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(Law, Economic, IT & Innovation, Education, and Medical Sciences)

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Full Paper Proceedings

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Property, ownership and wealth in the constitutional perspective

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Abstract

In this paper, some important institutes of property law such as property, ownership and wealth, which have different meanings but are related to each other, will be treated. The existence of one institute conditions the other institute, which shows that they have common characteristics but also differences. The correct understanding of the concepts and notions related to property, ownership and wealth determines the basic content of the right to property as a fundamental human right and therefore as a whole they take on a special importance for its protection. In order to reach certain conclusions, importance will be given to the treatment of these notions from our civil law, based on the constitutional principles for determining their content, but also the regulation made by the European Convention on Human Rights (ECHR). A specific treatment related to the problems identified in practice will be done taking into account the judicial practice in general, the practice of the Supreme Court of the Republic of Albania, the practice of the Constitutional Court of the Republic of Albania, as well as the practice of the European Court of Human Rights. The treatments addressed in this paper always remain current since in our country disputes related to the right of ownership are present, especially those related to the return and compensation of properties and therefore affect the improvement of the quality of judgment in matters of this nature.

***Keywords**: Property, ownership, wealth, legal relationship of ownership, the right to property as a fundamental human right.*

Introduction and methodology

In this paper, the institutes of property law related to the understanding and implementation in practice of the basic concepts of property law such as property, ownership and wealth will be dealt

with. The best achievements related to the recognition and implementation of property rights will be highlighted, as well as the fact that the aim has been the approach of civil legislation with other legislations, which have been evaluated as the best in accordance with the times, for law institutes civil and in particular for the property institute. For this purpose, research, descriptive and comparative methods were used, and as a result certain conclusions were reached. Mainly in order to reach conclusions, the content of the Civil Code of 1929, the legislation of 1955-1956, the Civil Code of 1981, the Civil Code of 1994, with the subsequent changes, were treated in a general way in relation to these concepts. What should be highlighted is the approach to the most complete and clear understanding of these concepts after the 1990s, and therefore of the right to property, as one of the basic human rights recognized by international acts such as the ECHR. The new approach has brought a new spirit in the understanding and interpretation of legislation by the courts as law-enforcement bodies, as well as by citizens who have sought protection of the right to property.

Treatment of property rights related to the notions of property, ownership and wealth

The treatment of the content of the right of ownership is important to understand the right of ownership as a basic real right, secondary real rights, the difference between them and therefore the right determination of the means of protection of the right of ownership or secondary real rights . In this regard, it is appropriate to clarify notions used in law and doctrine such as property, ownership and wealth. The understanding of the content of the right of ownership is also related to its meaning as an objective right, i.e. as a set of norms that regulate ownership relations. The objective right of ownership as a set of norms, which regulates the legal relations of ownership, is related to the subjective right of ownership, as a right, which belongs to a certain subject of the civil legal relationship to own a certain thing. This connection lies in the fact that the objective right of ownership as the main institution of the civil law system serves as a guarantee for the holder of the subjective right of ownership for the realization of this right. The right of ownership in the objective sense is the main institution of the legal system of civil law, while the subjective right of ownership is the main right of its holders, the subjects of civil legal relations.

The notion of property is related to the legal relations of ownership related to the belonging of objects by the subjects of the law, a natural or legal person. In this case, property is understood as the object of the legal relationship of ownership. In law, the notion of wealth is also used, but this notion is broader than the notion of property. Assets mean not only property, objects and other real rights, but

also assets and liabilities as well as a range of material and non-material economic interests such as shares, patents, arbitration awards, the right to pension, the right of an owner to leased, economic interests related to running a commercial activity, the right to exercise a profession, the legitimate claim that will apply a certain relationship or situation, a legal claim and the clientele of a cinema.
The protection provided by Article 1 of Protocol No. 1 applies only to existing property and not to rights to acquire property, since the hope of acquiring property in the future is not protected by Article 1. The right of ownership is defined as a fundamental real right, and it is concluded that property and ownership are two notions that are related, one to the object of the legal relationship of ownership, and the other to the content of this relationship, to the rights of the owner as the subject of relevant legal relations. The owner can enjoy and dispose of the thing as he wishes and this feature constitutes the totality of the right of ownership. However, as it is expressed in a tax manner and in the law, the right of ownership must be freely exercised over the items, but within the limits set by the law. The right of ownership can be limited by the necessary legal norms, only to force others to perform or not perform a certain action in relation to the thing. The right to property is approved and announced by our Constitution, in the Universal Declaration of Human Rights, approved and announced by the General Assembly in its resolution 217 A (III) of December 10, 1948, as well as by the ECHR[1].

Dealing with notions of time from our civil legislation

With the Civil Code that entered into force on April 1, 1929 in the field of law in our country and in particular in the civil law, essential changes were made to adapt to the modern law of the time. With this law based on article 61 of the part of special articles, the Mexeleja, the Land Code, the provisions of Vesaja of Feraiz, as well as all other provisions of Sheris and ecclesiastical ones pertaining to family law and the rights of other civil laws, as well as all other laws and regulations that conflicted with the Civil Code.
In article 774 of this code, the meaning of property is given: "All goods that can form the object of public or private ownership are movable or immovable items (property)". In Article 794 of the Civil Code, the right of ownership was defined, for which the concept of "possession" is used, according

[1] Article 1, Protection of property: Every natural or legal person has the right to the peaceful enjoyment of his property. No one can be deprived of his property, except for reasons of public interest and under the conditions provided by the law and by the general principles of international law. However, the preceding provisions do not affect the right of States to implement laws that they deem necessary to regulate the use of property in accordance with the general interest or to ensure the payment of taxes or other contributions or penalties.

to which ownership is the right to enjoy and dispose of things without any other restrictions, apart from those set by law or regulation. It was also defined the permission to limit the right of ownership. Thus, in Article 796 of the Civil Code, it was provided that: "No one can be forced to cede their property, or allow others to use it, except when the public interest begs for it, it is legally proven and always against the advance payment of a reasonable compensation. The relevant rules of expropriation for public benefit are determined by special laws". The notion of property is used, but mainly in the right of inheritance, such as in articles 480, 482, 492,493,533 etc. of this code. The concept of wealth is broader than the concept of property, as it includes not only property rights but also personal property rights.

What attracts attention is that at the end of it, a reconciliation table between the Albanian Civil Code and foreign Codes has been attached. The Albanian Civil Code in dealing with the relevant institutes is based on the Civil Code of Italy, France, Switzerland and Germany. Another law that evidences the development of our civil law is the decree "On property" that entered into force on September 1, 1955[2]. In Article 1 of this law, the content of ownership was given: "Ownership is the right to possess, enjoy and dispose of assets, within the limits set by law." In Article 2, the first paragraph of the law defined the object of ownership; "Property as an object of ownership means only movable and immovable material items". The law itself is entitled "Ownership", understanding the set of norms that regulate the legal relationship of ownership as an objective right, but with this concept is also understood the subjective right which gives the content of the right of ownership, as the right to possess, enjoy and dispose of assets within the limits set by law[3].

The following provisions deal with the meaning of property, the types of property and the manner of their administration. From the interpretation of the provisions, it is concluded that the notion of property and wealth is used in the same sense. Another Civil Code is the one approved by law no. 6340, dated 26.06.1981, which entered into force on 1.01.1982. Even in this Code, in Article 67, the meaning of the right of ownership was defined as the right to use, enjoy and dispose of assets within the limits set by the law. The object of ownership was determined to be movable and immovable material items. In the following, it was determined that the property of the state is and any other

[2] Decree no. 2084 dated 06.07.1955, G.Z. no. 11/1955, approved by law no. 2251 dated 04.04.1956, G.Z. no. 5/1956.

[3] Article 1 of the law cited above.

property that is created in the state sector or the state earns according to the law[4].

The notions of ownership and property are used in the sense defined by civil law, as an institute, that is, an objective right, as a subjective right and as an object of the legal relationship of ownership, while the notion of property is sometimes used in the sense of property and sometimes in a sense wider including credit rights as in the case of treating the inheritance institute as a way of acquiring ownership[5]. The Decree on Property of 1955, as well as the Civil Code of 1981, regulated the institution of the right of ownership, preserving the classic concepts related to the right of ownership, but the social political treatments of the time were also evident.

From the analysis related to the treatment of the right of ownership, regardless of the time of adoption and implementation of the codes, it can be concluded that the concept of the right of ownership, of property, wealth, restrictions of ownership and protection of ownership are institutes that show the development of the right our civil and in particular the right to property.

Handling of property rights after 1990

After 1990, the legislation began to be changed, adapting to the principles of international law with the aim of protecting human rights and, in particular, property rights. Thus, with the law no. 7491, dated 29.04.1991 "On the main constitutional provisions", the existing constitution was abolished and through this important legal package the form and way of organization of our state was determined. It was evident that the economy rested on the variety of property, which enjoyed equal protection under the law[6]. In 1993, the legislative reform began with the aim of returning and compensating the property wrongfully taken by the communist regime for the period 1944-1992. Law no. was approved and implemented. 7698, dated 15.04.1993 "On the return and compensation of properties to former owners".

With the law no. 7850, dated 29.07.1994, the Civil Code was approved, which during this time

[4] Article 67 of the Civil Code approved by law no. 6340, dated 26.06.1981, which entered into force on 01.01.1982, "Ownership is the right to own, enjoy and possess assets within the limits set by law. Objects of ownership are movable and immovable material objects...".

[5] Article 94 of the Civil Code approved by law no. 6340, dated 26.06.1981, which entered into force on 01.01.1982, "Property is also acquired by inheritance. Inheritance is the transfer by law or by will of the property of a deceased person (the legatee) to one person or more persons (the heirs).+

[6] Articles 10 and 11 of the law no. 7491, dated 29.04.1991 "On the main constitutional provisions".

underwent changes[7]. The concept of property right is provided by Article 149 of this Code [8]. The notions of ownership and property are treated as an objective right institution and as elements of the legal relationship of ownership as a subjective right and as an object of the civil legal relationship. The concept of wealth in the Code is widely used, but from the interpretation of this concept, the meaning given to it is broader than the concept of property, e.g. we reach this conclusion from the content of articles 192 and 193 of the Civil Code, etc.[9] With the adoption of the new Constitution of the Republic of Albania in November 1998, the protection of the right to property was foreseen through a regular legal process [10].

Treatment of property rights under the KEDNJ

The right to property is protected according to national and international legal systems. The member states of the Council of Europe protect the right to property according to the Constitution, the basic law of a state, but also on the basis of other relevant laws.[11]. Legislation regulates the right to own, enjoy and dispose of property. The violations that occurred can be challenged in the country's courts regardless of whether they were committed by public or private entities. In terms of the protection of property rights, the principles derived from the Universal Declaration of Human Rights are applied[12]. This right is also provided for by the Charter of Fundamental Rights of the European Union announced on December 7, 2000. Article 17 of it provides for the right to property. [13]. Also, Article 1 of Protocol 1 of the KEDNJ provides for the protection of property [14].

[7] Law no. 7850, dated 29.7.1994 "On the Civil Code of the Republic of Albania" (amended by laws no. 8536, dated 18.10.1999, no. 8781, dated 3.5.2001, no. 17/2012, dated 16.2.2012 , no. 121/2013, dated 18.4.2013, no. 113/2016, dated 3.11.2016).

[8] Ownership is the right to freely enjoy and dispose of things, within the limits set by law.

[9] Article 192/1 of the Civil Code provides that "Real estates and facts related to their legal status are registered in the real estate register".

[10] Articles 11, 17, 18, 41, 42 of the Constitution of the Republic of Albania.

[11] Albania joined the Council of Europe on July 13, 1995.

[12] Article 17 of the Universal Declaration of Human Rights:
1. Everyone has the right to own property both alone and in community with others.
2. No one should be arbitrarily deprived of his property.

[13] 1. Everyone has the right to possess, use, organize or donate what he owns and has legally acquired. No one shall be deprived of his or her property, except in cases of public interest and under conditions provided by law, subject to reasonable and timely compensation for their loss. The use of property may be regulated by law to the extent necessary for the general interest. 2. Intellectual property must be protected.

[14] Article 1
Protection of property

The states of the Council of Europe when taking measures that limit private property must respect the standard that is provided by the Convention. The European Court of Human Rights, in its analysis of Article 1 of Protocol 1 of the Convention, has determined that this article consists of three rules: The first rule, which is of a general nature, sets forth the principle of peaceful enjoyment of property, (i formulated in the first sentence of the first paragraph); the second rule covers the deprivation of possessions and subjects it to certain conditions (this conclusion emerges from the second sentence of the same paragraph) and the third rule recognizes the fact that states have the right, among others, to control the use of property in accordance with the general interest, implementing laws deemed necessary for this purpose (included in the second paragraph)[15].

The practice of the ECtHR for examining issues related to the protection of property rights of other countries, but also of issues that belong to our country, has helped to recognize and implement the standards related to this right. In any intervention to the property, care must be taken to the principle of legal certainty or legality. The concept of what constitutes property or assets under the Convention is broader. This concept includes movable and immovable property, as well as property and non-property interests. Clients, shares, pension contributions, etc. are considered as such. It should be established as a standard that the protection of property applies only when it is possible to lay a claim to a particular property. The Convention extends its effects to relations which have been established after its entry into force or which continue to exist[16]. The Supreme Court has its own practices related to the protection of property, but the treatment of property protection as a direction of human rights protection was made in the unifying decision no. 24, dated 13.03.2002 of the United Colleges of that court.[17].

Every natural or legal person has the right to have his property respected. No one can be deprived of his property, except for reasons of public interest and under the conditions provided by the law and by the general principles of international law,

However, the preceding provisions do not affect the right of States to enact laws that they deem necessary to regulate the use of property in accordance with the general interest or to ensure the payment of taxes or other contributions or fines..

[15] Manual no. 4, The right to property. A guide for the implementation of Article 1 of Protocol No. 1 of the KEdNJ, (2001). The case of Sporrong v. Sweden.

[16] Law no. 8137 dated 31.7.1996 on the ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms, added by law no. 8641, dated 13.7.2000 (additional protocol) Added by law no. 9264, dated 29.7.2004 (additional protocol) amended by law no. 9453, dated 15.12.2005 (additional protocol).

[17] Decision no. 24, dated 13.03.2002 of the United Colleges of the Supreme Court. "Law No. 7514, dated 30.9.19 "On the innocence, amnesty and rehabilitation of former political victims" and law no. 7698, dt. 15.04.1993, "On the Return and Compensation of Properties to Former Owners", are not new ways of

Judgment in the Supreme Court

In our Civil Code regarding the treatment of the meaning of property and the right of ownership and wealth, there are certain institutes, which find application for the regulation of legal relations of ownership and other real rights. The code foresees institutes related to the right of ownership, such as ways of acquiring ownership, lawsuits for the protection of the right of ownership, statute of limitations for the lawsuit for the search of the item, etc. From the practice of the Supreme Court, it can be evident that the concepts of ownership, property and wealth are used in their meanings as objective right, subjective right and as the object of the legal relationship of ownership. There are also cases when the concept of property is combined with the concept of wealth. The United Colleges regarding the acquisition of ownership of immovable objects by contract have concluded that "the acquisition of ownership comes from the contract as a legal action and it is not necessary to register the property in the relevant office, since the registration is required only for the effect of publication"[18]. It is evident that the United Colleges have had as primary the protection of the right to property as a human right, which results from the very content of the decisions related to the clarification of the problems presented for solution.

acquiring ownership, but correction of the injustice done, and for this purpose, repeal ipso lege all previous legal acts , with which the property was taken from the owners unjustly. They do not create a new situation (they have no constitutive effect), but they re-establish legality and justice.

The repeal of the above-mentioned acts has the effect of returning the parties to their previous state, regulating to the greatest extent possible, the situation of illegality regarding the most important real right, that of ownership (not other real rights, etc. less rights of obligations). In this perspective, the return to the previous state is not complete but partial (restitutio in parte).

Through these normative acts, the right of ownership is recognized to the former owners, or their heirs, and the modalities for its effective enjoyment were defined. due to the long time of illegality, and the objective impossibility of physical return of all the properties taken, the law provides for the cases where this first is not possible, the alternative of compensation".

[18] Decision no. 1, dated 6.01.2009 of the United Colleges of the Supreme Court. In view of the unification of judicial practice, the United Colleges of the Supreme Court conclude that: "The registration or transcription of a legal action is not an element of its (contract) validity." Non-registration of the contract in the real estate registers does not make the contract of alienation of real estate invalid, but it does not give the buyer the opportunity to alienate it to third parties. A contract which is not registered is perfected and valid and has substantial effects. Upon signing the contract of alienation of real estate, the beneficiary of the rights becomes the owner of the immovable property and this is legitimated to exercise his rights against third parties, except for the alienation of immovable property in favor of third parties".

Judgment in the Constitutional Court

The right to property is a constitutional right and as such finds legal protection in the Constitution, the fundamental law of our country. Specifically, the treatments related to the right to property, ways of earning, restrictions, rewards, protection of property through a regular legal process are provided by articles 41 and 42 of the Constitution.[19] [20]. Citizens or subjects interested in the protection of the right to private property have from time to time addressed the Constitutional Court regarding the constitutional control in terms of incompatibility with the Constitution and the KEDNJ[21] as in the case of the request for the repeal of some provisions of law no. 133/2015 "On the treatment of property and the completion of the property compensation process", as well as the repeal of some by-laws issued on the basis of and for its implementation[22]. In this case, the claims of the applicant, the national association "property with justice" were summarized that the contested acts violated

[19] Neni 41 1. E drejta e pronës private është e garantuar. 2. Prona fitohet me dhurim, me trashëgimi, me blerje dhe me çdo mënyrë tjetër klasike të parashikuar në Kodin Civil. 3. Ligji mund të parashikojë shpronësime ose kufizime në ushtrimin e së drejtës së pronës vetëm për interesa publikë. 4. Shpronësimet ose ato kufizime të së drejtës së pronës që barazohen me shpronësimin, lejohen vetëm përkundrejt një shpërblimi të drejtë. 5. Për mosmarrëveshjet lidhur me masën e shpërblimit mund të bëhet ankim në gjykatë.

[20] Neni 42 1. Liria, prona dhe të drejtat e njohura me Kushtetutë dhe me ligj nuk mund të cenohen pa një proces të rregullt ligjor. 2. Kushdo, për mbrojtjen e të drejtave, të lirive dhe të interesave të tij kushtetues dhe ligjorë, ose në rastin e akuzave të ngritura kundër tij, ka të drejtën e një gjykimi të drejtë dhe publik brenda një afati të arsyeshëm nga një gjykatë e pavarur dhe e paanshme e caktuar me ligj

[21] Gjykata e gjen me vend të theksojë se për trajtimin e të drejtave themelore të njeriut GJEDNJ-ja ka në sistemin tonë juridik një kompetencë ekskluzive, e cila është e pranuar nga sistemi ynë i brendshëm juridik, për efekt të zbatimit të nenit 122 të Kushtetutës, po edhe të nenit 17, pika 2, të saj, që parashikojnë se vendimet e GJEDNJ-së zbatohen drejtpërsëdrejti. Neni 17 i Kushtetutës i jep katalogut të të drejtave, të parashikuara në KEDNJ, statusin e standardit minimal për sa u takon kufizimeve të të drejtave dhe lirive të shprehura në Kushtetutë. Detyrimet që mbart secili nga pushtetet për zbatimin e vendimeve përfundimtare të GJEDNJ-së janë të ndryshme. Për sa i përket pushtetit legjislativ, për të lind nevoja që të marrë masa për të harmonizuar legjislacionin e brendshëm me dispozitat e KEDNJ-së (*shih vendimin nr. 20, datë 01.06.2011 të Gjykatës Kushtetuese*).

[22] Përpara se të ndalet në analizën e çështjes konkrete, Gjykata vlerëson të theksojë se në vlerësimin e kushtetutshmërisë së ligjeve ajo niset nga prezumimi i pajtueshmërisë së tyre me Kushtetutën. Kjo do të thotë se lidhur me jokushtetutshmërinë e pretenduar duhet të parashtrohen argumente bindëse për t'i dhënë asaj mundësi të vlerësojë nëse zgjidhjet ligjore të zbatuara shkelin normat dhe vlerat kushtetuese (*shih vendimet nr. 37, datë 13.06.2012; nr. 31, datë 18.06.2010; nr. 29, datë 31.05.2010; nr. 16, datë 25.07.2008 të Gjykatës Kushtetuese*).

these constitutional rights and principles, the right to private property[23][24] and the principle of proportionality of intervention [25][26], the principle of legal certainty [27],[28] the principle of the hierarchy

[23] In its jurisprudence, the Court has emphasized that the criteria provided for in Article 41 of the Constitution, which are the guarantee of private property and fair compensation, as well as the concept defined by the KEDNJ for the peaceful enjoyment of property, are the basic guidelines on it which must resolve all issues related to expropriations and confiscations carried out before the adoption of the Constitution, in accordance with its Article 181. As far as the concept of fair remuneration is concerned, the Court has treated it by referring to the market price for buildings, during the check of compliance with the Constitution of Article 10 of Law no. 7698, dated 15.4.1993 "On the return and compensation of properties to former owners" (see decision no. 12, dated 21.03.2000). Even during the check of compliance with the Constitution of the law no. 9482, dated 03.04.2006 "On the legalization, urbanization and integration of constructions without permission", the Court stated that the property valuation method in reference to Article 13, point 2, of Law no. 9235 dated 29.07.2004 "On the return and compensation of property", which expressly provided that "the value of the property to be compensated is determined based on the market value" is in accordance with the constitutional criterion "fair compensation" (see decision no. 35, dated 10.10.2007 of the Constitutional Court).

[24] For the above, the content of letters "a" and "b" of point 2 of article 7 of law no. 133/2015 fails to guarantee a fair compensation of the property for the expropriated entities, in the part that does not provide for the minimum guarantees for the entities for which the cadastral item has changed. Consequently, the Court assesses that the applicant's claim for the violation of the right to property from the content of these provisions is well-founded and should be accepted.

[25] Likewise, the Court has interpreted the fair remuneration in relation to the constitutional concepts related to the public interest, as well as respect for the principles of justice, proportionality and the social state. She has assessed that the right to property, in the sense given by Article 41 of the Constitution and Article 1 of Protocol no. 1 of the KEDNJ, cannot be equated with the meaning that the right has in itself and that the right to property is not the same as the right to return it. From the constitutional criteria of "fair adjustment" and "fair compensation", accepted in articles 41 and 181 of the Constitution, it follows that the criterion for remuneration or compensation for the benefit of the former owner cannot be complete, but fair (see decision no. 30, dated 01.12.2005 of the Constitutional Court)

[26] The condition of proportionality of the restriction with the condition that dictated it is concretized in the requirement of necessity, usefulness and proportionality, in the strict sense of the imposed restrictions. Compliance with these requirements requires a careful analysis in each specific case, confronting the public interest that dictates the restriction with those rights that are subject to the restriction, as well as evaluating the way of the restriction. In this regard, compliance with the above requirements of the restriction requires a differentiated treatment, depending on the individual rights and freedoms subject to the restriction (see decisions no. 1, dated 16.01.2017; no. 25, dated 28.04. 2014; No. 4, dated 23.2.2011 of the Constitutional Court).

[27] In terms of the principle of legal certainty, in its jurisprudence the Court has emphasized the necessity for the functioning of the rule of law to avoid legal gaps. According to her, if the legislator does not react in response to this gap, then the constitutional system does not offer any effective tool and this situation can lead to a crisis in the system of representative democracy (see decision no. 31, dated 19.11.2003 of the Court Constitutional).

[28] The court assesses that in the present case, as found by it in paragraph 67 of this decision, the principle of legal certainty is violated due to the legal gap established by the lack of legal regulation in article 7, point 2,

of normative acts [29], the right to due process and effective legal remedies.[30] In the analyzed case, the Constitutional Court has not only resolved the issue, but has also made a clear, accurate and necessary doctrine regarding its solution. In conclusion, the Constitutional Court has decided to partially accept the request[31]. Regarding the right to property, individuals have continuously appealed to the Constitutional Court. For their legitimization, there is already a consolidated practice regarding the fulfillment of the cumulative criteria provided by Article 71/a of Law No. 8577/2000 "On the Organization and Functioning of the Constitutional Court" related to the exhaustion of effective legal remedies, the deadline submission of the request, the negative consequences suffered in a direct and real way, the possibility to restore the violated right as well as the special legal regulations for the preliminary examination of the request. Violations of the right to property are often related to aspects of the right to due process guaranteed by Article 42 of the Constitution, such as the right of access, the standard of reasoning for judicial decisions, legal certainty, but also the

of law no. 133/2015 of that category of subjects that has undergone changes in the cadastral item over the years.

[29] The pyramid of normative acts, sanctioned in Article 116 of the Constitution, defines the relationships between legal norms, which are based on the ratio of their superposition/subordination. The legal order is not an equivalent arrangement of norms, but a hierarchical system, which consists of different levels of validity, and at each of these levels there is a norm or group of norms, thus obtaining certain legal power. This pyramid of normative acts has the Constitution at its top, which serves as a source for other legal acts (see decisions no. 3, dated 20.02.2006; no. 5, dated 5.2.2014 of the Constitutional Court). Whereas in article 118, point 1, the Constitution sanctions that "sub-legal acts are issued on the basis of and for the implementation of laws by the bodies provided for in the Constitution". While the second paragraph of this article provides: "The law must authorize the issuing of by-laws, define the competent body, the issue that must be regulated, as well as the principles on the basis of which these acts are issued.". These provisions help to give constitutional and doctrinal meaning to the concept of legal reserve, through which the normative power of executive bodies is limited or oriented to regulate certain relations with by-laws. This legal reserve creates the possibility that the concrete issue partially regulated by law can be further detailed by by-laws, adhering to the principles and limits defined by law. Only in this way, the authorization of the legislator to issue by-laws can be considered implemented within the limits of constitutionality (see decision no. 60, dated 16.09.2016 of the Constitutional Court)

[30] In the judgments of the control of the constitutionality of the norm, the entities provided for in Article 134, point 2 of the Constitution have the obligation to prove the necessary connection that must exist between the legal activity they perform and the constitutional issue raised.

[31] Decision No. 4, dated 15.2.2021 (announced on 8.03.2021) of the Constitutional Court of the Republic of Albania
The court has decided to partially accept the request.
Repeal as incompatible with the Constitution of article 7, point 2, letters "a" and "b", of law no. 133/2015 "On the treatment of property and completion of the property compensation process". Repeal as incompatible with the Constitution of points 16/2, 16/4 and 18 of VKM no. 223, dated 23.03.2016 "On determining the rules and procedures for the evaluation and distribution of the financial and physical fund for property compensation", as amended. Dropping the request for other searches.[31]

right of ownership, as a substantial right according to Article 41 of the Constitution. From what is evidenced by the content of the decisions of the Constitutional Court, it can be concluded that the notions of property, ownership and wealth are used correctly not only in the constitutional and legal aspects, but also respecting the KEDNJ and the judicial practice of the GJEDNJ.

Conclusions

The analysis related to the meaning and implementation of the right of ownership as an objective and subjective right as well as the notions of property and wealth is very important not only for the fact that it gives us a picture of the developments related to its progress and implementation but also creates opportunities for us for the improvement of work in the future, in particular in these directions:

- The protection of the right to private property enjoys constitutional protection. The Constitution, the KEDNJ, the practice of the Constitutional Court and that of the GJEDNJ create opportunities for us to have a proper understanding of the notions of property, ownership and wealth.
- The civil code as a whole and the institution of property rights are basic in terms of the development and progress of a country, since stability in determining property ownership creates economic stability, but it is also important in terms of the implementation and protection of property rights to the person related to the legal security in terms of the protection of the property right.
- The right to property, the definition of which is related to the meaning and protection of property and wealth, creates stability in legal relations, because human rights are recognized and guaranteed, among them the right to property as a fundamental right.
- The Constitutional Court as well as the Supreme Court over the years have implemented legal requirements based on European standards regarding the understanding and implementation of property rights.

These conclusions and everything that is appreciable for the improvement of the legislation, as well as of the judicial activity as a whole and in particular of the Supreme Court and the Constitutional Court, respecting the European standards, will create opportunities for the most qualitative progress in this direction.

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Interpretation of the contract

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Abstract

The interpretation of the contract constitutes one of the most complicated issues of contract law for which there have been continuous debates, both in doctrinal terms and in judicial practice. When elaborating on the interpretation of the contract, it is requisite to bear in mind the fact that a large part of the jurists are of the inaccurate opinion, according to which this issue is the exclusive attribute of the court. In fact, such a position is not true at all. This is due to the fact that the problems of contract interpretation are encountered, in the first place, by the contracting parties who have concluded it, regardless of whether they have the necessary legal knowledge. Then the lawyers and representatives of the parties deal with the same when a dispute arises between them, and finally, the court deals with the interpretation of the contract when it decides to resolve a dispute that has been brought before it. This article will consist of two main issues. In the first issue, some general rules that apply to the interpretation of the contract in the doctrine of contract laë will be dealt with, which includes the Albanian contract law. Some of these rules have their origins in Roman law and are applied even nowadays, whilst some of them are characteristic of contemporary contract law.

The second issue will deal with the legal provisions that our current civil legislation provides for the interpretation of the contract. We will get into more details herein about the rules of paramount importance that apply nowadays in this field, as well as some of the problems that have arisen in practice for its meaning and their accurate meaning. Moreover, we will find that part of the legal provisions of our applicable Civil Code were extracted from the Civil Code of the Republic of Italy, as well as part of the provisions are based on the principles of Roman law for the interpretation of the contract. At the end of the paper, the conclusions and the bibliography on which it is based will be provided.

***Keywords**: Contract interpretation, contractual freedom, the will of the parties, the intention of the legislator, grammatical meaning of the words*

General rules that apply to the interpretation of the contract

With the term "interpretation of the contract" we will understand the extraction of the meaning and exact content of the agreement concluded between the parties. This term usually means deriving the fair and correct meaning of all the terms and conditions of the contract, separately and as a whole, in harmony with each other, but it can also be limited to the interpretation of one or some of the terms of the contract. When we talk about the interpretation of the contract, it is necessary to keep in mind the fact that a large part of the jurists have an incorrect opinion, according to which this issue is the exclusive attribute of the court. In fact, such an attitude is not true at all, because the problems of contract interpretation are encountered, in the first place, by the contracting parties who have concluded it, regardless of the fact that they have the necessary legal knowledge, and then the lawyers deal with these problems and the representatives of the parties when any dispute arises between them and finally, the court deals with the interpretation of the contract when it decides to resolve a dispute that has been presented to it. Contractual law researchers and professors also deal with the problems of contract interpretation, giving theoretical and practical arguments regarding this complicated issue, as well as suggesting to the legislator the necessary legal changes. The law students themselves even interpret the contract when they hold debates and discussions during the lessons, trying to understand as much as possible this issue of contract law. However, since the interpretation that the court makes of the contract when a dispute is presented before it for resolution, in contrast to all other interpretations, is binding for the litigating parties, it has become customary to understand only the judicial interpretation by the interpretation of the contract. This fact, as explained above, is not true and we can conclude from the above that in certain cases interpretation of the contract is also done by other public or private bodies, such as arbitration courts or state administration bodies, where the interpretation theirs has a binding character for the parties, just like the judicial interpretation.

Another fact that must be kept in mind when we talk about the interpretation of the contract, which is applied both in the Romano-Germanic legal system and in the Anglo-Saxon one, is that the court, when interpreting the contract, has no power or competence to create new contract terms, but only interpret existing terms. If the contrary were to be accepted, the court would not interpret the contract, but would create its own terms, which goes beyond the constitutional and legal functions given to it. One of the most important rules of contract interpretation is that when we want to derive the full and correct meaning of the content of the contract or of one of its terms, we must not limit ourselves to

the grammatical meaning of the words, but must take into account, primarily the contractual will of the parties. This rule of interpretation is expressed in Latin in the term: "In conventionibus contrahentum voluntatem potius com verba spectari placuit", which can be pronounced as: "In deriving the meaning of the content of a contract, the will of the parties should be taken into account more, than its written words (see also: Apla, G; Fonsi, G; Resta, G "Interpretation of the contract; Orientations and techniques of jurisprudence")". For example, person A is the owner of a three-story private house, which consists of several small residential apartments, one of which he has rented to person B, who has lived there for several years, until the end of the contract that rent. At the end of the rental contract, person A signs a new rental contract with person B, with the following content: "I, person A, rent my house to person B for 3 years, at the same price as the first rental contract."

The question that may arise in this case is whether person B can claim to have rented the entire house? The answer would be positive if we were to refer to the grammatical meaning of the words, since the words "my house" in the grammatical sense means the whole house. But the grammatical interpretation of the contract in this case would lead us to a wrong conclusion and for the right solution of this issue it is necessary to apply the above rule of interpretation. According to him, the term "my house", referring to the contractual will of the parties, the new rental contract concluded between person A and B, means only the apartment that person B had for rent according to the first contract and not the whole house.

In the above example, it is clear that the contractual will of the parties takes precedence or prevails over the grammatical meaning of the terms of the contract. For this reason, deriving the correct and complete meaning of the new rental contract concluded between persons A and B, will be done not by referring to the grammatical meaning of the words contained in the concluded contract, but to the contractual will or the intention that the parties have had for her connection. Another general rule that applies to contract interpretation is that where a term of the contract may be ambiguous, it should be interpreted in the sense that it is intended to have effect on the parties and not to have no legal consequences for the parties. The above rule in Latin is expressed by the term: "Quotiones in stipulationibus ambigua oratio est, commodissum est id accipi, quos res qua de agitur in tuto sit", which can be pronounced in this way: "Whenever in a contract the term is ambiguous, it must be interpreted so that this term brings legal effects between the parties". For example, person A and person B by agreement between them create an easement of passage according to Article 277 of the Civil Code, where the purpose of creating the easement is that person A is allowed to pass through

the property of person B. The easement agreement concluded between persons A and B is expressed in these terms: "On the basis of this agreement persons A and B are allowed to pass through the property of person B". In this example, this contractual term is vague and ambiguous, as person B is the owner of the property over which it is intended that he will pass, and the owner cannot create an easement of passage to pass over his property. Based on this fact, we are facing an ambiguous contractual term or with two meanings; the first meaning is that an easement of passage is created for person A to pass through the property of person B, which is correct and is regular and the second meaning is that an easement of passage is created for person B to pass through his property, meaning that does not apply and is illogical, since the owner cannot create an easement that passes through his own property. Another general rule of contract interpretation is that, if there are terms in the contract that are ambiguous, they should be interpreted in the sense that best suits the nature of the contract. According to this rule, the interpretation of the grammatical meaning of the terms of the contract must be adapted to the nature of the contract concluded by the parties.

For example, persons A and B enter into a written apartment rental contract for a period of one year, where the term providing for the payment of the rent has the following content: "Person A rents to person B the apartment consisting of three rooms, hall and premises other vital, located on "Sami Frashëri" street, Tirana, where the rent price will be 500 euros". The term that provides for the rental price is an ambiguous term, where its first meaning is that the amount of 500 euros is the total amount that person B must pay, for the rented item for the entire three-year period, and the meaning of second is that this amount is the monthly amount of rent that person B will pay to person A.

If this term of the contract were to be interpreted according to the first meaning, it would result that person A has rented his apartment to person B, against the latter's payment of a monthly rent of about 40 euros. But on the other hand, if the above term were to be interpreted in accordance with the nature of the contract, then we would come to the conclusion that the amount of 500 euros is the amount of monthly rent that person B will pay to person A and the correct interpretation of this term is according to the second meaning.

Another general rule of interpretation is that ambiguous and ambiguous terms of the contract are interpreted according to the custom of the country where the contract is concluded or where the contractual obligation will be fulfilled. This rule of interpretation in Latin is expressed by the terms: "Semper in stipulaionibus et in cateris contractibus id sequinur, quod actum est aut si non appareat quid actum est, erit consequensm ud it sequamur quod in regione, in qua actum est frequentatur".

This long term in Latin can be pronounced in this way: "In the acts that determine the obligations between creditors and debtors, as well as in other contracts, the parties are fully bound for what has been promised. If the action to be performed is not expressly mentioned, it will be performed in the manner usually determined by the customs of the country".

This general rule of interpretation expressed in Latin, contains in itself two special rules. The first rule is the one according to which the parties will fulfill their obligations in accordance with what they have promised and is provided for in the contract. The second rule has to do with the fact that when the parties have not mentioned, expressly in the contract, the way of executing the obligation, it will be fulfilled according to the way determined by the customs of the country. What interests us about this general rule of interpretation expressed in Latin, is precisely the second part of the sentence or the second rule that determines that when the parties do not express in the contract the manner of performing the action, it will be performed in the manner that determine the customs of the country. When we talk about the customs of the country, we have in mind both the commercial customs known as "lex mercatoria", which are applied in different areas of trade, in cases where the parties enter into a contract of a commercial nature, as well as the customs that are applied in cases of contracts legal-civil, which are usually based on local customary law.

