to têu internal economic shocks, the drastic economic reforms and the collapse of the pyramidal schemes” (Carletto et al., 2004).
Sixth, “...The fact that the state has abandoned almost any role and the economic mission, especially in the field of agricultural production and livestock, is another factor that leads to the abandonment of mountainous hilly areas, economic depletion, ecological destruction, demographic breakdown as well as Cultural and educational drying of the poorest areas” (Fuga, 2004:83). In this view, urban policies at the central level of government do not pay much attention to rural development in the country. PSo, “along with this process of liberty .... a second process happened in parallel, which has to do with the economic and social abandonment of rural areas by the political and economic actors living in cities.... The village gained decision-making autonomy by paying it with the abandonment of the city. The city does not feel almost any obligation to give its former technical, economic, financial, health, cultural assistance to rural areas” (Fuga, 2004: 132-133)

3. The Dynamics of Internal Migration

The dynamics of internal migration from the other prefectures to that of Tirana are complex as they have been influenced by various factors and have been extended over a long period of almost 20 years. However, we may notice some tendencies and we can understand some of the regularities in this chaotic internal migration movement.

First, over 20 years, there is an increase in internal migration to the Tirana area. Initially, this led to a radical change in urban population ratio to the total population in the prefecture of Tirana by about 70.2%, which is not explained by the increase in the natural birth rate (Instat, 2011:162).

Second, we notice that the pace of the total number of migration to the Tirana area increases steadily after the 90s, and culminates in the 97s with the collapse of pyramid financial schemes, which underlines the fact that the economic factor becomes the main catalyst of this the pace of migration. The official census regarding the population registration of the Tirana district in 2001 marks 368,000 in 1989 to 520,000 in 2001 (Instat, 2002).

Third, the various internal migration movements towards the prefecture of Tirana are mainly characterized by a family migration. According to Instat (Instat, 2011) regarding Indicators of population by prefecture, Tirana has the youngest senior age (except for the Kukes prefecture), which implies that migration has taken place from families with many children and who are relatively young in age.

Fourth, in the internal movements towards Tirana from 1990-2005, most of them are from north and northeast of Albania, more precisely 39 percent from Kukës and 34 percent came from Dibër (Instat 2014:15). Meanwhile, generally internal movers coming from southern prefecture vendosën në zonën e Kashar dhe Farkë, internal movers from northern prefectures are mainly concentrated in Kamza and Paskuqan (Instat, 2014:16). Further, the study of Instat notes that 96 % percent of movements to Tirana came from a different prefecture (Instat 2014: 24).

4. Typology of Internal Migration

Tipology of internal migration over the 20 years towards the city of Tirana shows some movement patterns: From rural to urban areas, from mountainous areas to flat and coastal areas, from north and south to center (Tirana, Durrës), from home to abroad. Firstly, with regard to this recent movement, empirical studies prove that there is simultaneous migration from rural to urban and migration abroad. It is believed that the latter has always been a source of revenue to support and facilitate the realization of a successful internal migration to urban areas targeted. Mainly, “remittances from abroad have been crucial in financing an internal move of the residual family in Albania” (Vullnetari, 2012). Further, this internal migration shows the dynamics of two opposing movements. Initially, it is seen as a first step to further project migration abroad, and then the new settlement chosen by internal migration to the city serves as a return location for migrants returning from abroad. So there is a circular migration, showing a more frequent dynamics in cases when immigrants migrate abroad for short-lived periods. In this phenomenon, it is noticed the form of an “accumulative migration which emphasizes a difference between migration for survival and migration for additional income” (Deshingkar and Start, 2003). Here is the emphasis on the economic role of remittances as regular flows to support livelihoods in the new urban settlement by
rural residents as a key strategy. Thus, “the overall increases in circular and temporary migration suggest that migration is part of wider household strategies that involve multi-activity—including farm and non-farm income sources—over multiple locations. Migrants contribute to their households’ welfare and return on a regular basis” (UN, 2011:113).

Secondly, it is emphasized that the typology of internal migration towards the city of Tirana is influenced by the creation of new settlements on a provincial basis, city or village from which they originated. According to Instat's studies related to this, it is noted that residents coming from the south are mainly located in the area of Kashar, Farkë, Kodra e Priftit and those coming from the northern area are mainly located on Kamëz, Paskuqan, Bathore etc. (Instat, 2014). Indeed, in certain areas within these territories, they have been outlined with a kind of regularity creating whole neighborhoods on the basis of blood-line relations and wider kin. In this sense, it seems that these residents have transposed into the host area the same typology of rural areas.

Third, the family-based internal migration reinforces the notion of strong ties and the example of a nucleic family, although with many members. “Today's Albanian citizen residing in the rural or urban area of the country is more connected to his family group than to social realities that make up the most remote suburbs of his socialization, such as the state, the nation or the village, political organizations, professional solidarity, etc.” (Fuga, 2004: 271). Further, this migratory typology also represents the fact that the family of internal migrants coming mainly from the country’s deep rural areas is dominated by patriotic connections. “Family is a very strong institutional structure in Albania, and one which usually occupies a very important place in the migration process” (Hall 1994: 83-84). On the other hand, this cultural mentality seems to better enable internal migration and living in host areas, as there is a shared family strategy with separate roles. In almost all cases, the person receiving the remittances and administering the whole of the family budget is the male head of the family. As within any patriarchal setting, women usually have an important function in the management of the material life of the household, but do not take part in the decision-making” (King and Vullnetari, 2003:19).

Fourthly, internal migration to the city is manifested in different phases as regards the individual and family migration of rural residents towards the city. Specifically, their migration is carried out in two phases where, in the first phase, the oldest and juvenile members of the family are still in the village and in the second phase, young people migrate towards the city, where, after the consolidation of the financial situation, they draw away all the family members. Thus, their basic function is to provide the economic and financial backgrounds of the rural household and to generate additional income that initially enables the survival of family members who have already left their homes to go to cities as the forerunner of the exodus of the rural family. Especially in the first phase they need financial support. By contrast, those who fled first are mainly young, thirty or forty years old couples, mature men” (Fuga, 2004:159).

Fifthly, the influx of internal migration to the city (mainly to Tirana) is dominated by young people. More than 50 percent of migrants that have changed their town or village of residence were aged between 15 and 34 year old, with a distinct peak at the age of 20 to 24 where family reasons are the main reason for migration for both men and women (Instat 2014: 25).

Sixth, Instat's (Instat 2014) studies on internal migration in the relationship between man and women show a dominance of the latter (59 percent of internal migrants being women) which creates the typology of a feminization of migration. The reasons for women’s migration are diverse, including economic and non-economic factors as the opportunity to escape social control or gender discrimination. In fact, the numerical dominance of women appears mainly at younger ages; it is devoted to several factors such as “the purpose of marriage and founding a family (patrilocality)... because they do not have access to family heritage (farms)” (Instat 2014:25)

5. Positive Perception and Bitter Realism Regarding the City

The idea of a positive projection about the perception of the city of Tirana by the incoming residents (mainly from the remote rural areas) was related to the difficult economic and cultural conditions of living in the country of origin. Thus, the idea of migration was seen as a compensatory and
complementary focus of the conditions they could not realize in their country of origin. Generally, and not without realism, there was in their minds the idea that "urban life presents immensely important material benefits compared to rural life: health services, cultural centers, health, social life, power supply, drinking water" (Fuga, 2004: 159). Meanwhile, the concretization of this perception led to several phenomena.

First, in the psycho-cultural aspect there was a kind of "contact hygiene" between the incoming and host residents. Especially the oldest autochthonous residents who had lived in Tirana for many generations have been more conservative about social and cultural relations with residents coming after the 90s. For example, they show a conservative attitude towards possible marriage ties with those residents. After the 1990s, a general stigmatization of indigenous residents against those incoming residents (especially from the North). Meanwhile there is a kind of "contact hygiene" even among the incoming residents themselves on the basis of provincial or cultural origin. The fact that these incoming residents have formed whole neighborhoods on the basis of provincial or prefecture origin is proof of this fact where each one wants to support and coexist with the same. Further, this large urban density caused by the great wave of internal migration produced a large mosaic of subcultures and behaviors that led to an increase in deviant phenomena and a tension between urban and rural residents. According to sociologist Dervishi "... the rise of crime in the city and village over the last 7-8 years has generated mutual mistrust and suspicion that in one way or another removes citizens from villagers" (Dervishi, 2001:33-42).

Second, "this population concentration has not been accompanied, let alone guided, by forward looking policy action.... Examples abound with regards to overpopulation of public schools in the city, and only few schools in peri-urban areas; dire lack of public health centres outside key city centres..." (Vullnetari, 2014: 47-67). Furthermore, as Zelinsky points out "... even when migration is accumulative the costs of migration remain high" (Zelinsky, 1971: 219-249).

Third, This phenomenon of migration of rural residents under the conditions of a new dynamic of the labor market typology in the city brought about the loss of the close relationship that existed between the family and the land, causing women to either work housework or work in sectors that did not require a high qualification. Meanwhile, the men again, having lost their relationship with the land, began to carry out heavy physical labor mainly in craftsmanship and construction. Initially, this inadequacy of the professional skills of working rural inhabitants influenced the creation and strengthening of the informal economy sector. Thus, "the informal sector is the main entry point into the urban economy for migrant families in Tirana as its labour market provides sufficient opportunities" (Gedeshi and Jorgoni, 2012).

Fourth, the high rhythm of the informal sector in the economy subsequently created the over-urbanization phenomenon predicted by the Hozelits theory (1957). Consequently, "migrants supply far more labour than the formal sector can absorb and labour is absorbed into the informal sector which then leads to low productivity and limited prospects for exiting poverty"(Hoselitz, 1957). This overwhelming economic situation prevalent on the incoming residents created pockets of poverty, mainly in peripheral areas of the city, creating a "re-location of poverty from the rural north to peri-urban Tirana" (Zezza et al, 2005: 175-93). All of this situation produced a domino effect with regard to the negative impact on everyone in Tirana. Further, this attitude of the incoming residents to the infrastructure that the city offered was also reinforced by the fact that it made it impossible or too financially to carry out public projects for the urbanization of these areas with the entire necessary infrastructure (see (UN, 2011:10). However, these effects did not have the same impact on rural residents as "time is a crucial factor in increasing well-being, as those who have settled are more likely to have better jobs and living conditions, compared to recent arrivals who are poorer and live in more precarious situations" (Vullnetari, 2014: 47-67).

Fifth, it should be noted that coping these negative phenomena by the incoming residents, mainly from remote mountainous areas, has not been the same. Through the 20-year migration, the nature of the labor market in the city as well as the way of their integration has undergone some flexibility. Thus, migration of these residents also changed the nature of the labor market in the city and the new opportunities it offered. Generally, after the years 2004 "among this population, there are social groups that come to the city for various reasons, following their life history. There are individuals and social groups that envision the city as a kind of attractive poly-cultural attraction.
There are others who take the road that leads to the city, aiming to realize their professional integration there” (Fuga, 2004:168). Specifically, the high unemployment rate prevalent in the city of Tirana for indigenous residents as well as the reasons did not always resemble those of the incoming residents. Thus, "it is not excluded that local citizens are left out of work and newcomers from the village are employed. Often, this is related to the fact that newcomers accept to engage in crafts that are morally admitted with difficulty by the indigenous urban population” (Fuga, 2004:169)

Sixth, mainly in internal migration after the 2000s, due to the changing labor market dynamics in cities and the type of urban economy, also changed the factor motivating residents to migrate towards the city of Tirana. Fuga considers that, under these conditions, cultural factors become the premise for this kind of migration. He emphasizes that “....Man today does not go to the cities simply to find a job whatever (moreover, not all villagers are driven out of their land), but to find a "urban" type job... The return path is almost closed to them, not so much for economic reasons as for mental reasons..... And when the economy operates within a single one, it means that it first obeys cultural factors...” Fuga, 2004:165). With the changed conditions and requirements of the urban economy, more and more demand for services rather than physical labor began to emerge, enabling incoming residents to structure their labor supply. Thus, “...Today are losing their place in the fast-paced society of industry-related crafts that leave their place to the new urban service-related professions... Residents of rural areas who have just arrived in the cities can be employed mainly as guardians of houses, public buildings, private police, small ambulant traders, van drivers...” (Fuga, 2004:161)