An example of the application of this rule that finds application in cases of commercial customs, we can mention the case of commercial company A and commercial company B that conclude a supply contract, with a periodic character for a period of 5 years, based on which commercial company A undertakes to supply oil to trading company B, but the amount in liters of oil to be supplied is not mentioned in the contract. In this case, the amount of oil that will be supplied by company A will be to the extent that commercial company B needs to carry out commercial activity normally, also referring to the quantities of previous oil supply, in periods of similar. This commercial custom that is applied in the field of supply of goods and services has found its application in the current Civil Code. Thus, according to him, in the supply contract when the quantity of supply is not determined, it is presumed that the agreement was concluded between the parties that the supplier supplies the supplied with the quantity that corresponds to his normal needs for the development of the activity (see also the first paragraph of Article 773 of the Civil Code of the Republic of Albania).

Another general rule of contract interpretation is that the custom has priority in the interpretation of the contract even though it may not have been mentioned expressly in the contract, but from its content it follows that it is applied implicitly. This rule in Latin is expressed by the term: "In

contractibus tacite veniunt quae sunt moris et consuetudinis", which can be pronounced: "The contract will be interpreted according to the customs that apply in the contractual relations between the parties even though they are not expressly mentioned, but that from the content of these relations they result implicitly". An example of the application of this rule would be the case of the aforementioned rental contract concluded between persons A and B for a period of one year, where the term providing for the payment of rent has the following content: "Person A rents to person B the apartment consisting of three rooms, hall and other living facilities, located on "Sami Frashëri" street, Tirana, where the rent price will be 500 euros". In this case, referring to the rule of interpretation above, although the contract does not mention that the rent will be paid every month, it is implicitly clear that it will be paid in this way, referring to the customs that the parties implement in the contractual relations between them.

Another example of the application of this rule would be the case when the parties enter into a sales contract, where in the contract the parties have not expressly mentioned the seller's obligation to indemnify the buyer from any ownership claims that third parties may have on the sold item. also known as an eviction bond. Even in this case, even though the parties have not mentioned in the contract, expressly the obligation of the seller for the guarantee for eviction, this obligation of his exists, because it is part of every sales contract in the relations that bind the parties based on the customs that they apply between them. Another general rule of interpretation of the contract is that its terms are interpreted, in any case taking into account all these terms, previous and subsequent, interpreting them in their entirety. This rule in the doctrine of civil law is also known as systematic interpretation, which is one of the types of interpretation of the law, but which can be applied for the same reasons "mutatis mutandis" to the interpretation of the contract. An example for the application of this interpretation would be the case of the person who sells a certain property to the buyer, where one of the terms of the contract stipulates that: "The property is sold to the buyer free from any real encumbrance", which in Latin it is expressed with the term "uti optimus maximus". In the same contract, the seller stipulates another later term according to which he guarantees the buyer that the property he is selling is free from any real encumbrance, of which he is aware.

The provision of the second term by the seller serves to interpret the first term, as well as to limit its responsibility for the full meaning of the terms. This later term interpreted together with the first term serves to accurately and fairly understand the obligation of the seller, who under the contract has undertaken to assure the buyer that the item sold is free from any lien or obligation for which the

seller is aware of (see also: Apla, G; Fonsi, G; Resta, G "Interpretation of the contract; Jurisprudence guidelines and techniques"). Another general rule of interpretation is that when a contractual term is doubtful, it should be interpreted against the one who drafted it and in favor of the party who assumed the obligation. In Latin, we find this rule of interpretation materialized with the expression: "In stipulationibus cum quaeritur quid actum sit, verba contra stipulatorem intrapretanda sunt", the term which can be pronounced: "In contracts when the clear meaning of the term is in question, it must interpret against the creditor". This general rule of interpretation, in fact, consists of two rules, the first is that when a term is ambiguous it must be interpreted against the party that drafted it and the second rule refers to the fact that if the term is not clear, it must be interpreted in favor of the debtor or the party that assumed the obligation or against the creditor. Regarding the first rule, as discussed above, this applies in cases of standard or adhesion contracts, where the terms of the contract are drawn up by one party, which is usually the stronger party, and in these cases it is presumed that also because of the legal knowledge that this party has, it must be careful in drafting the terms of the contract, since if it drafts them in an unclear manner, they will be interpreted against it.

The second rule deals with cases where one contracting party assumes the obligation or is a debtor, while the other party is a creditor and has the right to demand the fulfillment of this obligation. Even in these cases, when we are faced with an unclear contractual term, it will be interpreted in favor of the party that has assumed the obligation, this is due to the fact that the creditor must be responsible for determining the right it has against the debtor in a way clearly. For example, in the above case of trading company A and trading company B concluding a supply contract, of a periodic nature for a period of 5 years, on the basis of which trading company A undertakes to supply oil to trading company B, but the place of delivery of the quantity of oil is not mentioned in the contract. In this case, the amount of oil will be delivered to the place where company A has its headquarters, as the party that has assumed the obligation, this contractual term being interpreted to the detriment of the creditor party. If company B had intended that the amount of oil should be delivered to its headquarters, it should have provided for such a thing, expressly in the contract.

Another general rule of contract interpretation is that no matter how general the terms of a drafted contract may be, it implicitly contains detailed terms on which the contracting parties agree rather than those on which they disagree. they had in mind to contract them. This rule of interpretation concerns the cases when the parties draw up the terms of the contract in a general way and, based on this fact, problems arise for the meaning of the specific terms of the contract. This rule in Latin is

expressed by the term: "Iniquum est perimi pacta id, de guo cogitum non decetur", which can be pronounced: "It is not right for an agreement to produce something for which the parties have not agreed nor have thought about it". The main purpose of this rule of interpretation is that an agreement concluded by the parties, regardless of the general terms used, should not bring a result which the parties did not desire. According to this rule of interpretation, if in a contract all the claims of the parties have been agreed, on the basis of which it has been decided that the debtor will pay a certain amount of money to the creditor, this does not deprive the debtor of the right to raise any possible return to the creditor, which he had the opportunity to do at the time of concluding the contract. The application of this rule, on the other hand, raises for discussion the need for the contracting parties to be as attentive as possible so that the terms of the contract are clear and precise and to avoid in their drafting, as much as possible, terms with General.

An example of the application of this rule would be the case of inheritance by will, where the testator or de cuius has left two legacies in favor of a certain person. In this case, if a legatee has reached an agreement with the designated heir about his rights as a legatee which derive from the will, this legatee cannot be exempted from the requirement to claim another legatee arising from the inheritance, which does not was known before, but became known only after reaching an agreement with the heir for the first leg. Another general rule of interpretation is that when the object of the contract is the universal transfer of property, it includes all things that constitute this universality, even those that were not known to the contracting parties. Universal transfer of property means cases where property is passed on the basis of legal or testamentary inheritance, in whole or in part.

This rule of interpretation is expressed in Latin with the words: "Sub proetestu specierum post reparterum, generali transactione finita rescindi prohibant mora", which can be pronounced: "An agreement for the universal transfer of property cannot be revoked on the claim that items of news that were not known by the parties at the time of its connection". Since we are dealing with a contract for the universal transfer of property, as a rule, it includes the "gross property" of the testator or the relative property, which includes both the rights and obligations of the inherited property, as well as any present and future property, which may not have been known by the parties, at the time of drafting the contract for the transfer of hereditary property.

This rule of interpretation has also been applied in judicial practice, in Albania, specifically it has been sanctioned in the Unifying Civil Decision of the Supreme Court no. 1, dated 24.03.2005, which unified the judicial practice in this way:

"...Only universal heirs or with universal title have the legal capacity to benefit from property elements, which de cuius has not expressly provided for in the will. Only they benefit from rights (items) that were acquired after the drafting of the will and that exist in the estate of the testator at the time of the opening of the inheritance, and on the other hand, they also have the obligation to fulfill intra vires hereditatis - within the limits of the hereditary property - the obligations that encumber this property.

The above brings me to the logical conclusion that only in the case of universal inheritance, or that with universal title, those legal relations whose existence was not recognized by the testator himself are included. In contrast, the heir with a special title (the legatee) has a limited right, which is related to the items or rights expressly defined in the will - ut singuli - and therefore, the changes in the inherited property ascertained at the time of the opening of the will. inheritance, will not be reflected in their title. ..." (See also: Civil Unifying Decision of the Supreme Court no. 1, dated 24.03.2005) .

This rule of interpretation for the universal transfer of property does not apply in cases where the other party is aware of the items or other assets that make up the hereditary property that is transferred to him and in bad faith hides these facts from the party transferring this property. . In these cases, the party who was aware of the other assets and who hid it from the other party at the time of the universal transfer of the assets, acted fraudulently and therefore such an action will be annulled as relatively invalid.

Interpretation of the contract according to the Civil Code in force

During the interpretation of the contract, the parties may disagree about the meaning of one or some of the terms or conditions of the contract or even about the meaning of the contract as a whole. For this reason, the existence of legal criteria for the interpretation of the contract is necessary, which must be applied by the parties in order to correctly and fully understand their rights and obligations. According to the doctrine of contract law, the legal criteria for the interpretation of the contract are divided into two types; in criteria of subjective interpretation and criteria of objective interpretation. The criteria of subjective interpretation are based on the elicitation of the common intention of the parties, as well as the evaluation of their behavior as a whole, during and after the conclusion of the contract, while the criteria of objective interpretation are based on the principle of contractual good faith and other objective elements (see also: Galgano, F; "Private right").

The legal criterion of subjective interpretation is provided, expressly in the Civil Code, in force,

according to which, in the interpretation of a contract, the true and common purpose of the words must first be deduced, evaluating their behavior in whole, before and after the conclusion of the contract, without stopping at the grammatical meaning of the words. According to the content of this legal provision, it follows that in order to correctly and correctly interpret a contract, we should not stop only at the literal meaning of the words, but we should find out what was the true intention of the parties, also referring to their behavior during and after the conclusion of the contract (see also article 681 of the Civil Code of the Republic of Albania).

Regardless of the fact that the intention of the legislator "ratio legis" in drafting the content of this provision was positive, which means that he provided for it in order to interpret the contract as fairly and accurately as possible, our personal opinion is that this provision from the way it is drafted, it presents problems in its meaning and probably needs improvement. Also, for this legal provision, which includes in itself the criterion of subjective interpretation of the contract, it can be said that it has an almost complete agreement with the first general rule of interpretation dealt with in the previous case, therefore what is treated in that case for that rule, also applies to the specific case.

In contrast to what the content of Article 681 of the Civil Code provides and in contrast to the way some of the most well-known authors of contract law in Albania interpret this legal provision (see also: Nuni, A; Mustafaj, I, Vokshi , A; "The Law of Obligations I", Tirana 2008), our opinion is that when interpreting a contract, we must first stop at the grammatical or literary meaning of the words, on the basis of which the parties have drawn up the terms of the contract and then to move on to extracting the true intention of the parties, without being limited to the literal meaning of the terms of the contract. When we have before us a contract and we are asked to interpret it, in order to derive its true and correct meaning, we will first have to read the words that make up the terms of the contract and interpret it in accordance with the meaning. common or grammatical of these words. During the interpretation of the contract, the words that the parties have used to draft the conditions or terms of the contract must be given their ordinary meaning, the meaning that the words have in everyday life and not a technical meaning, whether it is legal or not. Only in cases where from the ordinary meaning of the words and from the grammatical interpretation of the contract, it is not possible to extract the content of the condition or terms of the contract, or this content is dark or ambiguous, then we can use the subjective criterion of interpretation that of extracting the true and common meaning of the parties, without being limited by the literary meaning of the words.

If from the grammatical interpretation of the terms of the contract an illogical meaning emerges or

an exact meaning of the concluded contract does not emerge or certain of its terms remain dark and ambiguous, then for its interpretation we should not limit ourselves to the literary meaning only of words, but we must interpret it with the aim of extracting the true and common intention of the parties, evaluating the behavior of the parties before, during and after the conclusion of the contract. The subjective criterion of deriving the intention of the parties also requires that the interpretation of the terms of the contract be done in their entirety and not in isolation from each other. During the interpretation, we should not focus only on a specific article or term of the contract, we should not give more importance to one of its clauses than another, when the parties have not expressly provided for such a thing in the contract, but they must interpret all the terms of the contract, in harmony between them. Conversely, if we limit ourselves to only one clause of the contract or to some of its terms, we may make a wrong interpretation and not derive the intention that the contractors had in its conclusion (see also: Torrente, A; Schlesinger , P; "Private right") .

From the above, it follows that as a result of the correct interpretation of the contract, the legal definition of the contract that the parties have concluded can be changed, with the court concluding that they have concluded another contract, different from the name they have given. In relation to this fact, the rule applies according to which the name that the parties have given to the contract, known in Latin as "nomen iuris", does not oblige the court to conclude that, in interpreting the contract, the parties have concluded the contract that they have put the name

On the contrary, the court, after once again reconstructing the legal relationship between the parties, can give the contract a different legal definition than the one given by the parties, which corresponds to the legal relationship they wanted to create. In practice, changing the legal definition of the name of the contract by the court is a phenomenon that happens rarely, because this change is not only related to the formal side of the name of the contract that the parties have concluded, but it is related to the essence of rights and obligations that the parties have according to the concluded contract. Such a change, as a rule, occurs only in those cases when the terms of the contract signed by the parties are so vague that if we were to limit ourselves to their literal meaning, we would either be in front of an invalid contract or we would be in front of a the result that would not make sense from a logical and legal point of view (See also: Galgano, F; "Private right") . In order to derive the true and common intention of the parties, Article 681 of the Civil Code, in force, defines two criteria. The first criterion is historical in nature and means that for the interpretation of the parties, their behavior must be looked at, before, during and after the conclusion of the contract. Within this criterion, the

study of the correspondence developed between the parties is also of great importance, which is part of the negotiations that the parties carry out before the conclusion of the contract, which usually accompany the conclusion of any contract.

The second criterion is of a logical nature and implies that the terms of the contract must be interpreted by means of its other terms and clauses, giving each of them the meaning resulting from the entire contract. Based on this criterion, the true and common intention of the parties is deduced by considering the contract as a whole and consequently the literal meaning of a condition or term may not be taken into account, if it contradicts all the conditions of other parts of the contract.

This second criterion is provided, expressly in the Civil Code, according to which the terms and conditions of the contract are interpreted by taking the meaning of each term separately and together with the others, as well as by giving each the meaning that emerges from the totality of all terms and conditions of the contract. This criterion is nothing but a systematic interpretation that must be made to the terms and conditions of the contract, which must not be evaluated separately and separately, but in harmony with each other and as a whole with the entire contract. related (see also article 682 of the Civil Code of the Republic of Albania, first paragraph).

One of the most important objective criteria for contract interpretation is the criterion of good faith. According to this criterion, the contract must be interpreted in good faith by the contracting parties. The application of this criterion occurs only after the parties have concluded a valid contract and there is a need for its interpretation, where it must be interpreted in good faith by the parties. The above criterion applies not only to the parties, but also to the court when it interprets the contract, which must refer to the rules of contractual good faith.

The question that arises in this case is: What do we mean by contractual good faith? According to the doctrine of contractual law, by contractual good faith we mean honesty in behavior and in legal-civil or commercial actions between the parties. It is specifically broken down into two elements; correctness and honesty in the relations that the contracting parties create with each other. Based on the criterion of good faith interpretation of the contract, it must be given the meaning that they give to the contractor that are correct and honest, even in cases where both parties or one of them does not want the contract to be given a such meaning. This criterion can give the contract a meaning different from the literal meaning of the words drawn up in the concluded contract, if this is the meaning given to the contract by correct and honest parties.

Usually, the interpretation according to the criterion of good faith is used, precisely to reject the false

behavior that one party presents in its favor, taking advantage of what the contract expressly provides or does not provide. This criterion of interpretation does not take into account the literal meaning, but gives another meaning to the contract other than the grammatical interpretation, giving it the meaning given to it by honest and fair contractors.

The criterion of the interpretation of the contract in good faith is expressly provided for in the current Civil Code, according to which the contract must be interpreted in good faith by the parties. According to this legal provision, the parties, but also the court, must interpret the contract taking as a basis the correctness and honesty that should characterize the parties in concluding the contract and based on the criterion of good faith, the contract can be given a different meaning from the one given by the parties and which is given to a person who is honest and correct (see also article 682 of the Civil Code of the Republic of Albania, second paragraph). The application of the criterion of good faith in the interpretation of the contract has been the subject of debate in the judicial practice in Albania. Thus, in a judicial conflict arising between the municipality of Tirana and a private company that had to do with the non-binding by the municipality of the Annex to the contract for the cleaning of the city, even though it had benefited from the relevant service, the court of the judicial district, Tirana, in the decision of her no. 2201, dated 07.03.2012, among other things, reasons that:

"...The non-signing of the Annex to the contract by the more powerful party (the Municipality), (which, although it is an obligation, does not facilitate the process), while the latter benefits from the rights of the unsigned Annex to the contract, brings the obligation for her to make the payment for the benefited service.

...The Court considers that it is necessary to dwell on the definitions made by the Civil Code on contracts. According to Article 674 of this Code: "The parties, during negotiations for the drafting of the contract, must behave in good faith towards each other". Indeed, the contract was concluded on the basis of public procurement procedures, in support of law no. 7971, dated 26.07.1995, but the defendant, Tirana Municipality, had to take into account the interests of the other party (See also: Decision no. 2201, dated 07.03.2012 of the judicial district court, Tirana).

The application of the criterion of good faith in the interpretation of the contract has also been treated randomly by the Supreme Court in its Unifying Civil Decision no. 5, dated 23.03.2004, decision in which the consequences of the non-enforcement of Decree of the President of the Republic no. 204, dated 05.06.1992. For this issue, the Supreme Court, in the above Unifying Decision, states, among other things, that:

"...Currently we have two legal acts: the one with no. 8340, dated 06.05.1998 "On the disapproval of decree no. 204, dated 05.06.1992" and with no. 8340/1, dated 06.05.1998 "On the adjustment of the consequences that have resulted from the implementation of decree no. 204, dated 05.06.1992. "...With the law no. 8340 remains without legal value, decree no. 204, but the legislator, knowing the situations that had been created, the fact that he had brought consequences that the unions had acted in good faith, wanted to regulate the consequences with the law 8340/1. Before the regulation that this law makes to the consequences, we have the law "On the Return and Compensation of Properties to Former Owners" which, as it was said, repeals all the acts that come in conflict with it, including here the decree no. 204, as well as any other act when there are interests of former owners. Law 8340/1 does not deal with rights acquired by former owners but regulates those cases where the property never belonged to the former owner. ..." (see also the Unifying Civil Decision of the Supreme Court no. 5, dated 23.03.2004).

Another objective criterion that serves for the interpretation of the contract concerns cases where the conditions or terms of the contract can be given two or more meanings. In these cases, terms that may have two meanings must be interpreted in the most favorable sense that relates to the nature and object of the contract or legal act in general. This objective criterion of interpretation is expressly provided for in the current Civil Code, according to which in cases where the terms of the contract can be taken with two meanings, they must be interpreted in the most appropriate way that suits the nature of the the contract. The application of this criterion occurs when in the contract drawn up by the contracting parties there are expressions or terms with two meanings, where for the correct extraction of their meaning the grammatical interpretation is not enough, but the interpretation must be made referring to the nature of the contract (see for more in addition to Article 685 of the Civil Code of the Republic of Albania).

Another objective criterion of interpretation refers to the terms of the contract which are doubtful. According to this criterion, when the contract contains doubtful conditions, they must be interpreted in the sense that they bring legal consequences for the parties and not in the sense that they have no effect. The application of this criterion is based on the fact that when the parties enter into a contract, as a rule, they enter into it in order to create legal consequences, which means that the parties realize the legal rights and interests that arise from the conclusion of the contract. For this reason, if in a contract concluded by the parties there are doubtful terms, they must be interpreted in the sense that they have an effect for the parties and not that they have no effect, since if they were to be interpreted in the sense

that they do not bring effects to the parties , this would contradict the intention of the parties when they conclude a contract, which is the realization of their legal rights and interests (see also: Sallbanda, A; "Right of Obligations (General Part)", Tirana 1962). This criterion of interpretation is also known in the doctrine of contract law as the principle of preservation of the contract, according to which doubtful terms and clauses are interpreted in the sense that they are valid and effective and not in the sense that they are not valid or do not bring any effect. This means that in case of ambiguities or doubts, the special conditions will be interpreted in the sense that they would bring effect to the parties and not in the sense that they would not cause any legal consequences (see also: Tutulani-Semini, M; " The Law of Obligations, General and Special Part", Tirana 2016). This objective criterion of interpretation is also provided in the Civil Code, in force, which determines that the contract or its conditions, in case of doubt, are interpreted in the sense that they may bring some effect and not in the sense that they would not have any legal consequences for the parties. From the content of this provision it follows that this Code provides for the principle of preserving the contract, as one of the important principles of its interpretation, which is in accordance with the intention of the parties when they decide to conclude a contract that is the realization of rights and their interests in the conditions of the free market economy (see also article 685 of the Civil Code of the Republic of Albania). Another objective criterion for the interpretation of the contract is also related to the terms of the contract that can be taken in two meanings, it being not clear which meaning fits or is related to the concluded contract. According to this criterion, the terms of the contract that have two meanings must be interpreted according to the practice of the country where the contract was concluded. This criterion of interpretation applies both to contracts that have a juridical-civil nature, as well as to those of a commercial nature, and for the correct understanding of the terms of the contract that are not clear, the place of conclusion of the contract is of decisive importance. In the case of commercial contracts, the interpretation of terms that may have two meanings is done according to the commercial practices or "lex mercatoria" that are applicable in the country where the contract was concluded.

Conclusions

From the above treatment, we can draw some conclusions about the subject of treatment and analysis. One of these conclusions is that the interpretation of the contract constitutes one of the most debated institutes of contract law, for which opinions are different, as well as doctrine and jurisprudence do not take a unison position on the problems that arise from its application in practice. This is due to the fact

that, on the one hand, the court is required to provide a solution by means of interpretation, referring to the terms that the parties have provided in the contract, in the conditions where these terms are dark, ambiguous, ambiguous or even absent at all. and on the other hand, it is requested that the court does not create new terms for the interpretation of the contract but refers only to those that the parties have provided in the contract. Another conclusion that can be drawn from the treatment of this institute is that some of the most important rules of contract interpretation originate from Roman law. This fact is of great practical importance, because these rules continue to be applied even today by the contract law of every democratic state, especially for the states that belong to the Romano-Germanic legal family.

The basic rule of contract interpretation is that it is interpreted by referring to the normal meaning of the words that make up the terms that the parties have provided in the contract. This means that when interpreting a contract, every contractual word or term must be given its ordinary meaning, in order to derive its fair and accurate meaning. Only in cases where, from the usual meaning given to the contractual term, it remains unclear, opaque or with two meanings, other rules of interpretation come into force. One of these rules is giving the meaning of the term of the contract according to the intention of the parties, also known as "ratio contractus" or what was the true intention of the parties in concluding the contract. This rule of interpretation is also provided by civil legislation, according to which when interpreting a contract, we should not limit ourselves only to the grammatical meaning of the words, but we should also look at the behavior of the parties, before, during and after the drafting of the contract.

Another rule of interpretation is that when a contractual term can be taken in two meanings, one according to which the contract will have no effect and the other meaning which gives effects to the contract, this term will be interpreted in the sense that the contract has effects. The above rule of interpretation expresses what is known in the doctrine of contract law as the principle of the preservation of the contract, according to which when the terms are doubtful, it is in the interest of both parties that the contract remains in force, rather than not producing legal consequences. One of the important rules of contract interpretation is that when the term contractor is not clear, it will be interpreted according to the meaning it has with reference to the customs of the country. This rule of interpretation is particularly important for commercial legal relations, which are even more diverse and have a set of customs that apply in the field of trade, also known as "lex mercatoria", the importance of which even today is great, because trade relations are in the process of continuous change and evolution. As a final rule of contract interpretation, we can say that, when the rules of interpretation do not apply, in the case of unilateral contracts, the contract will be interpreted in the least severe sense, for the obliged party or the debtor.

When we are faced with bilateral contracts, where the parties are, at the same time, debtors and creditors of each other, the contract will be interpreted in the sense that it realizes the interests of both parties as best as possible, taking into account the principles of honesty and good faith.

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The theoretical and practical importance of the procedural institute of special trails

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Abstract

The institute of procedural law of special trials includes in itself two types of trials: the trial direct and summary judgment. This institute has been foreseen since the beginning of its entry into force of the criminal procedure code of 1995.Meanwhile , with the essential changes made to the Code Criminal Procedure of 2017, this institute of law underwent changes in its content by being according to the spirit of all the changes that this code underwent in almost 2/3 of it.This type of institute is provided for in chapter IV, sections I and II of the code of Criminal Procedure, in articles 400-406/ ç. In this perspective the initially droctinal treatment of the study of these group of provisions and theoretical issues, will be the focus of this thematic reference.We must not deny the fact that we have a rich juridical practice, to some extent consolidated, regarding the implementation of this procedural institution from Albanian prosecutors and courts.It is enough to refer to the date of the change, which coincides with a period of almost 6 years , to reach the conclusion that we have a practice sufficient for research as well as to highlight or refer to the problems encountered.This implies the fact that Albanian prosecutors and judges,in the implementation of the provisions on direct trial and shortened, in quite a few cases they encountered difficulties by having to make forced legal solutions or opportune solution. In this sense, the legal treatment of these types of problems, based on practice juridical proceedings to date, will also constitute another focus of this reference.

Based on the schematic structure of this reference with this specific topic and specifically with the introductory part, with the comperative part as well as with the part of findings and findings will be continued with part eof conclusion and recommendations , obtained as a result of the legal and logical analysis of the subject provisions this reference.It should be emphasized that all these elements

reflected or evidenced in the paper,will also constitute useful material for discussion among colleagues , researchers and referees of the panel of this conference.

Keywords: *court, prosecutor, defendant, institute of criminal procedural law, procedural provisions;*

Introduction

The Criminal Procedure Code of Albania since its initial approval with Law No.7905 dated 21,03,1995 in chapter VI in Sections I and II provided for special Judgments, which consisted of two types, specifically from the direct trial and the abbreviated one[32]. Arrangements legal provisions or the provisions of these two types of judgments, are provided in a set of provisions procedural in this Code, specifically in its articles 400-406. This is how the proven fact turns out that these provisions have been amended, in the form of additions, repeals, or updates with legal changes made in 2021[33]. Referring to the theoretical or doctrinal importance, as well as that of juridical practice, we estimate that this type of institute carries values of actuality, as well as of importance special study, research and scientific.

In this perspective we appreciate that precisely these types of values, as well as this current importance of this type of institute of criminal procedural law are sufficient arguments that motivate us or oblige us to make such a reference. Legal treatment of the institute of special trials in some dimensions or optics of analysis, such as that of the character or the historical prespective, comparing with the criminal legislations of other countries, the doctrinal treatment, or even that of the practical one, will us lead to conclusions as well as concrete suggestions or recommendations. Mixing this type of analysis, accompanied by thoughts or opinions of the referees, based on concrete arguments in addition to creating a complete overview or picture of the subject of the reference, it would serve also for the further development or elaboration of this type of institute or its notions also from different referees or legal researchers.

[32] See articles 400-406 of Law No. 7905, dated 21.3.1995 "Criminal Procedure Code of the Republic of Albania".
[33] See Law No. 41/2021 "On some additions and changes to Law No. 7905/1995 "Criminal Procedure Code of the Republic of Albania"

Methodology

The methodology used during the drafting of this paper is based on an in-depth study, mainly on the application of the qualitative data and information analysis method. Initially, the research consists in finding the basic materials for the design of the work through the research method, desktop research. Secondly, the analysis method was used for the preliminary assessment of information, making analytical reasoning for achieving the objectives of this reference. During the work, several methods were combined, such as: the method of researching the legal provisions, the analytical method analyzing the legal framework and its changes, as well as the omparative method, making a comparison with foreign legislations, regarding special judgments.

Historical and comparative overview of special judgments

Following the legal treatment of the institute of special trials in the Criminal Procedure, yes we first refer to the existence or anticipation of this type of institute in Albania, referred to different historical stages or periods.So also during the operation of the canons and specifically in the "Kanuni i Laberise" we find a way or type of institutions provided for summary trial, where the defendant pleaded guilty in full or in part this put an end to the process, completing the investigations and sending the case for trial. The special procedure was also provided by the Ottoman Code of Criminal Procedure from 1879 but this for light crimes that such judgment was applied by all the courts of the time[34]. More then, during the time of the monarchy, we find the fact that with the special law of 1937, named "on some special judgments in criminal cases were provided in the legislation procedural two types of judgments of this nature, specifically the direct one and the one by decree criminal[35]. This two types of special judgments were found in the war legislation of the year 1941, in the military and peace penal codes, being added to these legislations in addition thereto and trial in absentia, as a type of special trial. [36] Likewise, following this historical overview, we find that the direct trial as a type of special trial was also sanctioned in the Criminal Procedure Code of 1953, and for followed by the sanctioning of the same procedural institute with subsequent legislation procedural[37], the Code of Criminal Procedure of 1980 as well as the changes made afterwards, in the

[34] See the Ottoman Code of Criminal Procedure, 1879
[35] See Chapter III of the Special Law of 1937, "On Certain Special Trials in Criminal Matters"
[36] See Article 375 of the Military Criminal Code of Peace and War, 1941.
[37] See Articles 1-6 of the Law "On Certain Special Trials in Criminal Matters", 1937

years 1983 and 1987, which extended the legal effects until 1995, when the current code entered into force.[38] In these last periods, we find only one type of special judgment. specifically that of directly, with different predictions, according to the legislation of the time.Whereas with the entry into force of the current Criminal Procedure Code, in 1995 and until now we have it provided for this criminal procedural institute, with two types of special trials, that of direct and abbrevianted, being updated in 2017, but also in 2021 in only a point of provisions.[39]

On the other hand, if we refer to a comperative view of different legislations criminal procedure, the analysis of this type of comparison, we find the fact that regardless different contents of these legislations, most of them foresee the institute proceduralof special trials. In view of this topic, we are referring to the legislation procedural of some states. Thus, the German Code of Criminal Procedure , in addition to the ordinary trial , has also provided for it the special trial where as such it has provided for the forms of abbreviated trial and that of issuance of the criminal order , where the latter , with the changes of 2017, we have categorized to special trial institutes not to special trials.[40] It turns out to be almost the same this makes the Switzerland Code of Procedure, and the code of two such institutes of special judgment[41]. While in the Spanish procedural legislation, in a title of special or special procedures are named separately, but they are more than types of special procedures related to the ways of proceedings of subjects enjoying immunity, such as: senators, deputie or judges[42]. The one that is vary similar to the Albanian criminal procedure law regarding special trials is the Italian Code of Criminal Procedure, since the latter served as the basis for the drafting of Criminal Procedure Code of Albania. Referring to the analysis of this Code we note the fact that it both types of trials are provided for, as well as our Code of Criminal Procedure, that of direct and abbreviated. There are two essential differences of these two types of judgments, which are the same as in our Code, they relate to the exclusivity of the prosecutor to initiate the direct trial procedure, as well as the basis only on acts, or the lack thereof juridical debate between the subjects in summary judgment.[43]

[38] See article 59/3 of Code of Criminal Procedure Penal of the 1980, as well as Article 126/1 of Law No. 6801 dated 29.06.1983 and Article 127 of Law No. 7177 dated 20.11.1987

[39] See the amendments to Articles 400-406 of the Code of Criminal Procedure, made by Law No. 35/2017, as well as Article 332/dh, letter c, made with the amendments to Law No. 41/2021.

[40] See Article 35 of the German Code of Criminal Procedure

[41] See Articles 350 et seq. of the Swiss Code of Criminal Procedure

[42] See Articles 757-789 of the Spanish Code of Criminal Procedure

[43] See articles 448/1 of the Italian Code of Criminal Procedure

Theoretical treatment and development of juridical practice in relation to special trials

Referring to the contents of the set of procedural legal provisions that provide for the judgment of especially, in function of the rules of this reference in terms of its full content for publication purposes, we are focusing on some findings not accompanied by these the givimg of personal opinions by referrers. Thus the entity that sets the court in motion with these types of judgments are different. In the case of direct trial the subject legitimizing is the prosecutor, the opposite is happening with the legitimizing subject in the summary trial, where only the defendant or the defender has this right but the latter must be equipped with a special power of attorney, that is, with an express name for these types of judgments. Another element where we can stop is that of the procedural moment when the request for judgments of this nature can be made, according to the legal provisions under analysis. In the case of requesting a direct trial, the Code provides for only two situations, where one applies from the initial moment of validation by the court of the prosecutor's request for validation of arrest in flagrante delicto, where in addition to this request, it must also be accompanied by the request for conducting a direct trial. In this case, the law conditions such a request on the fact that the trial of the merits is done by a judge. As it is unwritten, being blanks in the forecast, whether or not the prosecutor should request a personal security measure in these cases, or the person should be tried if the request for a direct trial is accepted.

While in relation to the second situation, the fact is established that initially the prosecutor requests the validation of the arrest in flagrante delicto and the appointment of one of the three measures of personal security provided by articles 237, 238 and 239 of Code of Criminal Procedure and then within 30 days, he has the right to address a second request to this same court where he requests a direct trial. In this case, the request must be examined by the same judicial body that ruled on the arrest and the measure or by the one that heard the merits. This is an issue that deserves discussion, but if the case referring to the criminal offense is judged by three judges, this request must also be heard by the trial court and that the legal arguments lean more in this direction, despite the fact that the request is made at the investigation stage. , but now we are not talking about a special kind of judgment but the foundation. Referring to the judicial practice in relation to these two moments, it is established that the courts have limited, being a legal obstacle, the development of a direct trial when the criminal offense, the margin of which is over 10 years of imprisonment at the maximum, requiring the trial by a jury of three judges. While in relation to the search for the measure of security,

the prosecutor's offices and consequently the Albanian courts have developed and consolidated such a practice, where the request of the prosecutor's office first and then the disposition of the court contains three types of research and dispositions, where in the second point of them is precisely the security measure, immediately after validating the arrest in flagrante delicto.

On the other hand, this same Code regarding the summary trial, based on the legal changes of 2017, has prohibited the disposition of this type of special trial in relation to criminal offenses that have a significant social risk, and concretely that have provided in their provisions, life imprisonment. In the same way, in relation to the procedural moments that the summary trial can be presented, the Code has provided for only three such: the preliminary session; in the trial when the request or appeal of the convicted person is examined in relation to contesting the approval of the criminal order; as well as when this request is integrated within the direct judgment. This is because in the direct trial, the Code has provided that the abbreviated trial can be integrated if there is a request from the legitimizing entities and there are legal conditions, but also the examination of a possible agreement that can be reached between the prosecutor and the defendant. Regarding these elements, it can be said that two problems have arisen in practice. The first has to do with the fact that when the request is made in a preliminary session and the disposition of this type of trial is made by the judge of the preliminary session, while then the continuation is made by the judge of the preliminary session as relator and a panel of judges is formed with two judges of others, that is, the fragmentation of this type of trial where it is partly with one judge and partly a trio of judges is formed when the offense is judged by this type of panel[44]. The other problem has to do with the fact that if the defendant wants to make a request for summary judgment precisely in the trial of the merits, before the court has started with the judicial review, at the time of making the preliminary requests, as it was done usually before the changes, it cannot do so. Although logically, but also the interpretation of this type of judgment can be done or allowed to be done from the point of view of the literal legal provision, this cannot be done. This is because the legal changes themselves do not foresee a fourth procedural moment to make a request of this type.

Another element that must be analyzed for the effects of this reference is the nature of the summary judgment. It is also established from the legal provision, but also from the developments of judicial practice that it does not have a judicial review phase, there are no requests for invalidity of acts or

[44] See the monograph Judge of the preliminary session, Prof. Assoc. Dr. Admir Belishta, Kumi Publications 2022, pg 137-157

unusability of evidence, or presentation of new evidence by the defendant or the defense, nor findings by the court itself on invalidity absolute acts, or unusability of evidence. Being a judgment on the acts, this presupposes the fact that the acts must be taken for granted as they have been investigated and received by the prosecutor. As here we do not have any kind of request from the prosecutor on the new charges, since there is no judicial review, the only disposition on the head of the new charges is the disposition of the court at the end of the trial on the legal definition of the criminal offense.[45] In the meantime, the findings of the court practice when we have defense attorneys who guide their clients in relation to making requests for summary judgment with the admission of guilt are unfair and even abusive requests. The summary judgment is based only on the term state of acts and that it is not related to guilt[46], this shows that in addition to guilt, you can also declare yourself innocent, or the criminal case can also be dismissed. As based on the calculation or unification of court practice, the legal benefit in this type of trial, which consists of reducing 1/3 of the sentence if you plead guilty, should not be seen as an end in itself regarding the application of this type of special trial.

Conclusions and Recommendations

As a result of the legal treatment of some issues that are the subject of this reference, the direct and the abbreviated trial, we can certainly reach some conclusions and recommendations, which we are presenting in a concentrated way below. Thus, special trials have been considered by judicial practice as trials containing simplified procedures. They shorten the time of the trial, and as a result they help not only the subjects of the trial, but also the essence of the trial, which is the administration of justice, of course without violating the standards of due process guaranteed by the European Convention on the Rights of Man and the Constitution of the country.[47] When we talk about simplified procedures or economic trial time, we take into account some elements or parameters, such as in the direct trial, we do not have an investigative period or investigative phase, thus shortening the time of the case's proceedings. While the way of respecting the procedural rules of the trial consists of simpler procedures, where the subjects are notified by the prosecutor's office as a rule, but the victim may be notified verbally by the judicial police as well. While other entities can notify and bring the witnesses they want to be questioned. This, of course, does not oblige the court

[45] See the Monograph "New charges in the criminal process", Prof. Assoc. Dr. Admir Bellishta, Kotti printing house, 2017, page 45-57
[46] See decision no. 87, dated 6.2.2002 of the Criminal College of the Supreme Court.
[47] See Article 6 of the European Convention on Human Rights and Article 42 of the Constitution of Albania

to make notifications, simplifying the procedures for notification of subjects or witnesses, procedures which affect the trial deadlines. Even in the other type of special trial, the abbreviated one, simplified trial procedures are found again, and of course an economic trial period. Thus, even in this type of trial as one of the two types of special trials, the fact is ascertained that the entire trial, being a trial made on the state of the acts, as a rule can be concluded in a court session and that only in cases in particular, it can only be completed in two court sessions, when we are in the factual situation that the procedural subjects, for example, the prosecutor or the defendant's defense, require time to prepare the conclusions or the final discussions. This is because the very name and nature of this type of trial is such that it requires the conclusion of the trial of a criminal case in quick and optimal terms. So it is clearly concluded that both of these types of special judgments are based on simplified or practical procedures, which do not bring economic judgment costs in all directions.

A last element, but not in terms of importance, that is ascertained as a result of the application of the summary trial as a type of special trial, is that of the legal benefits or benefits that the defendant entity can benefit from, in case he declares or found guilty. We say this because it does not mean that summary judgment automatically presupposes guilt if it was requested by the subjects and accepted by the court. Since it is a judgment on the acts, of course the state of the acts can lead to the guilt of the defendant, to his innocence, or to the dismissal of the case or the accuser. In this sense, in relation to this type of judgment there are two already consolidated positions. Specifically, this type of trial is based on the quality of the acts, and secondly, the legal benefit of reducing the sentence by 1/3 if the defendant pleads guilty, should not be seen as an end in itself. In addition to the fact that this position has been consolidated until today, it is in full accordance with the position of the United Colleges of the Supreme Court of our country, in a decision of a unifying nature.

It should be emphasized that the importance of this criminal procedural institution that regulates or provides for special trials appears current and useful not only for the doctrinal or theoretical treatment, but also for the very implementation of this set of criminal procedural provisions in judicial practice. As a result, it can be said without hesitation that the legal treatment of this group of procedural provisions, as well as their implementation or application in judicial practice is seen with great interest, and with a degree of efficiency, productivity or usefulness for all subjects of the trial in particular, and not only. As a result of these conclusions or conclusions, we can undoubtedly come up with some concrete suggestions or recommendations, valuable to be taken into consideration by different actors or factors. Thus, concretely, we can group these types of recommendations into three

such: First: We estimate that even this conference with its expectations has somewhat achieved the goal for which it was conceived as a scientific activity. In this sense, any type of organization or scientific activity which aims at scientific research through the elaboration of different legal, procedural or criminal institutes, including special trials, serves the research or scientific study of such an institute. It should be emphasized that this research and scientific work with such a focus can consist of several formats, so it can be diverse, but the goal must be common. Thus, in relation to the study or research of these types of judgments, various scientific conferences, workshops, symposia, legal works, or various publications in the form of monographs, etc. can serve. First and analyzed in this light, we suggest or recommend the development of as many activities as possible with this type of theme. Second: For certain cases of special trials, for which we do not have any legal treatment by the Criminal College of the Supreme Court, or for other cases that judges of different colleges of the same court, or of different courts of all levels of judgment have taken different positions, even though they are issues of the same nature, we recommend a more active role of the Criminal College of the Supreme Court. This implies the fact that the Criminal College of the Supreme Court, based on the functional powers that it currently has, can develop or calculate or unify the judicial practice in relation to the positions on certain issues of the institute of special trials. Not only that, but the Supreme Court, based on its functional powers, can also change the unification of judicial practice if it deems such a thing, in those cases when the institution dealing with the subject matter of recourse has a unifying decision. In the specific case regarding the institute of summary trial as one of the two special types of trial, there is a unifying decision, specifically decision No. 2, date 29.01.2003 of the United Colleges of this court.[48]

Thirdly, we suggest that for matters that have arisen legal discussions at the doctrinal level, or that the judicial practice itself, the development of this practice, has opened up problems or difficulties in implementation, the legislative body, which is the Parliament of Albania, can take the role that belongs to it , by opening the way of legal amendments. Their forms may be different depending on the needs dictated by the actors and factors cited above. As such, we can mention additions, changes, updates in the content of these provisions, or even legal repeals in certain parts of them. In relation to this suggestion, it should be emphasized that referring to its nature or type, which has to do with legal intervention in concrete provisions, it also constitutes a solution that requires a certain time, but

[48] See the content of Unifying Decision No. 2, dated 29.01.2003 of the United Colleges of the Supreme Court.

which is final in terms of the problem created. What we support following this suggestion or recommendation is the fact that the preliminary study regarding the evidence of concrete interventions in these legal provisions should be done by working groups mixed with legal theorists and practitioners, i.e. with legal professionals who they should aim not at rush but at quality product. Likewise, the draft prepared by these legal professionals must also undergo a period of public consultation or maturity, before being subjected to parliamentary legal procedures for its approval. Only by following this path or such a procedure, we can also conclude about qualitative legal changes, which stand the test of time, being clearly interpretable in doctrine, as well as easily applicable in judicial practice.

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Illegality of property in Albania

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Abstract

Property relations are closely related to power relations. Property reforms have continuously affected citizens, placing them in an unclear legal situation. In Albania after 1990, a multifaceted conflict began which has produced major conflicts between citizens, between citizens and the state, as well as between categories of citizens created as a result of legal effects. The brief history of the reforms goes from the owners of the period in the Ottoman Empire, to the owners of the period from 1912 to 1945. The reforms of the dictatorship nationalized every property. With the law number 7501, dated 19.7.1991, begins the complicated period of property and the experience of its massive illegality by Albanian citizens. In this paper we will investigate the way property is constructed anthropologically after this law and the social dynamics produced by it. Using participant observation, direct interviews, qualitative analysis, statistics, but also photo ethnography, we will elaborate in the paper the direct impact of these reforms on citizens. The feeling of illegality also constitutes the essence of the relations created with the general social, political and social system in the country.

Keywords: *property, law, political system, illegality, Albania.*

Introduction

The shadows of the ownership system follow every individual, group or society as the cultural construction of this system also determines the way society develops. The history of the ownership system in Albania is characterized by the duality between the state and traditional law, which has been accompanied by constant tensions. The period of Ottoman occupation between the years 1431-1912 was accompanied by the influence of Sharia, the sacred law (Duka.F, 2005). The reforms

undertaken during the consolidation period of the Albanian state, especially 1930-1938, were very important to introduce the role of the state and position the economic model with capitalist features. In this context, the Civil Code (1929) was a very important step for the recognition of the right to ownership, which stipulates that "no one can be constrained by giving up his possession or by allowing others to use it" (Civil Code, 1929). The period of 1945-1991 was the era of "socialist economy" that relied "on socialist property over the means of production", built "with its own forces" by prohibiting private property (Dervishi.K, 2006). The constitution approved on 28.12.1976 in articles 16-31 sanctions the economic order and finally the property belongs to the state (Constitution, 1976). While after the fall of the dictatorship in Albania, on 19.07.1991 Law 7501 "On Land" (Law 7501, 1991) was approved, which divided the land after the dissolution of agricultural cooperatives and farms. How the Albanians were experiencing this law is evidenced by the ethnographic film made by the Norwegian anthropologist Berit Backer in 1991 in Rragam, Tropoja (Backer, 1991). Two years later, the law "On the return and compensation of property to former owners" (Law 7698, 1993) was adopted, which aims to return property to the owners and their heirs. This briefly described legal panorama is evidence of the defining relationship between political systems and property systems. After 1991, the period of experiencing the illegality of property begins. The tension created by law 7501 with law 7698 is the knot of conflicts even though the impacts are multifaceted. The property was also handled by various enforcement agencies of these laws. This legal and institutional situation led, on the one hand, to a narrowing of the fulfillment of the demands of the former owners to return their property and, on the other hand, created a conflict of jurisdiction which generated disagreements in the resolution of concrete issues (Commentary on the law on the treatment of properties, 2019).

Literature review

Due to history, Albanian society has constantly experienced a duality between experiencing traditional law and law, both imperial and state. This situation described above changes radically in favor of the state during the dictatorship period. While with the acceptance of the democratic model of government, the social stratifications created by the groups of newly created and real owners were also accompanied by new movements of the population. In itself, the tripling of the population during communism caused the heirs to fight for a little land (De Waal, 2009). Through the villages the government redistributes land that was once collectivized. The area of arable land is not large and

each family receives approximately 1.4 ha of land. This fact forced every Albanian family to produce to keep alive (Della Rocca, 2000). After 1990, the Albanian society experienced major changes which were basically related on the one hand to the inability to secure income from the land and on the other hand to the new opportunities that appeared to move freely. One of the main areas of this change is internal migration that has transformed Albanian cities but not only, as certain villages have also undergone these changes (although this phenomenon has not been studied, because it was probably even lower). It should be clarified that this mass movement of the population in this period was not dictated, directed or controlled by the state. If we define as 'formal' the recognition, influence, state control of a phenomenon, then in the case of the population movement, the state has failed to realize the formalizing, legitimizing function. This does not make the movement of citizens of the republic to change their place of residence "informal". The movement was public, an act that was not carried out in secret, even at certain moments it was massive, which shows that the eyes of the state were either consciously closed, or unable to control it, they allowed the citizens' initiative. This redistribution of the population was oriented from the northern and mountainous regions towards the center and the coast and especially in the cities, where the Tirana-Durrës area turned into an industrial and service area (this area dominates the distribution of the urban population), while the surrounding areas have turned into housing areas for thousands of migrants. The new geography of opportunities, against central planning, adapts to the new dynamics of the market, from the seemingly spontaneous and chaotic wave of movement, but dictated by the natural and practical counteraction of these opportunities (World Bank Report, 2007).

The lands around the cities began to be filled with construction and the state was powerless. If an individual enjoys absolute property rights it is because others, on the basis of an agreement or "cognitive act" (by force, free will or a combination of these) that society (or others) have recognized. a right, or in other words the individual is taught that this is how it should be. And anyone who violates this right will be held accountable for such a thing, and usually this protection system is among the most broken in human society (Bardhoshi, 2011). In modern countries, there is a social context of titles, which should also be included for property relations. The legal context can reflect the changes that can occur in society or can hide them, or can be used to promote them (Hann, 2009). In this context, a system of property overlap is created that places citizens in positions of illegality. The number of laws that influence, guide or hinder the legalization process is very high and makes the problem very complex. About eighteen laws have been approved in relation to property, and

some of them are: the law on the granting of agricultural land for use and ownership, the law on the privatization of residential apartments, the law on the privatization of land and state buildings, the law on the verification of land titles ownership, the law for the development of priority areas for tourism, for the integration of informal constructions, etc. These laws regulate various sectors and also create multiple agencies for their implementation. Nine agencies have been created for properties that create an overlap of ownership titles, but also other institutions that have property as their object (Halilaj, 2021). What impresses is the political discourse of the parties, offering short-term solutions to maximize votes, an approach that turns them into fundamentally pragmatic parties (Lami, 2013).

Law number 9482 dated 04/03/2006 "On the legalization, urbanization and integration of unauthorized constructions", undertakes to challenge the illegality in favor of recognizing the created reality and solving the issue. This process was inspired by the researcher Hernando de Soto, who with his theory of the formalization of the economy and, in particular, of the legalization of "dead capital", as he calls the informal areas, has influenced this process quite a bit. De Soto explains that: "These areas that were in a very difficult economic situation, paradoxically they are so because they are not capitalized, that is, they are not legally recognized by the state and this fact affects the creation of the most different forms of breaking the law. They are assets that are used by residents, but they are not part of the legal system and no one knows who has them, what they have and where they are; who is responsible for fulfilling the obligations and what is the mechanism that will make them pay for the goods and services. If these areas will be legalized and become part of the market, then the residents of these areas will integrate and overcome economic difficulties. Business will revive and the economy will grow, the parallel economy will be eliminated, but above all the people of these areas will have the opportunity to show their talents, enthusiasm and skills which until the legal recognition of their properties remain dormant." (De Soto, 2001). However, the data show that only 1/3 of over 450,000 constructions have been provided with legalization permits, while the constructions have not been stopped for a moment.

The legitimate property owners who were expropriated during the dictatorship, the new land owners who benefited from the 7501 law, the land owners who bought their land from those who benefited from the "Land" law, the owners who occupied both state and private land, the owners who benefited from privatizations, etc., are some of the most widespread categories of owners that refer to the same land.

Methodology

To understand how this reality of property is refracted in the anthropological plane, which refers directly to the experience of citizens. For the purposes of this paper, we have completed a questionnaire in Google Forms, analyzed the extracted data, conducted 5 interviews with different categories of owners, paid attention to the ethnography of photography, ethnographic film, and conducted direct ethnographic observation in some areas of Tirana and Albania. During the research work we used the literature of some anthropologists and researchers who belong to different theoretical schools such as Leopold Pospisil and legal pluralism, Adamson Hoebel and legal realism, as well as the works of Albanian anthropologists such as Nebi Bardhoshi, Arsim Canolli, Olsi Lela, etc.

Results and discussions

From an anthropological point of view, property is a social, economic and legal institution. In this sense, the right to property is considered a human human right (Turner, 2017). 87 people participated in the online questionnaire through google forms. The questions aimed to identify what relationship people have with property, what are their experiences with it and how much influence the property system has had on their lives. . It turns out that out of 87 participants, 74 of them or 85% had problems with property. 70 of the respondents or 80% state that they have conflicted because of the property, while 43 of them or 49% declare that someone else has benefited from their property. These results match the reality explained above and constitute the map of the direct experiences of the citizens. During the interviews we classified almost one representative of the owner categories. During the conversation with one of the heirs of the Toptani family, he says: "We are owners without property. Tirana, Kamza, Rinasi were built on our lands and today we are not legitimate". In this regard, it is interesting how this family in 1995, through an agreement and good will of the former mayor of the Kamez Municipality at that time, Mr. Rruzhdi Keqi is allocated a piece of land through Law 7501.

Land distributed to legitimate owners through Law 7501

P. Xhaja, an owner with Law 7501, says: "After we got about 10 dulyms of land, I sold a part of it in 1995, even though the law did not allow us to. I needed it as they had no income. With the land,

we were tired of working it during the farm and we didn't value it". A newcomer to the Kamza area, F. Vata, says: "We have had a house here for 25 years. We don't have cards. The state does not recognize us. We bought the land from someone who was given it by the state with hand deeds". Another resident, R. Dogjani, in the area of the swamp in Durrës, who has built on a land that is considered state land, says: "This is new open land. It was the swamp. The state does not recognize us and even though we have the houses, they are not ours". During the interview with a resident who occupied the land of an owner, among other things, he said: "I took a place here." I didn't know whose it was. I could not live in the village. I know that I have occupied foreign land. I ask the state to help me". The emotions of the interviews are subtle experiences that testify to the connection with property as a liquid field between the state and society. The illegality of the property is experienced by all parties: The legitimate hereditary owner of the property does not own the property even though it is recognized as such, the owners of law 7501 have a benefit from this division but they have a very close relationship with the land, maintaining a dose of illegality since some of them were not returned to their ownership, those who bought from the latter do not have ownership titles, as those who have state land also feel illegal.

Among the most influential elements of the relationship with property is undoubtedly the local cultural context. Traditional culture, canonical norms and its system of meaning of property continue to have a very large impact on Albanian culture. In these texts codified by researchers, it is noted that the issue of property receives special attention. The psycho-social structures conceived in the collective memory are activated immediately after the fall of the dictatorial system and to a large extent, mainly in the mountainous areas of the country, these property division rules are applied and not the laws issued at this time. The return to the old traditional borders has been a difficult process, however this category will also feel illegal in relation to the property since the cadasters had to apply law 7501. Although some of them by agreement received the land in the parts where it was distributed according to the law, it was impossible to reconcile legal boundaries with traditional boundaries. We emphasize that "informality" does not necessarily mean the absence of law. In many cases, they were created as centers of power (Bardhoshi, 2011), which then had political influence. The duality "between" law and culture, the low trust in the written law, has made citizens use the traditional right to escape the illegality of property even though the state keeps them under this intermediate tension.

Conclusions

- The history of property in Albania is a reflection of the forms of governance and power exercised in space and time.
- From an anthropological point of view, social dynamics have produced a continuous social, economic and legal tension.
- Citizens of all categories feel illegal in relation to their property both when they possess it and when they do not have it.
- Politics has used laws to have the greatest impact on citizens and their high number, constant changes and the variety of institutions have complicated the property situation.
- State law confronts the traditional system of understanding property.

Recommendations

- Verification of the implementation of the approved legal framework.
- Real field evaluation of the property to see the concrete match between the possessor, the potential owner and case-by-case decision making to stabilize the titles.
- Liberation of citizens from illegality and to create a solid system of relationship with property as the basis of the rule of law.

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The Impact of Digital Contracts on Legal Practice: A Comparative Study

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Abstract

With the emergence of smart contracts and blockchain, the digital revolution has led to major chan ges in legal practice. The crux of the problem is the integration of traditional legal models and the d ynamism of digital contracts. The main purpose of this study is to investigate the impact of the cha nge in law of digital contracts along with traditional contracts. Key objectives include understandin g the development of the legal profession, identifying gaps in the current legal environment, and ev aluating the effectiveness of contracts. A mixed method was used, combining the quality and divers ity of tools. In the research, in which 200 legal experts from the USA and the UK participated and 50 cases were examined, an increase in the number of problems related to digital contracts was dete cted. It is worth noting that while digital contracts are becoming increasingly commercialized, defi nitions remain unclear. The study concludes by highlighting the need for global legislation, standar ds of practice and legal education to continue to harness the potential of digital contracts while miti gating the associated risks.

Keywords: *Smart contracts; blockchain; legal framework; traditional contracts; legislative gaps.*

Introduction

The dawn of the 21st century has witnessed an unprecedented convergence of law and technology. As business technology supports blockchain and smart contracts, legal professionals are also forced to evolve. This article details the process of converting contracts from ink to tuples of bits and expl ores the differences between digital contracts and legal applications. This combination of old and n ew developments is most evident in law, an old discipline that has come into conflict with technolo gy competition in the last few years. One of the best examples of this integration is the evolution of contracts, the basis of legal contracts, which has undergone a major change in the digital age.

The idea of a contract as a mutual agreement setting the terms of understanding, exchange and resp onsibility dates back thousands of years. These contracts have been signed on parchment, paper an d other materials throughout the ages. However, as we move towards the digital age, the nature of c ontracts is being redefined. At the forefront of this revolution is the emergence of blockchain techn ology and its cerebral smart contract.

But like every major change, the rise of digital contracts brings with it both opportunities and chall enges. Legal experts who once roamed the streets of courtrooms and the pages of legal documents now find themselves exploring the intricacies of blockchain and making decisions based on the rule s of wisdom. This newfound convergence of code and law not only necessitates a recalibration of skills but also a reevaluation of long-standing legal doctrines and principles.[49] This paper seeks to embark on a comprehensive exploration of this transformative journey. From the tactile feel of paper contracts to the digital realm of bytes, we aim to unravel the complexities, potentials, challenges, and future trajectories of digital contracts in the contemporary legal landscape. Through a meticulous analysis, we will endeavor to spotlight the intricate nexus between age-old legal practices and the burgeoning realm of digital contracts, and in doing so, chart a roadmap for legal practitioners in the digital age[50]. But revolutions, by their very nature, are disruptive. While smart contracts offer unparalleled efficiency and reduce the scope for human error, they also thrust upon the legal profession a suite of challenges. The nuanced interpretations that lawyers bring to traditional contracts might be at odds with the definitive, black-and-white coding logic of smart contracts. Moreover, the jurisdictional and enforceability issues of blockchain-based contracts in traditional legal systems are areas of intense debate.[51] Given this profound shift, it becomes imperative for legal professionals, scholars, and policymakers to deeply engage with these changes. This paper delves deep into the heart of this transformation, juxtaposing the history and tradition of contracts with their digital future. We will traverse the maze of opportunities, dilemmas, and the myriad implications that digital contracts present[52].

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Background

Historically, contracts have been physical instruments-binding documents executed on paper and sealed with signatures. However, digitalization has introduced 'smart contracts[53]'—self-executing contracts where terms are written into code[54]. They reside on the blockchain and are immutable once established. This digital transition prompts myriad questions about legitimacy, enforceability, and adaptability. Before delving into the intricacies of digital contracts, it's essential to grasp the historical evolution of contractual agreements[55]. From oral agreements in ancient civilizations, such as Mesopotamia and Egypt, to handwritten pacts during the Roman era, contracts have been the linchpin of commerce and social agreements. The 20th century witnessed contracts typified by ink signatures and notary stamps. These contracts, while legally binding, were limited by geographical barriers, speed of execution, and susceptibility to fraud[56].

Primordial Contracts and Oral Traditions

In the tapestry of human civilization, the earliest contractual engagements were grounded in oral traditions. Societies such as ancient Mesopotamia and Egypt relied on verbal commitments, bolstered by trust and societal norms. These verbal contracts, while lacking in formal documentation, were considered sacred, their breach leading to societal ostracization or punitive measures by community leaders.

Written Pacts and the Roman Influence

The advancement of writing systems marked a transformative moment in the contractual realm. Societies started documenting agreements, with ancient Rome standing out as a beacon in the formalization of written contracts. Roman contractual instruments, such as the stipulatio, were profound in shaping contract law, incorporating elements like offer, acceptance, and consideration. These written commitments were more than mere records; they symbolized trust, intent, and mutual consensus.

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The Age of Ink and Paper

The dawn of the 20th century bore witness to an era where contracts were meticulously crafted on paper, sealed with signatures, and often, notary stamps. The sanctity of the written word became paramount. These paper-based agreements, replete with legalese and formal structures, epitomized the pinnacle of legal formality. While they introduced clarity and specificity, they were also constrained by inherent limitations: Geographical Barriers: Contracts often necessitated physical presence, making cross-border agreements cumbersome. Speed of Execution: The traditional contract lifecycle, from drafting to signing, was time-consuming. Fraud Vulnerabilities: Paper contracts, despite their formality, were susceptible to forgeries, unauthorized alterations, and other malpractices.

The Digital Paradigm Shift

The latter part of the 20th century and the advent of the 21st marked a transformative phase with the onset of digitalization. While digital documents and e-signatures began making inroads, it was the introduction of 'smart contracts' that truly revolutionized the landscape. These aren't merely digital versions of traditional contracts but represent a paradigm shift: Automation: Smart contracts execute themselves when predefined conditions are met. Decentralization: Residing on blockchains, they eliminate the need for intermediaries. Immutability: Once set in motion, these contracts cannot be altered, ensuring trust and transparency. However, this evolution isn't without challenges. The fusion of technology and law has prompted questions around the legal sanctity of code, enforceability of blockchain agreements, and the adaptability of legal systems to these novel instruments. As we venture deeper into this exploration, it becomes crucial to juxtapose the rich history of contracts with their digital future, understanding both the opportunities and challenges therein. The closing decades of the 20th century witnessed the nascent beginnings of what would become one of the most transformative phases in modern history: the digital revolution. As the calendar flipped to usher in the 21st century, the tendrils of this revolution reached every domain, including the sacred chambers of legal practice. The legal industry, having already warmed up to the conveniences of digital documents and the revolutionary e-signatures, found itself at the cusp of an even more profound evolution with the introduction of 'smart contracts.'

Smart contracts are not merely digitized versions of paper agreements. Instead, they signify a

profound shift in how we perceive and implement contractual agreements[57]. At their core, smart contracts possess an innate ability for self-execution. Governed by pre-set conditions, they spring into action automatically once their stipulated criteria are met, effectively reducing the chances of breaches or delays. This contrasts significantly with traditional contracts, which often rely on intermediaries such as banks, notaries, or other institutions. In essence, smart contracts, anchored firmly on blockchain technology, sidestep these intermediaries, enabling transactions that are both swifter and more direct. Furthermore, the underlying technology assures that once a smart contract is set into motion, it becomes almost unalterable, a trait that magnifies the trust and transparency associated with such agreements[58]. However, profound transformations often come intertwined with challenges. The melding of code-driven technology with the interpretative and often nuanced realm of law has kindled a multitude of debates. Questions regarding the legal sanctity of code, the enforceability of blockchain-based agreements, and the readiness of our extant legal frameworks to accommodate this new paradigm have begun to surface. As we embark on this exploration, it's vital to draw from the rich tapestry of contract history, discerning the potential pathways, challenges, and opportunities that this digital evolution presents.[59]

Methodology

This research employs a mixed-method approach. We interviewed 200 legal professionals (100 each from the US and UK) to ascertain their familiarity, comfort, and opinions on digital contracts. A comparative study of 50 court cases (25 from each country) involving digital contracts was conducted to identify common challenges and discrepancies. A significant 80% of respondents acknowledged the growing importance of digital contracts, though only 40% felt adequately prepared to handle them in practice. Current legislation does not fully address digital contracts' nuances. Ambiguities remain in contract enforceability, especially when code malfunctions. While digital contracts speed up transactions and reduce manual errors, they introduce new complexities, primarily in interpretation and dispute resolution.

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Findings

The analysis of the gathered data provides profound insights into the integration of digital contracts within the legal landscape. Here are the detailed findings. The world of legal practice, rooted in traditions, has begun recognizing the seismic shift brought about by technology. A noteworthy 80% of respondents acknowledged the inevitable dominance of digital contracts in the future landscape of legal agreements. This indicates a considerable level of awareness and a hint towards the industry's adaptability. However, juxtaposed against this figure is the mere 40% who expressed confidence in their capability to deal with these contracts. This divergence reveals a gap between recognizing the importance of digital contracts and being equipped to handle them. The lack of adequate preparedness could be attributed to a dearth of formal training or exposure to the technicalities of digital contracts. Respondents often cited the need for specialized courses, workshops, or seminars aimed at bridging this knowledge gap. While technology progresses at a breakneck pace, legislation often lags, leading to potential misalignments. The current legislative frameworks in place, both in the US and UK, do not fully encapsulate the intricacies and nuances of digital contracts. This absence of specific guidelines or standards poses challenges, especially when disputes arise. A recurrent theme in the analyzed cases was the ambiguity surrounding the enforceability of digital contracts, more so when technical glitches or code malfunctions come into play. Without a clear legislative stance, the reliance on traditional contract principles can lead to inconsistent rulings. Digital contracts promise efficiency, but not without introducing their set of complexities. One of the undeniable merits of digital contracts is their ability to streamline transactions. By automating processes and minimizing manual interventions, they offer faster execution and significantly reduce errors that often arise from human oversight. However, this automation and reliance on code introduce a new layer of complexity. When disputes arise, legal practitioners are often at odds with interpreting the contract, especially when it requires a deep understanding of the underlying code or technology. Traditional dispute resolution mechanisms might not always be apt for digital contract disagreements. The blend of technical and legal nuances necessitates a new breed of arbitrators or mediators, well-versed in both domains. Beyond the technical and legal dimensions, there's an ethical aspect to consider. A contract's essence is not just in its execution but also in the fairness and equity it ensures for all parties involved. With digital contracts, especially when they're self-executing, there's a risk of outcomes that, while correct as per the code, might not be ethically sound or equitable.

This poses a challenge not just for legal practitioners but also for the broader society in defining what's "right" in the age of automated contracts. While digital contracts mark a transformative phase in legal practice, they come with their set of challenges and complexities. Addressing these requires a multi-pronged approach, melding technological advancements with robust legal frameworks and ethical considerations.

Discussion

Legal professionals must be trained not just in law but also in technology. Understanding contract code is becoming as vital as understanding contractual language. With digital contracts transcending borders, a global framework becomes imperative. Localized laws might be inadequate or even contradictory when dealing with international digital contracts. The advantages of digital contracts—transparency, speed, and reduced costs—are undeniable. However, they come with risks, including code vulnerabilities and hacking threats.

Conclusions

Digital contracts, though in their nascent stages, are revolutionizing legal practices. As we transition to an increasingly digital age, it is incumbent upon legal practitioners and lawmakers to comprehend, adapt, and mould the future of contract law. The challenges are plentiful, but so are the opportunities. The legal realm must rise to this digital occasion, shaping a future where technology and law coalesce seamlessly. Digital contracts, while relatively new entrants in the realm of legal practice, are poised to redefine the way we conceive and operationalize agreements. Their advent comes at a time when the world is navigating the complexities of the digital era, with almost every industry undergoing a technological metamorphosis. As the very fabric of commerce, communication, and governance becomes increasingly intertwined with digital threads, it becomes imperative for the guardians of legal systems – the practitioners and lawmakers – to be at the forefront of understanding these changes. The rise of digital contracts is not just a testament to technological advancement but also a reflection of changing societal norms and expectations. In an age where transactions are expected to be instant, global, and transparent, the traditional methods of sealing agreements with ink on paper seem archaic and cumbersome. However, this transformation isn't merely about speed and efficiency; it's about building a new legal infrastructure that is resilient, equitable, and adaptable to the fluid

nature of digital interactions. The challenges lying ahead are multifaceted. On one hand, there's the technical complexity of ensuring that a contract, coded into existence, behaves as intended without any unforeseen consequences. On the other, there are profound ethical and philosophical questions about autonomy, privacy, and the very nature of agreement in a world where contracts self-execute without human intervention.

Recommendations

The interplay of digital contracts in the legal sphere necessitates certain proactive measures to optimize their potential while addressing inherent challenges. Firstly, it is imperative for legal practitioners to commit to continuous learning. With the rapid pace at which technology evolves, staying updated on the developments in digital contracts becomes essential. This does not just pertain to understanding the nuances of digital contracts themselves but also grasping the underlying technology that drives them. Workshops, seminars, and courses dedicated to this fusion of law and technology can serve as pivotal platforms for this learning. Secondly, the intricate nature of digital contracts demands a more collaborative approach. Instead of operating in silos, tech experts and legal professionals must come together. This collaboration ensures that the digital contracts designed are not only technically robust but also stand up to the rigorous standards of legal enforceability. Such an interdisciplinary partnership can lead to contracts that balance the precision of code with the interpretive flexibility of legal language. Lastly, on a macro scale, there's an urgent call for legislative reform. Current contract laws, shaped by centuries of tradition, might not seamlessly accommodate the peculiarities of digital contracts. Lawmakers, with insights from both tech experts and legal practitioners, should engage in the reformative exercise of adapting existing laws. This ensures that they resonate with the specificities of digital contracts, offering clarity on aspects like enforceability, dispute resolution, and ethical considerations.

Acknowledgements

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Comparative Analysis of Public-Private Partnerships in the Energy Sector: A Legal Perspective from Albania and Serbia

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Abstract

This paper aims to provide a comprehensive comparative analysis of the legal frameworks governing Public-Private Partnerships (PPPs) in the energy sector in Albania and Serbia. Through a detailed examination of existing laws, the study seeks to identify strengths, weaknesses, and opportunities for both countries in leveraging PPPs for energy projects.

Key words: *Public-private partnerships, legal framework, comparative analysis, energy, policy recommendations.*

Introduction

The energy sector is a critical component of any nation's infrastructure, and Public-Private Partnerships (PPPs) have increasingly become a popular model for undertaking large-scale energy projects. This paper focuses on the legal frameworks of Albania and Serbia to understand how each country approaches PPPs in the energy sector. The primary objective of this paper is to conduct a comparative analysis of the PPP laws in Albania and Serbia. By examining key aspects such as legal frameworks, transparency measures, financial considerations, and oversight mechanisms, this paper aims to identify strengths and weaknesses in each country's approach. The analysis will serve as a basis for recommendations aimed at improving the legal landscapes for PPPs in both countries.

Methodology

Data Sources

The primary data sources for this paper are the legal texts governing Public-Private Partnerships (PPPs) in Albania and Serbia. These laws serve as the foundation for the comparative analysis,

providing detailed insights into the regulatory frameworks that shape PPPs in each country.

Analytical Framework

The analysis employs a qualitative approach, focusing on key aspects of each country's PPP laws. These aspects include:

- Legal and Regulatory Framework
- Transparency and Fair Treatment
- Financial Aspects
- Dispute Resolution
- Termination and Exit Strategy
- Monitoring and Oversight

Each aspect is examined in depth, with the aim of identifying strengths, weaknesses, and opportunities for improvement. The analysis is structured to offer a balanced view, considering both the advantages and disadvantages of each country's approach.

Legal Frameworks in Albania and Serbia

Albanian Legal Framework

In Albania, the legal framework for PPPs is primarily governed by Law No. 125/2013 on Concessions and Public-Private Partnerships. This law outlines the procedures for initiating, implementing, and overseeing PPP projects. It covers a range of aspects, from project proposal content to financial considerations and dispute resolution. The law aims to create a conducive environment for both domestic and foreign investors, emphasizing flexibility and adaptability to the specific needs of individual projects.

Serbian Legal Framework

Serbia's legal framework for PPPs is set forth in the Law on Public-Private Partnership and Concessions. Unlike the Albanian law, the Serbian law does not specify a centralized agency for monitoring and oversight but places this responsibility on the contracting authorities involved in each project. The law covers various aspects similar to its Albanian counterpart but adopts a more decentralized approach, particularly in areas like monitoring and oversight.

Comparative Analysis

Both Albania and Serbia recognize the importance of PPPs in the energy sector, but they differ in their approach to governance, financial arrangements, and transparency. While Albania's laws offer more flexibility, Serbia's laws provide more detail, aiming for transparency and standardization.

Scope and Objectives

Both Albania and Serbia recognize the importance of PPPs as a tool for economic development. However, their laws differ in the level of detail they provide. The Albanian law offers a flexible yet structured framework for defining the scope and objectives of PPP projects, allowing for adaptability to specific project needs. On the other hand, the Serbian law is less explicit, potentially leading to ambiguities that could affect project implementation. The Albanian law on PPPs is designed to create a conducive environment for investments in both concessions and PPPs. It aims to establish a robust and sustainable framework that encourages, attracts, and facilitates these investments. The law's primary objective is to promote public and private sector collaboration in delivering public services and infrastructure. It seeks to achieve this by providing clear guidelines and procedures for preparing, proposing, and approving PPP projects.

On the other hand, the Serbian law has a similar scope but goes a step further by including legal protection in the procedures of awarding public contracts. This additional aspect indicates a more comprehensive approach to safeguarding the interests of all parties involved. The Serbian law also aims to create a favorable investment climate but adds layers of legal security to make the process more transparent and accountable. It governs not only the conditions and methods for preparing, proposing, and approving PPP projects but also the legal ramifications of these processes.

Both laws aim to foster public-private collaborations, but the Serbian law appears to offer a more holistic approach by incorporating legal protections. The Albanian law, while comprehensive, could benefit from such additional layers of security to enhance its effectiveness. The primary focus of both laws is to streamline the PPP process, but they differ in the extent to which they safeguard the interests of the participating entities. Overall, the scope and objectives of both laws are aligned in promoting PPPs, but the Serbian law provides a more rounded framework by addressing legal protections explicitly.