6. Transplanting and Designing the Mentalities and Social Forms of Internal Migrants

After the 90s, naturally Albanians began to appreciate more and more the material values against the spiritual ones. Economic wealth as well as its fruits, being always impossible to enjoy during the communist regime, constituted the main impetus for migration inside and outside the country. On the other hand, it should be mentioned that internal and mainly external migration not only brings economic capital but also social and cultural capital. According to the new economics of migration theory by Stark and Bloom (1985) “migration creates new forms of social capital, both in the destination and across space (multi-spatial)” (Stark and Bloom, 1985:173–178). Studies të tjerë si Levitt (1998) Other scholars like Levitt use the term ‘social remittances’ to emphasize the dissemination and melting of cultural patterns of behavior, attitudes from communities where they have lived or from where they have immigrated abroad (see Levitt,1998:926–48.). Later on, these effects created exactly in the urban panorama of the city of Tirana two different dynamics. First, a panorama of cultural and material elements was created between the incoming and the host population. Thus, "the rapid growth of the population has been accompanied not only by an urban focus but also by the increased presence of rural elements, of rural lifestyle and mentalities... Most of those residents live physically in Tirana but mentally they belong to the subcultures of the areas they came from ... the suburbs of Tirana has the appearance of a large village." (Dervishi, 2001:33-42). Empirically, census statistics in 2011 prove this transposition of the material mentality of the lives of residents who came to Tirana. Regarding the type of building for residential purpose, no. of apartments in the building, no. of floors in the building, we conclude that out of 110,283 residential buildings in Tirana prefecture only 6994 are flats, while the rest constitute detached, semi-detached or row house. In this case, this fact is not only the transfer of the way of living in Tirana to the same as that of the country of origin, but also the reason that this was favored by the inability to buy an apartment as well as cheaply constructed or illegally owned land. Thus, “Cultural diversity is also expressed ... in material culture, in interior furnishing and especially in the exterior architectural appearance of dwellings” (Dervishi, 2001:33-42). Meanwhile, in the cultural aspect, the city of Tirana constitutes an oasis where for the first time psycho-cultural mentality emerged that did not exist in indigenous urban dwellers. After the 1990s, a series of negative phenomena began to emerge in the country's deep mountainous areas, especially in the north, such as honour killings and blood-feuds. Thus, if we thoroughly analyze these cultural and material traits created following the migration of the inhabitants, mainly rural to the prefecture of Tirana, we notice that in general there is a ruralization of urban areas.
7. Conclusions

Based on statistics and numerous studies of domestic and foreign researchers regarding the phenomenon of internal migration, in the case of Albania it was understood that it is a very complex phenomenon and that differs in typology from the same processes occurring in the West or in Eastern countries after the 90s. Basically, domestic migration in the case of Albania happened in a chaotic and unsupported way from the deep urbanization process, creating poverty pockets, mostly on the periphery. There were often several psycho-cultural traits in the migratory population, along with the economic factor, that determined the typology of this process based on the patriarchal family, the creation of new settlements on a provincial basis, the migration mainly from young people and the accompaniment of this internal migration process from external migration. These typologies and this great density of inhabitants with different subcultures created in the Tirana area not only negative phenomena but also cultural mentality, foreign to the host population, which in contact with the latter shaped semi-rural and semi-urban hybrids.

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Integration of Local Government through Administrative -Territorial Reform in Albania

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Abstract

There have been made many significant steps toward implementing reforms which lead Albanian Government to a consolidated integration process. Many challenges and obstacles have hindered this path, particularly those of a political nature, to which my country is still very sensitive. A kind of “hot spot” in all this discussion appeared to be the newest reform called “administrative territorial reform” or “decentralization process” which has already been implemented in 2015. Amongst the range of studies, consultations and amalgamate process in multi level governance, the concept of integration has been isolated from the perspective of European integration. The Albanian Government has undertaken this reform with the ad-hoc Parliamentary Committee in close coordination and cooperation with the local government units, funded by the STAR Project (Support to Territorial and Administrative Reform) and implemented by the United Nations Development Programme (UNDP). Despite this, there is not much evidence of a deeper cooperation to determine an integrated package of principles whereby local government authorities reflect realistic concerns about EU’s influence along their mission and activities. This paper intends to explore whether the implementation of this administrative-territorial reform has taken into consideration the formal set up of EU integration, or has at least established the necessary legal, financial, cultural environment with the overall aim to enable European frameworks and processes even in local authorities and communities.

Keywords: Local Government, European Integration, Europeanisation, Administrative-Territorial Reform, Public Administration

1. Theoretical Considerations of EU Integration in Local Governance

After the signing of the European Charter of Municipal Liberties in 1953, a lot has been done with the aim of ridimensioning local governance, particularly when local and regional authorities had to adapt a new political and economic context because of the financial crisis of 2008. Europeanisation theory has attempted to suppose the impact of the EU on the member states.

Many reforms and administrative modifications have been made concerning the practices of governments, often initiated by the need of local governments for more autonomy.

Beginning with budget restrictions, there was a tendency of national governments to centralize few competencies, as well as the policies to weaken the freedom of local and regional authorities. In relation to the study of local government Europeanisation encloses a range of different meanings within the academic literature. Europeanisation is described as a new field, after the integration theory. Europeanisation in political science that implicates the approach to being more European. One of the earliest definitions is by Ladrech (1994) who explains Europeanisation as “an incremental process of re-orienting the direction and shape of politics to the extent that EC political and economic dynamics become part of the organisational logic of national politics and policy making”.

Radaelli made another significant definition that we must consider, who describes Europeanisation as "a process involving, a) construction, b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared
beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public choices. As Börzel states in an article trying to link bottom-up and top-down processes, examines states strategies to the EU level through the policy making process, if once they have been adopted at the EU level and require implementation in national policy systems. Börzel’s studies shows clearly that integration processes and Europeanisation processes can not be divided into separated categories. The major areas related to local governments include economic legislation of trade market, environmental law, and regional policy. The study of integration from a local government perspective benefits by analyzing how new shifts of integration are pushed by local actors instead how local governments drive this process. Council of Europe and its Congress of Local and Regional Authorities is the “head” of expertise and a significant support of institutional activities, whose expertise has been in years the sole leader to European local and regional authorities. In this article the purpose then is to explore in particular what kind of impact the territorial reform have had on the autonomy local and regional levels of Albania in the integration aspect. It is important to see that the integration process is not only a factor that influences the position and the role of local actors through different intermediators, but also a process affecting the autonomy of local government by redistributing the power. The impact of integration regarding to the levels it spreads must be consider in three levels, from which we can understand the process: the macro level concerning to the political/economic/social structures under EU relationship, the middle level of institutional processes or inter-organizational negotiations, development strategies ect. And the third level is the micro level within municipalities itselfs. Although reforms involving territorial reorganisations are already common indispensable in Europe, they are just carried out as mergers of municipalities or regionalisation and readministration. This kind of movement, based on the concept of a Europe of regions, began in the 1980s and 1990s and only after 2000s could take its real shape in many countries. The target is not anymore only to progress in decentralization, but especially the adjustment of budgetary restrictions imposed by central government even though they are delegating many functions and services. This is being as paradoxal as inefficient and impinging self autonomy of local government.

2. Administrative and Territorial Reform, a Step Towards Integration

Reforms involving territorial reorganisations are already common in Europe, by carrying out as mergers of municipalities or regionalisation of the territory. The main objective is minimizing economic and socio inequalities between LGUs. But territorial reforms have taken some other specific local conditions into account when adopting priorities, strategies and actions. To be called successful, this kind of reform has to focus on long term development from an overall European perspective, but also to walk in parallel with other reforms in the country where they are being implemented. Legislative developments are the result of strategy for further integration and the main step handling this objective or the preconditions for accession to the European Union. In almost all of the European states, municipality is the basic territorial level. However many territorial reforms have been formulated as a number reduction in units and expenditures in the name of request for better management of local public services. As mentioned above in the theoretical considerations, one of the three major fields in integration target is economy. Municipalities achieve somehow economies of scale through the help of local units cooperation, often pushed by the central government in order to increase efficiency. In this means central governments reduce their financial transfers and assistance to the local and regional authorities and conceive new practices. Accordingly these trends move with other reorganisations of services and these limits are sometimes prescribed by law. Following the reform there will be:

- Adoption of a constitutional law promoting inter-municipal cooperation
- Incentives to encourage the pooling of inter-municipal resources
- Programmes to reduce costs, foster innovation and modernise public administration
- More capacity to provide a wider range of functions
- More effective planning and economic development policies
• Promoting local democracy and seeking to comply with the European principles without skipping the principles of self-government. If municipalities implement the necessary EU policies, would have a good chance in the success of the integration process.

Multilevel governance is not simply a question of translating European or national objectives into local or regional action, but must also be understood as a process for integrating the objectives of local and regional authorities within the strategies of the European Union. Moreover, multilevel governance should reinforce and shape the responsibilities of local and regional authorities at national level and encourage their participation in the coordination of European policy, in this way helping to design and implement Community policies.

European integration affects many relations between different territorial and administrative levels by strengthening the existing structures, by giving boost to potential partnerships and by establishing a new framework of governance regulations.

3. Considerations on Reform Development in Albania

The administrative and territorial reform is identified as one of the key priorities of the Government and aimed to improve the quality of local public services by increasing their efficiency and also the access of citizens to local public services. The development and implementation of the administrative and territorial reform is based and conceived pursuant to the following legal framework:

- Constitution of the Republic of Albania;
- European Charter of Local Self-Government;
- Law no. 8652, dated 31/07/2000 “On the organisation and functioning of local government in Albania”;
- Law no. 8653, dated 31/07/2000 “On the administrative-territorial division in the Republic of Albania”;
- Decision of the Council of Ministers (DCM) no. 1012, dated 22/11/2013 “On defining the scope of state responsibilities of the Minister of State for Local Government”;

Changes introduced as the result of the amalgamation process as stipulated by the draft law amending the Law no.8652, dated 31.07.2000 on “Functioning and organization of the local government” are:

• Communes stopped existing;
• Introduction of Administration Units;
• Changes to existing roles of the Municipal Council and Mayor;
• Introduction of Administrators;
• The Administrative Units are considered public service offices;
• The organic structure of the Administrative Units, are part of the organic structure of the New Municipality;
• The administration of the Administrative Unit supports the activities of the competent structures of the New Municipality;
• Changes how the work is executed and distributed in delivering the public services and horizontal functions, to help in improving the effectiveness and efficiency of service delivery.

Organisations such as the Council of Europe (CoE), Organisation for Security and Cooperation in Europe (OSCE), U.S. Agency for International Development (USAID), Swedish International Development Cooperation Agency (SIDA), Swiss Agency for Development and Cooperation (SDC), Austrian Development Agency (ADA), United Nations Development Program
(UNDP) have given their technical and financial support to have the best analyse the situation and develop alternatives based on the best criteria for a new administrative and territorial division. A series of studies performed by international and Albanian organizations or institutions have been conducted, and they have recommended specific proposals regarding the criteria and alternatives to be used in developing the territorial reform in Albania.

4. Conclusion

This paper attempted to present a perspective of European integration from a local government perspective and if this perspective is being considered when a new organization in the form of territorial reform is planned and implemented. As the EU’s legal, financial and political impact conducts to impressment in order to influence EU policies, Europeanisation has fostered into European integration. The impact of cooperation has modified many of EU policies, which was concretized through the formal recognition in the Lisbon Treaty, also by the long course of assistance in regional level.

However, these initiatives are not enough and the responsibility to the local level as well has to be pursued beyond formal arrangements, if effective changes are expected in practice. On the other side a very few local actors (i.e agencies) settle down to European affairs and municipal issues are still away from the focus. Policy making is still crucial in design and implementation of EU policies in local level and still weak, because local actors face political resistance from central authorities. Local actors are excluded from most major decisions in drafting and developing strategies, without keeping in mind the fact that every development’s root are in local levels and should not be limited. Referring these assumptions and the real facts of the situation the study of European integration from a local government perspective should be more interactive and shared in cooperation into multiple levels of government. Only such kind of access will ensure a comprehensive involvement and benefits of the public.

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The Benefits of Business Ethics - Ethical Behavior of Decision Makers: the Empirical Findings from Croatia

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Abstract

More than ever before, the ability of managers to recognize and deal with complex business ethical issues has become a significant priority. Ethical behavior has always been a concern for managers because they are the ones that have major responsibility in company when it is about business ethics. Managers' work is mainly the work of making decisions. On a daily basis they are making decisions – big and small ones - on which company future depends. Interest in business ethics and ethical behavior is on the rise, especially in recent years when widespread moral corporate scandals have brought this topic to the fore. Therefore, the organizational environment demands effective managers – decision makers - with the ability to behave ethically and the ability to make right choices. There is no doubt that the ethical behavior of decision makers is of strategic importance for successful business. It could be acknowledged that among the numerous different factors that can determine a company’s progress, the key elements that contribute to a more successful achievement of company competitive advantage is the ethical behavior of managers. This paper aims at analyzing the benefits of business ethics and at identifying the ethical behavior of managers in a big company in Croatia. Qualitative research was conducted and interesting and somewhat puzzling results were found. Based on the overall findings, this research offers the foundation for future research in this area. The implications of the findings are discussed in terms of value for managers and their companies due to the improvement and development of business ethics and their ethical behavior.

Keywords: Business Ethics, Ethical Behavior, Decision Making

1. Introduction

Managers, employees and individuals as non-professionals are facing, on a daily basis, with some doubts, ambiguities and choices among many different options that require ethics in action. In a business environment, decisions must be taken quickly, under time pressure which does not leave much room for rational judgment. Competition, public, superiors, employees, state organs, private life… all these are concepts that should be taken into account when a certain business decision is made. In such complex circumstances, it is very difficult to think about ethics of every decision. Thus, ethical behavior even more complicates decision making situations.

It is quite clear that decision making is not an easy process for managers. There is no doubt that managers are facing a number of ethical challenges in their everyday activities, trying to respond better to all the demands of all stakeholders with whom they are directly and indirectly linked. Today, ethical behavior of decision makers is of strategic importance for a successful business. It could be acknowledged that the key element that determines the company’s progress is the ethical behavior of managers.