Types of PPP

The Albanian law does not explicitly categorize types of PPPs, which offers a level of flexibility but may also create ambiguity. It mentions public works and public services, suggesting that the law is open to various forms of PPPs. This lack of categorization could be seen as an advantage, allowing for a broader range of projects to be considered under the PPP framework. However, the absence of specific types could also lead to inconsistencies in how PPP projects are evaluated and implemented. In contrast, the Serbian law clearly defines two types of PPPs: Contractual and Institutional. This explicit categorization provides a structured approach to PPPs, making it easier for both public and private entities to understand their roles and responsibilities. Contractual PPPs are generally short-term and project-specific, while Institutional PPPs involve the creation of a separate legal entity to manage the partnership. This distinction helps in tailoring governance structures and financial models to the specific needs of a project.

The Serbian law's explicit categorization could serve as a model for Albania, offering a more structured approach to PPPs. The clarity in types of PPPs in Serbian law can reduce legal ambiguities and streamline the project approval process. It can also aid in the risk assessment of projects, as the type of PPP could influence the distribution of financial and operational risks between the public and private sectors. The Albanian law's flexibility could be beneficial for innovative or unconventional projects that don't fit neatly into predefined categories. However, this flexibility could also create challenges in standardizing the evaluation and monitoring of PPP projects. In contrast, the Serbian law's structured approach provides a clear pathway for project implementation but may be less adaptable to unconventional projects.

Entities Involved

In the Albanian context, the Concessions Treatment Agency (ATRAKO) plays a pivotal role in the PPP landscape. ATRAKO is responsible for maintaining the Concession/PPP Registry, which serves as a centralized database for all PPP projects. This centralized approach aims to bring transparency and accountability to the PPP process in Albania. ATRAKO's role suggests that the Albanian government seeks to have a singular entity that oversees, regulates, and ensures compliance in PPP projects. This can be advantageous for standardizing procedures and maintaining a uniform approach to PPPs across various sectors.

On the other hand, the Serbian law specifies a range of government bodies as entities competent to propose and realize PPP projects. These include ministries, local government units, and public

companies, among others. This decentralized approach allows for greater flexibility and adaptability, as different sectors and levels of government can tailor PPP projects to their specific needs. However, this could also lead to inconsistencies in how PPP projects are managed and evaluated, given the involvement of multiple entities with potentially varying levels of expertise and resources. The contrast between a centralized entity in Albania and a decentralized range of entities in Serbia presents a fascinating dichotomy. A centralized approach, like Albania's, can offer more control and standardization but may lack the nuanced understanding of sector-specific needs. In contrast, Serbia's decentralized model allows for greater customization but could lead to a lack of uniformity in project execution and evaluation. The Albanian model's centralized nature could potentially speed up decision-making processes, as there would be fewer bureaucratic layers to navigate. However, this could also result in a bottleneck effect, where the central entity becomes overwhelmed with multiple projects. The Serbian model's decentralized nature allows for more localized decision-making, which could be more responsive to community needs but might also result in slower, more fragmented decision-making processes.

Legal and Regulatory Framework

Albania's law outlines a clear legal pathway for the initiation and implementation of PPP projects, providing a sense of stability and predictability. Serbia's law, while also providing a legal framework, is less explicit about the regulatory bodies involved, which could lead to uncertainties. The Albanian law outlines the powers of contracting authorities to enter into concession and PPP agreements. It also provides procedures for awarding such contracts, aiming to create a legal framework that is both robust and flexible. This approach seeks to balance the need for strong governance with the flexibility required to adapt to the specific needs of individual projects. The law's focus on the powers of contracting authorities suggests an emphasis on centralized control, aiming to ensure that PPP projects align with broader public policy objectives. In contrast, the Serbian law goes beyond the basic legal framework to discuss the concept of a Special Purpose Vehicle (SPV). The SPV is a separate legal entity created specifically for the PPP project, and the law outlines its legal requirements and operational guidelines. This additional layer of regulation provides a more structured approach to PPP governance, aiming to clarify the roles and responsibilities of all parties involved. It also offers a mechanism for isolating the financial and operational risks associated with the PPP project, thereby providing an additional layer of security

for both public and private partners. The Serbian law's focus on SPVs suggests a more complex but also more comprehensive approach to PPP governance. This could offer advantages in terms of risk management and accountability but could also make the process more cumbersome and time-consuming. The Albanian law's simpler framework may be easier to navigate but lacks the additional safeguards provided by the Serbian model. The Albanian law could potentially benefit from incorporating some elements of the Serbian approach, such as the concept of an SPV, to enhance its governance structures. However, this would need to be balanced against the potential for increased complexity and bureaucracy, which could deter smaller or less experienced entities from participating in PPP projects.

Financial Aspects

Albania's law provides a detailed framework for the financial structuring of PPP projects, including provisions for risk allocation and revenue sharing. Serbia's law, while covering financial aspects, lacks the same level of detail, which could lead to ambiguities in financial arrangements and risk management. The Albanian law states that concession fees are part of the revenues of the State Budget or the Local Government Units budgets. This provision underscores the financial importance of PPPs to public finances in Albania. However, the law does not delve into the specifics of how these fees are calculated, leaving room for flexibility but also potential ambiguity. This lack of detail could lead to inconsistencies in how different projects are financially structured, which could in turn affect their viability and success. In contrast, the Serbian law provides a more comprehensive discussion of financial aspects, including concession fees and other financial considerations. It outlines specific criteria for determining fees and other financial obligations, aiming to create a transparent and standardized framework for financial arrangements in PPPs. This detailed approach is designed to provide clarity and predictability for both public and private sector participants, thereby enhancing the attractiveness of PPP projects. The Serbian law's focus on financial transparency and standardization could serve as a valuable model for Albania. A clear and standardized approach to financial arrangements can make the PPP process more transparent and can help to attract a broader range of potential private sector partners. It can also facilitate more effective oversight and accountability, helping to ensure that PPP projects deliver good value for money. However, the Serbian model's detailed approach could also be seen as overly prescriptive, potentially limiting the flexibility to adapt financial arrangements to the specific needs and risks of

individual projects. In contrast, the Albanian law's more flexible approach could be advantageous for innovative or unconventional projects that do not fit neatly into a standardized financial framework. The Albanian law's lack of detail on financial aspects could also be seen as a potential risk, particularly in terms of accountability and oversight. Without clear guidelines on financial arrangements, there is a greater risk of financial mismanagement or corruption, which could undermine public trust in the PPP process.

Dispute Resolution

The Albanian law offers a flexible yet structured approach to dispute resolution, allowing for international arbitration and other mutually agreed mechanisms. Serbia's law is less specific, potentially leading to uncertainties and deterring foreign investment. The Albanian law provides for disputes to be resolved through mutually agreed mechanisms, including international arbitration. It specifies that Albanian law is applicable in such cases. This approach aims to offer a flexible yet structured framework for resolving disputes, allowing parties to tailor dispute resolution mechanisms to the specific needs of each project. The inclusion of international arbitration as an option also opens the door for foreign investors, who may be more comfortable with a neutral, third-party mechanism for dispute resolution. In contrast, the Serbian law does not explicitly mention dispute resolution mechanisms but is assumed to follow standard legal procedures in Serbia. This lack of specificity could be seen as a gap in the law, potentially leading to uncertainties in the event of a dispute. The absence of explicit provisions for international arbitration could also be a deterrent for foreign investors, who may be wary of being subject to local courts. The Albanian law's focus on mutually agreed mechanisms offers a level of flexibility that could be advantageous for complex or unconventional projects. It allows parties to choose the most appropriate forum for resolving disputes, whether that be local courts, arbitration, or some other mechanism. This flexibility could make Albania more attractive to a diverse range of investors, both domestic and international. However, the flexibility offered by the Albanian law could also be a double-edged sword, potentially leading to protracted negotiations over dispute resolution mechanisms at the outset of a project. In contrast, the Serbian law's lack of specificity could streamline the initial negotiation process but could lead to complications later if a dispute arises. The Serbian law's silence on dispute resolution could be seen as a missed opportunity to provide clarity and assurance to potential investors. Explicit provisions outlining available dispute

resolution mechanisms could enhance the law's comprehensiveness and could make Serbia more attractive to foreign investors.

Termination and Exit Strategy

Albania's law outlines a comprehensive framework for project termination, providing clarity and predictability. Serbia's law is less explicit, potentially leading to uncertainties and disputes in the event of a project's premature termination. The Albanian law provides a detailed framework for the termination of PPP agreements, including conditions under which either party can initiate termination. It also outlines the financial implications of termination, such as compensation and penalties. This comprehensive approach aims to provide clarity and predictability for both public and private sector participants, thereby reducing the risks associated with premature termination of projects. In contrast, the Serbian law is less explicit about termination procedures and exit strategies. While it does mention that PPP agreements can be terminated in accordance with the terms of the contract, it does not provide a standardized framework for doing so. This lack of detail could lead to uncertainties and disputes in the event of a project's premature termination, potentially affecting investor confidence and project viability. The Albanian law's detailed approach to termination and exit strategies could serve as a model for Serbia. A well-defined framework can provide a clear pathway for winding down projects that are no longer viable or beneficial, thereby protecting the interests of both public and private sector participants. It can also make the PPP process more transparent and can help to attract a broader range of potential private sector partners. However, the Albanian model's detailed approach could also be seen as overly prescriptive, potentially limiting the flexibility to adapt termination procedures to the specific needs and risks of individual projects. In contrast, the Serbian law's more flexible approach could be advantageous for innovative or unconventional projects that do not fit neatly into a standardized framework. The Serbian law's lack of detail on termination and exit strategies could also be seen as a potential risk, particularly in terms of accountability and oversight. Without clear guidelines on how to handle the termination of projects, there is a greater risk of financial mismanagement or disputes, which could undermine public trust in the PPP process.

Advantages and Disadvantages

Advantages of the Albanian Approach

The Albanian legal framework for PPPs stands out for its structured and comprehensive nature. It provides a clear roadmap for both public and private entities, thereby reducing uncertainties that often plague such partnerships. The law's emphasis on transparency and fair treatment also enhances public trust, a crucial factor for the success of PPPs. Moreover, the detailed financial provisions in the Albanian law offer a robust framework for risk allocation and revenue sharing, which are critical elements in the long-term sustainability of PPP projects.

Disadvantages of the Albanian Approach

However, the Albanian approach is not without its drawbacks. The detailed nature of the law, while providing clarity, could also be seen as overly prescriptive. This could limit the flexibility needed for unique or innovative projects that do not fit neatly into predefined categories. Additionally, the centralized approach to monitoring and oversight, while effective for standardization, could create bottlenecks, especially if the overseeing agency is not adequately resourced. This could slow down the implementation of projects and increase costs.

Advantages of the Serbian Approach

On the other hand, the Serbian legal framework for PPPs offers a level of flexibility that can be highly advantageous. This flexibility allows for a more tailored approach to project proposals and financial structuring, making it easier to adapt to the specific needs and challenges of individual projects. The decentralized model for oversight also allows for more localized control, which could be more responsive to the unique circumstances and needs of individual projects.

Disadvantages of the Serbian Approach

However, the Serbian law's less explicit nature could lead to ambiguities that complicate project implementation. This lack of detail could result in inconsistencies in how projects are proposed, evaluated, and implemented. Furthermore, the decentralized approach to monitoring and oversight, while allowing for localized control, could result in a lack of consistency in project quality and accountability. This could undermine public trust in PPPs and deter potential investors, particularly those from abroad who may seek a more predictable regulatory environment.

Conclusion

This paper offers a comparative analysis of the legal frameworks for Public-Private Partnerships (PPPs) in Albania and Serbia. Albania's framework provides predictability but may lack flexibility for unique projects. Serbia's approach is adaptable but could benefit from stronger oversight. Recommendations were provided to enhance both countries' PPP frameworks, focusing on legislative flexibility, oversight, and transparency. Given the growing role of PPPs in both nations, these insights are valuable for policymakers aiming to refine their legal frameworks for more effective and transparent PPP projects.

Recommendations

For Albania

Albania's structured framework for PPPs, while beneficial, could be further improved by introducing provisions for greater flexibility. This would allow the legal framework to accommodate unique or innovative projects that may not fit into predefined categories. Such flexibility could be introduced through amendments that allow for project-specific variations in financial structuring, risk allocation, and oversight mechanisms. Another critical area for improvement is the resourcing of the centralized agency responsible for monitoring and oversight. Adequate financial investment is essential, but it should be complemented by capacity-building measures. Training programs could be introduced to enhance the agency's ability to manage complex PPP projects effectively. This would prevent bottlenecks and ensure smoother project implementation. Given the law's emphasis on transparency, introducing public engagement initiatives could further enhance accountability. Public consultations during the project proposal stage could provide valuable insights and improve the quality of projects.

For Serbia

Serbia's PPP law could benefit from amendments that add clarity and detail to its provisions. Clear guidelines could be introduced to standardize the proposal, evaluation, and implementation processes. This would not only reduce ambiguities but also make the legal framework more investor friendly. The decentralized approach to monitoring and oversight has its merits, but it

could be strengthened by introducing standardized guidelines. These guidelines could ensure a minimum level of consistency and quality across projects, thereby enhancing public trust and attracting more investors. Given the law's less explicit nature, introducing detailed financial transparency measures could be beneficial. This could include mandatory disclosure of financial arrangements, risk assessments, and revenue-sharing plans.

For Both Countries

Both Albania and Serbia could significantly benefit from enhanced transparency measures. A public disclosure platform that provides real-time information on ongoing projects could be a valuable addition. This would not only enhance public trust but also attract more foreign investment by showcasing the countries' commitment to transparency. Both countries should refine their laws to include detailed provisions for risk allocation and mitigation. This is particularly crucial for the financial aspects of PPP projects, which often involve complex arrangements and long-term commitments. Clear guidelines on risk sharing between public and private entities could provide a more solid foundation for long-term project sustainability. Given the rapidly evolving nature of PPPs, both countries could benefit from a periodic legislative review mechanism. This would allow for timely updates to the legal framework, ensuring that it remains aligned with best practices and emerging trends in the field of PPPs. Given the similarities and differences in their approaches, Albania and Serbia could explore opportunities for cross-border PPP projects. Such collaboration could offer unique advantages, such as access to broader pools of expertise and funding.

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Interpretation of Article 6 of the European Convention on Human Rights according to the practice of the ECtHR

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Abstract

This paper aims to deal with the right sanctioned in the European Convention on Human Rights, specifically in its article 6, the right to a fair trial. The fair trial, its meaning and the elements it includes will be the object of this paper. Ensuring justice in judicial proceedings is an essential condition for the legal systems that apply to the European Uninon, and especially for the affected parties, for this reason it is one of the articles claimed by most of the applicants in the court. Also the guarantee of this right according to the interpretation of the European Court of Human Rights is a fundamental factor for the functioning of justice. It foresees and protects the principle of the state of justice, on which a democratic society is built and functions, and the main role of courts in administration of justice. Article 6 must be interpreted in the light of the current situation and conditions, including economic and social conditions, so-called different from the doctrine as "the Convention as a living organism". In particular, part of this topic will be the main principles and rights deriving from this provision such as the analysis of the reasonable time, the meaning of a trial within a reasonable time and the interpretation that the ECHR has made regarding the violations of this right, which derives from the wording of the Article 6 itself but also from the principle of effectiveness, independence and impartiality of courts, equality of arms etc.

***Keywords**: Right to a fair trial, European Court of Human Rights, ECHR.*

Introduction

The European Union is founded on the values of respect for human rights, freedom, dignity, the rule of law and democracy. It also represents a very important role in the recognition, implementation and guarantee of these rights, the European Court of Rights of Human Rights (ECHR). Precisely the interpretation and application of the provisions and principles helps in the formation of the Acquis Communuautaire, i.e. European Law. An important international instrument is the European Convention on Human Rights which, when it was created, was a continuation of the Declaration

Universal Declaration of Human Rights and the American Declaration of Human Rights.

One of the rights sanctioned and recognized by this Convention is the right to due process. It is the right that everyone should have fair and equal treatment before the law, especially in court proceedings. This right includes the right of everyone to have their case heard publicly, within a reasonable time, before an impartial judge, in a prompt and efficient manner, as well as the right of access to legal representation. Specifically, Article 6 of the European Convention on Human Rights stipulates that: "Every person has the right to have his case heard fairly, publicly and within a reasonable time by an independent and impartial tribunal established by law, which shall decide both disputes concerning rights and obligations his civil nature, as well as the validity of any criminal charges against him. The judgment must be given in public, but the presence of the press and the public in the courtroom may be prohibited during all or part of the proceedings, in the interests of morality, public order or national security in a democratic society, when required by the interests of minors or the protection of the private life of the parties in the process or to the extent deemed necessary by the court, when in special circumstances publicity would harm the interests of justice". As can be seen, it is a rather broad and inclusive provision of many aspects of the law and represents the constitutional right of individuals through which they seek the realization of fair and honest legal procedures. Article 6 of the ECHR can be considered the most complicated in its content. of the Convention in terms of the conditions of the field of application, the very high number of cases raised and the extent of their interpretation by the Court. According to a 2010 study, more than half of the cases in which the Court found a violation involved a violation of Article 6, either because of the fairness or the length of the proceedings. Moreover, 62% of the violations found by the Court concerned with Article 6 and Article 1 of Protocol No. 1. It is essential to bear in mind that the right to a fair trial is not only a concern in the sphere of law, but also in the social and political sphere. In Delcourt v. Belgium, the Court stated that: In a democratic society within the meaning of the Convention, the right to a fair administration of justice occupies such an important place that a limited interpretation of Article 6 (1) will not corresponded to the intent and purpose of that provision.

The notion of rights and obligations

The first paragraph of Article 6 applies to both civil and criminal proceedings, while the second and third paragraphs apply exclusively to criminal cases. Referring to the drafting of Article 6, it is understood that the protection of the accused is extremely important. especially because of their

position in criminal proceedings. It should be noted that this provision does not apply to all court proceedings, but only in relation to proceedings related to disputes over civil rights and obligations or related to criminal charges against individuals The Court has also interpreted this fact in the decision of the Greek Catholic Parish of Lupeni and others against Romania, recalling that there must be a dispute regarding the rights that are claimed to be recognized either by domestic law or by the Convention itself. përbën kushtin e parë që duhet të plotësohet në mënyrë që Neni 6 të gjejë zbatim. Mosmarrëveshja duhet të jetë serioze dhe reale dhe mund të ketë të bëjë me ekzistencën e një të drejte ose me mënyrën e ekzekutimit të kësaj të fundit.[60]Në mënyrë që të vlerësohet se ka karakter real dhe serioz duhet që të provohet lidhje e ngushtë dhe e drejtpërdrejtë mes kërkuesit dhe interesit mbi mosmarrëveshjen dhe zgjidhjen e saj.

The court has expressed in a considerable number of decisions that the rights and obligations of private persons in relations between each other are civil rights. I can mention family law, labor law, private property law, commercial law, etc. More complex are those issues related to disputes between individuals and the State, but the Court has also recognized this category of rights as civil, for example in property issues (expropriation issues, building permits).

The Strasbourg bodies have declared some areas that will not be covered by Article 6 and will not be considered as civil rights and obligations:

- tax issues in general and tax assessment
- immigration and citizenship issues
- military service obligation
- issues related to the reporting of court proceedings
- the right to run for a public office
- the right to state education
- refusal to issue a passport
- issues related to legal aid in civil cases
- the right to state medical treatment
- the unilateral decision of the State to compensate the victims of natural disasters.

Article 6 also provides for the guarantee of due process of law in the sense of criminal cases for

[60] Benthem kundër Hollandës, GJEDNJ, 23.10.1985, nr. 8848/80, § 32

criminal charges. The Court has defined what a criminal charge is. It is a formal notice given to an individual by the competent authority of an allegation that he has committed a criminal offense, or when the measures significantly affect the condition of the suspect. The moment when the individual is notified of the criminal charge is very important, after that moment another very essential element is calculated, that of the reasonable term provided for in this provision. The determination of this criminal character appears quite complex from practice, given that different countries The Council of Europe have different provisions in their internal legislation. But this remains unresolved by the Court since it recognizes and respects the notion of autonomy of the Convention. It should be remembered that this interpretation technique was born in the context of a case where the debate was whether the measure had a criminal character or an administrative character, precisely in the case of Engel and others against the Netherlands. In this case, the Court raised the concern that "if the States Parties "will have the discretion to consider it a disciplinary and not a criminal offense, or prosecute the author of a "mixed" offense administratively rather than criminally, the operation of the basic clauses of Articles 6 and 7 would be subject to their sovereign will. Such a wide space could lead to results incompatible with the purpose and object of the Convention" Because of this technique even today the notion of autonomous criteria of interpretation is known as "Engel criterion".

There are several criteria that the Court uses to assess whether or not a criminal charge is pending, the definition under domestic legislation, the nature of the offense and the severity of the penalty. I will briefly address each of them. If the internal legal system qualifies the offense as a criminal offense then this consideration is fundamental and the Court will qualify it as a criminal offense without an extended review of its characteristics. But if the internal law is not clear in the designation as a criminal case but as a disciplinary or civil case, this designation is not determinative regarding the determination according to the Convention. The court clarified that the definition of the offense according to the domestic legislation has only a formal and relative value and serves only as the starting point of its analysis. The Court held this position because if it were to proceed only with the definition of the offense under domestic law, a State could avoid its obligations under Article 6 simply by re-qualifying the offense in its penal code or administrative. The second criterion is related to the nature of the violation. Thus, the Court will analyze the purpose of the internal provision as well as the measure it provides. If the provision applies only to a certain group of people, in many cases The court will conclude that the sanction should have a disciplinary character and not a criminal one. On the contrary, if the provision finds a general application, it can be considered a criminal one.

And to reach the final assessment, the Court attaches special importance to the nature and severity of the punishment. In the case of Ezeh and Connors, the Grand Chamber, like the Chamber, held that even a prison sentence of 40 days for the first applicant and 7 days for the second applicant was sufficient for the measure against them to be considered to be of a criminal nature In the case of Bendenoun v. France, the Court decided that the offenses for which heavy fines were provided for tax evasion were of a "criminal" character because they provided for harsh penalties that amounted to imprisonment for non-payment. of fines. According to the Court, the second and third Engel criteria are alternative and not cumulative. It clarifies that "for Article 6 to apply, it is enough that the offense in question, due to its nature, is considered "criminal" from the point of view of the Convention, or that due to the commission of this offense, the person responsible can be punished with a sanction which, by nature and degree of severity, generally belongs to the 'criminal' sphere.

Institutional Guarantees

In order for the purpose of Article 6 to take effect and achieve the protection of fundamental rights and obligations, the Strasbourg Court has developed several elements:

- access to court
- the binding force of court decisions
- timely execution of final decisions.

Freedoms and rights would remain abstract if the right of access to court and the restoration of justice in the country were not recognized and respected. The court, referring to the principle of the rule of law, has interpreted article 6/1 including the right to go to court. Any restriction on this right must follow a legitimate aim and the means used must be proportionate with this aim.

Court established by law

In light of the principle of the rule of law, referring to the Convention, a court must be established by law. This is necessary to protect the judiciary from any unjust and illegal influence. The expression "established by law" defines not only the basis legal for the establishment of courts, but also for respecting the special rules that regulate its organization and operation. When the law itself dictates the composition of a court, non-compliance with the conditions of this law will lead to the finding of a violation of the condition that a court to be established by law. The Court in Guðmundur Andri Ástráðsson v. Iceland redefined the concept of "law". It includes legislation providing for the

establishment and competence of judicial bodies and any other provision of domestic law. While the term "established by law" includes the legal basis for the very existence of a court. It also includes the way the courts operate in accordance with the applicable legislation. In the same case mentioned above, it is also clarified that the violation must be flagrant to not achieve the fulfillment of the standard of Article 6/1 and one of the elements of this violation it is the violation of the law by one of the powers, especially the executive.

Independence and impartiality of courts

The right to a fair trial according to Article 6/1 requires that a case be examined by an independent and impartial court, therefore the two notions are closely related to each other. Referring to the Court's jurisprudence and practice, the courts must be independent both from the parties and from the authorities. The independence of the courts is a very important principle, which consists in the fact that every judge must be independent in giving a decision and obey only the law. Therefore, the justice administration system, a concept that I have mentioned above, must offer some kind of guarantee so that judges can be sure to exercise their duty calmly and without being influenced by the parties, colleagues or any other authority as in the judicial system as well as outside it. Thus the Court found a violation in the case of Sovransavto Holding v. Ukraine when the President of Ukraine had written to the Supreme Court of Arbitration and asked it to protect the interests of Ukrainian citizens against those of the Russian company that had filed a complaint. In the absence of the aforementioned guarantees, the Court can assess that the claims of the applicants for violation of the independence or impartiality of a court are justified. Impartiality is also an essential principle in a democratic society that is governed by the rule of law, so that citizens especially the parties involved in court proceedings to have faith in these courts and eventually in receiving justice. Thus, the Court has emphasized that "justice must not only be given, but it must also be seen that it has been given" To determine the impartiality of local courts, The court uses two tests, objective and subjective. What is analyzed in the objective test is that despite the judge's personal attitude and conviction, there are facts that raise doubts about his impartiality. This is the most easily identifiable and provable test compared to subjective. In the Hauschildt v. Denmark case, the Court found a violation of Article 6 when the judge in the case had previously ordered the conditional detention of the accused on the grounds that there was a confirmed suspicion that the applicant had committed a crime. The court ruled that the fact that a judge has made previous decisions regarding security measures leads to a

"legitimate doubt" about his impartiality in the absence of "special circumstances". The impartiality of the judge is presumed until proven otherwise. In the case of De Cubber v. Belgium, the court found a violation of Article 6 as it was unacceptable for a judge of preliminary investigations to be the judge conducting the judicial process. In the claims of the applicant the judge had shown some kind of hostility or, driven by some reasons of a personal nature, had acted in such a way that a certain case was given to him for judgment. But there have also been cases when the fact that a judge has previously participated in the trial of some cases against the co-accused of an applicant is not in itself sufficient to cast doubt on the impartiality of this judge in the trial of the case against the applicant. another case appears in the decision Berhani v. Albania, the Court accepted the Government's argument that there had been no violation of impartiality when two of the three judges who decided on the merits in the applicant's case had previously rejected his request for non-compliance with the deadlines.

Reasonable term

In a significant number of cases examined by the ECtHR, there have been allegations of violation of the right to a due process within a reasonable time. Paragraph 1 of Article 6 of the Convention expressly provides that a fair trial requires judicial proceedings to take place "within a reasonable time" and this requirement shows the importance attached to the good administration of justice. Prolonged delays or exceeding legal deadlines would lead to jeopardizing the effectiveness of the justice system even in the denial of justice. The saying "Justice delayed, justice absent" applies. The length of the proceedings is one of the problems with which the Court had to deal more in Strasbourg. The length of the proceedings civil proceedings start from the date of initiation of the process and for criminal proceedings from the date of the accusation. The guarantee of speedy trial in criminal proceedings is related to the right to liberty, to the summary of innocence and to the right to defend oneself. The reasonable nature of the duration of the proceedings depends on the special circumstances of the concrete case, whether it is of a criminal nature or not. Therefore, the Court has not defined a preclusion period, but it is based on a number of criteria in assessing the duration of the process, such as the nature of the facts, the complexity of the case, the behavior of the applicant, the behavior of the authorities, the number of actors involved in the process. Regarding the behavior of the authorities, the Court considers that the State is responsible for all delays caused by an administrative or judicial authority. It is the obligation of the latter to organize their legal systems to

guarantee the completion of processes within a reasonable time. The court rejected the government's arguments that insufficient personnel or general administrative deficiencies constitute sufficient justification for not respecting the fulfillment of this standard.

Presumption of innocence

Article 6/2 of the Convention sanctions the right to be presumed innocent where the accused of committing a criminal offense has the right to be presumed innocent (principle In dubio pro reo). This presumption is based on what is called the "Blackstone Ratio", which is the idea that "It is better for ten guilty people to escape than for one innocent person to suffer". The ECtHR has examined issues related to three aspects of this right. The first aspect is the fact that the burden of proof is on the accused. The second aspect stipulates that government authorities or the media are prohibited from making public statements about the guilt of an individual before the final decision. Specifically, the Court found a violation when the speaker of the parliament publicly declared a government minister accused of a criminal offense guilty. As for the third aspect, post-trial proceedings cannot be used as debate forums to imply the criminal guilt of an individual who has been declared innocent or the evidence against him has been dropped. In this case the Court has found a violation when the domestic courts have refused to give compensation for the time spent under arrest of individuals who had been declared innocent on the grounds that there remained suspicions that the individuals were guilty of the offenses in question. Equality of means and the right to be aware of the facts and arguments of the opposing party and vice versa. Everyone who is a party to the proceedings should have an equal opportunity to present his case and that no party should enjoy any significant advantage over the opponent. The court found a violation of this principle in the case where a local court based its judgment on documentation and evidence that one of the parties was not aware of. Also, when one of the parties was denied access to the relevant documents that were included in the case file. The right to a fair hearing also includes the notion that both parties in a process have the right to have information about the facts and arguments of the opposing party, which means in principle the possibility for the parties in a civil or criminal hearing to have knowledge as well on comments on evidence taken or investigations filed. In Foucher v. France the Court held that when the defendant who wished to be represented was denied access by the prosecutor of the case and was not allowed copies of the documents contained in the case, he was therefore not in able to prepare an appropriate defense, this resulted in a violation of the principle of equality of means, interpreted together with

Article 6 (3). The European Court noted that the right to disclosure of relevant evidence is not an absolute right and that there may be competing interests such as the protection of witnesses or the secrecy of police methods of crime investigation. However, the only measures that limit the rights of defense that are permissible under Article 6 are those that are strictly necessary. The principle of equality of arms or adversariality has to with the aim of strengthening the confidence of the parties in court proceedings in order to provide justice, so that they can ensure a proper defense to ensure their interests and to guarantee the right to be familiar with every part of the court file.

Rights of the accused

Article 6/3 sanctions that every accused has the right:

a) to be informed within the shortest possible time, in a language he understands and in detail, about the nature and cause of the accusation against him;
b) to be given adequate time and facilities for the preparation of the defense;
c) to defend himself or to be assisted by a defender chosen by him, or if he does not have sufficient means to pay the defender, to be provided with free legal aid when the interests of justice require it;
d) to question or request that the witnesses of the prosecution be questioned and have the right to call and question the witnesses in his favor, under the same conditions as the witnesses of the prosecution;
e) to be assisted free of charge by an interpreter if he does not understand or speak the language used in court.

Regarding point three of this article, the Court has emphasized that this article begins with a general sanction and then specifies the rights of the accused, with great importance since non-compliance with minimum guarantees may result in the failure of the criminal process. For example, in the case of Brozicek v. Italy, the accused was a German citizen and expressed difficulties in understanding the language of the domestic court. The court stated that the Italian authorities should have carried out the translation of the notice and found a violation of point 3/a of Article 6. for point b of the article, a key role of the trial judge emerges to establish a balance between giving the accused the necessary time to prepare the defense and the element of completing the trials within a reasonable time. Related to this is the following point c, the right to self-defense or by a defender, for legal

assistance. The court has stated that the right to provide legal assistance free of charge when the interests of justice require it is not an alternative to the right to defend yourself, but one of independent right. The determination of the interests of justice is done through criteria such as the nature of the charges against the applicant and the need to develop arguments and defenses for the case. In the case of granting legal assistance by the State to those accused of a criminal offense, it cannot withdraw the grant of this assistance before the final decision at the highest judicial level.

Reasoning of court decisions

Again, the provision imposes another obligation, that of the reasoning of decisions by the courts. This is very important as the finalization of a process for the delivery of justice and for the parties. A reasoned decision shows the parties that their case has been heard by contributing to an acceptance of the decision. In addition, the reasoning of the decision forces the judge to support his reasoning in objective arguments and preserves the rights of the defense. The lack of reasoning can lead to the loss of trust of the parties and to abuses by the main actors in the justice system. has the obligation to examine in the most exhaustive and effective manner the claims, arguments and evidence presented by all parties. Another important fact in terms of reasoning is that only through a reasoned decision will the parties be able to appeal the relevant decision , and if the decision is not justified or justified at a late time, the party interested in filing the appeal would lose the right to appeal and restore a claimed right. The provision requires that legal aid be efficient and the state can be responsible in cases where the lawyer does not adequately defend the accused. This right can be considered violated and in cases where an accused is not allowed to consult a lawyer while detained by the police.

Methodology

This paper aims to examine and reflect in a more complete way Article 6 of the European Convention on Human Rights regarding due process. The purpose of the topic is to explain the elements of this provision and terms such as: civil rights and obligations, criminal charge, reasonable term, court established by law, independent and impartial, etc**.**Tema që kam zgjedhur të punoj është një temë shumë aktuale dhe reflektohet në numrin e lartë të çështjeve të ngritura në GJEDNJ dhe të shqyrtuara prej saj, e përsëri appears to be quite complex and requires different methods to be used for its study in order to extract its essence. I combined the theoretical treatment, the empirical one, with the extended analysis and interpretation of the provision and especially of the practice of the Court,

examining various decisions regarding the violations that the latter has found in relation to the article object of the work. The scientific research methods I used in this paper are:

- In-depth analysis of the doctrine
- The method of analysis and interpretation of judicial practice
- In-depth analysis of the legislation
- Descriptive method
- Comparative method

This study is guided by the research questions that come in handy and direct the entire work plan to achieve a more accurate and clear reflection of the issues referred to in the paper:

1) What does the regular legal process mean and include?
2) What are the elements of a regular legal process?
3) What is the meaning of reasonable time guarantee?
4) What value and effect does the guarantee of due process represent?
5) What responsibility do judges have in terms of respecting this provision?

Conclusions and recommendations

The right to a regular legal process is one of the rights provided for in the European Convention but also in the Constitution of Albania and is related to all the guarantees that the parties have during a trial to respect the main principles. Fair judgment is a very complex notion that includes many elements that the Court has consolidated in its jurisprudence, which I analyzed throughout the paper. The principles of a fair trial are followed and protected by a series of laws and many practices that are adapted to different circumstances and situations. As it appears during the work, this right represents a fundamental importance for the system of individual rights, the good administration of justice and legal certainty. . On the one hand, this constitutional right is presented as a guarantee for citizens against the unjust actions of state authorities and, on the other hand, it constitutes an obligation for these in order not to infringe on the rights and freedoms of citizens without ensuring the respect of regular legal procedures. European Law or Acquis Communuautaire is built on the respect and application of principles and provisions and for this reason the ECHR has an essential role in the interpretation and application of the latter. Important principles that Article 6 enshrines the right to be tried within a reasonable time, by a court established by law, the presumption of

innocence, etc. represent a substantial aspect of preserving democracy, creating public trust in the justice system and itself delivering justice at the end of court proceedings.

In addition to the improvement of court infrastructures and the development of an expanded practice, challenges and difficulties are still encountered in the fair and proper application of the provisions. Competent organizations that are important actors in judicial processes have the responsibility and obligation to respect the rights, especially those that Article 6 of the ECHR provides. has reviewed the requirements of the regular legal process. Even Article 42 of our Constitution clearly distinguishes the main elements of this process, and in a considerable number of cases it is alleged that at least one of them has been violated. The reasonable deadline is encountered very often in the claims of the applicants and the extension of the deadlines does not protect the interests of the latter and is not at all effective. The postponement of the deadlines, especially in our country, has come as a result of several causes, one of them being the application of the reform in justice, which created vacancies in the number of judges, making it impossible to review cases in time by those who are still in the system. It should be noted that some of the elements of this article are related to each other and the violation of one of the rights will result in a violation of another right. For example, if an accused is denied the right to information in the language he understands and, in more detail, the latter will not be able to make a proper defense during the process.

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The Electronic Procurement System and its improvement, a challenge in the development of investments and public procurement

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Abstract

The public Procurement Commission is the highest administrative body in the field of public procurement, which examines complaints and issues decisions, regarding the manner of conducting procurement procedures and the announcement of the winner as well as the legal procedure selected by the Contracting Authority, referring to the value of the limit fund of the public contract. Also the PPC during its decision-making issues general rules, as well as interprets the legal principles, which must be respected during the procurement procedures. This presentation has addressed the competence and value given by the law, recent legal changes as well as judicial practice, to the Public Procurement Commission and its decisions. The purpose of this presentation is to deal with the role of tha Public Procurement Commission as well as judicial practice regarding the review of the validity and consequences of its decisions, during procurement procedures. The law has considered the PPC as "quasi-judicial" and the recent legal changes have increased its powers as the Commission is not limited only to the review of complaints and decision-making in the period before the conclusion of the contract, taking a judiciary role in this process. For the realization of this work where considered the law and legal changes, the "quasi-judicial" practice of the decisions of the PPC, as well as the judicial practice. Also for the realization of this work, the procurement procedures of the General Directorate of Nurseries and Kindergartens, Municipality of Tirana during the 3-year period 2020-2022 have been reviewed. Based on the study of legal Changes referring to the role given to the PPC, which after the conclusion of the contract, when is considered by PPC that the decision or action of the Contracting Authority contradicts a legal provision, has the right to declare absolute invalidity of the contract, a question arises: If this competence, which the law given to the PPC, contradicts the principle of separation of powers, given that the examination of the invalidity of contract is under the jurisdiction of the judicial power?