In order to achieve overall satisfaction in the company, before deciding, the decision should be afforded the ethical principles of all interest groups. It is almost sure that certain problems will occur during the decision making process, but nevertheless, these problems should not influence company management in a way that they abandon ethical behavior. On the contrary, these kinds of situations should encourage and inspire managers to find a quality and ethical solution in a creative and reliable way.
Today, more than ever before, the ethical behavior of manager has become a significant priority. Interest in business ethics and ethical behavior is on the rise, especially in recent years when widespread moral corporate scandals have brought this topic to the fore. Therefore, the organizational environment demands effective managers – decision makers -with the ability to behave ethically and the ability of making right choices.

This paper aims at analyzing the benefits of business ethics and at identifying and analyzing the ethical behavior of managers in a company in Croatia. The importance of this research is its potential to contribute to the existing knowledge of a manager's ability to behave ethically. Moreover, results could be important to the managers of the analyzed company because they will become familiar with employees’ perspective about their ethical behavior in the workplace.

A review of the literature has revealed that research into business ethics in the Republic of Croatia is insufficiently represented on the macro and micro level (Ivaniš and Šturlić, 2016). Bearing in mind that the general attitude prevails that companies in Croatia pay insufficient attention to business ethics and given the fact that this topic is relevant, but not researched enough from an empirical viewpoint, this research is welcome and justified both from a scientific as well as from a practical perspective.

2. Ethical Behavior of Decision Maker

Drucker (1954) described ethical behavior as a reflection process and a communal exercise that concerns the moral behavior of individuals based on an established and expressed standard of individual values. Further, Suhonen et al., (2011) described ethical behavior as acting in ways consistent with what society and individuals typically think are good values.

Ethics should apply to every individual in an organization, but ethical behavior is an absolute requirement of all organizational leaders – managers (Emery, 2016). Nevertheless, ethics should apply to all situations, regardless of status (Drucker, 1954).

Managers are the ones who make crucially important decisions for the company's future. In fact, management realizes its role by deciding (Sikavica et al., 2004). It is not hard to imagine that making right decisions can be extremely complicated for managers when facing moral dilemmas in business. Managers have a responsibility to uphold the highest standards of ethical conduct which involves relating ethical behavior to a leader's ability to make sound decisions (Li & Madsen, 2011), while sound decision making defines the scope of the leader's responsibility, which makes leaders accountable for determining what they must appraise and judge to protect the organization from unethical behavior (Toubiana & Yair, 2012) (In: Emery, 2016).

Primarily, managers' familiarity with ethical principles and ethical frameworks is the foundation for ethical behavior. Ethical decision making is conditioned by numerous facts and factors (Buble, 2006) that decision makers should take into account when making decisions. For that reason, it is necessary to create an ethical framework in the organization to facilitate most situations. Ethical frameworks are products of the ethical code of the organization (Jelšenjak and Krkač, 2016). Within ethical frameworks, managers would know, in a large number of cases, whether some of potentially problem-solving variants are ethical or not.

Decision makers can learn how to avoid ethically dangerous zones (Bazerman, Messick and Stewart, 2007) and thus become significantly more efficient. They can learn how to make an ethical decision by using certain learning tools and following some ethical principles. In that way, managers are able to make decisions that are consistent with socially responsible behavior what can reflect positively on employee satisfaction and consequently results in overall business success. Social responsibility is a belief in the notion of shared responsibility for the common good (Stanaland, Lwin and Murphy, 2011). It is a business’s obligation to maximize its positive impact and minimize its negative impact on society (Ferrel, Fraedrich and Ferrell, 2005).

A successful manager is considered the one who, by his/her own example, constantly shows what it means to act ethically, creating such an atmosphere in relationship with employees that enable him/her to develop objectivity and responsibility in decision making (Sikavica et al., 2004). An effective manager is the one who, from day to day, deliberately teaches employees and colleagues what ethics are and how important it is in the overall business activities of the company.
Formally defined, ethical behavior is morally accepted as “good” and “right” as opposed to “bad” and “wrong” in a particular surrounding (Ivaniš and Šturišć, 2016).

3. The Benefits of Business Ethics

The acceptability of behavior in business is determined by customers, competitors, government regulators, interest groups, and the public, as well as each individual’s personal moral principles and values (Ferrel, Fraedrich and Ferrell, 2005).

Today, in the contemporary business environment full of changes and competitors, each company meets numerous obstacles if their business plan is not based on business ethics. Business ethics relates to an individual’s or a work group’s decisions that society evaluates as right or wrong (Ferrel, Fraedrich and Ferrell, 2005). Aleksić (2007) defines business ethics as a system of basic values and rules of individual, organizational and social behavior associated with business and business goals (Aleksić, 2007). Business ethics is also defined as ethical judgment in business situations and activities. The importance of business ethics in the first place is the fact that customers and consumers consciously and subconsciously perceive businesses as ethical or not ethical. This fact is more than enough for companies to start with ethical business.

Business ethics has become one of the key factors differentiating successful from unsuccessful companies. Doing business ethically means to work according to the letter of the law, perform duties on time and put consumers and customers as priorities. To apply business ethics means thinking about others, thinking about the future. Companies with business ethics had previously developed long-term plans and goals. Business ethics gives a sense of security and opportunity for future development. It must be emphasized that business ethics is essential in every business situation, with no exceptions (Bazerman, Messick and Stewart, 2006). Ethical companies will abnegate short-term profit to have a long-term positive image in the eyes of the public. By operating in this way, the company creates a positive climate, growing confidence and the possibility of constant progress. These kinds of companies have a great advantage over the non-ethical ones.

Business ethics is one of the types of means of differentiation because there are only a small number of companies which fully applies and uses its many benefits. Among numerous reasons Ferrel, Fraedrich and Ferrell (2005 p. 31) point out these for a strong commitment to ethical values:

1. Ethical companies have been shown to be more profitable.
2. Making ethical choices results in lower stress for corporate managers and other employees.
3. Our reputation, good or bad, endures.
4. Ethical behavior enhances leadership.
5. The alternative to voluntary ethical behavior is a demanding and costly regulation.

An ethical codex in organizations, which is interpreted as the foundation of business ethics, is also extremely important (Jelšenjak and Krkač, 2016). Business ethics is becoming increasingly important in companies because it allows them to efficiently respond to needs of all stakeholders – customers, employees, shareholders and society as a whole. Today, a growing number of companies focus on the adoption of ethical values and ethical standards as a fundamental component of business ethics. The business world is so complex that companies need to constantly show potential clients, investors and partners that the organization is a moral subject who cares and takes into consideration the whole society and has a kind of social mission.

4. Methodology

The purpose of this paper is to examine and identify the ethical behavior of managers (decision – makers) in a company in Croatia. In order to carry out analysis, a questionnaire was used. The questionnaire included 27 statements about the ethical behavior of managers. These statements were divided into three segments. The first part of the questionnaire considered the relationship between managers and subordinates (employees); the second part considered manager traits as professional in his/her position, while the third part was dedicated to the relationship between manager and company – how they perceive their company. This survey was oriented on employee views on the ethical behavior of decision makers in the company. The company consists of 5 different departments: IT department, human resource department, accounting department,
purchasing department and marketing department. Departments are led by managers, thus 5 different managers were evaluated. 15 employees evaluated each department manager. They were asked to follow a Likert’s scale with five levels of intensity, ranging from “I strongly disagree” to “I strongly agree” when evaluating each statement.

The questionnaires were distributed before the work shift when employees were rested and had a high level of concentration. The time for thinking was unlimited so every respondent could take enough time to evaluate each of the five managers. The process of evaluation was very positive; the respondents were polite and pleased to provide their own opinion on their superiors.

5. Findings

The empirical results of this research were as follows. Managers with a total score between 30 and 35 points were appraised as being highly ethical and reliable managers, whom every employee can trust and rely on. Managers with a score between 36 and 61 points were valued as managers who in certain situations show unethical behavior, while managers with a score between 62 - 108 points were appraised as managers who behave unethically and who will in the long run bring poor results to the company.

As represented in Figure 1, employees rated the IT department manager as the most ethical in their company. Although rated as the most ethical (with an average score of 45 points), he leans more towards the category of average ethical behavior while making decisions. This means that in certain situations he is behaving unethically when making decisions. All respondents are convinced that this manager will be reluctant to behave unethically even if it brings him certain profit or benefit.

Following him is the marketing department manager. He was rated somewhat weaker (51 points), but he is in the same category as the previous manager - average ethical behavior while making decisions. The third manager in regard to total score is the accounting department manager with an average score of 60 points. He is actually somewhat in between average ethical and unethical behavior. The last two managers were evaluated as extremely unethical in their behavior. Namely, the manager of the purchasing department was rated with an average score of 69 points representing the one to whom ethical behavior does not mean much. Employees described him as an unreliable and selfish person, although possessing the knowledge and quality of working tasks.

The worst rated manager is the human resource department manager. This manager was awarded an average of 74 points which represents an extremely unethical result. All respondents are convinced that he has employed people who are not qualified for the position that they hold. Whether this is true and how much this harm the company will remain unknown, but one thing is for sure, this manager must realize the importance of ethics in business.

Figure 1: Ethical behavior of decision makers in the company
Source: Empirical results
If each part of ethical behavior is observed separately, it is noticeable that the most ethical behavior is the one regarding the relationship with the company, meaning that managers value the company and respect organizational rules. The least ethical is the relationship with employees (subordinates), meaning that managers are very poorly and improperly relating to subordinates. It is unknown what the real reason is for this is, but according to the questionnaire statements, it can be concluded that this manager views all associates as competitors and that most important to him is the personal reputation of the company. The manager of the purchasing department in the first category had a high rating of 36 points indicating that he has an absolutely wrong, improper and unprofessional relationship with subordinates. Employee comments indicated experiences of manger humiliation and demotivation. Among employees this is the most unpopular manager.

As far as the overall employee impression is concerned, the problem of collective thinking prevails in this company. Individuals, who can in some way influence the outcome of a particular decision, simply do not want to express their opinions if it is against the majority or their superiors. This company often experiences the worst that can happen in the overall decision-making process - deliberately making the wrong decisions. The only positive about this company is that it does not actually have a direct competitor on the market. It seems that every manager in this company is constantly criticizing employees, which is not good at all for the atmosphere in the company. Thus, this reflects negatively on employees' attitude towards work. Also, employees have in common the attitude that mangers would fire workers they do not like personally for various reasons, regardless of their professionalism.

Research results show that this company does not have developed business ethics. This research indicates that managers in everyday decision making tend to neglect ethics. There are no ethic principles or codes in the company, there are no departments for business ethics, and employees are not educated about the importance of ethics for business. Consequently, this company has yet to understand the importance of ethics and ethical behavior.

6. Conclusion

In a contemporary business environment, where making profit appears to take precedence over ethical behavior, the importance of understanding ethical behavior becomes crucial. The ability of managers to recognize and deal with complex business ethical issues has become a significant priority for every company regardless of its type and size.

The aim of this paper was to analyze the ethical behavior of managers in a big company in Croatia. Research results show that this company does not have developed business ethics. Managers in everyday decision making tend to neglect ethics; it seems that they do not understand the importance of ethical behavior in business. Promoting ethical conduct and establishing and implementing ethical values, creating ethical business policies and strategies in a company needs to be implemented.

Benefits of business ethics are extremely high, while lack of ethics leads to a wealth of problems for a business. Ethical behavior of managers is directly related to company productivity and profitability through employee loyalty and morale, reputation of business from surrounding environments, positive public image etc. Therefore, managers in companies must understand and cherish business ethics, honesty and integrity; and make decisions with consistent ethical behavior. There is no doubt that the ethical behavior of decision makers is of strategic importance for successful business. Today, it is very challenging to have a successful business without effective and well-respected leader/s.

As noted in the introductory part of this paper, this research is justified because there is a lack of research into business ethics in Republic of Croatia, although this topic is a burning issue and is presented daily to the public and in the media. Therefore, regardless of its limitations, this research has provided some groundwork and opened up new issues in this area.

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Confrontative Study between Past Perfect Indicative in German and Past Perfect and Aorist II Indicative in Albanian

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Abstract

The present study represents a significant step forward to understand past perfect indicative in Albanian and German by comparing them in morphological, semantic and stylistic aspects. The semantic meaning of past perfect indicative in Albanian is very similar to that in German. But the Albanian language also alters another additional past tense called Aorist II, that it is not present in the standard German language. This work aims at giving practical and theoretical overview on approaches and differs of the past perfect between the two languages – we intend to show that by giving great argumentative examples, which help concretising and understanding better, and also offer a clear and detailed picture of uses and meanings of this tense in both languages. In particular, in this paper it is paid attention to the text grammar, as we think that is a very important and interested point of view by studying and comparing two grammars. Furthermore we consider the issue of translation from German in Albanian and controversially. At this point we intend to find the grammar tools the German language uses for the translation of the albanian Aorist II. This publication will be a comprehensive and authoritative reference work on complex past tenses bringing together the study on different linguistic aspects.

Keywords: Finished event, bitemporal, moment of speaking, temporal indicators

1. Introduction

According to the Albanian Academy Grammar¹ and Duden² indicates past perfect indicative in Albanian and German that an action was completed (finished) at some point in the past before something else happened. This tense has got two obligatory features: Bitemporal and past.³ But the Albanian language, morphologically alters a second past tense in indicative called Aorist II – this tense is not present in the standard German language – which meaning is the same to that of past perfect indicative. The past perfect and the Aorist II as well are considered from linguists as synonym tenses – they can easily replace each other. But from both these tenses it is actually the past perfect which is used more frequently in spoken and written language.

2. Methodology

The focus of this paper is based on a theoretical and practical study about the past perfect indicative in Albanian and German, and also the Aorist II indicative in Albanian. The used

methodology is a comparing one by studying deeply approaches and differences between these two languages. It has been consulted a large Albanian and German linguistics literature in our interest field. Furthermore the theory has been examined in literature by comparing examples in both languages.

Based on our comparisons, we have listed our points of view and ideas on approaches and differences about the past perfect indicative in Albanian and German, and of course the role of Aorist II indicative.

3. Background and Purposes

This paper aims at giving a practical and theoretical overview on approaches and differences about the past perfect indicative between Albanian and German, and also handles Aorist II indicative in Albanian offering a clear and detailed picture of uses and meanings of these tenses in both languages.

We have paid attention to the text grammar and also wish to consider the issue of translation from German in Albanian and controversially. This publication will be a comprehensive and authoritative reference work on past tenses indicative bringing together the study on different linguistic aspects.

4. Analysis

Before starting handling the functions of these tenses, we firstly intend to have a look in the morphological level. The past perfect in active voice in Albanian is composed of two parts: “The past tense of the verb ‘kam’ (to have) in past tense + the past participle of the main verb” [example: unë kisha pyetur (I had asked)]. In the German language the past perfect in active voice is also composed of two parts: “The past tense of the verbs ‘haben/sein’ (to have/to be) in past tense (preterite) + the past participle of the main verb” [examples: ich hatte gefragt/ich war gewesen (I had asked; I had been)]. Based on the morphological formation rules, we have noticed approaches between the two languages in the active voice. In Albanian Aorist II in active voice is also composed of two parts: “The Aorist I of the verb ‘kam’ (to have) + the past participle of the main verb” (example: unë pata pyetur). Above we have mentioned that the German morphologically doesn’t alter the Aorist II - so, it is impossible to confront the two grammars in the morphological level about this tense. But we are going to show some very interesting and good argumentative examples by observing them in the translation area. According to Helbig and Buscha, and the Albanian Academy Grammar the past perfect indicative has got, in both languages, two main variants of use:

1. Past perfect indicating a resultative action in the past (1). This type of past perfect doesn’t have any modal factor present, but it can contain facultative temporal indicators or can be followed by a temporal subordinated clause. In this variant the past perfect can be replaced in both languages by perfect.

   (1)

   Ato kishin qenë plaka në kohën e mbretërisë dhe kishin qenë plaka edhe përpara mbretërisë, në kohën e republikës. (Kronikë në gur, Ismail Kadare, f. 31)

   Greisinnen waren sie schon während der Königszeit gewesen und auch vorher, in der Republik. (Chronic in Stone, Ismail Kadare, page 38)

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4 It is impossible to translate this example in English as this tense isn’t present in the standard English language.
In the sentence (1) the moment of speaking is identical to the moment of observing – both took place after the event. The example doesn’t contain certain temporal indicators, but we can understand the temporal character of the sentence from the context, and this sentence offers us a very good possibility to observe the summary character of the past perfect: „kohë e mbretërisë, kohë e republikës/ Königszeit, Republik (time of the king, time of the republic) - because they both are considering a very long time. And the great thing to observe here is also the connection to the present times – the wise ladies are still the old ones. We can feel here the resultative character of the event in the moment of speaking.

2. Past perfect indicates a completed event in the past, which hasn’t got any connection to a certain moment in the past (2). In this variant of use the modal factor is not present - just like in the first one - it can have facultative temporal indicators or can be followed by a temporal subordinated clause.

(2)

Kur dolëm nga shtëpia e Dino Çiços, shiu kishte pushuar. (Kronikë në gur, Ismail Kadare, f. 97)
Als wir Dino Çiços Haus verließen, hatte der Regen aufgehört. (Chronic in Stone, Ismail Kadare, Page 112)

The moment the event happened (2) „ka rënë shi/es hat geregnet“ (it has been raining) lays before the observing moment „Kur dolëm nga shtëpia e Dino Çiços /Als wir Dino Çiços Haus verließen“(As we left Dino’s house), and both take place before the moment of speaking – the speaker refers later about it. In this variant the past perfect can’t be replaced by the perfect. The meaning of the past perfect is precised by the context, just like in the first variant – this tense has got the grammatical value of the Aorist I in the past: The event was completed (finished) before. In Albanian as in German (2) the past perfect is followed by a temporal subordinative clause „Kur dolëm nga shtëpia e Dino Çiços/Als wir Dino Çiços Haus verließen“.

We have mentioned above that the modal factor isn’t present in either of the variants of past perfect indicative. And this is very correct as this tense doesn’t tend to have modal nuances. According to Buchholz and Fiedler the presence of modal factor in past perfect structures is extremely rare, but not impossible. We could find examples in a main clause of an hypothetical sentence which signals the past perfect unreal conditionality of the past (6). Frequently, it is a preterite comparison.7 (4). Since both applications of the past perfect indicative (3) & (4) occur in unreal sentences („pa ia kisha treguar qejfin/sonst hätte er etwas erlebt; sikur kishte parë ndonjë fantazmë/als hätte er einen Geist gesehen“) in the translation in German will be applied subjunctive II „kisha treguar:hätte erlebt, kishte parë:hätte gesehen“.

(3)

Ishte yt atë atje, pa ia kisha treguar qejfin!
Es war dein Vater dort, sonst hätte er etwas erlebt.

(4)

Ishte me të vërtetë i hutuar, sikur kishte parë ndonjë fantazmë.
Er sah wirklich verwirrt aus, als hätte er einen Geist gesehen.

Furthermore we have noticed, that in both languages, the imperfect, the Aorist I or the preterite indicative turn into past perfect indicative in indirect speech structures (5). In the sentence (5) the cited speaker „Aldo Barabamua“ is mentioned – and to report about his words the author has chosen the past perfect in the orginal text in Albanian, and also in the translation in German. In both cases in the first part of the sentence – the quoted speech – the verbs are used to report

what originally was said: They are in preterite „gab“ in German and in Aorist I „kishte“ in Albanian.

(5)

- Eh, artëri kishte në kohën time, - kishte thënë duke ngjirit gotën e fundit në kafene Avdo Barabamua. (Kronikë në gur, Ismail Kadare, f. 98)

“Ja, zu meiner Zeit, da gab es noch Artillerie!” hatte Avdo Babaramo, das letzte Glas erhebend, im Café erklärt. (Chronic in Stone, Ismail Kadare, Page 113)

In both from us choosen novels lead preterit e in German and imperfect in Albanian as narrative tenses. When the writers want to refer about an event that had happened before a certain moment in the past, so before imperfect, they do use the past perfect. This is generally the case, and there may also be examples in which the author decides more on the preterite in German, and in the translation in Albanian, even in the original text is applied the past perfect – this can be explained very well by considering the inclination of the Albanian language to use the past perfect indicative, when it comes to describe events or characters in the past. In German, preterite is preferred as narrative tense, and when we compare the spectrum of using this tense in German to that in Albanian, we come to the conclusion: The application spectrum of the preterite as a narrative tense in German is wider as in Albanian. Below we can observe the confrontation „past perfect in Albanian : preterite in German“ through the example (6) taken from the author I. Kadare in Albanian and translated in German by J. Röhm.

(6)

Pastaj gruaja e kish spërkatur vendin dhe kish ikur shpejt duke ua humbr gjurmët atyre që e ndoqën. (Kronikë në gur, Ismail Kadare, f. 27)

Dann hatte die Frau den Ort besprengt und war so rasch verschwunden, dass die Verfolger ihrer Spur verloren. (Chronic in Stone, Ismail Kadare, Page 33)

Another important focus of our work is the issue of translation. If we look closer at above mentioned examples (1 - 6), we can say that in the translation area, both languages almost act the same: We identified approaches in the semantic, syntax, emotional, stylistic and modal levels.

At the beginning of this work, we have mentioned, that the morphological forms of the Aorist II indicative are not present in German - by translating Aorist II from the Albanian into German, translators use the past perfect indicative (7) & (8). Let us have a look at the examples below, taken from the novel „Chronic in Stone“ by Ismail Kadare, and the novel „Nothing new from the Western front“ by Erich Maria Remark (7) & (8), and understand better which tense the translators have choosen to translate the Aorist II in German:

(7)

Er war nur bewusstlos gewesen. (Im Westen nichts Neues, Erich Maria Remarque, Page 16)

Pati qënë pa ndjenja për një kohë të gjatë. (Asgjë e re nga fronti i perëndimit, Erik Maria Remark, f. 18)

(8)

Gruaja e Mane Vocos që zbardhur në fytër të nga tmerri. E panjohura që zhdukur sa të hapësh e mbyllësh sytë. (Kronikë në gur, Ismail Kadare, f. 27, 28)

Mane Vocos Frau war schreckenbleich geworden. Keinen Wimpernschlag später war die Fremde verschwunden gewesen. (Chronic in Stone, Ismail Kadare, Page 33)

As Aorist II indicative in Albanian has the same meaning to the past perfect indicative also in Albanian, may this lead the translators to use the same tense structure as past perfect, when it comes to translate structures of Aorist II from Albanian to German or controversially. In the examples (7) and (8) in German, the verbs „war gewesen“ and „war geworden“ are in past perfect indicative.
Sentence (7) is taken from the original text in German and the translator has decided to use Aorist II in Albanian „pati qenë“. The same happens when we observe the translation from Albanian into German in the example (8): The translator used the past perfect in German for the sentences in Aorist II in Albanian „qe zbardhur“ and „qe zhdukur“. Therefore, both these tenses „Aorist II:Past perfect“ can be treated morphologically and semantically as synonyms, so they can easily replace each other and this doesn’t affect the meaning of the sentence at all.

5. Conclusions and Recommendations

Both languages alter the past perfect indicative - it indicates that an action was completed (finished) at some point in the past before something else happened. The past perfect has got two obligatory features: *Bitemporal and past*. Based on the grammatical structure, there are also morphological approaches between German and Albanian.

Temporal factor occupies a large place and there is almost no space for the modal one. Temporal indicators appear facultative in past perfective uses or the sentence is accompanied from a temporal subordinate clause. Examples of past perfect wich have modal factor present may appear in the main clause of a hypothetical sentence, where the past perfect indicates unreal past conditionality – these structures in German are given by conjunctive II.

Semantic uses oft past perfect tense in both languages are similar – in Albanian as in German we distinguish two important variants of use.

The Albanian morphologically alters also a tense, the Aorist II – but the grammatical category of Aorist II indicative isn’t found in the German language. So, it’s impossible to make a morphological comparision between Albanian and German about that. Meaning and uses of Aorist II indicative in Albanian are similar to the past perfect indicative. In the translations of the Albanian Aorist II indicative into German is this tense given by the past perfect indicative.

In the translation area, both languages almost act the same: When we do translate past perfect indicative sentences from Albanian into German or controversaly, we identify approaches in the semantic, syntax, emotional, stylistic and modal levels.

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Explaining the European Union’s Changing Position towards the Gibraltar Question after the Brexit Referendum

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Abstract

Having previously remained impartial on the Gibraltar question between Spain and Britain since both were member states, the European Union suddenly changed its position after the Brexit referendum in favor of the Spanish government at the expense of breaching international law. In doing so, the European Union, for the first time, created a foreign policy on the long-standing Gibraltar question. This article explores the reasons behind the creation of this foreign policy in support of Spain. The European Union feared that the idea of Euroscepticism may escalate among remaining member states after the Brexit referendum because of wide-spread claims that it would dissolve in the near future, fuelled by far-right political parties. The European Union therefore created a foreign policy regarding Gibraltar in Spain’s favor in order to promote a “sense of community” for thwarting a further rise in Euroscepticism. While making its analysis, the article applies the assumption of social constructivism that ideas shape interests, which then determine the foreign policy choices of actors.

Keywords: Gibraltar, European Union, Britain, Spain, Euroscepticism, Social Constructivism

1. Introduction

It is recognized under international law that Britain has undisputed sovereignty over Gibraltar. In conformity with this, the EU recognizes in its treaties that Britain is responsible for regulating Gibraltar’s foreign relations. In addition, regarding its political position on solving the long-standing Gibraltar question, the EU has previously adopted an impartial position since both Spain and Britain are member states. However, the EU changed its position in Spain’s favor following the Brexit referendum by giving a veto right to Spain on the future Gibraltar- EU relations, which is a clear breach of international law by the EU.