***Keywords**: Procurement, procedure, contract, appeal, review.*

Introduction

Public administration institutions have responsibility and competence for the development of investments, public services and social services of the community. The Contracting Authorities, before the development of the procurement procedures, take measures for planning the needs for goods and services, as well as for the monetary funds necessary for these procedures. These funds are approved from the state budget. Referring to the rules of public procurement, the main principles of law, the needs of the institution, and the legal deadlines provided for the development of procurement procedures, take measures for the realization of public procurements on time, without creating delays in meeting the needs of the institution. This is because the delays caused in the finalization of a procurement procedure would cause negative consequences in the activity of public institutions and the realization of community service. Public institutions, from the moment of creating the register of public procurement forecasts, in addition to forecasting the value of the public contract, also forecast and publish the time period determined for the finalization of the procedure and the conclusion of the contract.

Review of complaints and decision-making by the Public Procurement Commission

After the announcement of the winner, the Economic Operators have the right to complain, addressed first to the Institution, which developed the procedure, and then to the Public Procurement Commission, whose decision is final, in terms of administrative review. From the conducted study, in the practices of published PPC decisions, it appears that, in all studied cases, the Contracting Authorities have implemented these decisions and have not opposed them. Consequently, the Contracting Authority, in implementation of the decision of the PPC, has continued with the next steps of the procurement procedure, announcing the announcement of the winner in the Electronic Procurement System, and notifying the PPC regarding the implementation of its decision, as the competent body higher, which examines complaints of procurement procedures. In the following, the institution took the necessary measures to sign the contract with the EO announced as the winner according to the decision of the PPC.

Article 24 of Law No. 162/2020 "On Public Procurement", provides:

"...The Public Procurement Commission makes decisions on the complaints submitted to it, keeping

in mind, in addition to the general principles mentioned in Article 2 of this law, the following principles: impartiality in the examination of complaints, stability in decision-making, legality , speed and efficiency, access, public character, as well as the principle of contradiction".

In view of these legal provisions and referring to the decision of PPC[61], where it is quoted: "The PPC is foreseen by the law as a quasi-court. As such, in its decision-making, the Public Procurement Commission applies the main principles of law. One of them is the legal principle which emphasizes the fact that the court decides on the basis of accusations (claims) and evidence. The Public Procurement Commission refuses to put itself in the position of the appellant's lawyer and invest in an appeal which is not based on any argument, but only on hypothetical claims and unreasonable doubts", the institutions are obliged to correctly implement all decisions, that have been received by this commission, they cannot even continue with the signing of the contract, if the matter is being considered in the PPC.

However, in cases where the public institution or competing economic operators do not agree with the decision of the PPC, they have the right to refer to the judicial jurisdiction. If a contract is concluded during the period when the case is being examined by the PPC, this contract is considered absolutely invalid.

Judicial review for the annulment of the decisions of the Public Procurement Commission and the suspension of the conclusion of the contract

Competing Economic Operators in the case, when they do not agree with the decisions of the PPC, have the right to address the court with a request for the annulment of the decision of the Public Procurement Commission, as well as the suspension of the conclusion of the public contract. In some cases, the parties require only the insurance of the lawsuit, the suspension of the conclusion of the contract. The judicial practice in the reviewed cases rejected the request for suspension of the conclusion of the contract, as it argued that the public interest and the normal functioning of the institutions that procured goods or services are harmed. In the Law "On administrative courts and adjudication of administrative disputes"[62], it is quoted: "Conditions for claim insurance

The court decides the insurance of the claim, if the following conditions are met:

[61] Decision of PPC no. 655/2018 dated 04.10.2018

[62] In Article 29, letter b, of Law No. 49/2012 "On administrative courts and adjudication of administrative disputes"

a) there is a reasonable suspicion, based on documents, of the possibility of causing a serious, irreversible and immediate damage to the plaintiff
b) the public interest is not seriously harmed.

Under these conditions, the court has assessed that the suspension of the signing of the contract of the new competitive procedure would seriously harm the public interest. Regarding the above, the principle of not seriously harming the public interest prevails over any other interest. Meanwhile, the economic operator has not managed to prove before the court that by following the procedure of procurement and signing the contract, his legal interests are violated, as a serious, irreversible and immediate damage is caused to him. His request to the court simply brings delays and damage to the public interests of the institution. In some cases, the demands and complaints of economic operators are without legal support and this is the reason that the latest legal changes have provided that for every complaint addressed to the Contracting Authority or PPC, a certain percentage of the value of the public contract that is procured must be paid. This legal change has come as a necessity, to select complaints without legal support and without real legitimate interest of economic operators. Complaints addressed to the PPC must be based on the law and on the legitimate interest of the economic operator, who really claims, through the court, to legally protect his rights.
The Constitutional Court has reasoned[63] that: "*The suspension of the administrative act as a judicial procedural action is conditioned by a number of elements... in summary these elements are: the filing of a lawsuit for the annulment of the administrative act, the administrative act must be the subject of review in the reference of articles 324-326 of the Code of Civil Procedure*". According to this decision, the suspension of the conclusion of the public contract cannot be judicially requested, as long as the annulment of the decision of the Public Procurement Commission has not been requested by the party.

Under the spirit of this reasoning, the United Colleges of the Supreme Court[64], have unified the judicial practice: "*...the request for opposition in court of an administrative act does not have the features of a genuine civil lawsuit, therefore the suspension of the implementation of the administrative act by the court, when the law allows it , should not be considered as a temporary*

[63] According to Decision no. 32 dated 24.11.2003
[64] According to Decision no. 10, dated 24.03.2004

measure to secure the claim". In this decision, it is also reasoned: "The court should not base the decision to take a temporary measure to ensure the lawsuit in facts or actions, as well as in their legal setting, which are related to the examination and resolution of the case in substance. Also, the examination of the request for taking the measure of insurance of the lawsuit must be handled in such a way, to avoid any kind of perception according to which the court has prejudiced the solution of the case on the merits or is not impartial in the trial...the court case depending on the case, it has the discretion to establish a measure of the nature of the insurance of the claim, which it deems appropriate and useful to protect the rights of the plaintiff, but without jeopardizing the protection of the legal rights and interests of the defendants". Referring to this decision, the court reasoned that the suspension of the conclusion of the contract (or the suspension of its implementation) seriously harms the public interest, bringing consequences of the dysfunction of the procuring institution, as well as a negative social impact on the public interest.

Also, the Administrative College of the Supreme Court[65], reasoned that: "*...the suspension of the execution of the administrative act can be obtained by the Court during the examination of the claim, in a court session and not with a claim insurance claim...".* We emphasize that, from the study of the decisions of the Public Procurement Commission for the year 2020-2021, it results that, after the review of complaints by the PPC (as the highest administrative institution for the review of complaints), the contract was signed, which has started the legal consequences, for this reason, the request to the court for lawsuit insurance is no longer valid. Also in Article 121 point 2 of Law No. 162/2020 "On Public Procurement" as amended, it is cited: *"Complaining to the court. The appeal to the court does not suspend the competitive procedures, the conclusion of the contract or the execution of the obligations between the parties".*

As above, referring to the specific nature of procurements, the spirit of the legislator is not to suspend the conclusion of the contract, the competitive procurement procedure, but to continue with the further steps of this procedure, always in the function of protecting the highest interests public as well as meeting the needs of the institution. Public institutions take all measures to finalize the procurement procedure and conclude the contract with the winning EO, in accordance with the decision of the PPC, in order to continue the supply of goods and services, in fulfillment of the

[65] According to Decision no. 335, dated 29.04.2014

mission and institutional competences. It is worth noting that the claims of the appellants mainly refer to the request for disqualification of the winning qualified Economic Operators, who submitted an offer with a lower value than the appellant. In this case, public funds were saved and well managed by the institution, that the offer with the lowest value was declared the winner. As above, referring to Article 87 of Law no. 162/2020 "On public procurement" as amended, where it is quoted: "*The winning bid must be: a) the bid that, based on the requirements and criteria defined in the tender documents, meets the requirements of the procurement facility with the lowest price ...",* the bids announced as winners by the institutions, as bids that meet the criteria and have the lowest price, bring efficiency and transparency in the use of public funds.

It is the law "For Public Procurement" no. 162/2020, which has sanctioned the obligation to respect competition between economic operators. In its article 1 "Object and purpose", point 2/ç is written: *"To promote competition between economic operators", while in point d it is provided: "To ensure an equal and non-discriminatory treatment for all economic operators, participating in the procedures of procurement".*

Disposition by decision of the PPC on declaring public contracts absolutely invalid

The Public Procurement Commission extends its decision-making powers and effects even after the contract conclusion period. The powers of the Public Procurement Commission do not end with the phase of examining complaints and announcing the winner. This is because the recent legal changes in the public procurement sector have provided that the KKP can issue a decision on the invalidity of the contract, when it judges that the actions or decisions of the Contracting Authority are contrary to the legal provisions. The jurisdiction of examining the validity and invalidity of the contract before the legal changes of the procurement belonged to the court. The procurement procedure ended with the notification of the winner, in the electronic procurement system, and the contract conclusion phase was subject to the regulations determined by the provisions of the Civil Code, like all civil contracts. Referring to the legal changes, the PPC also has the authority, referring to its judgment, the examination of evidence and facts according to the principle of contradiction, to order the Contracting Authority to shorten the duration of the contract, as well as to request its premature termination.

Referring to the principles of law, as well as the legal provisions of the Civil Code, the examination of the invalidity of contracts and the resolution of the consequences, which this contract has effected,

is the competence of the judicial power. Only the court, referring to the requests of the interested parties, can issue a decision regarding the invalidity of the contract. Also, PPC is considered as the highest administrative body in relation to the handling of complaints of public procurement procedures. So his administrative competence seems to violate the judicial competence of the judicial examination of the invalidity of the public contract. Referring to the law, the contract may or may not be declared invalid, when the PPC, after examining all aspects of the contract, considers that declaring this contract invalid, may harm essential issues of general interest, while an absolutely invalid contract does not have the effect no legal consequences and cannot be made valid for any reason. Therefore, the competence of examining the elements of validity and invalidity, after the period of conclusion of the contract, belongs to the PPC. Referring to the provisions of the Civil Code, an absolutely invalid contract is null and void as if it had never existed and the fact that the legal changes determine that this contract may or may not be declared invalid by the Civil Code, contradicts the principles governing validity and invalidity of legal actions, as well as their consequences.

The decisions taken by the PPC according to Article 30 of Law 162/2020 "On Public Procurement", are administratively final and they can be appealed to the Administrative Court of Appeal. The decisions of the PPC, for the effect of the law, are "quasi-judicial" and they, in addition to the parties in the process, become known to other interested subjects, who are affected by these decisions, after they are published. Referred to above for the effect of the law, the decisions of the PPC are administratively final, while the examination of the elements of the validity of contracts is a judicial competence, exceeding the administrative powers of the PPC. However, the competences given by the PPC law for examining the elements of invalidity of the public contract, are only related to the procedural implementation and the deadlines, or procedural obligations, provided by the public procurement law. PPC can declare a contract invalid, when it was signed without first publishing, in the electronic procurement system, the announcement of the contract notice, or when the legal provisions and deadlines for handling complaints were not respected. The contract can be declared invalid even when it was signed without respecting the decision of the PPC and its obligations.

Conclusions

Referring to the specific nature of Procurement, the spirit of the law and the reasoning of the Supreme Court and the Constitutional Court, is not to suspend the conclusion of the contract of the competitive

procurement procedure, but referring to the decision of the PPC, the continuation with the further steps of this procedure, always in function of protecting the highest public interests, as well as meeting the needs of the Institution. The decision of the PPC is considered by the law as "quasi-judicial", and it can only be contested in the Administrative Court of Appeal. Recent legal changes have expanded the powers of the PPC, in terms of examining the elements of validity and invalidity of the public contract, also determining the fate of its duration. These powers, which the PPC receives from the law, exceed the administrative powers, interfering with the judicial powers.

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Embracing the new economic prospects: Remote working and the future of the employees

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Abstract

The move toward remote work has had a significant impact on organizations and is expected to change the nature of employment in the future. The COVID-19 pandemic, technological improvements, and shifting perceptions of conventional office settings have all contributed to this transformation. Working remotely is no longer an exception or a luxury, but rather a requirement. Remote work has had a significant impact on businesses and employees. It has several advantages, including giving employees' greater freedom and control over their life, increased productivity, flexibility, cost savings and diversity. Additionally, it gives businesses access to a wide range of talent and has the potential to boost production and reduce costs. As we look to the future, remote work is not simply a band-aid solution but also a desirable choice that can help companies and their workforces in the long run. However, there are some difficulties. Strong self-discipline, time management abilities, and a dependable internet connection are required for effective remote work. In a remote situation, maintaining open lines of communication and teamwork might be more challenging. In conclusion, remote work has transformed how we think about finding job, providing both opportunities and challenges. The parameters of remote work are expected to change as technology develops, necessitating organizational and individual adaptation to this new reality. Change is often tough, but it can also be very rewarding.

Key word: *Remote work, employee, business, production, costs.*

Introduction

Remote work, commonly known as telecommuting or telework, has emerged as a key aspect of the modern workplace, especially in the aftermath of the COVID-19 pandemic. Working remotely, on the other hand, has a fascinating historical trajectory that predates the digital age. The origins of remote work may be traced back to the late nineteenth and early twentieth century, when

telecommuting, albeit in a primitive form, was introduced. The invention of the telegraph in the 1830s enabled certain workers to transmit messages from a remote place, enabling a type of remote labor. The practical implementation of remote work required technological advancements that would allow for efficient communication and collaboration across distances. It wasn't until the late 1980s and early 1990s that remote work started to become more feasible as personal computers, the internet, and email communication became more accessible and reliable. Companies like IBM and AT&T began experimenting with telecommuting programs during this era.

Companies began to accept remote work as a feasible framework for the first time when technology and computing began to connect online users worldwide. The rise of cell phones boosted the idea even more as businesses and entrepreneurs conducted transactions from their homes, golf courses, restaurants, and anywhere else they could get a signal. With the emergence of high-speed internet, cloud computing, and mobile technologies in the twenty-first century, there was a digital revolution. These developments broadened the scope of remote work, making it a feasible alternative for a broader number of sectors and job categories. The rise of coworking spaces, which provided remote workers with on-demand access to office-like facilities, aided the remote work trend even further.

Remote employment has evolved over time, especially during the COVID-19 epidemic. Businesses were obliged to employ remote work on an unprecedented scale as a result of the worldwide health crisis. This experience prompted a rethinking of traditional work arrangements, as businesses saw the benefits of flexibility and remote work for both individuals and the organization itself (Wang, B.; Liu, Y.; Qian, J. and Parker, Sh. K. (2021).. When the epidemic prompted government lockdowns in 2020, thousands of businesses who had yet to embrace the model hurried to investigate remote possibilities. The impact was felt immediately in the hospitality and client-facing industries, but organizations that already used remote work were unfazed by this newly imposed reality.

The implementation of remote work had a significant effect on employees' personal lives as well as company performance. Employees who telecommuted were able to better balance their personal and professional lives by cutting down on the time and stress of commuting. It also gave those living in remote areas or with disabilities the chance to engage in the workforce. However, there were drawbacks to telecommuting as well, like social isolation, a blurring of professional and personal boundaries, and difficulties managing distant workers.

The advantages were clear in terms of business. Costs were reduced as a result of the need for less

office space, and employee productivity rose and absenteeism dropped when working remotely. For instance, 2013 Stanford University research revealed that remote workers were 13% more productive.

Literature review

The rise in remote working and virtual teams appears to be the most likely to be sustained long term of all the adjustments requested. Many people have regarded it as a massive forced 'experiment' in homeworking. In some respects, organizations were poised to make the transition as technologies to allow remote working became more established in previous years, but despite a general increase, many employers were hesitant to accept it. Indeed, as CEO of Yahoo! in 2013, Marissa Mayer famously reversed the trend, asking that all WFH arrangements be terminated. (Smith 2013). The March 2020 lockdowns unambiguously pushed the issue. In the United States, the proportion of working days spent at home grew from roughly 5% before the pandemic to 50% during the lockdown, and survey data predicts that this will only reduce to 20% after the epidemic (Barrero, Bloom, and Davis 2021). According to Bloom (2021), with pre-pandemic rates of homeworking doubling every 12 years, a move to 20% would amount to over 25 years' worth of change in a 2-year period. According to a UK survey, the majority of businesses expect hybrid working to become the norm: for example, 40% of employers expect more than half of their personnel to work regularly from home, compared to 15% pre-pandemic (Brinkley et al. 2020).

Several factors could explain why the temporary requirements of lockdown could lead to more lasting transformation. On a practical level, advances in technology have facilitated remote working and will likely facilitate it even more, and the upfront investments required to set people up to work from home (in time, technology, and furniture) have already been made (Barrero, Bloom, and Davis 2021). According to Felstead (2022), the organizations that adapted to remote working the best during the pandemic were those with superior management techniques, such as focusing on objectives rather than micromanaging inputs. Similarly, a recent qualitative study published in HRDI discovered that HR practitioners and general managers saw people managers as playing a vital role in supporting efficient remote working, emphasizing the significance of developing people management skill (Delany 2021).

The effect of remote world on personal and professional life

The effect of remote work on mental health is a complicated interplay of several components. While eliminating commuting and increasing flexibility can reduce stress, a lack of social interaction and the obligation to always be present online can lead to greater stress and anxiety. Individuals and organizations must understand and address the mental health issues related with remote employment. Remote work can have a big impact on professional advancement. On the one hand, it may provide individuals with opportunity to work for firms located far from their geographical location. Remote employees, on the other hand, may experience difficulties networking and establishing themselves inside their firms. Maintaining a clear career path in a remote work context may necessitate proactive efforts, strong communication, and flexibility. Working from home has numerous advantages for employees and helps them lead more fulfilling and balanced lives at work. Remote work has the ability to create a more positive and flexible work environment, with benefits including improved work-life balance, increased productivity, job satisfaction, and improved well-being. Organizations should be aware of and take use of these advantages as remote work continues to influence the modern workforce in order to attract and keep top talent while developing a happier and more effective workforce (Tejero, L.M.S.; Seva, R.R. and Fadrilan-Camacho V. F. F. (2021).

Improved Work-Life Balance

Many remote jobs also have flexible timetables, which means that employees can start and stop their days whenever they like, as long as their work is completed and results in positive consequences. When it comes to attending to the requirements of your personal life, having control over your work schedule can be beneficial.

Increased Productivity and Innovation

Remote employees have been demonstrated in studies to be more productive and innovative. Remote workers frequently report fewer distractions and a greater sense of control over their job. This increased focus and flexibility leads to improved problem-solving and innovation. Companies that encourage and facilitate remote work create new opportunities for growth and adaptation.

Better Mental and Physical Health

The physical and mental wellbeing of employees can benefit from remote employment. Better physical well-being is a result of decreased stress from commuting, better sleep habits, and more time for physical activity during breaks. Additionally, workers can make their home offices more

comfortable, which can enhance their mental health. Reduced office politics and the ability to tailor one's workplace can lower stress and boost job satisfaction.

Cost savings

It can be pricey to commute. Travel expenses, parking fees, meals, coffee breaks, birthday cakes, gifts for coworkers, work attire, and on and on it goes. Even as a benefit, some businesses provide clothing or refreshments. These costs, which can build up, are reduced while working remotely. This increases the amount of disposable cash that may be used for other purposes, which is always beneficial. Remote work allows parents to spend more time at home, which can help cut down on childcare costs

Location

Employees can work from any location, which is another advantage of working remotely. People are free to leave a place if it doesn't meet their standards or preferences, which reduces the need for meaningless travel. Remote working enables partners to keep their jobs or at least smooth the transition if a partner must be based or assigned in a specific place. Living at the top of a mountain or close to the ocean is irrelevant when working remotely. Work from anywhere in the globe as long as you have a strong internet connection.

The benefits of remote working for employers

Employers can gain from working remotely in a variety of attractive ways. The benefits of this flexible work arrangement are highlighted by increased employee productivity, significant cost savings, a larger talent pool, and contributions to environmental sustainability. Employers who support remote work are well-positioned to take advantage of these advantages while adjusting to the shifting dynamics of the modern workforce. Organizations should proactively include remote working into their operational models as it develops and becomes more popular. They can increase productivity, cut expenses, recruit and keep top people, and work toward a more sustainable future by doing this, which will ultimately ensure their competitiveness and long-term success in a dynamic and always changing business environment. Organizations might want to adopt a remote work policy for many good reasons, including economic, social, and environmental ones (Delbridge, R. & Sallaz, J. J. (2015)).

Increased cost-efficiency

One of the most significant benefits of remote work for business managers is its low cost. Businesses can save a significant amount of money by allowing employees to work from home because there is no need to rent or maintain office space. Given the rising cost of energy, this is expected to become an increasingly relevant factor in the future. Employers can also save on various overheads, including office supplies, maintenance, and cleaning services.

Greater employee satisfaction

Another advantage of remote work is that it might boost employee satisfaction. This is due to the fact that the opportunity to work from home generally gives employees with a better work-life balance, which can lead to higher job satisfaction and motivation.Employees who are satisfied with their positions are less likely to leave, which minimizes staff turnover and associated costs. They can adjust their work to their peak productivity times since they have the freedom to manage their work environment and hours. Employees who are happy and satisfied with their jobs are also less likely to take time off sick

Better talent retention

Remote employment can help firms retain their existing talent as well as attract new talent. This is because employees who have the opportunity to work from home are less inclined to abandon their positions in search of greener pastures, as previously stated. As a result, remote work increases company loyalty while also saving firms money on the costs of recruiting and training new staff.

A larger application quantity

Businesses can cast a broader net when recruiting new staff when remote employment is a possibility. They may now access a global talent pool because they are no longer limited to local prospects.This increases their chances of identifying the best possible candidates for the position, thus enhancing workforce quality.

Business Growth

Remote work has the potential to drastically reduce overhead costs associated with office space, utilities, and maintenance. As a result, organizations can allocate resources more wisely, reinvesting savings in expansion, research and development, or employee benefits. Because remote work is less expensive, more money may be invested in expanding operations, acquiring new clients, and developing novel products and services.

Unlocking Geographic Opportunities

Remote work has broken down geographical barriers, allowing businesses to tap into a broad talent

pool that is no longer limited by proximity to the office. Organizations can now hire qualified professionals from different areas and time zones, promoting diversity and innovation. Companies that embrace remote work can boost their workforce's collective intelligence and creativity, resulting in economic growth through enhanced competitiveness.

Remote work by companies

Working from home remains a popular option for employees, even as firms try to entice them back to the office. According to a recent Microsoft poll of 31,102 workers worldwide conducted between January and February, 52% of people are considering transitioning to a full-time remote or hybrid job this year, just as more organizations announce return-to-office requirements. Many companies had adopted work-from-home (WFH) policies due to the COVID-19 pandemic, here are top 10 companies that were known for embracing remote work:

Amazon

Amazon is a global e-commerce and technology company. During the epidemic, Amazon reported great financial performance as internet purchasing and demand for their cloud services soared. They did, however, have operational issues in managing their large workforce remotely.

Zoom Video Communications

Zoom is a leading video conferencing and communication software company. As remote work and virtual meetings became the norm, Zoom's user base and income grew at an exponential rate. The increased demand for their services had a favorable impact on their business performance.

Microsoft

Microsoft is a multinational technology company known for its software. To accommodate remote work, Microsoft improved its cloud-based solutions, such as Microsoft Teams. During the epidemic, its cloud services division, Azure, experienced considerable growth.

Adobe

Adobe is a software company known for its creative software, such as Photoshop and Adobe Acrobat. Adobe's shift to remote work was reasonably straightforward, and their Creative Cloud and Document Cloud solutions were in high demand as the demand for content production and digital document management grew.

Alphabet Inc. (Google)

Google is a technology conglomerate known for its search engine, advertising and cloud services.

Google adapted to remote work, and its online advertising business grew further, aided by increasing internet usage during lockdowns.

Twitter

Twitter is a social media platform. Twitter employees were able to work remotely indefinitely. While the platform continued to function properly, Twitter's commercial performance is also influenced by varying advertising revenue.

Square

Square is a financial services and mobile payment company. Performance: The change to online payments, e-commerce, and the desire for digital financial tools boosted Square's performance throughout the pandemic, as many firms shifted to remote operations.

Teladoc Health

Teladoc Health offers telemedicine services. Teladoc grew significantly as remote healthcare and telemedicine became more important during the pandemic.

DocuSign

DocuSign provides electronic signature and agreement software. As organizations sought digital solutions for distant contract administration, DocuSign's services were in high demand.

ServiceNow

ServiceNow provides cloud-based service management and workflow automation. As businesses looked to optimize remote work procedures, ServiceNow's workflow automation solutions gained more and more significance.

Remote Employment by Sector and Profession

It's clear that certain professions and sectors are better suited for remote work than others. Comprehending these patterns aids in forecasting the future course of remote labor.As of 2023, the leading industry for remote work is the computer and IT sector .This is consistent with the reality that jobs in this industry are frequently digital in nature and just call for a steady internet connection.Other sectors are following closely behind. Project management, marketing, and accounting & finance have all embraced remote work, utilizing digital tools and platforms to maintain productivity. The emergence of telehealth services and the digitization of health have led to a change in the medical and health business towards remote labor (N. Jankowicz, 2020). Senior financial analyst, executive assistant, and customer service representative are among the other well-

known remote job ads. Despite their diversity, all of these professions can be successfully carried out without an actual office with the correct technology. The list of remote jobs also includes a significant number of positions for recruiters, project managers, technical writers, product marketing managers, customer success managers, and graphic designers. The vast range of these positions reflects the growing acceptance of remote labor in a variety of industries. These statistics, which are broken down by industry and vocation, demonstrate how widely accepted remote work is. The advent of digital tools and shifting workplace expectations has made remote work less of a fringe idea and more of a growing trend across many industries. (Sridhar, V. and Bhattacharya, S. (2021).

In 2020, the proportion of working adults in Europe who could work from home climbed dramatically, reaching 29.4% in France, 22.8 in Germany, 15.1% in Spain, and 13.6% in Italy. Government-imposed public health restrictions during the coronavirus pandemic contributed to this surge, which has proven to be durable in the years that have followed. Although rates have marginally decreased in all nations, they are still substantially higher than they were prior to the pandemic. Approximately one-third of workers in France and one-quarter in Germany can now work from home, with much lower percentages in Spain and Italy. The age range of 24 to 35 is the most likely to work remotely. This implies that younger workers appreciate the freedom and flexibility that come with working remotely, which may have consequences for companies trying to draw in and keep this talent pool. Accessibility for remote employment is also significantly influenced by education. Higher educated individuals are more likely to work remotely. This may be a result of the characteristics of postgraduate qualifications-requiring positions, which typically entail mobile cognitive work. According to a 9-month research conducted by Stanford University with 16,000 participants, working remotely boosts productivity by 13%. The reason for this improvement in performance was making more calls per minute, which was linked to a more comfortable and quiet work environment, and working longer hours per shift because there were less breaks and sick days. Employee job satisfaction increased in this same survey, and attrition rates decreased by 50%.

Trends in the Future of Remote Work

It's been over three years since the pandemic started and changed the way millions of people work. Employee routines faced a profound transformation, and organizations across the globe were forced to adjust. With an emphasis on new trends, issues that need to be resolved, and opportunities that come with working remotely, this piece seeks to shed light on the future of remote work.

Hybrid Work Models: Employees who split their time between working from home and in the office are likely to adopt hybrid work models in the future of remote work. This adaptable strategy offers the best of both worlds and helps businesses make better use of their workplace space. Transformation Digital: Future developments in technology, such 5G connectivity, virtual reality (VR), and augmented reality (AR), will be crucial in determining how remote work is organized. These tools can improve teamwork and produce engaging remote work environments. Worldwide talent pools Working remotely gives access to a worldwide talent pool. Diversity in the workplace will increase as a result of organizations searching for talent more and more widely. On the other hand there are some challenges that remote work may face in the future. It is necessary to address the long-term implications of remote work on worker well-being, including social isolation and mental health issues. Employers need to put employee support first by providing socialization opportunities and mental health resources. The move to remote employment raises concerns about privacy and security. Organizations need to implement data protection rules and invest in strong cybersecurity measures due to the scattered nature of data and communications. When business and personal life take place in the same physical location, it can be difficult to maintain a healthy work-life balance. Setting limits is essential to preventing burnout and making sure workers take time away from their jobs. A dynamic and adaptable work environment is what working from home promises to be like in the future, with major trends including digital transformation, hybrid work models, and a worldwide talent pool. But it also has drawbacks, including as security, work-life balance, and employee well-being. In order to take advantage of the opportunities-like higher productivity, transformed real estate, and less environmental impact-organizations must change with the times, be creative, and assist their employees. Success in the remote job of the future will depend on flexibility and equilibrium.

Methodology

The methodology employed in this study aims to investigate the benefits of remote work for both employees and employers. Remote work has become a prevalent practice, especially in light of technological advancements and global changes, such as the COVID-19 pandemic. Understanding the multifaceted advantages of remote work is essential for organizations seeking to optimize their workforce management strategies. To provide a full understanding of the research topics, the quantitative and qualitative findings are used. The use of both types of data allows for a more

comprehensive understanding of remote work benefits, enhancing the study's overall validity and reliability.

Conclusion

Since the COVID-19 outbreak, remote work has changed from being a need to a revolutionary force that is revolutionizing the way we work. It is clear from looking at its effects on firms and employees that remote work has a bright future. For workers, there are several benefits to working remotely. It offers the freedom to decide where and when to complete tasks, facilitating a better work-life balance. There are no commute times, which lowers stress and improves quality of life. Employee customization of work settings is made possible by this flexibility, which promotes increased comfort and productivity. Additionally, remote work broadens career options by providing access to a greater variety of employment prospects regardless of location. Businesses can benefit greatly from remote employment as well. Lowering overhead costs and the need for office space are two ways to save money. Diversity and innovation potential are increased when one has access to a worldwide talent pool. Because there are less office distractions and more concentrated, goal-oriented work, employee productivity often rises. Employee happiness and retention can be increased through remote work, contributing to a positive company culture. Future trends indicate that remote work will become increasingly prevalent in the workplace. For many firms, the hybrid work model—which combines in-office and remote labor—will become the standard. Virtual reality, augmented reality, and 5G technology will improve remote work capabilities and make collaboration more engaging and fluid. But problems need to be solved. Work-life balance and mental health are two aspects of employee well-being that need constant attention. Data privacy and cybersecurity are still critical issues. Setting limits between work and life is crucial to avoiding burnout. In summary, the environment of remote work in the future will be dynamic, and success will depend on balance and adaptation. Remote work will continue to be a crucial component of corporate operations as we negotiate the changing nature of work, benefiting both companies and workers. It envisions a day when wellbeing, productivity, and flexibility come together to form a brand-new, enhanced method of working.

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Use of mobile banking

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Abstract

Banking services have been changing at a rapid pace during the last few years. Mobile banking is one of the services that have been digitalized into the banking industry. There are millions of people around the world who own one mobile device, and most of them own a banking account. We can conclude that the natural evolution of needs and the demands of customers will be satisfied by the use of these devices to access many banking services. This new business model, in development, is called "mobile banking". This article presents the advantages of using mobile banking, the types of mobile banking services, and a survey of 150 consumers from a selected population.

Keywords: *Digital economy, mobile banking, transaction.*

Introduction

Considering the fact that there are millions of people around the world who own a mobile phone and assuming that almost everyone has, at least, their own bank account, we can easily conclude that the natural evolution of the needs and demands of customers will enjoy using these devices by using them to access many banking services. Until yesterday, in order to provide a banking service, it was necessary to go to the bank or to have a personal computer connected to the internet. Today, there are several instruments capable of operating wirelessly. Mobile banking is a new and emerging business type, and it is growing very fast in recent years. According to recent statistics, the number of smartphone subscriptions is more than 459.62 million in Western Europe during 2023 (Statista, 2023). The latest data from Statista reveals that over 7.1 billion people have mobile phones. China has the highest mobile banking penetration rate, with over 928.9 million users. SMS banking and mobile web were the most popular mobile banking products before 2010. 63% of the population in the USA uses online services. The online banking penetration in Albania is forecast to amount to 11.71% in 2023 (Statista, 2023). According to the statistics for Europe reported in 2022, it was found that close to 96 percent of the Norwegian population accesses online banking sites. So Norway is the

country with the strongest internet banking penetration in Europe, followed by Iceland and Finland. Montenegro and Albania, on the other hand, had the lowest internet banking penetration, with 11.35 and 5.24 percent, respectively (Statista, 2022). Meanwhile, central European countries such as Germany and Austria are experiencing a significant reduction in the use of physical cash, a reflection of mobile banking as a cultural evolution as well as a technological one. COVID-19 has changed the behavior of people all around Europe into becoming more tech-savvy when it comes to banking. During this period, people increased their interest in digital banking applications across Europe due to restrictions implemented by the pandemic situation. Online activity and the adoption of digital banking give more incentives to consumers to access their funds and securely, quickly, and conveniently manage their personal finances (EME Outlook, 2021). The significant majority of Europeans still believe that physical banks will exist in their country in 10 years' time (EME Outlook, 2021). In order to install and run a mobile banking client on the mobile device, the device must have sufficient disk space, memory, and processing power to run the necessary software, which must be designed to cope with the small-sized display, low processing power, low memory, and low disk space. The objectives of this study are to identify the evolution of mobile banking, to study consumers' attitudes toward mobile banking among a select population in Elbasan and Tirana towns in Albania. The paper is structured as follows: In Section 2, we discuss a literature review. In Section 3, we argue about the evolution of mobile banking in Albania, and in Section 4, we analyze the survey. Conclusions and suggestions are in Section 5.

Literature review

The banking service by phone creates opportunities for many customers to perform various financial actions by phone, taking into consideration the developments of this market in developed and developing countries. Zhu and Wang (2022) explored the adoption of mobile banking technology by consumers. This study is mainly conducted in China by taking the top e-banks that utilize mobile banking. Using a simple linear regression method, the study found positive connections between profitability, trust, and transaction convenience when utilizing mobile banking. This study showed that the participants in the survey were unconcerned about the dangers of fraud, system dependability, or perceived privacy while building and extending faith in their banks and mobile services. Saikia's (2022) paper thus covers the concept of mobile banking and its uses. The study used primary data collected from 200 respondents of different age groups through structured

questionnaires purposefully distributed to a select population of Dibrugarh town in Assam, India, concluding that the way people do transactions is changing at a fast pace. Time is one of the most important factors, and people tend to use their phones instead of going to the bank. Geebren et al. (2021) investigated the importance of consumer satisfaction in mobile eco-systems that use electronic banking services, particularly in developing nations. They utilized structural equation modeling with partial least squares (PLS-SEM) to analyze the data from 659 responses. The Ismaili and Braimllari (2021) study focused on the usage of e-banking services among 133 respondents to a survey conducted in Albania during September-October 2020. 82% of the respondents used ATM services at least once a month, 55% used POS, 47.4% used mobile banking, and 37.6% used internet banking. Using logistic regression analysis, it was indicated that banks' clients with an age greater than 30 years were less likely to frequently use e-banking. Hayashi and Toh (2020) identified three factors that influence consumer readiness: the availability and cost of digital infrastructure (high-speed broadband internet and mobile wireless services), the availability of mobile banking and its transaction functions, and consumers' perceptions of and savvies with mobile banking. Their study suggested that industries should promote mobile banking and faster payments to consumers. According to the authors, these are important steps for the U.S. payment industry. Hamidi and Safareyeh (2018) studied the influence of mobile banking adoption on consumer engagement and satisfaction utilizing the customer relationship management (CRM) system. This study was focused on Iran's top e-banks, and the sample population chosen was the customers of these banks. The same factors that were investigated were customer satisfaction and interaction: affective commitment, trust, loyalty, willingness to re-visit, number of visits, profitability, and involvement. The results of the statistical analyses indicated a positive impact on the customer relationship and satisfaction, except for trust. Tiwari et al. (2006) have assumed the safety criteria, as described by Mustafa et al. (2002), for conducting secure mobile communication services are certainly as valid for mobile banking, such as confidentiality (data protection), authentication (access to data only when the user identity has been authenticated), integrity (encryption techniques in order to avoid manipulation of the data during transmission), and non-disputability (transactions must be documented and preserved for a long time to allow the customer to take note of the transaction and to report them).