In recent years, due to immigration, terrorism and unemployment, Euroscepticism has reached unprecedentedly high levels. In particular, far-right populist parties have played an important role in the rise of Euroscepticism by claiming that the EU is unable to solve these problems. By manipulating people’s concerns regarding these problems, they have also managed to increase their power in several leading EU countries, such as the Netherlands, France, Germany and Austria. After the Brexit referendum, the far-right parties gained a new opportunity to promote their negative propaganda. They claim that the British people’s decision to leave the EU is only the first and that other countries’ citizens will follow their lead, meaning that the EU may collapse in the near future. Fearing that this propaganda could further increase Euroscepticism, the EU has wanted to promote a sense of community by changing its position on the Gibraltar question in Spain’s favor at the expense of breaching international law. The EU’s message is actually very obvious: we are still here and we protect our members. The EU’s aim of preventing a further rise in Euroscepticism by siding with Spain on the Gibraltar question also supports the assumptions of social constructivism, which posits that ideas play a major role in determining actors’ foreign policy choices.
The first section of this article draws on the theoretical framework under social constructivism. The second section outlines the impact of the Brexit referendum on the EU’s position on the Gibraltar question. The third section first analyzes the status of Gibraltar under international law before explaining why the EU has changed its position on the Gibraltar question in favor of Spain despite breaching international law. The conclusion provides an overview of the article.

2. Theoretical Framework

While varying in importance over time, federalism, functionalism, neo-functionalism and intergovernmentalism remained the dominant theories of EU integration until the end of 1980s (see, Rosamond, 2000). However, by explaining the EU integration through these theoretical frameworks, scholars paid insufficient attention to the foreign policy dimension of the European integration project. This was firstly because EU members focused on economic cooperation and technical harmonization rather than political integration. Secondly, the failure of the European Defense Community and thus the European Political Cooperation in 1954 caused significant damage to scholars’ expectations that cooperation in foreign and security policy is possible. However, the Single European Act (1986), which codified European Political Cooperation, and later the Maastricht Treaty (1992), which introduced the Common Foreign and Security Policy as the second pillar of the EU, triggered theoretical applications for EU foreign policy. In particular, liberal intergovernmentalism, new institutionalism, the governance approach and social constructivism, which all developed in the 1990s, started contributing to a new theoretical analysis of EU foreign policy (Bergmann & Niemann, 2013, p. 2).

Social constructivism is an excellent theory for studying international relations, despite a continued debate as to whether it is a theory. Simply put, it claims that international relations are ‘socially constructed.’ It was first applied to international relations by Nicholas Greenwood Onuf in 1989 in his book, *World of Our Making: Rules and Rule in Social Theory and International Relations*, published by University of South Carolina Press. Later, Alexander Wendt’s influential works, such as “Anarchy is What States Make of it: The Social Construction of International Relations”, published in the International Organization journal in 1992, and *Social Theory of International Relations*, published by Cambridge University Press in 1999, significantly contributed to applying social constructivism theory to international relations issues. In addition to these prominent publications, important contributions to the development of the theory were made by many scholars belonging to the Copenhagen School in the Copenhagen Peace Research Institute and the English School of International Relations (Karacasulu & Uzgören, 2007, p. 29).

Social constructivists reject the realists’ argument that states only have material interests, such as military force and economic power. Instead, they claim that the world of international relations does not lie outside human consciousness. Thus, while not ignoring the role of material interests, they assert that the study of international relations must focus on ideas, identities, culture, social norms and perceptions because these shape the interests and international actions of actors within this context (Jackson & Sorensen, 2007, p. 162). This approach is very instructive when analyzing the EU’s foreign policy choices. A valuable identity-based example is the EU’s acceptance of Greece as a member state in 1981. Former French President Valéry Giscard d’Estaing frankly confessed many years later that although Greece was clearly insufficiently developed economically compared to EU member states, it was nevertheless made a member because the vast majority of Europeans believe that ancient Greek civilization made a very significant contribution to shaping European identity (Angelos, 2015).

Another good example supporting the idea-based approach of social constructivists concerns the recently re-emerging Gibraltar question. When the dispute between the Spanish and British governments over the status of Gibraltar restarted after the Brexit referendum, the EU, which had previously remained impartial, unexpectedly supported the Spanish government. In its guidelines for the Brexit negotiations, the EU included the requirement that, after Britain exits the EU, agreements between the EU and Britain on Gibraltar can only be enforced with the consent of both Spain and Britain. In doing so, the EU has obviously given Spain the right of veto over the future of Gibraltar-EU relations. However, the EU’s changed position breaches international law, which
recognizes Britain's sovereignty over Gibraltar. The EU appears to have sided with Spain on the Gibraltar question in order to counter any further rise in the idea of Euroscepticism. To respond the growing feeling since the Brexit referendum that the Union could dissolve, which has been significantly promoted by far-right parties, who have already been able to spread Euroscepticism significantly due to the EU’s inability to deal with immigration, terrorism and unemployment, the EU wanted to send a message to its citizens that it still exists and will protect its members’ interests. Thus, the EU wanted to promote a sense of community during these difficult times for EU integration. The next section explains Brexit referendum’s implications for the Gibraltar question.

3. The Brexit Referendum and the Gibraltar Question

Britain has always been a problematic partner for the EU since gaining membership in 1973. While other EU members were struggling to ensure ‘an ever closer union’, Britain preferred not to participate in the EU’s most important policies to promote further integration, such as the Economic and Monetary Union, introduced by the Maastricht Treaty in 1992, and the Schengen Convention. Britain’s most important general concern for remaining outside these initiatives stemmed from its traditional desire for flexible EU integration based on intergovernmentalism rather than any supranationalist transfer of national powers to EU institutions in Brussels. In the face of the financial crisis in European markets and increasing concerns in Britain over immigration, Prime Minister (PM) David Cameron announced in 2013 that he would hold a referendum on the country’s EU membership if he became PM again after the 2015 elections (Euronews, 2013). It has been claimed that domestic political calculations were actually the main reasons for this decision in that Cameron offered a referendum because he wanted to gain the votes of Eurosceptics in the UK Independent Party and reconcile factions within the Conservative Party before the 2015 general election (Stanley, 2016; Glencross, 2016, p. 2). In the May 2015 election, Cameron's party received 36.9 percent of the votes to earn parliamentary 331 seats, which enabled Cameron to keep his post in 10 Downing Street. The victory was attributed to the Tories’ good economy performance and Cameron’s promise of an EU referendum (CBC News, 2015). The latter was extremely important for Eurosceptics, who were obsessed with protecting Britain's national sovereignty against Brussels-based policy-making.

On February 20, 2016, Cameron managed to win very important concessions from the EU with the signing of the Britain-EU Agreement, which provided that Britain would not be bound to participate in any future federal Europe. The agreement stipulated that “It is recognized that the United Kingdom, in the light of the specific situation it has under Treaties, is not committed to further political integration into the European Union. The substance of this will be incorporated into Treaties at the time of their next revision.” This clearly meant a ‘never closer union’ for Britain. Cameron claimed that the agreement gave Britain a “special status” in the EU and called on the British people to decide whether to remain in the EU after this move or leave (BBC, 2016). During the referendum campaign, Cameron sided with the ‘no’ campaigners, repeatedly reminding voters that the February 2016 Agreement meant that Britain no longer had to participate in EU-led policies. However, the referendum, which took place on June 23, 2016, resulted in majority supporting Britain’s exit from the EU with 51.8 percent of the vote. Soon after the referendum, Cameron resigned, having undoubtedly sealed his place in history as a politician who gambled the future of Britain for his own domestic political calculations.

Brexit will have wide-ranging and varied consequences for Britain and the EU. The most important questions for Britain are as follows: What kind of economic cooperation model will be preferred by Britain to replace the common market? How will British people use the right of free movement of people? Will Scotland and Northern Ireland want independence from the UK? (Glencross, pp. 49-58) While discussions have focused on these uncertainties, Spanish Foreign Minister José Manuel Garcia-Margallo’s proposal to Britain to hold negotiations on joint control of Gibraltar reignited the long-standing dispute (Reuters, 2016). Meanwhile, in late March 2017, the EU surprisingly sided with Spain, having previously remained impartial on the Gibraltar question, by incorporating the following article in its draft guidelines for the Brexit negotiations: “After the United Kingdom leaves the Union, no agreement between the EU and the United Kingdom may apply to
the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom” (Article 24) (The Guardian, 2017a). In doing so, the EU has given Spain a veto right over Gibraltar’s future relations with the Union.

Spain’s claims and the EU’s attitude annoyed Britain. For example, Michael Howard, a former Tory leader, reminisced about PM Margaret Thatcher’s war against Argentina to defend the freedom of English-speaking people in the Falkland Islands, and continued by stating that he was absolutely sure that current PM Theresa May “would show the same resolve in standing by the people of Gibraltar” (Financial Times, 2017). Michael Fallon, British Defense Secretary implied the same threat: “We are going to look after Gibraltar – it is going to be protected all the way because the sovereignty of Gibraltar cannot be changed without the people of Gibraltar” (Daily Mail, 2017).

While the seriousness of such statements is debatable, as a result of the escalating row, Spanish Foreign Minister Alfonso Dastis, who took office in November 2016, had to ask Britain to calm down (Euronews, 2017a).

The EU’s Brexit negotiation guidelines, which it approved on April 29, 2017, (European Council, 2017) fully satisfied the Spanish government, which has long sought shared sovereignty over Gibraltar. As Inigo Mendez de Vigo, a spokesman for the Spanish government, put it, “It is what we wanted and what we have said from the beginning ... The recognition by the European Union of the legal and political situation that Spain has defended fully satisfied us” (Reuters, 2017a). The next section demonstrates why the EU’s policy as set out in Article 24 breaches international law and explains why the EU has made this policy change on Gibraltar despite acting against international law.

4. Why does the EU Breach International Law on Gibraltar?

For Britain, Gibraltar, a promontory overlooking Algeciras Bay that controls the Gibraltar Strait at the entrance of the Mediterranean, is an indispensable piece of territory. Indeed, Gibraltar has long been a strategic focal point historically. With the Moors, led by Tarik al-Ziyad, captured it from the Visigoth king, Roderic, in 711, (Levie, 1983, p. 3) Gibraltar remained under Muslim rule for 600 years. After the Spaniards occupied Gibraltar in 1462, Queen Isabella of Spain declared that Gibraltar was “the key to Spain,” (Jordine, 2007, p. 125) as it was believed that Spain’s acquisition of Gibraltar ensured the territorial integrity of the Castilian kingdom. It is still believed that, without Gibraltar, Spain’s territorial integrity remains incomplete. Following over 200 years of Spanish rule, Britain gained sovereignty over Gibraltar itself, not the whole isthmus, under Article X of the 1713 Utrecht Peace Treaty.1 While Spain and Britain disagree over the exact interpretation of this article, it is widely acknowledged that Britain has undoubtedly gained legal sovereignty over Gibraltar, although Spain will regain sovereignty if Britain would renounces its claim.

Regarding disagreements between the two powers over the treaty, Spain claims, according to its interpretation under Spanish civil law, that the phrase “propriety” in Article X, gives Britain less than full sovereignty over Gibraltar, (Levie, pp. 30-35; Waibel, 2010, paragraph 9) although this is contradicted by the other phrases, such as “full and entire propriety”, “be held and enjoyed absolutely with all manner of right forever” and “without any exception or impediment whatsoever”, as well as the intent of the parties at that time. Spain also questions the phrase “without any territorial jurisdiction”, in the second paragraph of the article. However, this phrase actually refers to

1 Article 10 of the Utrecht Treaty reads as follows: “The Catholic King does hereby, for himself, his heirs and successors yield to the crown of Great Britain the full and entire propriety of the town and castle of Gibraltar, together with the port, fortifications, and forts thereunto belonging; and he gives up the said propriety to be held and enjoyed absolutely with all manner of right for ever, without any exception or impediment whatsoever. But that abuses and frauds may be avoided by importing any kind of goods, the Catholic King wills, and takes it to be understood, that the above named propriety be yielded to Great Britain without any territorial jurisdiction, and without any open communication by land with the country round about. And in case it shall hereafter seem meet to the crown of Great Britain to grant, sell, or by any means to alienate there from the propriety of the said town of Gibraltar, it is hereby agreed and concluded, that the preference of having the same shall always be given to the crown of Spain before any others.”
the surrounding areas rather than directly to Gibraltar itself. In reality, the two sides never defined the frontier of Gibraltar because they wanted to prevent smuggling (Jordine, pp. 125-126). Although a fence has been erected between Gibraltar and Spain that currently constitutes the frontier, it is not an officially determined one (Ibid.).

It should be noted that Article X of the Utrecht Treaty restricted British sovereignty to Gibraltar and its fortifications so the isthmus was not covered by this article. However, Britain gradually expanded its jurisdiction or sovereignty by occupying surrounding areas belonging to the isthmus. Today, therefore Britain depends on the prescription doctrine to justify its sovereignty over these areas on the isthmus (Lowe, 2007, pp. 144-145).

Interestingly, despite signing the Utrecht Treaty, Spain repeatedly tried to regain sovereignty over Gibraltar, whether by force or diplomacy (Verzijl, 1970, pp. 482-483). However, the 1815 Vienna Conference seemed to reduce the sovereignty impasse. This de-escalation continued after the 1950s, with Spain revoking its claims, notably before the United Nations General Assembly (Zaidi, pp. 153-155).