Evolution of mobile banking in Albania

AMC Group offered the first mobile communication services in 1996. Vodafone Albania was the

second provider in 2001 (the number of subscribers reached 700.000, covering 65% of the country and 85% of the population). ALB Telecom procured the third license for Eagle Mobile, which started operations in March 2008, and in 2010, the fourth provider of mobile services, “Plus Communications” (Sinaj, 2014). Mobile banking is the access to an account held with a bank, MFI, or other PSP via a mobile phone to obtain account information and/or initiate transactions, and POS refers to the use of payment cards at a retail location (point of sale) (World Bank, 2018, p. 51). Interests in mobile banking arise from the simple observation that mobile telephony in Albania has had an impressive development in recent years, which ranks Albania as one of the countries in Europe with a very large use of mobile phones in relation to the population. The digital banking technology in Albania has been developed over the last few years. Actually, among the 11 banks operating in Albania (ABI, BKT, CREDINS, FIBANK, INTESA SAN PAOLO, PRO CREDIT, RAIFFEISEN, OTP, TIRANA, UNION, and UBA), 10 banks offer Internet Banking and Mobile Banking (except UBA Bank). The first bank to provide e-banking was the American Bank of Albania in 2002 (Association of Banks, 2022-Annual Report). The number of debit cards was 1,197,820, and the number of credit cards was 112,697 by the end of the year 2022. According to the Bank of Albania, in the first quarter of 2023, the number of remote transactions reached almost 1.68 million, an increase of 29% compared to the same period a year ago. The number of POS terminals increased from 6689 in 2015 to 16227 in 2022. The number of POS terminals is 13509 in the capital, Tirana. The number of POS terminals at the end of 2022 increased by 2487, or 18%, compared to 2021 (Bank of Albania, 2022-Annual Report). Based on the 2018 data from the World Bank, cash accounted for 1.7% of the GDP, followed by credit cards (0.22%), debit cards (0.21%), and paper-based credit transfers (0.2%), while all other payment instruments jointly (electronic credit transfers, direct debits, e-money, and online money) accounted for 0.17% of the GDP (World Bank Group, 2018). The Albanian economy is dominated by cash payments, although in the last few years there has been an increase in bank card payments. The high use of physical money in economic transactions has negative effects as it may favor informality and corruption, money laundering from criminal activities, etc. The share of cash used in total payment transactions in Albania from 2008 to 2019 has decreased from 95.5% to 87.8%, which is still very high (Statistics, 2023). For this reason, the European Commission has several times recommended to Albania that it establish a ceiling amount for physical cash payments. Internet banking offers benefits such as convenience (they can be accessed 24 hours a day, 7 days a week, without wasting time), location (you can instantly connect

to your bank and account), speed of transactions (banking transactions are performed faster than ATM machines), efficiency (you can log in and manage all your accounts, funds, and securities), effectiveness (helping you manage your assets more efficiently), reduction of costs (zero or low commissions), etc. Also, banks have advantages from offering this service as they reduce the number of clients that they serve, the administrative work is reduced, and they reduce the expenses for paper, etc. (Bank of Albania, 2007). Same disadvantages of mobile banking are that the service may take some time to start: in order to be registered in the program, you need to appear in person at the bank, fill out a form, and wait until you are assigned a username and password for bank employees. You cannot deposit or withdraw money; you must use the nearest ATM. There are different factors that influence the development of mobile banking, like the expansion of electronic banking, technological developments, and increasing consumer culture. All these factors increase the confidence of the clients in the security of the transactions done from their mobile devices, attracting a large number of customers. Also, this channel of receiving services is connected mostly with the technological developments of mobile devices, the low costs, reduced time of servicing, different range of services, familiarity with the use of the platform, etc.

Findings and discussion

In this paper, primary data is collected from 150 respondents of different age groups through structured questionnaires purposefully distributed to a selected population in Elbasan and Tirana countries in Albania.

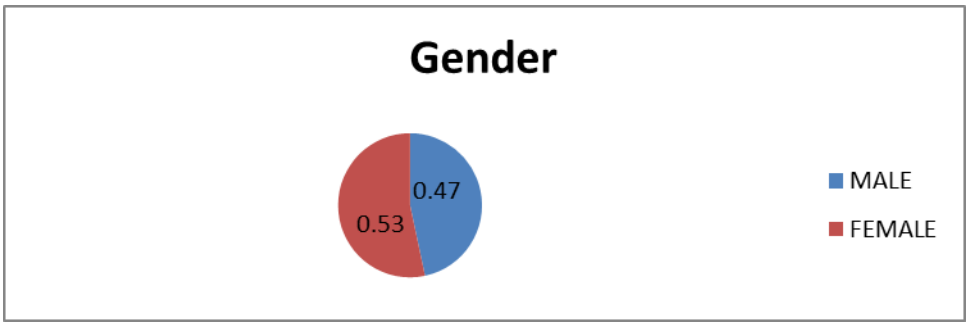

Figure 1: Gender of respondents

Source: Primary data

From 150 sample respondents 70 were male (47%) and 80 respondents were female (53%).

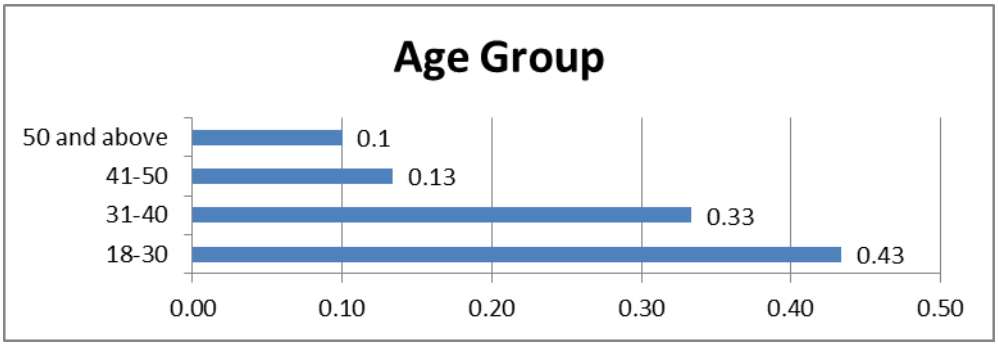

Figure 2: Age group of respondents using mobile banking

Source: Primary data

Figure 2 shows the age group of the respondents using mobile banking. 65 respondents (43%) of the mobile banking users are in the age group between 18 and 30 years, 50 respondents (33%) are in the age group of 31-40 years, 20 respondents (13%) are in the age group of 41-50 years, and 15 respondents (10%) are in the age group of 50 years and above.

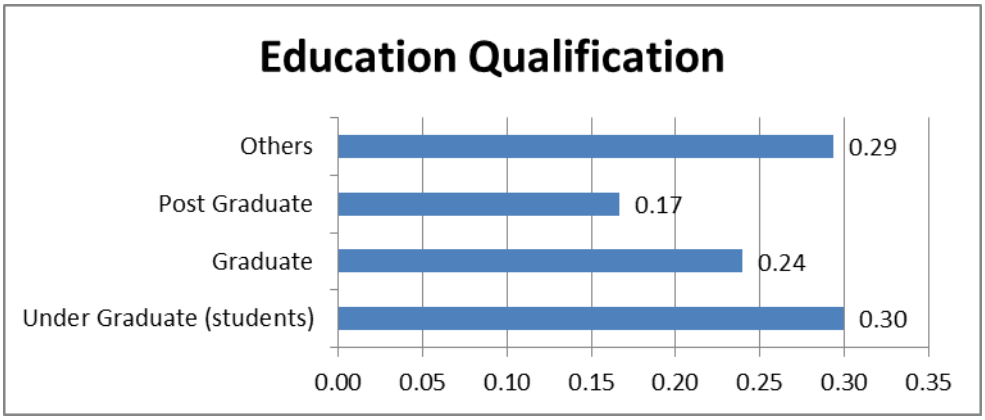

Figure 3: Educational qualification of the respondents

Source: Primary data

We notice that out of 150 respondents, 45 (30%) were undergrads or students, 36 (24%) were graduates, 25 (17%) were postgraduates, and 44 (29%) were found to be in the other category (not with a diploma).

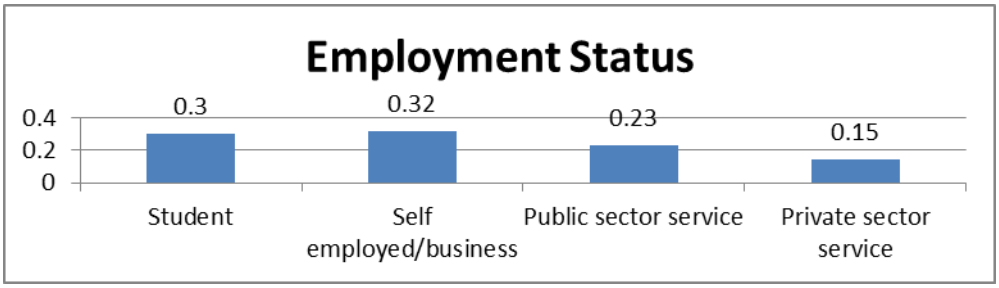

Figure 4: Employment status of the respondents

Source: Primary data

It can be seen that 45 (30%) of the respondents are students, 48 (32%) are self-employed, 35 (23%) work in public sector service, and 22 (15%) work in the private sector.

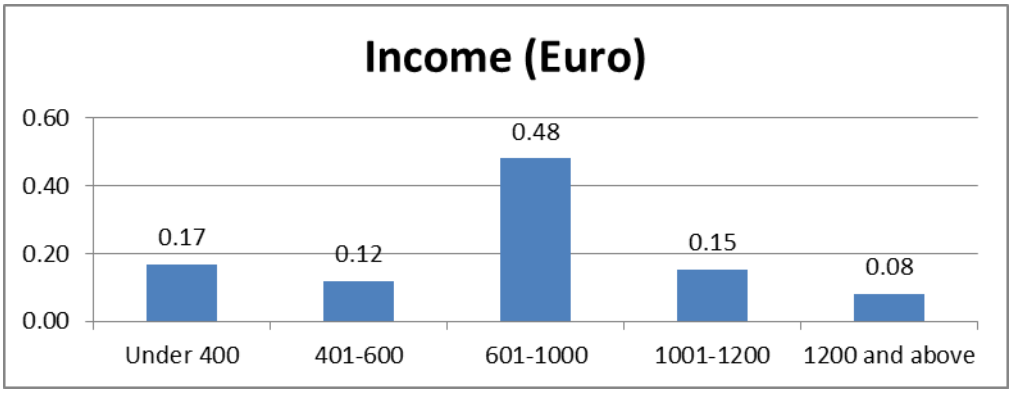

Figure 5: Monthly income of the respondents

Source: Primary data

Figure 5 shows the monthly income of the respondents. 25 or 17% of the respondents are not employed (mostly 28 out of 45 were not employed) or have an income under 400 euros; 18 (18%) of the respondents have an income in the range 401–600 euros; 72 (48%) of the respondents have an income between 601 and 800 euros; 23 (15%) of the respondents have an income between 801 and 1000 euros; and 12 (8%) of the respondents have an income above 1000 euros.

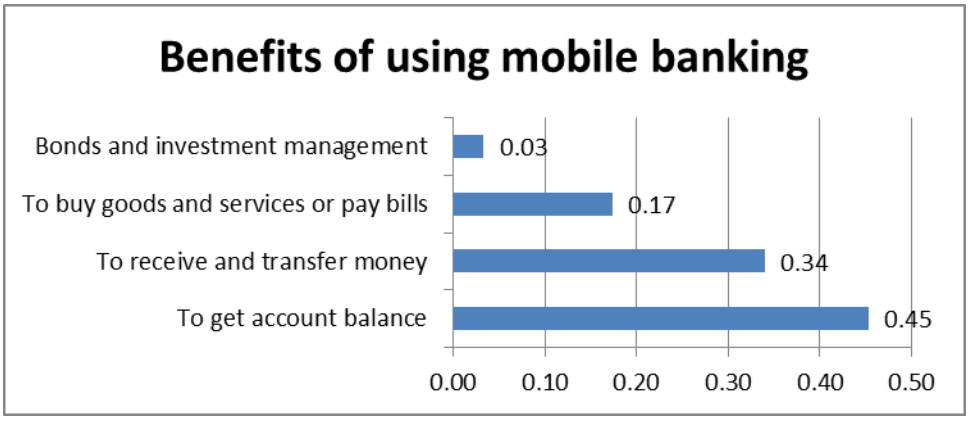

Figure 6: Percentage of benefits on using mobile banking services

Source: Primary data

69 (45%) used it to get the account balance; 51 (34%) used it to receive and transfer money; 26 (17%) used it for the purchase of goods and services or for the payment of varied utility bills like electricity, telephone, etc.; and only 5 (3%) used it for bonds and investment management.

Table 1: Factors influencing the use of mobile banking

Factors	Responses						
	R1	R2	R3	R4	R5	R6	Total
Time Saving	38	23	31	20	21	17	150
Cost Effective	35	37	33	25	10	10	150
Convenience & Comfort	30	35	25	32	20	25	150
User friendly	25	15	20	28	38	25	150
24 hour to 7 days Availability & accessibility	27	28	35	27	14	18	150
Satisfactory level of information	8	15	22	25	32	41	150

The respondents were asked to rank the same factors that give them an incentive to use mobile banking. The number of respondents that gave rank 1 for time savings was 38; for cost effectiveness, they gave rank 2 was 37; for 24*7 availability, they gave rank 3 with 35 respondents; for convenience and comfort, they gave rank 4 with 32 respondents; for user-friendliness, they gave rank 5 with 38 respondents; and for satisfactory level of information, they gave rank 6 with 41 respondents.

Table 2: Overall consumer's preference for mobile banking

Responses	Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied	Total
Weight (W i)	5	4	3	2	1	
No. of Respondents (Ri)	25	64	36	16	9	150
Weighted Scores (ΣRiWi)	125	254	108	32	9	528

Source: Author's calculations based on primary data

Maximum Weight (Mi) = Maximum Score × Total Number of Respondents = 5×150 = 750. Impact Index = **Σ**RiWi/ Mi×100= 528/750×100= 70.4%. The impact index is 70.4%, and it belongs to the fourth category, i.e., 60% to 80%. So, the overall consumer preference for using mobile banking is high, according to the survey.

Conclusions and suggestions

The way people do financial transactions all over the globe is changing. In today's world, people have a lack of time to wait in banks in order to take a service, and time is considered one of the most important factors why banks' clients prefer internet banking, mobile banking, etc. So they use phones, tablets, or computers instead of self-presenting to a bank. Financial transactions done by mobile banking have been increasing at a very rapid rate in recent years for different reasons, including reduced time and costs and the flexibility of the operations undertaken. Mobile technology is transforming the banking industry and payment procedures by providing many advantages to bank customers. It is necessary that banks inform their customers about mobile banking services through advertisements, pamphlets, etc. and encourage them to utilize them and take advantage of their benefits. Many operations done with mobile banking should have zero or reduced costs compared with the services provided by the banking staff. Consumers must trust banking institutions by offering high-security systems and platforms. Any action not performed in the correct way could influence people's acceptance of new technology. Banks should invest in reducing the risks involved in every transaction performed with mobile banking. Mobile banking should be easy to install on telephone devices, easy to take information on different accounts, transfers, and investments, and friendly to use. Telephone service providers as well as the banks need to make efforts so that

penetration of mobile banking is spread not only in urban areas but also in rural areas in order that more people can get its benefits. Without a good telephone signal and internet service, the connection to mobile banking becomes difficult.

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Environmental crimes in legal, financial and judicial practice aspects

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Abstract

Environmental crime is a phenomenon that knows no borders and the consequences it brings to all mankind are often severe and irreparable for today and the future. In statistical evaluations, they occupy a low place of reporting and consequently their punishment is not at the appropriate levels. Within the framework of preventive measures, it has brought changes and improvements in the legal and criminal framework by adding criminal offenses in the field of the environment. The same thing has happened in the criminal legislation where it turns out that new offenses have been configured, but what is still said with certainty is that despite the legal provision, criminal prosecution and reporting for most of them are few or absent. The profits produced by criminal acts to the detriment of the environment bring high benefits and as such represent increased risk. The difficult calculation of the actual damage caused at the time of committing the criminal offense as well as the consequences brought about afterwards, constitutes another aspect that affects the fight against this illegal activity. The purpose of this process is to recognize the nature of this crime, its characteristics, awareness and the improvement of law enforcement structures to be efficient in preventing the detection and punishment of this crime. At the end of the article, we would like to present some conclusions and recommendations on how legislation and administrative and judicial instances can be improved to protect the future.

***Keywords**: Environment, crime, financial, judicial.*

Introduction

Definition of the concept environment and environmental damage

Environmental crime is a complex term and does not have a universally accepted definition [66]. To analyze it in terms of criminal legislation, it is first necessary to understand related concepts such as "environment" or "environmental damage". So we find the term "Environment" defined in many laws which paraphrase it respectively in these natural components: air, land, waters, climate, flora and fauna in the totality of interactions with each other, as well as cultural heritage, as part of the human-made environment [67]. So the environment is the community of interactions of biotic and abiotic components that promote and nourish living life on earth, including the natural biophysical environment of air, soil, water, the diversity of biological ecosystems, human health, cultural and scientific values and heritage. , religious and social.[68]

While with the term " *Environmental damage" we understand the damage done to the environment or the loss of the natural function of the components of the environment, caused by the loss of any of its components, by human interference with the connections of the components of the environment and/or natural flow of their development* . [69]As a result, the damage caused to the environment consists of all illegal activities or omissions that damage the environment through the indiscriminate use or waste of natural resources, water, air, land, forests or damage to depleted areas, the introduction of dangerous substances, etc., for to fulfill the interests and to achieve material benefits from a certain group of individuals

[66]Crime and environmental security in Albania. Between reality and perception. Dr Xhavit Shala https://www.acnss.com/ëp-content/uploads/2020/06/KRIMI-DHE-SIGURIA-MJEDISORE-NE-SLQIPERI.pdf

[67]Article 5 of Law no. 10 431, dated 9.6.2011 "FOR THE PROTECTION OF THE ENVIRONMENT" This law is fully aligned with Directive 2004/35/EC of the European Parliament and the Council, dated 21 April 2004 "On environmental responsibility, prevention and repair of damage to the environment" as amended . CELEX number: 32004L0035, Official Journal of the European Union, Series L, no. 143, dated 30.4.2004, pages 56-75.

[68]Manual "Management of Environmental Problems at Local Level" Albanian Center for Economic Research (QShKE)

[69] See article 5 point 10 Law No. 10 431, dated 9.6.2011 "On Environmental Protection" "Pollution" is the direct or indirect introduction, as a result of human activity, of substances, vibrations, radiation, unpleasant odors , heat or noise in the air, water or land, to the extent that it can be harmful to the quality of the environment or human health, that can lead to damage to material property or deteriorate and interfere with services and other uses legal environment

who perform illegal actions.

In the perspective of the positivist legal-procedural view, environmental crime is defined *as a violation of the environmental legal framework, that is, as actions prohibited by the current criminal law.*

While according to the socio-legal point of view, environmental crime also includes the adjustments that are made to administrative violations. So an environmental crime constitutes any type of illegal activity or formal violation of rules regardless of what this rule is. On the other hand, crimes aimed at the environment will be understood as all those dangerous actions expressly provided for in legal acts which cause serious damage to the environment and consequently have a negative impact on the entire community.

According to Albanian legislation, environmental crime includes all acts that violate environmental legislation and cause significant damage or danger to the environment and human health.

In most cases, the damage caused to the environment is a result of human activity. The dangerousness of the damage caused to the environment by human activity is very great and as a result this has led to the fact that the legislator, in addition to penalties and administrative measures, has provided for the criminalization and provision of a series of criminal offenses against the environment in the Penal Code.

Ways of damaging the environment as well as financial aspects

In 2019, a public study conducted by the OSCE and the Security Academy, which included 1,559 interviewees (48.7% women; 51.3% men) considered environmental crime as the second most dangerous threat to Albania [70]. The main forms of pollution caused by human activity or by the activity of legal entities, which cause damage to the environment, which then, with the changes introduced in the Criminal Code with Law no. 44/2019 were respectively configured in such activities as: Illegal discharge, emission or release of an amount of ionizing substances or radiation into air, land or water [71]that causes or is likely to cause death or serious injury to people or significant damage to air quality, land quality or

[70] OSCE Environmental Crime https://www.osce.org/files/f/documents/6/3/459910.pdf

[71]Article 201 II of the Criminal Code of the Republic of Slovenia

water quality, fauna or flora; The collection, transportation, recovery or disposal of waste [72], including the monitoring of such actions and the control of disposal sites after their closure, as well as the activity carried out as a trader or intermediary (waste management), which causes or may cause death or serious harm to people or significant harm to air quality, soil quality or water quality, or fauna or flora; The transport of waste [73]if this activity falls within the scope of Article 2, paragraph 335 of Regulation (EC) No. 1013/2006 of the European Parliament and of the Council, of June 14, 2006, regarding the transport of waste (6), and is carried out in significant quantities in a single shipment or in several shipments that are connected to each other; Activity of plants in which hazardous activities are carried out[74] or in which hazardous substances or preparations are stored or used that cause or may cause death or serious injury to persons outside the plant or significant damage to air quality, soil quality or water quality, fauna or flora; Production, processing, treatment, use, storage, storage, transportation, import, export and disposal of nuclear materials or other dangerous radioactive substances[75] that cause or are likely to cause death or serious harm to people or significant harm to air quality, soil quality or water quality, fauna or flora; Killing, destroying, possessing or collecting specimens of wild animals or protected plants [76], unless the action concerns a negligible amount of these specimens and has a negligible impact on the conservation status of the species; Trade in specimens of protected wildlife [77]or plant species or their parts or derived products, unless the action concerns a negligible amount of such specimens and has a negligible impact on the conservation status of the species; *Any action that causes a significant deterioration of the habitat within a protected area.* Production, import, export , [78]placing on the market or use of substances that thin the ozone layer.

Environmental crime and its characteristics

In terms of the way of committing criminal offenses in the field of the environment, they

[72]Article 201/a of the Criminal Code of the Republic of Slovenia.
[73]Article 201/b of the Criminal Code of the Republic of Slovenia.
[74]Article 201/c of the Criminal Code of the Republic of Slovenia.
[75]Article 201/ch of the Criminal Code of the Republic of Slovenia.
[76]Article 202 II of the Criminal Code of the Republic of Slovenia
[77]Article 202/a of the Criminal Code of the RS.
[78]Article 202/b of the Criminal Code of the RS

have the characteristics of a continuing crime in terms of criminal intent, which means pretending in time , increasing the dangerousness of the fact , which constitutes a serious international problem that can affect the economy, security and even the very existence of a state. It has turned out that environmental crime is one of the most profitable and fastest-growing new fields in all international criminal activity, where only from the illegal treatment and transportation of waste it is estimated that the profit at the world level reaches the figure of 10 to 12 billion dollars per year.[79] A significant part of environmental crimes is committed in the framework of organized crime, as a well-planned activity. It is often associated with the commission of other criminal acts, such as with corruption, forgery of passports and money laundering . It has a global dimension. It has a cross-border nature or effects , which are clearly distinguished in cases of air or water pollution, the effects of which appear even beyond the borders of a certain country, or in cases of illegal transportation of waste or illegal importation of ozone-depleting substances. It damages society in general more than individual individuals, since when the environment is damaged, it does not necessarily cause an immediate damage to the life, health or property of certain persons, as well as the consequences of pollution very often appear in another place or a long time after environmental pollution has been committed.

International legal framework and Albanian criminal legislation

We find the protection of the environment enshrined in the highest normative act, the Constitution of RSH which in its article 56 provides that " *Everyone has the right to be informed about the state of the environment and its protection* ." In the chapter on social objectives in article 59 paragraph 1 points d) and dh) the Constitution again mentions the word "environment" providing that: " *1. The State, within the constitutional powers and means available, as well as in addition to the initiative and private responsibility , aims at:..d) a healthy and ecologically suitable environment for present and future generations; dh) the rational use of forests, waters, pastures and other natural resources based on the*

[79]The "environment" part of the "Penal Code" Environmental crime, environmental security and national security. Conference https://www.osce.org/files/f/documents/2/3/447898.pdf

principle of sustainable development .[80]

While at the level of the European Union, the latter has shaped a dedicated legislation in relation to the specifics of the case, e.g. " *Transboundary air pollution, ozone depletion, international channels, protection of biodiversity, toxic substances and other dangerous substances"*. Directive no. 2008/99/EC on the protection of the environment through criminal legislation, aims to define the minimum standards, or the definition of the basic figures of criminal offenses that present significant social risk. Referring to the content of the directive, it is evident that the European Union looks with concern at the increase in snow crimes and their consequences, which increasingly extend beyond the borders of the countries where the crimes are committed. According to him, these crimes constitute a threat to the country and therefore require an appropriate response. Following the analysis. The European legislator states that: " *Experience shows that the existing punishment systems are not sufficient to guarantee full compliance with child protection legislation. This compliance can and should be strengthened through the availability of criminal sanctions, which are indicative of a social disapproval of a qualitatively different nature in relation to administrative sanctions or compensation mechanisms under civil law.* Effective environmental protection requires in particular more sanctioning measures for activities that damage the environment which generally cause or may cause a significant deterioration of air quality, including the stratosphere, soil and water, fauna and flora, including conservation of species. Referring to the directive, article 3, titled " *violations* which should be understood as " *violations of a criminal nature"* are provided indicatively, the actions or omissions which according to the internal legislation should be considered as criminal offenses.

Criminal investigation and problems in the exercise of criminal prosecution and conviction

Criminal offenses against the environment established in Chapter IV Section XI in the title Criminal offenses that violate the legal regime of land and constructions are provided as crimes, with the exception of those provided by Article 204 - Prohibited fishing, Article 205 - Illegal cutting of forests, Article 206 - Cutting of decorative and fruit trees, Article 207 -

[80] **Constitution of RSH** In article 56

Violation of quarantine of plants and animals, which constitute criminal offences. Articles 201-202/b were amended or added by law no. 44/2019, dated 18.7.2019, adapting the criminal legislation to Directive EC 99/2008, dated 19.11.2008 "On the protection of the environment through criminal law" of the European Parliament, as an obligation derived from the process of integration into the European Union. With the law no. 44/2019, dated 18.7.2019, the penalty margins have been increased, animals and plants have been placed under protection for the first time, along with water, air and soil as elements of the ecosystem, and the concept of hazardous waste is treated for the first time radioactive, ionizing, nuclear materials. Provisions in most cases for the classification of whether the action constitutes a criminal offense or not refer to the special law, (201-203) and this creates confusion about what will be considered a criminal offense.

The system of environmental protection in Albania, which is the link between administrative laws and the provisions of the Criminal Code, does not contain a clear distinction between what constitutes an administrative offense and what constitutes a criminal offense in the light of environmental protection. Consequently, the distinction between administrative and judicial powers are not separated and leave room for different application in similar situations, depending on the internal conviction of the judge. The lack of specialized instruments/laboratories for measuring environmental parameters creates difficulties in the investigation of these crimes, considering that they are unrepeatable if they are not carried out at the right time.

The difficulty is also encountered in the implementation of Article 205 "Illegal cutting of forests" which provides that " *Cutting or damaging forests without permission or in prohibited times and places, when the offense does not constitute an administrative offense, constitutes a criminal offense and is punished with a fine or imprisonment for up to one year* ." In none of the provisions, neither the criminal nor the administrative one, a division is made between punishments for individuals and for society of exploitation. There is no division for the amount of wood material cut etc. These things make this provision almost unenforceable.[81]

[81] According to the law Law No. 9385, dated 4.5.2005 "On forests and the forest service", cutting without permission or intentionally damaging forests, forest land, young forests, saplings and nurseries, when the material consequences are light, constitutes an administrative offence. But the

Cases from judicial practice

Judicial practices regarding the punishment of criminal offenses in the field of the environment have not been very stable, and most of them, when the author has been declared guilty of the type of punishment, in most cases have applied the form of execution of the prison sentence that of suspension of execution he is placed on probation according to Article 59 of the Criminal Code. In relation to the legal analysis and the level of evidence, some of the judicial decisions cited below are brought for illustration, where the criminal fate, the elements of the criminal offense as well as the measure and the final punishment are evidenced. For the above, it results that in a concrete case, the defendant DB, with the intention of building a residential house, damaged the forest fund by flattening the area of 407 m2, this land that was covered with various trees, oaks, shrubs, etc. According to the calculations made by the experts in the relevant field, the act resulted in damage worth 2,856,000 lek. According to correspondence with the Ministry of Environment, Forestry and Water Administration, it was found that the plot where the damage was done is a protected area. With its decision dated 17.09.2012, the Court of Appeal of Durres declared the defendant DB guilty of the criminal offense of illegal cutting of forests and sentenced him to a fine of 90,000 ALL, reasoning that his actions constitute elements of a criminal offense and not an administrative offense, as the criteria for violations with serious consequences in forests defined in point 1, letter (a) of VKM no. 108/2009. We emphasize that this legal reference provides that it is not enough just to have the fact that the cutting of questions is carried out in a protected area, but that the latter must be put out of order.

In another similar case of 2011, the same arguments were used by the Shkodër Judicial District Court, which declared the defendant A.LI guilty. for committing the criminal offense of "Illegal Cutting of Forests", as well as for committing the criminal offense of " Illegal Construction", since this citizen had dug into the forest fund of a protected area and started to build illegally a residential building within this damaged surface. In its decision, the court notes that: The above violation has caused serious consequences for the forest fund due to the fact that the part where the illegal action was carried out is a protected area and declared

classification of the nature of the consequences is done with VKM No. 108 dated 27.01.2009.

"Nature Reserves" in based on the law. We estimate that in the framework of a complete investigation, a genuine environmental examination should be carried out to assess the consequences in the protected area and only its status, at least with the provisions in force of the laws and by-laws, are insufficient to establish the criminal offense provided for in Article 205 only by referring to the status of the property where it is carried out.[82]

Conclusions

In the analysis of the statistical data published in the Reports of the Attorney General for the years 2019-2022, it appears that the changes in the legislation have brought a non-significant increase in the proceedings recorded or those completed in court. However, the number of convicted citizens - natural and legal persons is low, considering the massiveness and forms of organized crime. While in relation to the amount and type of punishment, fines are applied in a few cases that are not high in value, and when we have a prison sentence, the application of Article 59 of the Criminal Code - Suspension of the execution of the decision is also requested. with imprisonment and probation. This approach has clearly shown that they have not brought the appropriate effects for the prevention of the commission of criminal offenses against the environment and the awareness of all instances, including the referring ones, should be relevant to the fact that most of them are recidivists and the damage caused to the environment and not only that, they are high. Criminal policies in this regard should not focus only on legal sanctions and criminalization of illegal activities against the

[82] VKM No. 108 dated 27.01.2009 stipulates: *"1. Depending on the environmental damage they cause and the consequences they bring to the forests, the violations expressly provided for in point 1 of article 38 of law no. 9385, dated 4.5.2005 "On forests and the forest service", of changed, are evaluated with serious consequences, when: a)* ***they are carried out in a protected forest area*** *, especially in its sub-areas, which have a strictly protected status, taking them out of the function, for which they received the protection status ;b) were carried out in the experimental and research plots of forests, pastures and meadows, making it impossible to continue the experimentation and scientific study; c) they damaged the piles of trees and forest species, predetermined for conservation, germplasm, in situ and ex situ, for collection, processing, distribution and certification of planting material;ç) were carried out in a protective forest, designated as such in breeding plans, putting it out of order; d) destroyed a forest monument natural, approved by a normative act; dh) have destroyed, by cutting, uprooting, taking, individuals of rare, endangered flora species that enjoy a special protection status; e) have destroyed the qualities of a habitat concrete."*

environment, but should have an effect on the prevention and punishment of the perpetrators. Environmental crimes do not recognize state borders and should not be the individual responsibility of each state, since their spread brings consequences not only at the national but also global level. Not only the land extent, but also the damage to the environment has a direct connection with the entire ecosystem and the future of the environment, increasing the number of deaths. Since the consequences do not all come immediately at the moment of the offense but gradually, the panorama of this crime should be wider. Based on the researched judicial practice, it results that the criminal prosecution carried out is relatively low and the punishment measures are light, which have not helped in the fight against this illegal activity. The clear definition of the dividing line between administrative/civil and criminal responsibility is important because no one can be held criminally responsible without the law. The implementation of the principle that "the polluter pays" is very important as a restitution and rehabilitation policy, without which the main goal, that of environmental protection, cannot be understood.

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The impact of exchange rate on financial statement: Analyses realised to import-export sector in Albania

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Abstract

The main purpose of this paper is to study the impact that the change in the exchange rate has had on the businesses of the import-export sector in Albania during the year 2022. The object of the study in this paper will be the financial statements of the businesses to see more specifically the impact of the exchange rate on the change in the indicators of these statements. We have chosen the import-export sector for the study, since it is one of the main sectors negatively affected by the marked drop in the exchange rate in Albanian market. The import- export sector has an important impact on the trade balance of countries and the difficulty of this sector would negatively affect the trade balance of Albania. The hypothesis of this paper is "the drop in the exchange rate has negatively affected the import-export sector and deepened the trade balance of Albania". To verify this hypothesis, we studied the import- export sector and analyzed the financial statements of this sector to see the loss declared by the businesses themselves from the exchange rate. We have also taken into consideration the fact that the study may have limitations in the generalization of its results as a result of exclusion in this study of other factors influencing the loss of the import-export sector in Albania.

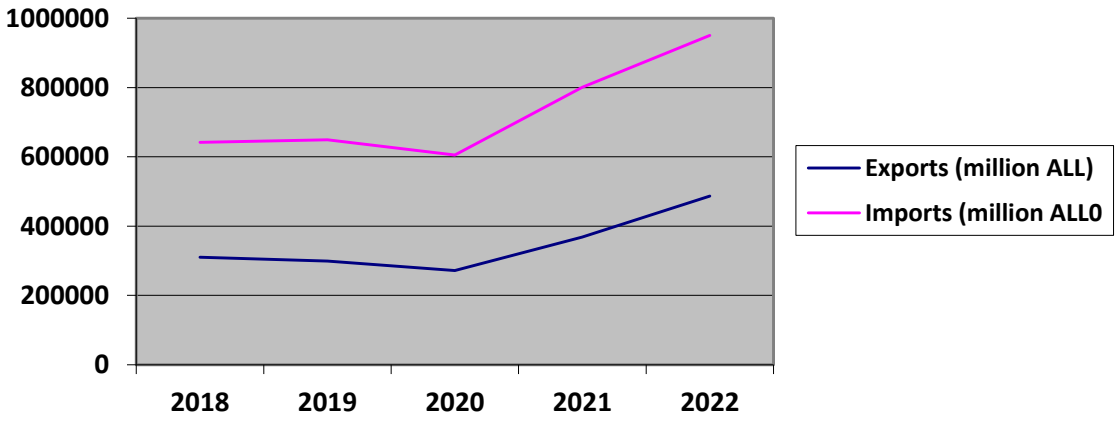
***Keywords**: Exchange, financial, import, export.*

Introduction

International trade is a crucial sector of the global economy that facilitates the exchange of goods and services between countries to meet their unfulfilled needs and demands or to stimulate competition with domestic products or services. International trade of products and services is

facilitated by trade agreements and rules established to reduce trade costs or customs barriers, such as the European Common Market or the North American Free Trade Agreement, etc. In the absence of these agreements, rules set by world trade organizations are applied. According to global statistics[83], China had the highest exports in 2022, amounting to 3.59 trillion USD, while the United States had the highest import values at 3.38 trillion USD[84]. The import-export sector is a vital component of the Albanian economy, contributing significantly to the country's GDP, budget, and economic growth. Given its importance, it is mandatory to conduct studies to assess the impact of exchange rate changes on the financial performance of businesses primarily engaged in international trade. In recent years, the import-export sector has experienced sustainable growth, characterized by consistently increasing trade flows in exchanges between the Albanian economy and global markets[85]. The graph below illustrates the trend of Albanian imports and exports for the period 2018-2022:

Graph 1: The trend of Albanian imports and exports for the period 2018-2022



Source: Institute of Statistics in Albania (INSTAT)

The significant increase in imports at higher rates than the growth in exports has further deepened Albania's negative trade balance during the period 2018-2022[86]. However, an influential factor expected to further exacerbate this balance in 2023, according to economic experts, is the fluctuation of exchange rates. The substantial strengthening of the Albanian lek against the Euro is anticipated

[83] https://www.statista.com/markets/423/topic/534/international-trade/#insights
[84] https://www.statista.com/topics/1467/global-economy/#dossier-chapter4
[85] http://sipermarrjaime.gov.al/sektori-tregtarimport-eksport. Ministri i Shtetit për Mbrojtjen e Sipërmarrjes
[86] https://www.instat.gov.al/

by economic experts to be another crucial factor in our country's balance of payments. This is because it is expected to impact the decline in export volumes, stemming from the ongoing losses faced by the import-export sector.

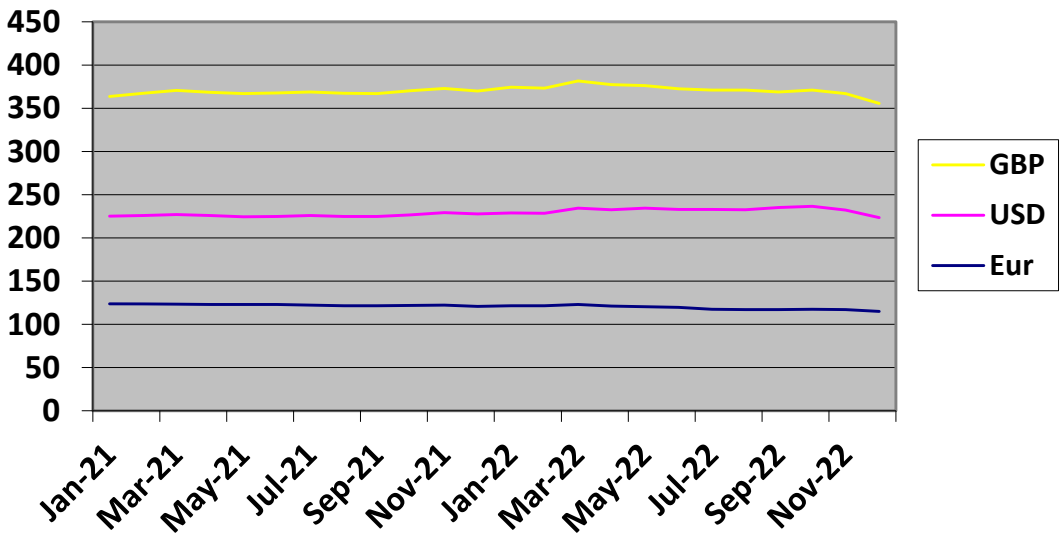
Literature review

Studies on determining factors influencing export performance have been conducted both in developed countries and in developing or transitional countries. A significant number of empirical studies have been carried out to confirm the link between macroeconomic factors such as exchange rates, economic growth rates, foreign trade, and foreign investments (Nouira et al., 2011; Paudel & Burke, 2015; Iwaisako & Nakata, 2017; Mao et al., 2019). These studies have investigated both short-term and long-term impacts. In a study conducted in the Japanese market, Iwaisako and Nakata (2017) describe that the changes in the Japanese yen exchange rate should be carefully considered by policymakers. The global aggregate demand influenced by the exchange rate is also a crucial determining factor in export changes for countries, according to Iwaisako and Nakata (2017)[87]. Through a structural analysis, the study's authors concluded that the exchange rate changes were significantly linked to export changes in Japan in 1980, despite the effects of changes in global demand being more pronounced in 1990 and especially in 2000. In another study conducted by Paudel and Burke (2015) in Nepal, the impact of the exchange rate on export performance during the period 1980-2010[88] was assessed. Using the gravity model, researchers evaluated that an increase in the real exchange rate negatively affected export performance, especially in third-party markets.
Sekkat (2016)[89] conducted a study in developed countries to examine the effect of the exchange rate on exports, including several developed states, and the diversification of exports to these states. The findings of the study were contradictory. According to the study, there is no supported evidence that the underestimated impact of the production sector on total exports is improved by export diversification.

[87] Iwaisako, T., & Nakata, H. (2017). Impact of exchange rate shocks on Japanese exports: Quantitative assessment using a structural VAR model. Journal of the Japanese and International Economies, 46(C), 1-16.
[88] Paudel, R. C., & Burke, P. J. (2015). Exchange rate policy and export performance in a landlocked developing country: The case of Nepal. Journal of Asian Economics, 38(6), 55-63
[89] Sekkat, K. (2016). Exchange rate misalignment and export diversification in developing countries. The Quarterly Review of Economics and Finance, 59(2), 1-14.

Zelekha and BarEfrat (2011)[90] conducted a study in Israel (a developed country) to observe the impact of the exchange rate on exports directed towards American markets of goods and services. Using data for the period 1997-2010, the researchers concluded that both in the short term and in the long term, the exchange rate change has a negative impact on export performance. Nouira et al. (2011)[91] conducted a study in developed countries using data from 52 developed countries worldwide for the period 1991-2005. In this study, they recommended incentivizing undervalued prices due to the exchange rate to not negatively affect export performance. However, the main studies conducted have focused on the analysis of developed countries. This study aims to focus on the specific Albanian context to observe the impact of the exchange rate but within the context of a small economy like our country. During the period 2021-2022, the exchange rates for currencies with higher trading volumes in our country have experienced fluctuations reflected in the graph below.

Graph 2: The trend of exchange rate for the mail currencies in the albanian market



Source: Bank of Albania[92]

Meanwhile, the current exchange rate for these currencies has reached 103.07 for the Euro, 94.25 for the USD, and 119.67 for the GBP.

[90] Zelekha, Y., & Bar-Efrat, O. (2011). The link between exchange rate uncertainty and Israeli exports to the US: 2SLS and cointegration approaches. Research in Economics, 65(2), 100- 109

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[92] www.bankofalbania.org

Methodology

The research methodology in this study involves collecting and analyzing financial data from various companies operating in the import-export sector in Albania. The selected sample consisted of 50 import-export businesses, but it was impossible to obtain data for all businesses as their financial statements lacked specific information that could be used. As a result, we reduced the sample to 20 businesses for which we had usable data for analysis. The subjects were randomly selected, and the data were obtained from the National Business Center (QKB)[93]. Based on Law 9901 dated 14.04.2008 "On traders and commercial companies" and the legislation in force in our country, businesses that meet legal criteria must publish their financial statements for each closed year on the national portal called the National Business Center. All business reports published on this portal are accessible to all users. This portal served us in obtaining data related to this study. The data used were considered reliable for analysis since financial statements are published by the businesses themselves, and their results are approved by the management of the companies. This study has several limitations, including:

- A small number of import-export businesses were included in the study due to a lack of data in their financial statements. The impact of the exchange rate could not be specifically identified in the financial statements, making it impossible to highlight this influence and include it in the analysis for more representative sector results.

- The study only considered the exchange rate factor and not other factors that may affect the profitability of businesses. This assumption was made to deem their impact insignificant, allowing the isolated examination of the selected factor in the analysis and avoiding the influence of other factors' correlations or interventions.

- The study only encompasses the import-export sector, and exchange rate changes have not only impacted this sector but also other economic sectors.

[93] www.qkb.gov.al

- Official data on exchange rates for the year 2023 have not been published since this year has not concluded, but observations from the market indicate a more significant decline in the exchange rates of major currencies circulating in the Albanian market during this year.

- Given that the exchange rate in Albania continues to undergo significant changes, no studies have been conducted by public and financial institutions regarding the impact of these changes. This limitation hinders the analysis as we cannot make comparisons for the conclusions of this study.

- Studies on the effects of exchange rates have primarily been conducted in developed countries, while Albania is not included in this categorization, preventing us from making comparisons for the study's findings.

Based on various authors' studies, the models used for analysis have typically been either multiple regression or time series analysis. In this study, we have chosen to use the correlation coefficient, limiting the analysis to finding the impact of the exchange rate on the profitability of businesses expressed in their financial statements. We assumed that other factors have an insignificant impact. The hypothesis raised in this study is:

Ha: The exchange rate affects the profitability of the import-export sector in Albania.

Results

The calculation of the correlation between two factors:

$$r = n(\Sigma XY)-(\Sigma X)(\Sigma Y)/ \quad \sqrt{[n\Sigma(X^2)-(\Sigma X)^2][n\Sigma(Y^2)-(\Sigma Y)^2]}$$

where, n is the number of data points. Based on the above formula and calculations, it is found that the correlation between the two factors of income and losses caused by the exchange rate is 0.45. Therefore, to the extent of 45%, the losses from the exchange rate impact the profitability of import-export businesses in Albania. This coefficient indicates a significant influence of the exchange rate in this sector as a standalone factor, without considering other influencing factors in profitability.

According to the correlation coefficient (r) using the Pearson[94] correlation model, the correlation between the two factors of income (Y) and losses caused by the exchange rate (X) can be calculated

[94] Correlación de Pearson en el Departamento de Psicología de la Universidad de Oviedo.

using the following formula:

$r = \Sigma(X_i - \dot{X})\,(Y_i - \dot{Y}) / \sqrt{\Sigma(X_i - \dot{X})^2\,\Sigma(Y_i - \dot{Y})^2}$

From the mathematical calculations, it emerges that the correlation between the two factors is 0.68. Thus, to the extent of 68%, the changes in the exchange rate affect the profitability of import-export businesses.

Conclusions and recommendations

According to the study data, the exchange rate has a significant impact on the profitability of import-export businesses in Albania. This study's conclusion is based on two formulas for calculating the correlation coefficient to observe and compare their results and provide more informed conclusions. According to these mathematical calculations, the correlation between changes in the exchange rate and the profitability of the import-export sector is significant.

However, due to the limitations of this study, we have several recommendations:

- Firstly, further studies should be conducted to draw more comprehensive conclusions, including other influencing factors on the profitability of the import-export sector in Albania.
- Secondly, more robust analyses should be conducted by central banks and public institutions that possess more comprehensive data. These analyses should be published to provide researchers with a data foundation for comparisons with the results of their studies.
- Thirdly, we recommend that economists preparing financial statements for businesses be more careful in highlighting values in financial statements to provide clearer information for external users who may only have these statements available to them.

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Annex

Table 1: Data extracted from the financial statements of businesses

Businesses	Income (performance) (Y)	Loss from exchange rate (X)	Businesses	Income (performance) (Y)	Loss from exchange rate (X)
1	23 344 550	-234 689	11	4 557 800	-238 999
2	4 566 235	-139 567	12	356 678	-123 880
3	2 134 547	-768 990	13	249 580	-323 498
4	12 343 890	-134 666	14	12 345 990	-987 889
5	13 237 770	-598 344	15	13 455 789	-1 358 766
6	10 100 457	-987 333	16	1 234 660	-997 887
7	5 904 880	-777 890	17	589 577	-367 567
8	12 390 956	-234 765	18	17 344 550	-1 788 990
9	7 568 889	-1 233 779	19	14 556 830	-1 567 854
10	2 345 789	-876 559	20	19 509 230	-2 677 345

ICT as an innovative opportunity to improve teaching and learning at the university

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Abstract

The transformation caused by the use of ICT in both scope and content has made teaching a profession not only challenging but also more responsible. The study aims to gain a greater understanding of the relationship between technological tools and their impact on teaching and students' learning at university. The main research question of the study is the impact of ICT on the quality of teaching and learning among students. The research is focused on developing the teaching and learning process by integrating and implementing innovative forms of technology. The study found that ICTs were useful in teaching and learning activities mainly for accessing learning resources, preparing and presenting the lessons, and conducting collaborative learning activities. In addition, the study concluded that ICT integration into the teaching process largely depended on the attitude of teachers and students concerning ICT integration. At the same time, positive ICT attitudes are expected to foster ICT integration in the teaching and learning process. The results provide important information about teachers' training needs as well as the implementation of ICT in teaching. Universities with the support of technological tools can improve the teaching-learning process and update the courses. The use of ICT in teaching by university teachers is one of the main implications of this study.

Keywords*: ICT, teaching, learning, innovative opportunity.*

Introduction

There is a growing demand for educational institutions to use ICT to teach the skills and knowledge students need for the digital age. The use of information and communication technologies (ICTs) in higher education institutions has become a necessity rather than an option. The integration of ICT into education provides opportunities for teachers and students to work better in a globalized digital age, particularly in teaching and learning environments, where teaching and learning can take place anytime and anywhere, 24 hours seven days a week. As higher education institutions enroll students in conventional and distance education programs, lecturers are not only compelled to equip themselves with technological knowledge and skills but are also supposed to receive support from their institutions to fully integrate technology in their academic endeavors (Mwalongo & Mkonongwa, 2023; Lawrence, 2018). Information and Communication Technology (ICT) has undoubtedly formed an important channel for improving student learning through continuous access to information and knowledge development has brought dramatic modifications in the paradigms and methods practiced (Zenda & Dlamini, 2023; Poudel, 2022).

ICT is a key role player in higher education institutions for pedagogical practices. Factors like limited infrastructure, user attitude towards ICT, management support, skilled human resources, and policy issues supporting ICT integration are affecting the implementation of ICT in higher education. Information and Communication Technology (ICT) can change the teaching and learning process. ICT can enhance the educators' plan work, enhancing students' learning process and thus improving the academic performance of students (Ergado, 2019; Mwila, 2018). The COVID-19 crisis has dramatically impacted university education as well as created new challenges for tertiary learning institutions. In response to these unprecedented challenges, universities are formulating more student development initiatives to support new students to transition into university and produce holistic graduates with essential soft skills (Canese; Paez & Amarilla, 2023; Paudyal & Rana, 2021). Information and Communication Technology specialists, working within universities, play important roles in the deployment of educational technologies for teaching and learning. Information and Communication Technologies (ICTs) have generated a global revolution and forced us to rethink and redefine basic paradigms of the teaching-learning process such as where and how learning happens. (Asamoah, 2021; Ferrero & Álvarez Sainz, 2023).

Information and communication technologies (ICTs) bring a new dimension to the internationalization of higher education. They are increasingly being used to enhance the quality of learning of all students. ICTs offer many opportunities to internationalize the curriculum and the

learning experiences of students, but they also provide challenges because academics teach a more diverse range of students in a more complex and diverse teaching and learning environment. The effective implementation of information and communications technologies (ICTs) in higher education is not guaranteed without serious and rigorous pedagogical reflection. It is essential to maintain an ongoing debate on the effectiveness of the learning process accelerated by the impact of the COVID-19 crisis and the growing role of virtual and remote learning in universities worldwide (Leask, 2004; Mayo-Cubero, 2021). The digital learning ecosystem plays an important role in transforming a teaching classroom into a learning community. Since industry and higher education are increasingly utilizing online environments due to digitalization, the learning experiences in these new digital learning ecosystems as communities must be re-examined critically. Students' information and communication technology (ICT) skills are a valuable resource for their educational performance, although to varying degrees across countries (Nguyen, Kanjug, Lowatcharin et.al., 2023; Mielikäinen & Viippola, 2023; Sze Ming Loh, Kraaykamp & Van Hek, 2023).

Recent advances in technology have fueled the rapid growth of digitization in education, and the education industry has witnessed radical changes in the provision and delivery of its products and services. Digital textbooks, which are equipped with various learning resources including multimedia aids, assessment questions, and hyperlinks to external resources, can be an important channel for harnessing technologies in classrooms. Information and Communication Technologies (ICT) allow the construction of new spaces where students consult the information at any time, take online exams, and communicate with the participants of the educational process from anywhere (Lee, Lee & Jeong., 2023; Rind, Asad et.al., 2022). While many educators in higher education are using technologies in their teaching, their use of technology is generally restricted to meeting purposes of convenience and efficiency. Rarely are the affordances of technology being exploited by educators in higher education to develop teaching strategies that truly engage students, and help students develop self–regulation and the ability to work collaboratively – both of which are important capacities in the information age. Despite extensive efforts to support teachers with the integration of information and communication technologies (ICT) into their classroom practice, teachers face immense challenges when integrating ICT into their teaching (Wang & Torrisi-Steele. 2015; Pozas & Letzel, 2023).

Literature review

The use of Information and Communication Technology (ICT) in the teaching and learning process

has been the subject of extensive research in the past few decades. Many studies have discussed the benefits of ICT for teachers and learners. However, little is known about the main factors that influence teachers' attitudes toward the use of ICT in their teaching practices. As higher education institutions enroll students in conventional and distance education programs, lecturers are not only compelled to equip themselves with technological knowledge and skills but are also supposed to receive support from their institutions to fully integrate technology into their academic endeavors (Makhlouf & Bensaf, 2021; Mwalongo & Mkonongwa, 2023). The highest available ICT facilities in all schools were computers, laptops, and mobile phones being used by students to download relevant information on their various courses and exchange ideas and knowledge with other students. The institutions play an active role in the effectiveness of the use of ICTs by funding ICTs in schools through training and re-training of teachers and exposure of stakeholders to the relevance of the pedagogy relating to the use of ICTs for teaching and learning (Ojo & Adu, 2018)

Poudel (2022) pointed out that ICTs were useful for the participants in their teaching and learning activities mainly for accessing learning resources, preparing and presenting their lessons, and for conducting collaborative learning activities. Meanwhile, access to ICT tools and the skills needed to use ICTs were the main problems for them (Poudel, 2022). At the same time, Qaddumi, Bartram & Qashmar (2021) found that students in public schools perceived ICT to have a moderate influence on their learning, and Xhomara (2017), showed that 28.1% of variance in academic achievements has been predicted or has been influenced by lectures attendance. Students indicated that they face frequent challenges such as lesson duration, access to modern devices, and issues with information research skills. These results contrasted with schoolteachers' views, which reflected a much stronger impression of the influence of ICT on teaching. Xhomara and Dasho (2023) found a significant positive correlation between online instruction and student learning outcomes. They also found that online instruction is making a substantial positive contribution to the prediction of student learning outcomes. The amount of students' study time correlates positively with the academic achievements of students. At the same time, the amount of students' study time influences strongly the academic achievements of students (Xhomara & Hasani, 2018).

The study conducted by Zenda & Dlamini (2023), shows that opportunities such as ICT infrastructure, training policy, collaboration, ICT assessments, and ability to communicate using ICT influence teachers' adoption of ICT and make teaching and learning effective. ICT assessments facilitate the recording of responses, provide necessary feedback, empower teachers and students,

and transform teaching and learning processes from being teacher-centered to student-centered. Furthermore, communication platforms and collaboration models if implemented might be particularly effective in generating increased participation and improving learning outcomes. Meantime, there is a growing demand for educational institutions to use ICT to teach the skills and knowledge students need for the digital age. The integration of ICT into education provides opportunities for teachers and students to work better in a globalized digital age, particularly in teaching and learning environments, where teaching and learning can take place anytime and anywhere, 24 hours seven days a week (Lawrence, 2018).

Xhomara and Baholli (2022), found that approximately 72.2% of the variance for the experimental group and 87.8% for the control group in academic performance can be explained or accounted for by coursework differences in the Context of Blended Learning. Meantime, Xhomara and Karabina (2021), found that approximately 49.7% of the variance in academic performance can be explained or accounted for by online learning differences. The study also found that approximately 78% of the variance in students' satisfaction can be explained or accounted for by online learning differences. The study conducted by Xhomara and Dasho (2019) demonstrated that a positive correlation exists between information and communication technology skills and the effective learning of students. It can be concluded that information and communication technology skills impact effective teaching and learning. Ergado (2019) in the research study indicated the lack of an ICT policy for pedagogical practices as the main challenge to the integration of ICT in teaching and learning. Further, lack of support from top management, implementation problems, lack of training for instructors and experts, the structure of ICT service under the administrative unit, and students' skills to use ICT for their learning are considered critical problems impacting the integration of ICT for pedagogical practices. Furthermore, Makhlouf & Bensaf (2021) indicated that teachers held positive attitudes toward ICT in education. There were statistically significant positive correlations between teachers' attitudes toward ICT and the five independent variables: personal characteristics, computer attributes, cultural perceptions, computer competence, and computer access. It was also found that age and academic qualification were negatively correlated with attitudes.

ICT can enhance the educators' plan work, enhancing students' learning process and thus improving the academic performance of students. The study conducted by Mwila (2018), found that both male and female teachers had positive attitudes towards integration of ICT in their teaching process. Furthermore, it was reported that there is a relationship between a teacher's age group and attitudes

toward the integration of ICT in the teaching process and learning process. In the meantime, both lecturers and students, thus, were intimidated by new technologies and ways of learning at the beginning. In the absence of ICT training, their consistent practices of online learning enabled them to develop some level of confidence in using ICT in teaching and learning activities. The online mode of learning, albeit it is reported as a potential strategy to shift from the traditional education system to modern learning, cannot be sustainable in the context where there is limited or no infrastructure for the internet and electricity (Paudyal & Rana, 2021).

Student engagement evaluation can help inform and enhance the implementation of student development programs. This study found that university freshmen"s Online Engagement was the strongest while their Academic Engagement was the weakest. This study also discovered that first-year university students' engagement was weakest about reading textbooks before attending class, asking questions in class, and borrowing books from the university library. (Chong & Sin Soo, 2021). Concurrently, literature shows that in education ICTs facilitate efficient and effective access to digital information; those students may become more focused and capable of self-paced learning; generate a creative learning environment; and ease and promote collaborative learning. Students must develop a more independent attitude towards teachers and face-to-face learning, as well as critical skills to evaluate the data offered by the Internet (Ferrero & Álvarez Sainz, 2023). Information and Communication Technology specialists, working within universities, play important roles in the deployment of educational technologies for teaching and learning. It emerged that there has been impressive formulation of e-learning policy, construction of computer laboratories, installation of Internet facilities, Learning Management Systems, Enterprise Solution Software, and Library Solution Software to promote ICT-mediated teaching and learning in the face of barriers (Asamoah, 2021). Meanwhile, Leask (2004), emphasizes that information and communication technologies (ICTs) bring a new dimension to the internationalization of higher education. They are increasingly being used to enhance the quality of learning for all students. ICTs offer many opportunities to internationalize the curriculum and the learning experiences of students, but they also provide challenges because academics teach a more diverse range of students in a more complex and diverse teaching and learning environment.

Mayo-Cubero (2021), pointed out that the effective implementation of information and communications technologies (ICTs) in higher education is not guaranteed without serious and rigorous pedagogical reflection. It is essential to maintain an ongoing debate on the effectiveness of

the learning process. A debate accelerated by the impact of the COVID-19 crisis and the growing role of virtual and remote learning in universities worldwide. There was a high degree of student satisfaction, with the experience and a significant improvement in students' television writing skills, thanks to the implementation of Moodle. At the same time, it is revealed that despite a high level of appreciation among teachers of the importance of ICT integration into teaching and learning classroom integration was not found problem-free. Several debilitating factors evolved including, a lack of ICT infrastructure, a lack of institutional encouragement, weak policies, and above all a lack of sufficient skills among teachers at all levels- technological, pedagogical, and integrative (Kundu & Bej, 2021).

The digital learning ecosystem plays an important role in transforming the teaching classroom into a learning community. Industry and higher education are increasingly utilizing online environments due to digitalization. The results indicate that students perceived project-based learning in an online setting positively. However, the findings point to issues with social interactions and the actual application of learned knowledge and skills. Challenges in task management and scheduling, as well as receiving feedback, had a somewhat negative impact on the learning experience, particularly during the first year of study (Nguyen, Kanjug, Lowatcharin et.al., 2023; Mielikäinen & Viippola, 2023). The study conducted by Xhomara, Karabina, and Hasani (2022) indicated a positive correlation between managerial leadership and students' achievements. At the same time, the study revealed that 9.9% of the variance according to students and 44.4% according to principals on students' achievements is explained by managerial leadership. It is also found that school management increases the prevention of disruptive behaviors and students' life skills, and collegial school management predicts the prevention of disruptive behaviors and students' life skills (Xhomara, 2019). Students' information and communication technology (ICT) skills are a valuable resource for their educational performance, although to varying degrees across countries (Sze Ming Loh, Kraaykamp & Van Hek, 2023); and access to ICT, physical characteristics of the learning environment at school, quality of teaching staff and educational material, student characteristics and learning climate, and political and economic structure of the country as potential true predictors of academic achievement (Erdogdu, 2022)

The findings of the study revealed that the students' science scores improved by 10% in one year and 23% in two years with the use of ICT-based facilities. Also, it can be concluded from the results that ICT has a positive as well as statistically significant impact on students' science learning by using

ICT facilities in schools. Results of the study show that students' level of interest in learning science has been enhanced by the use of ICT (Rind, Asad et.al., 2022). Technological advances such as Massive Open Online Courses and Information and Communication Technologies allow the construction of new spaces where students consult information at any time, take online exams, and communicate with the participants of the educational process from anywhere. The results of machine learning (linear regressions) indicate that the organization of the school activities in MOOCs positively influences the motivation, participation, and learning of the students (Salas-Rueda, Castañeda-Martínez et. al., 2022)

According to Lee, Lee & Jeong (2023), recent advances in technology have fueled the rapid growth of digitization in education, and the education industry has witnessed radical changes in the provision and delivery of its products and services. Digital textbooks, which are equipped with various learning resources including multimedia aids, assessment questions, and hyperlinks to external resources, can be an important channel for harnessing technologies in classrooms. The authors employ a panel regression model with teacher fixed effects, propensity score weighting, and an instrumental variable strategy to find that greater usage of digital textbooks in class improves students' academic performance, academic interest, and learning skills. The outcomes revealed that ICT in the workplace is conceived in three qualitatively different ways: using ICT for various regular work-related tasks; helping accomplish a job more effectively; and using ICT as an essential tool in professional activities. Three dimensions of variation, accessing and receiving information, communication, and professional development, were identified and explored to establish relationships among the categories of description. These findings provide useful knowledge for minimizing the gap between teaching in vocational institutions and workplace practices. (Khan & Markauskaite, 2018; Jasman, Blass & Shelley, 2013)

Rarely are the affordances of technology being exploited by educators in higher education to develop teaching strategies that truly engage students, and help students develop self–regulation and the ability to work collaboratively, both of which are important capacities in the information age. It is therefore desirable to encourage educators to make some changes to their online teaching practices. Achieving change in teaching practice is a challenging process (Wang & Torrisi-Steele, 2015). In the meantime, academic self-efficacy is identified as one of the strongest predictors of students' academic performance. Hierarchical regression analysis shows that intrinsic motivation, extrinsic

motivation, instructor support, performance expectancy, and facilitating conditions are significant predictors of students' academic self-efficacy in blended learning (Wei, Shi, MacLeod & Yang, 2022). The findings expand the understanding of students' academic self-efficacy in technology-enhanced learning environments and provide valuable insights that could help to improve the appropriateness of instructional design in blended learning courses.

Findings reveal the patterns of participants' interactions with ICT tools: (a) seeking explicit information about how to engage in learning; (b) seeking assistance while engaged with the assigned tasks; and (c) supporting to comparison of learning outcomes with the requirements outlined in the tools. In doing so, the tools provided *orienting*, *executive*, and *controlling support* and might have contributed to enhancing participants' capacity to learn in digital environments and their transformative digital agency (Engeness, Nohr, Singh & Mørch, 2020). Meanwhile, according to Pozas & Letzel (2023), is evidenced that despite extensive efforts to support teachers with the integration of information and communication technologies (ICT) into their classroom practice, teachers face immense challenges when integrating ICT into their teaching. This issue has become even more relevant with the rapid spread of the COVID-19 virus, forcing schools around the world to close for an indefinite period and thus to offer remote digital learning solutions. The analyses included pre-service teachers' background characteristics, ICT profiles, attitudes and self-efficacy, digital competencies, and use of digital tools to explore their role in future in-class use of ICT. They also show that there are no gender differences in pre-service teachers' prospective ICT integration. However, male pre-service teachers hold more positive attitudes towards ICT use than their female counterparts. Additionally, the findings reveal that the two strongest predictors of pre-service teachers' future ICT use are their attitudes and perceived competency to teach and implement technology in their teaching practices (Pozas & Letzel, 2023; Canese, Paez & Amarilla, 2023). Thus, it is evidenced that, the investigation of the relationship between technological tools and their impact on teaching and students' learning at university, is important.

Methodology

The study aims to investigate the relationship between ICT and teaching and learning at university. It also included the importance of ICT in teaching and learning and its ability to transform the way students learn in classrooms. Identification of the positive impact that ICT integration has on the teaching and learning process was the main goal of the study. The main method used in the research

study was a critical review of literature, that included primary and secondary sources. The research questions of the study included: (1) Is there a statistically significant relationship between ICT integration and teaching at the university? (2) Is there a statistically significant relationship between ICT integration and learning at the university? Meanwhile, the two main hypotheses in the research study were as follows: (1) H # 1: Teaching at university is predicted by ICT integration. (2) H # 2: Students' learning at university is predicted by ICT integration. The context of the study was the university teaching and learning environment, and the indirect target populations were the lecturers and students. At the same time, ICT integration in teaching is selected to be the independent variable, and teaching and learning are selected to be the dependent variables.

Results and discussion

ICT at the university is conceived in three qualitatively different ways: using ICT for various regular work-related tasks; helping accomplish a job more effectively, and using ICT as an essential tool in professional activities. Three dimensions of variation, accessing and receiving information, communication, and professional development, were identified and explored to establish relationships among the categories of description. There are no gender differences in pre-service teachers' prospective ICT integration. However, male pre-service teachers hold more positive attitudes towards ICT use than their female counterparts. Additionally, the two strongest predictors of pre-service teachers' future ICT use are their attitudes and perceived competency to teach and implement technology in their teaching practices. The results showed that the main aspects affecting the development of classes are teachers' experience using ICT tools, training received, and technology appropriation. Moreover, the availability of a variety of tools for synchronous and asynchronous instruction, communication, and evaluation allowed teachers to rapidly transition into Emergency Remote Teaching.

The majority of respondents were dissatisfied with the support for integrating ICTs in teaching and learning offered by their institutions. There were no significant differences in respondents' perceptions of support services for integrating ICTs in teaching and learning by gender and age. The highest available ICT facilities were computers, laptops as well and mobile phones being used by students to download relevant information on their various courses and exchange ideas and knowledge with other students. The respondents were not satisfied with their utilization of ICTs in teaching and learning. Access to ICT tools and the skills needed to use ICTs were the main problems

for respondents in the integration of ICTs in teaching and learning. Respondents in public schools perceived ICT to have a moderate influence on their learning. Respondents face frequent challenges such as lesson duration, access to modern devices, and issues with information research skills. These results contrasted with some authors' views, which reflected a much stronger impression of the influence of ICT on teaching.

Opportunities such as ICT infrastructure, training, collaboration, ICT assessments, and the ability to communicate using ICT influence teachers' adoption of ICT and make teaching and learning effective. ICT assessments facilitate the recording of responses, provide necessary feedback, empower teachers and students, and transform teaching and learning processes from being teacher-centered to student-centered. The lack of an ICT policy for pedagogical practices was the main challenge to the integration of ICT in teaching and learning. The teachers mainly held positive attitudes toward ICT in education. There were statistically significant positive correlations between teachers' attitudes toward ICT and the teaching and learning variables. It was also found that age and academic qualification were negatively correlated with attitudes. Both male and female teachers had positive attitudes towards the integration of ICT in their teaching process. Furthermore, there is a relationship between a teacher's age group and attitudes towards the integration of ICT in the teaching and learning process.

Despite limited technological and pedagogical knowledge, lecturers initiated online learning as an alternative to physical classroom learning during the COVID-19 situation crisis. Both lecturers and students, thus, were intimidated by new technologies and ways of learning at the beginning. In the absence of ICT training, their consistent practices of online learning enabled them to develop some level of confidence in using ICT in teaching and learning activities. Many students from remote rural areas, however, are unable to access online education due to the lack of the internet, and smart devices. The first-year university students' engagement was weakest about reading textbooks before attending class, asking questions in class, and borrowing books from the university library. Students consider and use ICTs as a complement to transmission models. However, it was strongly believed that the knowledge society requires a model that takes into account the principles of the constructivism learning theory. There was a high degree of student satisfaction, with the experience, and a significant improvement in students' skills, thanks to the implementation of ICT tools.

Despite a high level of appreciation among teachers of the importance of ICT integration into

teaching and learning, classroom integration was not found problem-free. Several debilitating factors evolved including a lack of ICT infrastructure, a lack of institutional encouragement, weak policies, and above all a lack of sufficient skills among teachers at all levels- technological, pedagogical, and integrative. It was revealed that an ecosystem includes four core components: ICT learning community, learning atmosphere, active learning, and teaching and learning support. However, junior high schools need to clarify and improve seven factors affecting the development of this ecosystem to boost classroom transformation into an ICT learning community. Students perceived project-based learning in an online setting positively. Challenges in task management and scheduling, as well as receiving feedback, had a somewhat negative impact on the learning experience, particularly during the first year of study. Student ICT skills serve as an educational resource. It is indeed dependent on the country's ICT-promotive environment, as students' ICT skills translate to greater performance gains in areas with higher levels of ICT access in educational environments.

The availability of an internet connection and enjoyable pastime activity at home have positive impacts on students' success, a strong correlation exists between high test scores and student characteristics & learning climate, and there is a negative relationship between academic performance and teacher enthusiasm & support. At the same time, student success is negatively correlated with income level and political and economic freedoms but positively associated with the economic competitiveness of a country, and the students in lightly populated classes are more successful than those in overloaded ones and inadequate or poor educational material deteriorates educational outcomes. The students' scores improved by 10% in one year and 23% in two years with the use of ICT-based facilities. ICT has a positive as well as statistically significant impact on students' learning by using ICT facilities in schools. Students' level of interest in learning science has been enhanced by the use of ICT.

Conclusions and implications

The purpose of the study is to investigate the relationship between technological tools and their impact on teaching and students' learning at university. The prior assumption was that technological tools impact teaching and students' learning at university.

As the world is rapidly moving toward digitalization, the modes of teaching and learning have been

changing. ICT plays a very significant role in the betterment of education.

Based on the findings of the study, it can be concluded that universities must provide adequate support to lecturers in terms of training, technical staff, finance, and facilities to effectively integrate technology in teaching and learning. The study concluded that ICTs were useful for the participants in their teaching and learning activities mainly for accessing learning resources, preparing and presenting their lessons, and for conducting collaborative learning activities. Furthermore, communication platforms and collaboration models if implemented might be particularly effective in generating increased participation and improving learning outcomes. The ICT training policy guides teachers in the adoption of ICT in the classroom. Further, lack of support from top management, implementation problems, lack of training for instructors and experts, the structure of ICT service under the administrative unit, and students' skills to use ICT for their learning are considered critical problems impacting the integration of ICT for pedagogical practices.

The results of the study give meaningful insights for educational practitioners and managers about the implementation of ICT for teaching and learning in the classroom. Based on the findings, the study concluded that ICT integration into the teaching process largely depended on the attitude of teachers and students concerning ICT integration. At the same time, positive ICT attitudes are expected to foster ICT integration in the teaching and learning process. The online mode of learning, although it is reported as a potential strategy to shift from the traditional education system to modern learning, cannot be sustainable in the context where there is limited or no infrastructure for the Internet. Finally, the results provide important information about teachers' training needs as well as the implementation of ICT in teaching. In conclusion, universities with the support of technological tools can improve the teaching-learning process and update the courses.

It was recommended that educational institutions should play an active role in the effectiveness of the use of ICTs by funding ICTs in schools through training and re-training of teachers and exposure of stakeholders to the relevance of the pedagogy relating to the use of ICTs for teaching and learning. The constraints need to be minimized to improve the integration of ICTs in higher education. It is essential to adequately develop teachers' ICT fluency and put in place appropriate ICT infrastructure and training activities to enhance teaching and learning practices. The study recommended that curriculum developers should integrate ICT into a curriculum with an account of economic, cultural, political, social, educational, and catalytic rationales. Students must develop a more independent

attitude towards teachers and face-to-face learning, as well as critical skills to evaluate the data offered by the Internet. Managers, educators, and teachers should issue educational objectives, invest in infrastructure, design curricula, and organize teaching activities to enhance the effectiveness of learning outcomes. Educators should use ICT to improve educational conditions, create new remote school activities, and build new virtual learning spaces.

These findings emphasize the crucial importance of awareness about the type of support ICT tools provide to enhance participants' learning in digital environments. Therefore, it is very important to be aware of lecturers and students about the usage of technology in teaching and learning.

Future student development programs could be enhanced by increasing the use of ICT in teaching and learning as well as increasing efforts in assisting new students to transition from school to university learning environments by inculcating good reading habits and encouraging active class participation. Future researchers may investigate the teachers' use of ICT in their teaching practices. The results of this study also have important implications for practice. Important interventions should be designed to support students because it is confirmed by this study that ICT tools impact teaching and learning at university. Overall, the findings of this study enhanced theoretical and practical understanding as ICT tools impact teaching and students' learning at university.