The establishment of the United Nations after World War II introduced a new era. One of the most spectacular transformations in the world order, guided by the United Nations, was decolonization under the principle of self-determination. When Britain tried to initiate this process regarding Gibraltar, Spain objected on the basis of its territorial integrity. The United Nations sided with Spain, implying that Gibraltar was not a colony that needed to be freed from a colonial power (Franck & Hoffman, 1976, pp. 371-379). The United Nations General Assembly decided that the Gibraltarians did not constitute a people so Spain’s claim over Gibraltar prevailed (see, Bossano, 1994; Lincoln, 1994; Duursma, 1996). That is, the principle of territorial integrity outweighed self-determination. To defend the rights of Gibraltarians, Britain held a referendum on whether they wanted to become part of Spain. Out of 12,182 votes cast, 12,138 supported continued links with Britain while only 44 supported Spanish sovereignty (Franck & Hoffman, p. 373). Meanwhile, Spain increased restrictions over Gibraltar and Gibraltarians, from sanctions on travel and trade through prohibiting Spanish labor from working in Gibraltar and severing telephone links to completely closing the border in 1969. However, most of these restrictions were lifted after Spain joined the EU.

Under Article 355/3 of the Consolidated Version of the Treaty on the Functioning of the European Union and the provisions in Britain’s act of accession to the European Communities, Gibraltar is included within the European Community (Waibel, paragraph 27). In the EU context, Gibraltar is a territory with one member state, Britain, responsible for regulating its foreign relations. That is, Gibraltar is a European Territory, but with a few exceptions. It is excluded from four areas of Community policy: the Community Customs Territory and Commercial Policy, the Common Agricultural Policy, the Common Fisheries Policy and the requirement to levy value added tax (Waibel, paragraph 27). Since June 2000, relations between the Gibraltarian authorities and EU authorities have been regulated by the United Kingdom Government/ Gibraltar Liaison Unit for EU Affairs in the Foreign and Commonwealth Office (Waibel, paragraph 31).

During the 1980s, various treaties that concerned Gibraltar were signed, particularly the Lisbon Treaty of 1980 and the Brussels Agreement of 1984. These were followed by another interesting treaty relating to usage of airport, which the British constructed on the isthmus in 1938. This treaty aimed to give Spain the right to use the airport alongside Britain. However, Gibraltarians blocked its implementation, which led to the exclusion of Gibraltar from the European Commission’s Air Services Directive of July 18, 1989 (Lincoln, pp. 302-306).

In 2002, the foreign ministers of the two countries negotiated a deal based on shared sovereignty over Gibraltar, but it was opposed by both the House of Commons and Gibraltarians themselves. Most MPs in the House of Commons believed that it would have paved the way for the transfer of complete sovereignty to Spain (Waibel, paragraphs: 14-15). Meanwhile, Gibraltar held a referendum on the proposal, which predictably overwhelmingly rejected shared sovereignty with 98.5 percent of the votes.

Since 2004, there has been technical cooperation between Britain, Spain and Gibraltar in the form of a trilateral forum and a Joint Commission, which aims to improve cross-border relations. Several agreements have been concluded with positive results on technical matters, such as "lifting
Gibraltar’s exclusion from EU aviation legislation, ending Spanish airspace restrictions, joint use of the airport, eased border traffic flows and controls, interoperability of fixed and mobile networks and recognition of Gibraltar’s direct dialling code, a lump-sum settlement of British pension obligations to former Spanish workers in Gibraltar, and opening a Cervantes Institute in Gibraltar” (Waibel, paragraphs: 32-33).

Over the years, or more appropriately centuries, the Gibraltar issue has intensified, which has introduced various new dimensions that have widened the sovereignty impasse. The Brexit referendum and resulting process appear to be the latest in this respect due to the EU’s unnecessary interference.

After the Brexit referendum, the EU effectively gave Spain a veto right on the future Gibraltar-EU relations. This was an outrageous political move given the EU’s supposedly impartial political stance. By acting like this, the EU is not only breach international law but also ignoring the rights of Gibraltarians. In this respect, as a follower and guardian of the rule of law, the EU should have acted impartially. Thus, apart from EU affairs, the EU should remain impartial in the Gibraltar controversy. Giving Spain a veto right, even in EU affairs, damages the EU’s credibility and constitutes a clear breach of international law.

In light of this discussion, one might ask why the EU changed its position on the Gibraltar question after the Brexit referendum. One reasonable explanation is that it fears Euroscepticism, which is already high due to recent immigration, terrorism and unemployment problems, may spread further in member states, particularly fueled by far-right parties. The EU’s concern is that after the Brexit referendum the discourses of far-right parties have become so wide-spread that the Union will dissolve in the near future. In response, the EU has sided with Spain on the Gibraltar question to promote a sense of community to prevent a further rise in Euroscepticism. The EU’s attitude on this issue clearly supports the arguments of social constructivists that ideas shape interests so that foreign policy actors then act according to these interests. Here, the aim of preventing the further rise of Euroscepticism determined the EU’s Spanish-sided foreign policy on the Gibraltar question.

According to Antonio Tajani, President of the European Parliament, immigration, terrorism and unemployment are currently the EU’s three biggest problems, and the main causes of rising Euroscepticism (Euronews, March 20, 2017). Since the beginning of the Syrian crisis in 2011, the number of people seeking asylum in EU states has increased considerably. According to Eurostat, the EU’s statistical agency, the number of asylum applicants in EU member states reached a record 1.26 million in 2015, which is almost double the number after the collapse of the Soviet Union (Eurostat, 2017a). The majority of recent asylum seekers come from Muslim populated countries, particularly Syria, Iraq and Afghanistan in rank order (Pew Research Center, 2016a). In 2016, 2015’s record level only decreased by 53,000 (Eurostat, 2017). The Pew Research Center’s Spring 2016 survey revealed that EU citizens are highly dissatisfied with the EU’s handling of immigration crisis. The highest rate was recorded in Greece (94 percent), followed by Sweden (88 percent), Italy (77 percent), Spain (75 percent), Hungary (72 percent), Poland (71 percent), Britain (70 percent), France (70 percent), Germany (67 percent) and the Netherlands (63 percent) (Pew Research Center, 2016b).

Terrorist attacks and fatalities have also risen significantly in EU states in recent years, with the most deadly being the January 2015 Charlie Hebdo shooting in Paris, which killed 17, the November 2015 Paris attacks, which killed 130 and wounded many more, the March 2016 Brussels bombings, which killed 34 and wounded 190, the July 2016 Nice truck attack, which killed 84 and wounded more, 10 terrorist stabbing attacks recorded across Europe in 2016, (Time, 2016) and the March 2017 London car attack, which killed 6. All these attacks were perpetrated by ISIS militants. According to a Pew Research Center survey, 59 percent of EU citizens in 10 member states believe that immigration increases terrorism, with more country-specific figures as follows: Hungary (76 percent), Poland (71 percent), Germany (61 percent), the Netherlands (61 percent), Italy (60 percent), Sweden (57 percent), Greece (55 percent), Britain (52 percent), France (46 percent) and Spain (40 percent) (Pew Research Center, 2016c).

Turning to unemployment rates, Eurostat estimated in March 2017 that unemployment was 8 percent in the EU, with 19.7 million people unemployed. This is high compared to the United States,
where unemployment was 4.5 percent in March 2017. What is striking, however, is the uneven distribution across member states. While the lowest rates were recorded in Czechia (3.2 percent), Germany (3.9 percent) and Malta (4.1 percent), the highest levels were in Greece (23.5 percent), Spain (18.2 percent), Southern Cyprus (12.5 percent), Italy (11.7 percent), Croatia (11.3 percent) and France (10.1 percent). Much more worrying is the very high level of youth unemployment (under 25 years old), which was almost double the EU’s overall average in March 2017 at 17.7 percent. The highest levels were in those countries most severely affected by Europe’s financial crisis: Greece (48 percent), Spain (40.5 percent) and Italy (34.1 percent). Thus, the crisis has disproportionately affected Europe’s younger citizens (Eurostat, 2017b).

Far-right parties have strongly benefited from immigration, terrorism and unemployment by focusing their discourses heavily on these issues. Among them, however, Muslim immigration has been their leitmotif for many years (Wilson & Hainsworth, 2012). They first aim to convince Europeans that the recent increase in terrorist attacks and unemployment is due to Muslim immigration. They also suggest that Muslim immigrants pose a severe danger to western culture, identity and values, and to Europe’s distinct way of life, because such immigrants are impossible to assimilate (Guibernau, 2010). Moreover, they claim that Europeans will benefit far less from social services in the coming years due to immigration. Regarding these three major problems, far-right parties accuse both their national governments and the EU of remaining unable to solve them. They claim that the EU’s corrupt elites and technocrats spend European citizens’ money for their own ambitions without caring about their problems (Grabow and Hartleb, 2013) due to immigration, terrorism and unemployment. Given the EU’s passivity in the face of the citizens’ problems, they claim, it is completely absurd to transfer national powers to the EU, which is simply a dysfunctional organization. Through such criticisms of the EU, far-right parties have significantly contributed to the rise of Euroscepticism, which has become an existential threat for the EU, as Jyrki Katainen, Vice President of the European Commission, warned (The Guardian, 2017b). Indeed, the Pew Research Center’s Spring 2016 survey on Euroscepticism in 10 EU countries clearly justifies Katainen’s concern in that the most unfavorable views of the EU were measured in Greece (71 percent), followed by France (61 percent), Spain (49 percent), Britain (48 percent), Germany (48 percent), the Netherlands (46 percent), Sweden (44 percent), Italy (39 percent), Hungary (37 percent) and Poland (22 percent). On average, 47 percent viewed the EU unfavorably as against 51 percent who viewed it favorably (Pew Research Center, 2016d).

Since the Brexit referendum, there have been widespread claims that the EU will break up, with many other member countries, especially France, Greece, Italy, Czechia, Austria, the Netherlands, Denmark, Finland, Slovakia and Portugal, seeking to leave the Union. Even Donald Trump, the US president-elect, did not hide his belief in this claim by saying: “People, countries, want their own identity, and the UK wanted its own identity … Other countries will leave the EU,” because the bloc was put under serious pressure following mass immigration (The Telegraph, 2017). In Europe, this argument has been particularly fuelled by far-right populist parties, who have found this a good opportunity to massively boost their Eurosceptic discourses (Polyakova, 2016). Beyond their promises to leave the EU if they win elections, they have presented the British people’s decision to EU citizens as a logical choice and a sign of the EU’s dissolution. For example, Marine Le Pen, leader of the National Front Party in France, claimed that “The European Union will die because the people do not want it anymore … arrogant and hegemonic empires are destined to perish” (Reuters, 2017b). Geert Wilders, leader of the Party for Freedom in the Netherlands, said “Both the Eurozone and European Union is like the end of the Roman Empire. It's already started. In a few years' time it will not be there anymore. Don't ask me if it will be two years or ten years but the end is near. Like the Roman Empire, it’s gone” (Daily Express, 2017). The EU fears that the Brexit referendum has further increased the already very high level of Euroscepticism because other EU citizens have been influenced by such pessimistic arguments about the EU’s future, particularly triggered by far-right parties.

5. Conclusion

Under the clear terms of the 1713 Utrecht Peace Treaty, sovereignty over Gibraltar undoubtedly
belongs to Britain. In this respect, the EU could act impartially regarding the long-running Gibraltar question. However, in the guidelines issued by the European Commission for the Brexit negotiations, the EU has given Spain a veto right regarding future EU-Gibraltar relations, which is a clear breach of international law. The EU could also take into account the wishes of Gibraltarians, who overwhelmingly chose to preserve their link to Britain in the 1967 referendum and rejected shared sovereignty in the 2002 referendum.

Since its establishment, the EU has claimed that it is a protector and promoter of the rule of law, yet its shifting position over Gibraltar in favor of Spain raises questions about its sincerity. Social constructivism is an appropriate theory to explain the EU’s changing attitude. According to social constructivists, material interests, such as military force and economic power, are not sufficient to explain the behaviors of foreign policy makers. Ideas are also very important in shaping interests so foreign policy makers consider them. Today, one of the biggest threats to EU integration is rising Euroscepticism. Its unprecedented rise has occurred due to the ability of far-right parties in major EU member states to manipulate citizens’ fears over immigration, terrorism and unemployment. By claiming that the EU has failed to solve these problems, which affect the daily lives of Europeans, they can easily turn European public opinion against EU integration. Since the Brexit referendum, these political parties have also promoted the idea that the British people’s decision indicates the beginning of the EU’s break-up. In response, the EU, alarmed that this will further increase Euroscepticism, has sided with Spain on the Gibraltar question to promote a sense of community.

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Abstract

Since the goal of tax system is based on self-declaration and voluntary compliance, with this study we intend to know on “Taxpayers’ Perceptions with regard of Tax Administration of Kosovo. We believe that most effective way to keep and enhance the voluntary compliance is through mutual trust and respect between TAK and Kosovo taxpayers.” This is the reason for the study and making recommendations on findings with a special emphasis on improvements of TAK services for the public, in order to fulfill expectations and to provide taxpayers with services they deserve. This work aims to identify the weaknesses and short-falls. Based on findings of this work through the survey with Kosovo taxpayers, we will recommend our ideas in order for the taxpayers to enjoy their legal rights and we will not allow for these rights to be violated in any form.

Keywords: Tax Administration of Kosovo, voluntary Compliance, self-declaring.

1. Introduction

Kosovo economy suffers a large tax gap, which is mainly a consequence of informal economy and the tax avoidance by some businesses and individuals, which act in disproportion with rules. Failure to comply with tax obligations by taxpayers causes huge problems with tax revenues. TAK offices in Kosovo are more and more focused on development of sustainable and effective strategy to resolve these outstanding issues of Kosovo tax policy. However, one of the factors that hamper this process is the lack of reliable and reflective data on this issue. Kosovo lacks the study on taxpayers that would accurately measures the perceptions and opinions of individuals and business in Kosovo on related tax issues. Results coming out from this study aim to help on drafting the effective and constructive strategy with priorities on areas of high importance based on taxpayers of Kosovo.

The support on project for TAK is mainly directed towards the improvement of tax inspectors’ capacities, increase of effectiveness and legal impartiality of audits, and strengthening of communication channels between Kosovo taxpayers and TAK offices and officials.

This report analyzes and synthesizes findings of a number of activities on data collection, respectively quantity survey, half-structured interviews and focus groups.
First, this report intends to inform contractor by finding the pattern of quantity findings of study in five main areas: Transparency of Taxpayers’ Rights and Obligations; Compliance Cost; Correct Professionalism and Treatment by TAK; Orientation towards Service; and in the end, Motivation for Compliance.

This report provides the context of policy and tax system of TAK in Kosovo, through the follow-up of data, strategies, direction and new goals and initiations. Tax context of Kosovo is filled out with a brief summary of some main studies of this field. The third part describes the methodology used. The fourth part reviews study limitations. The results are analyzed on the fifth and sixth part, concluded with main findings.

2. Tax System of Kosovo

Kosovo has relatively simple tax system and is oriented towards simple regulation that aims a broaden basis and prevention of tax evasion.

Fiscal policy, especially, tax policy is an extraordinary important part of governance of Kosovo and its economic growth, since the monetary policy tools cannot be used because euro is accepted as currency of the country. To undertake large investments and to offer vital public services, Kosovo needs a considerable quantity of resources, which could be achieved through a suitable fiscal policy. Therefore, Kosovo tax system is inseparable part of economy, because it can increase the revenues for government expenses.

3. Transparency of Taxpayers’ Rights and Obligations

This study is focused on taxpayers, individuals and business perceptions in Kosovo with regard of TAK staff, procedures and services, and related tax policies, such as TAK access on businesses, which act against rules, audit case selection based on risk, etc. Main objective is to provide a reliable overview that presents the situation in Kosovo, related to taxpayers’ opinions that can be used as basis for evaluation of new potential strategies for TAK in the future and to bring out the areas requiring priorities according to taxpayers’ perception.

The design of study combines focus groups and interviews (1252) to understand the current taxpayers’ opinions in Kosovo. The questions are organized on five main areas, which are:

- Transparency of Taxpayers’ Rights and Obligations

Quantity results are discussed in detail through the half-structured interviews held with representatives of key institutions, and focus groups of businesses. The aim of discussions was to collect further explanations for interesting findings, and support for astounding findings.

Most of taxpayers are satisfied with approach, simplicity and clearness on provision of information by TAK. However, there is still considerable room for improvement on awareness and information about the TAK mandate on taxpayers’ rights and obligations. For example, “set tax rates” and “collection of Customs duties” are seen as an important part of TAK mandate by majority of respondents. The most frequented sources for taxpayers were webpage, TAK offices or its staff and accountants. There is heterogeneity on the results with regards of age group, gender and ethnicity. New generations prefer online sources against other information means. Female taxpayers are visiting more frequently the TAK offices than male taxpayers. The members of Serbian community are using the offices or accountants as information sources and they never refer to internet webpage, based on results of the study. There were improvements in relation to speed and effective transmission of information by TAK, based on conclusions extracted from the discussion. However, there is room to move further on this direction, especially with regard of explanation on last legal changes.

On of the main boosters for this study was the idea to get a clear overview on taxpayer perception, awareness and knowledge for TAK and its services. Being informed and educated on these matters improves the chances of action in compliance with tax laws. When the tax liabilities are in question, this way of thinking raises furthermore the education on sanctions. With other words, it is essential that taxpayers are informed and educated before they are penalized for non-compliance. During questioning of respondents on their knowledge about TAK, a certain wrong
options were set intentionally on survey to test their knowledge with regard of TAK mandate. Taxpayers' knowledge on TAK mandate sometimes is confused on certain areas, which have nothing to do with this institution. For example, on Figure 3 below, shows that “imposing of tax rates” is mentioned by 63% of respondents as important part of TAK mandate. It seems that there is confusion among the population on duties and responsibilities of each institution with regard of taxes. The clearness on relevant institution where they address and keep responsible for, are the key of a functional tax system.

Figure 1: Perceptions on important parts of TAK mandate

Identification of main channels of information that are used by individual taxpayers and businesses would enable TAK to reach larger and diverse audience. The results from quantitative study show that the most used are TAK offices and staff, or its internet webpage. The alternative ways to reach the contact, as leaflet, social networks and call centers are rarely used as information points on related tax matters. The Figure 4 bellow summarizes the different points of information.

Figure 2: Information Resources

The results of the study are further based on discussions of focus group. Most of respondents are using the internet webpage to obtain information or they directly go to TAK offices.

TAK Strategy 2010-2015 emphasizes that call centers and other online sources are new means to secure reliable, fast and credible information. However, call centers remains less used platforms for such purposes. Luck of trust on call centers is brought up as a reason where the respondents often have identified other issues on call center, such as, the staff is not responding to phone calls or is not sufficient capable to give accurate answers. Regardless that we are living in the time of digitalization, it remains a gap between the old-age generation and new generation when the daily use of new technologies is in question. Figure 5 below shows exactly this digital gap with regard of sources of information. It can be seen that on old age group, the existing online sources, such as TAK webpage enjoy little popularity, and TAK offices are ranked as higher level as sources of information.
The selection of information platforms variates among the different regions. For example, on figure 6 below it can be seen that taxpayers and businesses in Prishtina and Ferizaj follow common trends: the first choice of taxpayers is TAK webpage, followed by their personal accountant or lawyers. The region such as Prizren, Gjakova and Gjilan, the individual taxpayers and businesses are relying more on TAK offices than on webpage. Peja looks isolated, since the webpage is relatively liked, and presentations and publication, manuals and booklets are the most common sources of information.

The selection of platform is also dependent on taxpayers' features on seeking information. For example, on focus group held with females in business, the participants have identified themselves more as persons to avoid the risk than males. Therefore, they state that they prefer to hire capable accountants or visit TAK offices to obtain accurate and detailed information, and to avoid mistakes related to their tax liabilities. The results from our quantitative study shows that newspapers, TVs and accountants or lawyers are relatively popular source of information for female than male (see the Figure 7 below). However, webpage and TAK official remain more frequented for both genders.
After the review of information resources for taxpayers, it is important to take their opinions on information provided by TAK. Figure 8 below shows the overview of surveyed taxpayers about the quality and the access on TAK information. Taxpayers are less happy with regard of information availability on rights and obligations, where 26% of taxpayers do not agree with availability on satisfaction of such information. Most of them are happy with clarity and reliability of general information. From those who sought information directly from TAK, most of them received satisfactory answers, so about 70% are inclined on positive side.

Figure 7: Sources of information by gender

Figure 8: Opinions on information provided by TAK
The high level of satisfaction is confirmed in some discussions on focus group. As long as there is still a room for improvement, many people believe that quality, access and availability is better than before. In the focus group of stakeholders, one of the participants said that now TAK officials can provide timely interpretation of laws and regulations. However, there are elements that require more attention. For example, officials and representatives of different institutions and business associations have shown concern, during the interview, with regard of lack of frequent updates of information materials provided on internet. Moreover, other key stakeholders were occupied with friendly approach towards the opposite gender by the TAK official. Another group of stakeholders expressed the concern about the content and details of the already provided information.

The issues that were mentioned often were connected to lack of clear and comprehensive information on recent tax law changes. However, this issue is beyond the scope of this report. In addition, the high level of satisfaction does not coincide with opinions of businesses working in Serbian community. First, main information resources for them are the accountants and lawyers, and the findings from quantitative interviews were confirmed on the focus group held with them.

Last, the access and level of information can be explained by two points of views. In one side, the availability of information, this can be seen as duty and responsibility of TAK. From the findings of this study synthesized above, we can conclude that there are improvements on this aspect. However, more effort should be made to different focused groups, as for example a more friendly gender approach and more efforts on establishment of contact with Serbian community members. Also, special attention should be dedicated to new legal changes for micro and small enterprises, since it happens that they do not employ accountants and it is difficult for them to accept new changes.

On the other side, it's the level of interest expressed by taxpayers to obtain information. With the focus group of man in business, the participants stated that interest of taxpayers is low and most of them take the initiative only when they are in trouble.

The discussion in focus group with main stakeholders of the area has discovered regional, sector and size differences on the level of taxpayers’ education and knowledge. According to participants the businesses operating in Prishtina are more proactive in contact with TAK or to stay updated with tax changes. The results of quantitative interviews shown on the table 5 below present the percentage of taxpayers or individual businesses that were trying to contacts TAK and it sorts them by region and size (for businesses). About 57% of respondents have actively sought information on TAK publications and sources, and 49% of respondents have sought information directly from TAK on related to tax matters.
4. Conclusions

This study has collected and analyzed the findings from a number of data collection activities, respectively quantitative studies, half-structured interviews and focus groups. Its main goal is to inform the public and TAK with regard of opinions and perceptions of taxpayers about TAK and its services. In addition, this study aims to discover the pattern of quantitative and qualitative data on TAK's transparency and professionalism. Findings will serve for improvement of future strategies, and in general on determination of current standing of Kosovo taxpayers.

Results from this study show that the level of awareness and information of TAK mandate and taxpayers’ rights and obligations is in average low, since for example “set tax rates” and “collection of Customs duties” were seen as TAK mandate by most of respondents. However, the range of access, simplicity and clearness on provision of information by TAK are acceptable by interviewed taxpayers. Most frequented sources by taxpayers were the webpage, TAK offices or personnel and its accountants. However, there were differences on the popularity on sources of information among age-groups, genders and ethnicity. The discussions have found that even the speed and effective transmission of information from TAK is improved substantially recent years, more effort should be made in addressing the confusions among the taxpayers. In particular, it is emphasized the lack of clear and comprehensive information on recent changes of tax laws.

The burden of compliance is reduced considerably recent years, especially when in use are put new electronic mechanisms and simplicity of procedures. According to taxpayers it remains a problem with refunds and submission procedures of appeals. With regard of these last two, they are not the only problem including the time spent, but also the approach that TAK inspectors are using sometime.

In general the level of satisfaction is quite high on quantitative interviews with regard of respondents’ satisfaction in relation to professionalism and fair treatment by TAK officials and staff. In addition to, the discussions have discovered some further concerns with regard of lack of technical qualification of TAK staff, especially those who are in direct contact with businesses. A considerable part of taxpayers agreed that bribe and misuse are not rare for TAK inspectors, even so a considerable part of them chose “I do not now” on the questions with regard of misuse of authority by TAK officials or their willingness to take bribe.

Last, the study discovered which are the main motivations for tax compliance or non-compliance by taxpayers in Kosovo. The main driver for tax compliance is seen as the fulfillment of civic duty for Kosovo. However, their main concern is the perception of misuse of public funds by the Government, which they think that very often it may drive taxpayers to non-compliance of tax obligations. Other important factors of non-compliance are the perception of tax evasion by rich people and failure of payment of taxes by competitors.

References


Equilibrium of the Governments by the Principle of Subsidiary

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Abstract

The principle of subsidiarity on these days is not identified so much as a legal or philosophical concept, but as testing capabilities and possibilities of this principle. Application of the principle of subsidiarity is able to exploit the potential of all collectivity, fully implementing the Constitution. The task of the juridical order must be recognition of the dignity of every person; which should be promoted and evaluated through a legislation based on the principle of subsidiarity. This principle expresses a preference in performing the functions of government at the closest level of citizens. Subsidiarity can be of various types such as horizontal or vertical; positive or negative; static or dynamic; substantive or procedural. In some countries, subsidiarity is specifically defined in their constitutions, while in some other countries is implied. But this principle in the civil law is defined more directly. Subsidiarity does not find the same application in all states and this fact depends not only on each country's traditions but also and in their development.

Key words: Subsidiarity, Constitution, State, juridical order, low.

1. Principle of Subsidiarity.

Subsidiarity has gained great importance in today's times, becoming a keyword in the European policy debate and the promotion and his involvement in the treaties of international law. Today in the field of public law is very difficult to found a work where is not mentioned this principle, which solves the problems of the separation of powers between the different entities, which allow the combined action of these subjects in solving common problems and that is not based only on domination, control and intervention. Subsidiarity also allows subjects qualified and prepared to exercise powers that are the most suitable for them. It should be emphasized that the importance of a legal principle can be seen more clearly from its current implementation and not by his declaration or definition. The principle of subsidiarity serves to reorganize the division of powers, which can be achieved only when it is possible to know who is the most convenient and most effective of these powers. In order to function effectively subsidiarity, should be provided not only by law, but should also be based on a real autonomy of institutions capable of exercising the powers that are given to them by the law. The principle of subsidiarity is in the preference for placing government functions at the level closest to the people, where the state and social groups interfere according to the principle of fulfilling the functions. Subsidiarity may affect the relationship between institutions, but also their relations and society, since the State cannot interfere, except to the extent that lower authority and closer to individuals shows his inability. It should be emphasized that the principle of proportionality finds here its immediate implementation, as the intervention would be legitimate only to the extent that it would be necessary. The practical application of the subsidiarity is principle can be useful especially in economic terms, as an institution is worth more to help its members to practice their skills than to remove them the opportunity and to exercise itself later. Subsidiarity is the regulator principle, where if a subject that is “below” is able to do something good, then the entity that is “above”, must enable this task, but also to support if necessary.
But the main principle of subsidiary is one which the “Exercising of public responsibilities should, in general, belong more to the authorities closest to the citizens. Granting of a responsibility to another authority should be done by considering the nature of the task, as well as the capability requirements of the economy”.2

At Lexicon Totius Latinitatis1 is found the definition of subsidiary as “A boon held in reserve and provided if needed, when those who have the obligation to fulfill a task are not able to accomplish it” Subsidiary has two meanings:
1. the one that relates to the idea of replacing and
2. the other one related to the idea of assistance and means an intervention.

2. Contribution of the Catholic Church on subsidiarity

Subsidiarity is handled by Christian –Democrat current, who introduced it to his political-ideological heritage, while originally conceived in the vertical direction, so as democratic and efficient distribution of powers between different levels where power is exercised and subsequently in horizontal direction as an effort for the separation of powers between civil and the individual society.

Its position in relation to the subsidiary, the Catholic Church has expressed through several encyclical3.

The first document, which is expressed about subsidiary, is Encyclical Letter Rerum Novarum4 is by Pope Leo XIII, who at paragraph 28 says: “It is not fair that the resident and the family to be absorbed by the State, instead should be entrusted to one or another leeway as far as possible without jeopardizing the common good. [...] If the society or a portion of it is caused a damage that cannot be repaired in any way, then it is necessary the intervention of the State”.

A clearer formulation of the principle of subsidiary appears to encyclical Quadragesimo Anno5 of Pope PIOs XI stating that: “As it is wrong to remove to the individuals what they can achieve based on their forces and the industry for the community, it is also unfair to leave to a higher society what lower societies can do [...] because any natural object of any intervention of the society is to provide assistance (subsidium) members of the social body , and not to destroy or to absorb them”. Further, the encyclical continues that: “It is necessary that the supreme authority of the State leave in the hands of the lower assemblies the issues and concerns of lesser importance in order to be able to perform more freely, more powerfully and effectively the parts that belong to [...] of the management, supervision, oppression, depending on the circumstances and needs”.

In his encyclical Pacem in Terris6, Pope John XXIII in relation to the implementation of subsidiarity in the international field states: “As the relationships between individuals, intermediate groups and public authorities within their respective political communities should be regulated under the principle of subsidiary, so in light of the same principle should be regulated the relations between public authorities and public powers of World Community”.

While Benedict XVI in the encyclical Deus Caritas est7 explains how government should be

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1 European Charter of Local Autonomy
2 Latinitatis Totius Lexikon is a work of the Padovan priest Egidio Forcellini (1705-1768) that was completed in 1761 and was published after his death in 1771. This act is still regarded today as an essential tool for all those who are devoted to reading and translation of the Latin texts.
3 Encyclopedia is a letter by which Pope makes known the position of the Catholic Church on some specific topics: doctrinal, moral and social.
4 Rerum Novarum “(new issues) is the title of the social encyclical promulgated on May 15, 1891 by Pope Leo XIII, by means of which for the first time the Catholic Church took a clear position in relation to social problems and founded the Christian social doctrine.
5 Quadragesimo Anno (the fortieth year) is the title of Social Encyclical promulgated on May 15, 1931 by Pope Pius XI, who affirmed the value of the social doctrine of the Catholic Church.
6 “Pacem in Terris” (peace on earth) is the latest encyclical of Pope John XXIII on 11 April 1963, before he passed away two months later.
7 “Deus Caritas Est” (God is Love) is Encyclopedic First Letter of Pope Benedict XVI, which was signed on 25.01.2005 and was published on 01/25/2006.
organized to the groups of State noting that: “There is not a State which regulates and controls everything that we need, but a State which accepts and generously supports in accordance with the principle of subsidiarity initiatives arising from the different social forces, combining spontaneity and closeness to those in need”.

The subsidiary originally by the Catholic Church has been emphasized the positive aspect and the negative aspect later.

So while in the encyclical Rerum Novarum, Pope Leo XIII had affirmed the need for State’s intervention to combat the excesses produced by liberalism, in the encyclical Quadragesimo Anno, Pope Pius XI stressed the principle of non-interference by the State.

3. Subsidiarity in European Community law

Subsidiarity is clearly mentioned for the first time in the report of the European Commission dated 26/06/1975 on the European Union, which had proposed “In accordance with the principle of subsidiarity”, delegation of the European Union only to those tasks that member states are not able to meet satisfactorily. Later, this principle was introduced in “McDougal Report” of 1977, in connection with fiscal federalism and Constitutional-Treaty, adopted by the European Parliament in 1984, which outlined a completed federal system. But it is only the Single European Act that the principle of subsidiarity emerges in environmental policy, in research and technological development and in economic and social cohesion. It is noteworthy that community intervention is not the same in these areas, as it is more intense in the environmental field and less in the other two fields. Subsidiarity has found further expansion in the Treaty of Maastricht8, where it is qualified as a fundamental principle of the European Union, referring to the preamble of the Treaty: “[...] Determined to push forward the process of establishing a closer union between the nations of Europe, where decisions are taken closer to citizens in accordance with the principle of subsidiarity”. To properly implement subsidiarity, it is necessary to create clearly (as in Article 5 (3B) of the European Community Treaty) exercise of the powers and responsibilities in relation to this principle, where the subsidiarity is a guiding principle of relations between the European Union and its member states, as: “the Community shall act within the limits of the powers and set objectives for it by this Treaty. In areas which do not take part within its exclusive competence, the Community intervenes in accordance with the principle of subsidiarity, only, and while the objectives of the proposed action cannot be sufficiently achieved by the member states and that the reason of the scale or effects of the proposed action, are better achieved at the Community level. Community action should not go beyond what is necessary to achieve the objectives of this Treaty’. Thus, subsidiarity community means exercising the powers of the European Community, except in cases where such an exercise belongs to the Member States. Section A9, par. 2, provides that “This Treaty marks a new stage in the process of creating an ever closer union between the nations of Europe, where decisions are made in the most transparent manner possible and closer to the citizen”. Subsidiarity principle objects are proper exercise of powers, measures and forms of community action in the field of joint organ powers recognized by the Treaty.

Subsidiarity is very necessary to maintain the federal balance in the European Community and should not be understood as the limitation of immediate and direct application rules of the Treaty or as a distribution of competences between the European Community and its Member States.

This principle governs the exercise of powers in competitive issues and in particular allows determining the most appropriate level to regulate a particular sector based on the parameters set out in Protocol 2, which asks EU institutions to legitimize their actions and show more effectiveness than what could be achieved at the national level.

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8 Signed on 07.02.1992.
9 Today Article I of Treaty of the B.E.
4. Types of subsidiarity

**Horizontal and vertical subsidiarity**

Horizontal subsidiarity has its distinctive criterion the separation of administrative functions between public on one hand and private on the other, thus affecting the relationship between society and its components, according to the principle that “society itself cannot replace individuals in what they can make in their own or in cooperation with each other”. Horizontal subsidiarity regulates the relations between the State, social groups and individuals, where individuals alone or through intermediate bodies, should be able to collaborate with institutions in determining interventions that affect their social reality, where these needs are met by the individuals as partnership or voluntary.

Vertical subsidiarity has its own distinctive criterion the separation of administrative functions among different levels of government and generally governs the relationship between the State and higher societies on one hand, and low societies on the other hand, where the previous cannot perform the functions that the latest are able to do themselves and adequately, as the high societies and State cannot replace the lower societies in performing their tasks, which they are able to do independently. Vertical subsidiarity applies not only to relations between public authorities within the same legal system as a Municipality, County and State, but also relates to the relationship between the European Community and its Member States. Vertical Subsidiarity places distribution of powers between the State and local authorities, where hierarchical separation of powers should be moved to institutions closer to the citizens, where their needs are met by the action of public administrative authorities.

**Positive and negative subsidiarity**

Positive subsidiarity gives each entity the duty to promote, support and replace inefficient individuals in accordance with the obligation to intervene. This principle is not hesitant about the role and importance of the State but strive to enhance and assess the dynamics of the relationship between the State and citizens, and between the public and private. On the positive aspect, the State and other public entities that constitute it should provide financial, institutional and legislative support the interested small entities as associations, family, church etc. The state authorizes the intervention when individuals and small companies are not able to perform certain functions and provide the benefits they need for themselves autonomously. Thus, positive subsidiarity is not only a ban on higher entities that interfere instead of the lowest levels entities in certain areas, but also an obligation to intervene when subordinate entities are not able to perform certain tasks.

To negative subsidiarity, the State should refrain from intervening in certain areas, in order not to hinder the entities that can fulfill a specific need better than the State itself, struggling not the inefficiency, unnecessary spending and an excessive bureaucratic centralization. Not intervention stems from the conviction that the State in particular, but also every power that flows from it, should not prevent individuals and social groups to be free to act, to use their energy and perseverance in achieving the full realization of themselves, in the best of the general and particular interest. In this case, individuals and society are guaranteed freedom of action in various sectors by the State, which in turn should not interfere in these areas.

5. Subsidiarity in federal countries.

Among countries that include in their legislation the principle of vertical subsidiarity, are distinguished first of all federal countries like the United States of America, Germany and Switzerland.

The Card of Rights of the United States, ratified on 15th December 1791, includes the principle of subsidiarity in Amendment X, which states that “powers not delegated to the federal government Constitution, or are not prohibited by the United State, are reserved to the relevant States, or people”. From the wording of this amendment, it is meant the vertical nature of
subsidiarity in the US Constitution.

Article 30 of the German Basic Law\textsuperscript{10} states that "The exercise of public powers and performance of duties arising from the State, belonging to the Länder, to the extent that the underlying law does not provide for or accept another regulation". From this, it follows that all powers belong to the Länder, but otherwise the powers of the Federation shall be legitimized and it can only intervene in the event of failure of the local authorities. In other words, the Federation possesses only certain functions in cases of necessity. German Federalism is thus a model which is based on the principle of subsidiarity, comprising a tool that on one hand promotes competition among individual countries in order to create better living conditions for citizens and in turn leads to action the State in a vertical direction, thus closer to the citizen.

Swiss Federal Constitution, being inspired by the Constitution of the United States of America and the ideas of the French Revolution, from its inception on September 12th, 1848, lays down in particular in Article 3 the principle of subsidiarity, according to which "The cantons are sovereign insofar as their sovereignty is not expressly limited by the Federal Constitution". Even in this case it comes to vertical Subsidiarity.

6. Subsidiarity in Albania

In Albania, the principle of subsidiarity is not explicitly\textsuperscript{11} mentioned in its Constitution\textsuperscript{12}, but only implied.

Expressively subsidiary is mentioned in the ordinary laws such as the Law no. 10119 dated 23.04.2009, "On Territorial Planning", which in Article 4, entitled “Principles of territorial planning” states that: "The law is intended to ensure compliance with the norms, standards and legislation in the field of construction, urban planning and water resources in the whole country, decentralized and in accordance with the principle of subsidiarity, according to the administrative division". Subsidiarity is better specified in Article 1, entitled "The purpose", which states that: “The exercise of public responsibilities should, in general, belong more to the authorities closest to the citizens. Allocation of responsibilities to another authority should be done by taking in consideration the nature of the task, as well as the requirements of capabilities and the economy”.

Regarding the subsidiarity, Albania's Constitutional Court issued a decision and states that if one side "Powers, with which the law assures local government bodies should be such that a good portion of public issues are regulated by the principle of subsidiarity" and if “the legal right which regulate and manage certain public issues should be exercised by organs that are closer to citizens and be accompanied by effective means for their materialization”, on the other hand should be claimed that "In reality many issues have implications both local and national and the responsibility for them varies in space and time ,and moreover, this responsibility can be shared between different levels of government".

7. Conclusion

As stated above, is noted that subsidiarity is a very important element not only in the alignment but also in the independence of the operation in terms of power both in the vertical and horizontal aspect. But is noted that subsidiarity in constitutional viewpoint is not getting adequate protection in most states, because this principle is not explicitly mentioned, but more implied. It should be emphasized that subsidiarity finds more constitutional protection in federal states in which is given very importance the social aspect of this principle. While in the common civil or administrative law the principle of subsidiarity is mentioned explicitly and finds a suitable protection. But, in the realization of these principles are also noted some anomalies, as in the relationship between central and local government, can be seen a fruitful cooperation when these powers coincide

\textsuperscript{10}Constitution of Germany called the Basic Law, which was approved on May 23, 1949.
\textsuperscript{11}Explicit
\textsuperscript{12}Albania’s Constitution
politically, (ie when the leaders of these powers belong to the same political branch) and on the other hand there is a kind of "freeze cooperation" when powers are not matched politically. This anomaly stems from the democratic political culture, which is not at the expected levels and desired by the only beneficiaries of subsidiarity such as specific and the collectivity individuals.

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