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Fostering Stability in the Western Balkans: The Role of Language Learning, Intercultural Understanding, and Inclusive Internationalization

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Abstract

This paper examines the pivotal role of language learning, intercultural understanding, and inclusive internationalization in fostering stability in the Western Balkans. Employing a qualitative research approach in data collection and analysis, the study conducts interviews with language teachers and students in Western Balkan countries to gain insights into their perceptions of existing language learning and teaching practices, as well as their potential for promoting inclusive internationalization strategies. The research explores the challenges and opportunities in integrating social inclusion within language learning and teaching frameworks. By elucidating the experiences and perspectives of participants, the study aims to shed light on the impact of language education on intercultural understanding and the potential for inclusive internationalization initiatives to contribute to stability in the region. The research highlights that language learning in the Western Balkans significantly enhances intercultural understanding, nurturing empathy, tolerance, and acting as a catalyst for stability and cooperation. Initiatives fostering inclusivity through language projects effectively dismantle stereotypes, aiding conflict resolution and promoting regional unity. These findings will guide recommendations aimed at improving language learning practices and advocating inclusive internationalization strategies, crucial for fostering peace, cooperation, and sustainable development in the Western Balkans.

Keywords: *Language learning, intercultural understanding, inclusive internationalization, western balkans.*

Introduction

The Western Balkans, a region characterized by a complex tapestry of cultures, histories, and identities, has witnessed its fair share of turmoil over the past century. The persistent challenges of political instability, ethnic tensions, and economic disparities have posed formidable barriers to the region's progress and prosperity. The transformative potential of language learning, intercultural understanding, and inclusive internationalization - these elements could hold the key to fostering stability and resilience in the Western Balkans, paving the way for a brighter, more harmonious future. The Western Balkans have long been a hotspot for geopolitical tensions, rooted in the complex legacies of the Balkan wars and the disintegration of Yugoslavia. The specter of ethnic divisions continues to cast a shadow over the region, impeding progress and reconciliation. Yet, at the same time, this diversity is an incredible asset, one that, if harnessed effectively, could be a source of strength, unity, and resilience. This paper tries to delve into the crucial roles that language learning, intercultural understanding, and inclusive internationalization play in transforming the sociopolitical landscape of this region. While past research and international interventions have contributed significantly to the region's development, it is essential to recognize the potential of these specific elements in crafting a more harmonious and prosperous future.

Language learning is not merely an educational pursuit but a bridge that connects individuals from different backgrounds, fostering dialogue, understanding, and empathy. By investing in language education, we can empower the youth of the Western Balkans to communicate across cultural divides, transcending ethnic boundaries and laying the groundwork for peaceful coexistence. Intercultural understanding is equally paramount. The exchange of ideas, traditions, and experiences can break down stereotypes and build trust, enabling the Western Balkans to overcome the historical animosities that have marred its progress. By promoting dialogue and collaboration, intercultural understanding can encourage a more inclusive and cohesive society. Inclusive internationalization, through initiatives such as educational exchange programs and economic partnerships, can further integrate the Western Balkans into the broader international community. This not only offers economic opportunities but also reinforces the region's commitment to shared values of democracy, human rights, and the rule of law, all of which are integral to lasting stability.

By emphasizing language learning, intercultural understanding, and inclusive internationalization, this paper aims to shed light on their transformative potential. The Western Balkans are at a crossroads, and it is our shared responsibility to harness the power of these elements to create a more

stable, prosperous, and harmonious future for the region and its people. In the pages that follow, we will explore the multifaceted nature of these elements and examine their practical applications within the Western Balkans. By doing so, we endeavor to contribute to the ongoing dialogue on how best to foster stability in this unique and historically significant region. The road may be challenging, but the promise of a more stable Western Balkans, built on the pillars of language, understanding, and inclusivity, beckons us forward.

Literature review

The rapid advancement of global interconnectedness has forged a shared objective within the international community, with a primary focus on achieving the effective cultivation of intercultural communication skills (Abisheva et al., 2019). The evolving perspective has brought about transformations in foreign language education. This shift emphasizes the cultivation of cultural competencies, fostering an appreciation for emancipated values, and promoting qualities like tolerance, respect, and openness towards others. It also supports the exchange of ideas and experiences across cultures. According to Petrović (2019), effective communication with individuals from different cultural backgrounds is a skill that develops over time. A crucial element of this competence is intercultural sensitivity, which involves recognizing pertinent cultural differences and cultivating positive attitudes towards them. Developing young people's intercultural competence, both domestically and internationally, depends on teachers and teacher educators who not only possess these skills but can also effectively teach them to their students. Despite the natural presence of cultural concepts in education, intercultural understanding remains on the sidelines rather than at the core of educational goals. There's no clear-cut method for fostering intercultural competence and integrating it into school systems is a slow and intricate process (Cushner & Mahon, 2009).

Acquiring proficiency in foreign languages represents a central paradigm and a vital component in fostering effective and high-quality intercultural communication skills (Jarrah, 2019). One of the foremost challenges confronting contemporary society is the provision of education within a multicultural context. Integration processes have evolved into a significant aspect of today's increasingly interconnected globalized landscape (Seregina et al., 2019). Undoubtedly, the driving force behind the formation and growth of communicative competence in the modern society lies in the acquisition of foreign languages, serving as a pivotal tool for effective intercultural communication and comprehension. Language emerges as a fundamental paradigm within the realm

of intercultural dialogue, transcending territorial, ethnic, historical, and religious boundaries, as it serves as a means of communication, comprehension, information dissemination, and assimilation (Ter-Minasova, 2000). The integrative role of language takes precedence in intercultural communication, encompassing both interpersonal and sociocultural dimensions (Parekh, 2001). As a result of globalization, the sociological neologism "global citizen" necessitates clarification. It encompasses an approach to education rooted in universal respect within an intercultural realm, where individuals reflect their own culture alongside the achievements of global civilization. The mission of a comprehensive education philosophy in numerous European nations is to mitigate ethnic, religious, and political biases, fostering a sense of equality.

The foundation of multicultural education must align with the principles of multiculturalism. Multiculturalism has grown in significance to the extent that it constitutes a prominent foreign policy dimension for contemporary nations. This involves upholding normative principles that champion the importance of cultural diversity, emphasizing equality among various groups, and translating these values into the framework of institutions and policies (Sarmento, 2014). The evolution of the educational framework should prioritize a substantial qualitative shift, rooted in a multicultural understanding of living harmoniously with diverse ethnic groups, fostering cultural enrichment, and promoting individual self-identity within a multi-ethnic society. This emphasis should take precedence within the contemporary educational system of the Western Balkans. Multiculturalism extends beyond the presence of diverse cultures in a confined geographical area like the Balkan Peninsula. It encompasses linguistic diversity as well, as languages and language diversity are products of various social, cultural, political, economic, and civilizational factors present in these regions. Thus, the Balkan Peninsula has consistently been marked by its multiculturalism, multilingualism, and resulting diversity (Mutavdžić et al., 2011). As individualization remains limited, collective cultures in the Balkans, like other collective cultures, exhibit lower levels of tolerance for diverse cultural norms and behaviors in contrast to more individualistic cultures (Burgoon et al., 1966). Historical conditions have necessitated the embrace of multiculturalism (Babaii, 2018). The influx of migration has underscored the significance of this phenomenon across all facets of society, education included, as an essential element in the development of a robust and well-rounded community (Crosbie, 2014). For the proper functioning of multiethnic Balkan societies, effective communication among all their members, or intercultural communication, is essential. This makes the study of languages a noteworthy example for gaining an in-depth

understanding of culture from within, as intercultural communication is an integral component of culture. While learning a foreign language can be challenging, stressful, and time-consuming due to the required effort, it offers several advantages. One of these is the ability to perceive our world from different perspectives. Language plays a pivotal role in exploring and shaping our individual and collective identities (Svitl, 2005).

Several research studies indicate that within the European context, language education policies have been purposefully designed with the aim of fostering democratic citizenship through education. This language education policy operates under the assumption that all learners possess the capacity to cultivate identities as not just national citizens but also as global or cosmopolitan citizens (Starkey, 2007). Banks (2015) identified three key objectives in the field of multicultural education: 1) Instigating necessary adjustments in schools to foster a more supportive educational environment; 2) Providing high-quality educational experiences to all students, regardless of their ethnic, racial backgrounds, or social statuses; 3) Guaranteeing equal educational opportunities for both genders.

The internationalization of higher education has the potential to serve as a valuable economic and political tool. This potential lies in the benefits it offers to countries. It not only allows them to gain from the knowledge, skills, and qualifications acquired by their domestic students through collaborations between universities, the market, and the state but also enables them to reap the rewards of having their students study abroad (Tudzarovska-Gjorgjievska, 2013). This approach to higher education is viewed as a proactive response to the ongoing processes of globalization, competitive societies, knowledge-driven economic advancements, and other factors that encourage the movement of human capital, skills, qualifications, innovations, new technologies, and the rapid exchange of information (Vit de Hans, 2010). These trends challenge the traditional values associated with educational exchanges and partnerships.

Based on these premises, it is imperative to promptly establish robust intercultural communication in the Balkans. This form of communication necessitates the unrestricted exchange of information on equal terms, characterized by mutual respect and the reduction of long-standing animosities among Balkan residents. This need is particularly pressing in our contemporary era, where modern communication often occurs without intermediaries, as exemplified by the Internet. Furthermore, in today's world, there is no nation that is geographically or physically isolated and living in seclusion, as Korhonen (2004) noted "the world is more global and mobile than ever before". Simultaneously, there is a crucial need to acquire a comprehensive understanding not only of the language(s) being

studied but also of the key aspects of culture, history, and traditions of neighboring nations. This signifies that "engaging in cross-cultural interactions typically requires a certain degree of familiarity with the respective cultures," as emphasized Ceramella (2008). Therefore, countering ethnocentrism, which typically arises during social conflicts according to Merton-Sztompka (1996), stands as the pivotal factor in establishing effective intercultural communication in the Balkans.

Methodology

This paper focuses on research aimed at gauging the perspectives of foreign language teachers and students from Western Balkan countries regarding the role of language learning, intercultural understanding, and inclusive internationalization in promoting stability in the region.

Grounded in a qualitative paradigm, this research relies on delineating specific research questions to achieve the research goals. Teacher-Focused Research Questions:

- RQ1: How do language teachers perceive the current language learning practices and methodologies employed in the Western Balkans?
- RQ2: What is the perceived role of language learning in fostering intercultural understanding among students, as perceived by language teachers?
- RQ3: What examples of language learning activities or projects, according to language teachers, have successfully promoted inclusivity and internationalization in the classroom?
- RQ4: What challenges do language teachers encounter in integrating social inclusion within language teaching frameworks, and what strategies are employed to address these challenges?
- RQ5: How do language teachers perceive the connection between language learning, stability, and reconciliation efforts in the Western Balkans?

Student-Focused Research Questions:

- RQ1: How has learning a new language influenced students' understanding of different cultures and communities?
- RQ2: Based on students' experiences, what language learning activities or projects have effectively promoted inclusivity and internationalization?
- RQ3: How do students perceive the contribution of language learning to fostering stability and cooperation in the Western Balkans?
- RQ4: What barriers or challenges do students face in accessing language learning

opportunities, and how do they propose overcoming these obstacles?

- RQ5: According to students, what role does language learning play in building bridges and facilitating dialogue among diverse communities in the region?

Prior to commencing the study, hypotheses were formulated pertaining to teachers' and students' attitudes and perceptions in line with the qualitative nature of this research.

Hypotheses related to Teachers' attitudes and perceptions:

- H1: Language teachers in the Western Balkans perceive language learning practices as varied and dynamic, incorporating diverse methodologies to address cultural diversity.
- H2: Language teachers believe that language learning significantly contributes to fostering intercultural understanding among students, promoting empathy and tolerance.
- H3: Teachers have implemented language learning activities or projects that have demonstrated success in fostering inclusivity and internationalization within the classroom.
- H4: Challenges faced by language teachers in integrating social inclusion within language teaching frameworks include institutional limitations and resource constraints, which can be mitigated through strategic planning and support.
- H5: Language teachers perceive a positive correlation between language learning, stability, and reconciliation efforts in the Western Balkans, viewing language education as a potential tool for fostering peace and cooperation.

Hypotheses related to Students' attitudes and perceptions:

- H1: Learning a new language influences students' understanding of different cultures and communities, fostering an appreciation for diversity and encouraging open-mindedness.
- H2: Students engaged in language learning activities or projects have experienced increased inclusivity and exposure to international perspectives, breaking stereotypes and fostering connections.
- H3: Students believe that language learning contributes significantly to fostering stability and cooperation in the Western Balkans, serving as a bridge among diverse communities.
- H4: Barriers or challenges encountered by students in accessing language learning opportunities include limited resources and institutional support, which can be addressed through enhanced accessibility and support mechanisms.

- H5: Students perceive language learning as a tool for building bridges and facilitating dialogue among diverse communities, promoting understanding and cooperation within the region.

Data Collection

A descriptive methodology was employed, involving the observation of the current situation and interviews as the primary research techniques. Qualitative research, organized in the form of focus groups, was conducted to gather the perspectives of teachers and students from Western Balkan countries who had participated in international exchanges or mobility programs.

Participant Selection and Research Scope:

Six foreign language teachers and six students took part in the qualitative research phase. It's worth noting that this was a purposeful, non-random sample. Participants were selected based on practical data indicating a greater degree of experience, fluency in foreign languages, and clear articulation of views on educational and sociological matters, along with significant exposure to intercultural and international activities.

The qualitative research aimed to provide insights into participants' experiences, potential concerns, issues, advantages, and disadvantages encountered during language teaching and student mobility, as well as in intercultural and international events and activities.

Results and discussion

Here are the perspectives and viewpoints of foreign language teachers hailing from the Western Balkan nations.

Question 1: Current Language Learning Practices and Methodologies.

In response to the question about current language learning practices and methodologies, the foreign language teachers from the Western Balkans highlighted a range of approaches. Traditional classroom teaching, often emphasizing grammar and vocabulary, was mentioned as a prevailing method. Communicative Language Teaching (CLT) was acknowledged for its focus on practical communication skills. Blended learning, a mix of in-person and online instruction, was increasingly popular, allowing for more flexible learning. Task-based learning and content-based approaches, where language is taught through subjects like history or science, were also identified.

These findings suggest a diverse landscape of language education practices within the Western

Balkans, reflecting a mix of traditional and contemporary methods. The current language learning practices and methodologies align with EU age policies, emphasizing communicative and student-centered language approaches while adhering to CEFR principles and tenets.

Question 2: Role of Language Learning in Promoting Intercultural Understanding.

Teachers recognized the pivotal role of language learning in fostering intercultural understanding. They emphasized that learning a new language exposes students to the culture, traditions, and worldview of the people who speak that language, resulting in empathy, open-mindedness, and a broader global perspective. Language learning was viewed as a tool for becoming culturally and interculturally aware, challenging stereotypes, and promoting conflict resolution. It was seen as contributing to the development of global citizens and increasing career opportunities. Recently, the intercultural aspect has received significant emphasis in language teaching and learning policies. However, while language inherently serves as a bridge between cultures in many respects, language teachers do not possess omnipotence, and they often face unrealistic demands to incorporate all these aspects within the limited two or three language classes they have with their students each week.

Question 3: Examples of Inclusive and Internationalization Language Learning Activities.

Teachers provided examples of language learning activities that fostered inclusivity and internationalization in their classrooms. These included language exchange programs, cultural events, and collaborative projects that involved students from diverse backgrounds. Role-play was highlighted as an effective activity for reducing language anxiety and encouraging cultural research. Language centers for foreign students were recognized as places of integration and intercultural awareness.

Question 4: Challenges in Integrating Social Inclusion within Language Teaching.

Challenges in integrating social inclusion within language teaching were identified, including a lack of resources for modern teaching methods, resistance to change, and diverse student backgrounds. Teachers encounter numerous challenges in promoting social inclusion. These challenges include the absence of institutional training, limited access to teacher assistants, and large class sizes, often with around 30 students, making it challenging to meet individual needs.

While they strive to address these issues through workshops and peer collaboration, these efforts are primarily individual in nature, lacking sufficient institutional support. Strategies to address these challenges should include purposeful and result-oriented trainings for teachers, community outreach, and the establishment of clear guidelines for respectful communication.

Question 5: Connection Between Language Learning, Stability, and Reconciliation Efforts.

Regarding the connection between language learning, stability, and reconciliation efforts in the Western Balkans, teachers recognized the potential of language learning as a powerful tool. They emphasized that learning each other's languages can break down barriers, reduce prejudices, and foster a sense of community. It was seen as a bridge between communities, supporting educational initiatives to overcome historical divisions and build a more harmonious future for the region. Language learning was viewed as a means to enhance communication, understanding, cross-cultural competence, and economic opportunities. Some respondents believe that not enough has been done in this area. There are no established institutional systems and plans for conducting reconciliation through language learning. While there are valuable projects supported by the EU and the American Embassy that assist teachers in structuring their classes with the goal of fostering understanding and reconciliation among Western Balkan countries, regrettably, there are also projects that profess noble intentions but ultimately serve individual interests.

The responses of the students from Western Balkans countries provide valuable insights into the role of language learning, intercultural understanding, and inclusive internationalization in fostering stability in the region. These responses are summarized and discussed below:

Question 1: Influence of Language Learning on Understanding Cultures.

The students overwhelmingly emphasized the transformative role of learning a new language in their understanding of different cultures and communities. They recognized that language is not merely a means of communication but also a reflection of a community's history, values, and way of life. Learning a new language allowed them to connect with people on a profound level, appreciate their traditions, and challenge their own worldviews. This deepened understanding has led to more open-mindedness, empathy, and a broader appreciation for cultural diversity.

Question 2: Participation in Language Learning Activities and Projects promoted inclusivity and internationalization.

While some students had not yet participated in language learning activities or projects that promoted inclusivity and internationalization, others shared their positive experiences. These activities included language exchange programs, cultural events, collaborative projects, and international student gatherings. These experiences facilitated cross-cultural interactions, cultural exchange, and a sense of unity among students from diverse backgrounds.

Question 3: Contribution of Language Learning to Stability and Cooperation.

According to the students, language learning is an essential component for promoting stability and cooperation in the Western Balkans. Learning each other's languages fosters better understanding and empathy, leading to improved communication and cooperation. It breaks language barriers and creates a sense of unity that is vital for resolving conflicts and building stronger relationships in the region. Language learning was seen as a tool for fostering peace and collaboration among the Balkan nations.

Question 4: Barriers and Challenges in Accessing Language Learning Opportunities.

Students identified some challenges in accessing language learning opportunities, including time constraints, lack of motivation, and the fear of making mistakes. However, they also suggested overcoming these barriers through study routines, language exchange partnerships, setting achievable goals, and utilizing online resources. These strategies could facilitate better access to language learning opportunities.

Question 5: Role of Language Learning in Building Bridges and Facilitating Dialogue.

The students envisioned language learning as a vital tool for building bridges and facilitating dialogue among diverse communities in the region. They highlighted that language learning creates a foundation for effective communication, understanding, and meaningful conversations among people from different backgrounds. It fosters a sense of connection, shared experiences, and harmony, breaking down barriers and promoting social cohesion. Moreover, it enhances economic cooperation and regional identity, encouraging cooperation and integration.

Conclusions and implications

Conclusions

Insights and perspectives from foreign language educators and students in the Western Balkans illuminate the pivotal role of language learning, intercultural comprehension, and comprehensive internationalization in advancing stability within the region. The feedback from foreign language teachers provides valuable insights into the intricate landscape of language education in the Western Balkans. It underscores the significance of language acquisition in fostering intercultural understanding, reconciliation, and overall stability. The diverse array of language teaching methodologies and the recognition of language's capacity to dismantle barriers and promote inclusivity underscore the transformative potential of language education as a catalyst for positive social transformation in this region. However, these responses also reveal the challenges and

constraints in implementing these methodologies, underscoring the need for enhanced institutional support and strategic planning to fully leverage the potential of language education for fostering stability and reconciliation. The responses from students emphasize the profound importance of language learning in nurturing stability, intercultural appreciation, and comprehensive internationalization within the Western Balkans. Language learning serves as a bridge that connects disparate communities, encourages constructive dialogue, and contributes to a more harmonious and collaborative regional environment. These findings underscore the power of language education as a unifying force for peace and solidarity in a historically diverse and complex region.

The research findings illuminate the profound impact of language learning within the Western Balkans. It emerges as a transformative experience, extending beyond mere communication skills to provide a deeper understanding of diverse cultures and communities. This deeper insight into the history, values, and ways of life among various ethnic groups fosters empathy, tolerance, and open-mindedness, contributing significantly to harmonious coexistence. Moreover, language learning initiatives, projects, and activities have proven effective in promoting inclusivity and internationalization. These endeavors bring together students from diverse backgrounds, encouraging cultural exchange and meaningful dialogue. The experiences shared by students highlight the immense potential of such programs in breaking down stereotypes, challenging misconceptions, and forging valuable connections.

Furthermore, language learning plays a pivotal role in promoting stability and cooperation in the region. It serves as a unifying force by facilitating effective communication, deepening cultural understanding, and mitigating misunderstandings. This contribution extends to conflict resolution, economic cooperation, and the development of a shared regional identity.

Addressing challenges faced by students, such as time constraints and fear of making mistakes, can be achieved through structured study routines, language exchange partnerships, and leveraging online resources. Establishing a supportive environment for language learners proves crucial in ensuring equitable access to language learning opportunities.

Implications

Recommendations stemming from the research conclusions advocate for a more comprehensive approach to language learning in fostering stability in the Western Balkans. Educational institutions and policymakers should invest in comprehensive language learning programs that not only focus on

linguistic skills but also on cultural awareness. Such programs can be integrated into the curricula to ensure that students engage with the culture and history of the languages they are learning. Furthermore, emphasis is placed on organizing inclusive language activities and projects that actively promote inclusivity and internationalization. These initiatives should be accessible to students from various backgrounds, fostering a sense of belonging and unity. Cross-border collaborations among institutions in the Western Balkans are proposed to facilitate language exchange and cultural events, promoting deeper understanding among communities. Additionally, the need for enhancing teachers' training in cultural aspects alongside language skills is highlighted, aiming to create a more holistic learning environment. Lastly, the call to improve accessibility to language learning resources, including online courses, language exchange platforms, and multimedia materials, is stressed to mitigate barriers faced by students in language acquisition.

In conclusion, fostering stability in the Western Balkans is intrinsically linked to language learning, intercultural understanding, and inclusive internationalization. By recognizing the potential of language education and implementing the recommendations provided, the region can move toward a more harmonious and cooperative future. Language, as a bridge between cultures, holds the promise of building a stronger and more united Western Balkans.

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Annex

Interview Questions for Teachers:

1. In your experience as a language teacher in the Western Balkans, what are the current language learning practices and methodologies being employed?

2. How do you perceive the role of language learning in promoting intercultural understanding among students?

3. Can you share any examples of language learning activities or projects that have successfully fostered inclusivity and internationalization in your classroom?

4. What are the challenges you face in integrating social inclusion within language teaching frameworks, and how do you address them?

5. How do you see the connection between language learning, stability, and reconciliation efforts in the Western Balkans?

Interview Questions for Students:

1. How has learning a new language influenced your understanding of different cultures and

communities?

2. Have you been involved in any language learning activities or projects that promoted inclusivity and internationalization? If so, can you share your experiences?

3. In your opinion, how does language learning contribute to fostering stability and cooperation in the Western Balkans?

4. What are the barriers or challenges you encounter in accessing language learning opportunities, and how do you think they can be overcome?

5. How do you envision the role of language learning in building bridges and facilitating dialogue among diverse communities in the region?

The impact and importance of Social Economy in Economical studies

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Abstract

The social economy plays a crucial role in shaping economical systems by emphasizing values beyond pure profit, focusing on social and environmental impact alongside financial sustainability. This alternative approach to economic organization encompasses various models, such as cooperatives, social enterprises, and community initiatives. The fundamental principles of the social economy include democratic governance, solidarity, sustainability, and a commitment to addressing societal needs. In contrast to traditional economic paradigms, the social economy seeks to create inclusive and equitable structures, fostering collaboration and shared benefits. Its significance lies in addressing social challenges, promoting community development, and contributing to sustainable practices. By integrating social and environmental considerations into economic activities, the social economy aims to achieve a harmonious balance between economic prosperity and the well-being of individuals and communities. This introduction sets the stage for exploring the multifaceted roles of the social economy, ranging from inclusive business models to the promotion of ethical and sustainable practices. Understanding its principles and impact is essential for those seeking a holistic perspective on economic systems that goes beyond conventional profit-driven approaches.

***Keywords**: Social economy, economical systems, impact, economy, behaviour, sociology.*

Literature review

The literature on social economy is extensive and covers a wide range of topics, including theoretical frameworks, empirical studies, and case analyses. Here is a brief review of key themes and notable works in the field:

"The Third Way": Author: Anthony Giddens

Summary: Giddens explores the concept of the "Third Way," advocating for a balance between market mechanisms and social objectives. His work addresses the potential of social economy

principles in creating a more inclusive and just society.

"Bowling Alone: The Collapse and Revival of American Community":

Author: Robert D. Putnam Summary: While not exclusively focused on social economy, Putnam's seminal work discusses the decline of social capital and community engagement. It provides insights into the importance of social connections and collaboration, which are central themes in the social economy.

"The Social Economy: International Perspectives on Economic Solidarity": Editors: Ash Amin, Maria Kousis, and Nicola Piper

Summary: This edited volume provides a comprehensive overview of the social economy from an international perspective. It covers topics such as cooperatives, social enterprises, and the role of civil society in economic development.

"Social Enterprise: At the Crossroads of Market, Public Policies and Civil Society":Authors: Marthe Nyssens and Jacques Defourny

Summary: Nyssens and Defourny examine the challenges and opportunities facing social enterprises. The book delves into the relationship between social economy organizations, markets, and public policies.

"The Social Entrepreneurship Matrix":Authors: J. Gregory Dees, Jed Emerson, and Peter Economy

Summary: This article proposes a matrix for understanding social entrepreneurship, a key component of the social economy. It categorizes organizations based on their social and economic goals, providing a framework for analysis.

"Solidarity Economy I: Building Alternatives for People and Planet": Editors: Jenna Allard, Carl Davidson, and Julie Matthaei

Summary: This book explores the concept of solidarity economy and its potential to address social and environmental challenges. It includes case studies and perspectives on building alternative economic models.

"Social Innovation: Comparative Perspectives":Editors: Helmut Anheier and Stefan Toepler

Summary: While not exclusively focused on the social economy, this book examines social innovation and its role in addressing societal challenges. It provides insights into innovative practices within the social economy.

"The Handbook of Social Economy: The Writings on the Third Way":Editors: Ash Amin and Joanne Roberts

Summary: This handbook brings together key writings on the social economy, providing a comprehensive overview of its historical development, theoretical foundations, and practical applications.

"Economy for the Common Good":Author: Christian Felber

Summary: Felber proposes a new economic model centered on the common good. He discusses the principles of this alternative economy, which align with social economy values, such as sustainability, social justice, and ethical business practices.

These works collectively contribute to a rich literature that explores the principles, challenges, and potential of the social economy in fostering economic systems that prioritize social and environmental well-being alongside financial sustainability.

Methodology

This researcher combines multiple methodologies to gain a comprehensive understanding of social economy dynamics.

Case Studies: In-depth examinations of specific social economy organizations or initiatives. To understand the practical implementation, challenges, and impact of social economy models in real-world contexts.

Literature Reviews: Comprehensive reviews of existing academic and non-academic literature on social economy. To synthesize existing knowledge, identify gaps, and provide a foundation for further research.

Comparative Analysis: Examining and comparing social economy models in different regions or sectors. To identify variations, best practices, and contextual factors influencing the success or challenges faced by social economy initiatives.

Policy Analysis: Evaluating the impact of public policies on the development and sustainability of social economy practices. To understand the role of government interventions in fostering or hindering social economy initiatives.

Qualitative research: Involving prolonged engagement and observation within social economy communities. To gain deep insights into the cultural, social, and economic dynamics of these communities.

Analysis

An historical overview on Social-economy

Social economy refers to an economic system that prioritizes social and environmental goals alongside financial objectives. It emphasizes cooperation, social inclusion, and sustainable development, aiming to address societal needs while fostering community well-being. Examples include cooperatives, social enterprises, and community-based initiatives that seek to create positive social impact.

The history of the social economy dates back centuries, rooted in cooperative and communal practices. Here's a brief overview:

Early Roots (1700s-1800s): The Industrial Revolution spurred social and economic changes, leading to harsh working conditions. In response, early forms of cooperatives and mutual aid societies emerged to address the needs of workers and communities.

Rochdale Pioneers (1844): The Rochdale Society of Equitable Pioneers in England is often considered a milestone. They established a cooperative store, emphasizing democratic governance and profit-sharing among members, setting a model for future cooperative movements.

Spread of Cooperatives (Late 19th - Early 20th Century): Cooperatives gained traction globally, with agricultural, consumer, and worker cooperatives forming to empower individuals and communities. The cooperative principles developed during this time laid the foundation for the cooperative movement.

Social Economy in Response to Crises (20th Century): During economic downturns and social challenges, social economy initiatives gained prominence. They provided alternative models to traditional capitalism, emphasizing values such as solidarity, sustainability, and social justice.

United Nations Recognition (2000s): The United Nations recognized the role of the social economy in achieving sustainable development goals. Initiatives like microfinance and social enterprises gained attention for their impact on poverty reduction and community development.

Contemporary Landscape (21st Century): The social economy continues to evolve, encompassing various forms like social enterprises, nonprofits, and impact investing. Governments and international organizations increasingly recognize its potential to address social and environmental

issues alongside economic goals.

The history of the social economy reflects a persistent effort to balance economic development with social and environmental concerns, providing an alternative perspective within the broader landscape of economic systems.

The importance of the social economy is multifaceted and extends across various dimensions

Social Inclusion: Social economy initiatives, such as cooperatives and social enterprises, often prioritize inclusion and empowerment of marginalized or disadvantaged groups. They create opportunities for individuals who might face barriers in traditional economic structures.

Community Development: Social economy models foster community development by reinvesting profits locally and addressing specific community needs. This approach contributes to the overall well-being of communities and promotes a sense of ownership and pride.

Sustainable Development: Emphasizing sustainability, the social economy integrates environmental considerations into economic activities. This approach aligns with global efforts to address climate change and promote responsible resource management.

Job Creation: Social enterprises and cooperatives can contribute to job creation, particularly in sectors where traditional business models might struggle. By focusing on social impact, these organizations often prioritize creating meaningful employment opportunities.

Democratic Governance: Many social economy entities operate on democratic principles, giving members or employees a say in decision-making. This democratic governance model contrasts with more hierarchical structures, promoting a sense of shared responsibility and fairness.

Resilience and Local Economies: Social economy initiatives can contribute to economic resilience, especially in the face of economic downturns. By fostering local production and consumption, these models reduce dependency on external factors and enhance the resilience of local economies.

Innovation and Creativity: Social economy organizations often embrace innovative approaches to problem-solving. Their focus on social and environmental impact encourages creative solutions to societal challenges, contributing to broader innovation in the economic landscape.

Balancing Profit and Purpose: Social economy models challenge the traditional dichotomy between profit and purpose. By pursuing both economic viability and social impact, these entities demonstrate that business can be a force for positive change.

Global Development Goals: The social economy aligns with various international development

goals, such as those outlined in the United Nations' Sustainable Development Goals (SDGs). Its emphasis on social justice, equality, and environmental responsibility supports a holistic approach to global challenges.

In summary, the social economy is crucial for creating a more inclusive, sustainable, and equitable economic landscape. Its impact extends beyond financial metrics, addressing social and environmental concerns to contribute to the overall well-being of communities and societies.

The impact and importance of the social economy in economic studies, particularly within the field of Financial Economics (FE), can be observed in several ways

Social economy models broaden the scope of economic analysis by incorporating social and environmental considerations. This holistic perspective in FE goes beyond traditional financial metrics, acknowledging the interconnectedness of economic, social, and environmental factors. Social economy initiatives often exhibit resilience to economic shocks due to their diversified goals, local focus, and community-driven nature. Studying these models in FE provides insights into alternative risk mitigation strategies that go beyond traditional financial instruments.

Social enterprises and cooperatives often adopt innovative financial models to achieve both financial sustainability and social impact. Studying these innovations contributes to the exploration of alternative financial instruments and strategies within the FE framework.

The rise of impact investing, where financial resources are directed toward enterprises with the intention of generating positive social and environmental outcomes, is closely tied to the social economy. Understanding the financial mechanisms behind impact investing is essential for researchers and practitioners in FE. Social economy principles align with the growing emphasis on CSR in businesses. Analyzing the financial implications of CSR initiatives within FE provides valuable insights into how companies can balance profit motives with broader societal concerns.

Social economy models often prioritize ethical considerations in their financial practices. The study of ethical finance within FE involves assessing the financial performance and implications of businesses that integrate ethical principles into their operations.

Social economy entities often focus on long-term value creation for both investors and society. Exploring these models in FE contributes to discussions on sustainable finance and the role of finance in fostering long-term economic, social, and environmental well-being. Understanding the financial dynamics of social economy entities informs policymakers about the potential benefits of supporting

and integrating such models into the broader economic framework. FE research can contribute to shaping policies that encourage a more inclusive and sustainable economic system.

FE studies within the context of the social economy may explore the financial implications of investing in human capital, considering factors beyond traditional productivity metrics, such as employee well-being and satisfaction.

In conclusion, the impact of the social economy on Financial Economics is substantial, bringing forth new perspectives, financial innovations, and considerations that extend beyond traditional economic analyses. It enriches the study of finance by integrating social and environmental dimensions, reflecting the growing recognition of the interconnected nature of economic activities.

An international perspective on the impact analysis of Social Economy in the economical studies

In an international perspective, the social economy holds significant importance for several reasons:

Global Development Goals: Social economy initiatives align with international development goals, including the United Nations' Sustainable Development Goals (SDGs). They contribute to addressing poverty, inequality, and environmental sustainability on a global scale.

Inclusive Growth: Social economy models promote inclusive growth by empowering marginalized communities, fostering economic participation, and reducing social disparities. This inclusivity is crucial for achieving sustainable development worldwide.

Local Empowerment: Social economy entities often operate at the local level, empowering communities to address their specific needs. This localized approach contributes to building sustainable economies and enhancing the resilience of communities in the face of global challenges.

Job Creation and Economic Resilience: Social enterprises and cooperatives contribute to job creation, especially in regions facing economic challenges. By promoting locally rooted economic activities, the social economy enhances economic resilience at both local and international levels.

Cross-Cultural Collaboration: The social economy encourages collaborative and cooperative approaches, fostering cross-cultural understanding and collaboration. This is particularly important in a globalized world where diverse perspectives and solutions are needed to address complex challenges.

Global Value Chains: Social economy principles, such as fair trade and ethical business practices, contribute to shaping global value chains. Integrating social and environmental considerations into these chains is essential for promoting responsible and sustainable economic practices worldwide.

Social Innovation and Knowledge Sharing: Social economy initiatives often involve innovative solutions to address societal challenges. International collaboration in researching and sharing knowledge about these innovations can lead to more effective strategies for social and economic development globally.

Humanitarian Impact: In regions affected by humanitarian crises, the social economy can play a crucial role in rebuilding communities and providing sustainable solutions. This is particularly relevant in post-conflict or disaster-stricken areas where traditional economic structures may be disrupted.

Policy Influence: Understanding the role and impact of the social economy on an international scale informs policymakers about effective strategies for fostering inclusive and sustainable development. Policies that support social economy initiatives can have positive implications for global economic stability.

Corporate Responsibility: Social economy principles influence corporate social responsibility (CSR) globally. As businesses recognize their role in addressing social and environmental issues, the international landscape benefits from a more responsible and ethical private sector.

In summary, the social economy is important in an international context as it contributes to global development, fosters inclusivity, and provides innovative solutions to complex challenges. Its principles and practices are relevant for building a more equitable and sustainable world on a broad scale.

Main Authors on Social Economy

Several authors have made significant contributions to the understanding of social economy from an economic perspective. Here are a few notable authors in this field:

Jean-Baptiste Say: A classical economist, Say's work laid the foundation for understanding the role of entrepreneurship in the economy. His emphasis on the entrepreneur as a key driver of economic activity has relevance for social economy discussions.

Elinor Ostrom: Known for her work on common-pool resources and collective action, Ostrom received the Nobel Prize in Economic Sciences in 2009. Her research highlights the importance of community-based governance and cooperation, which are central themes in social economy.

Muhammad Yunus: Founder of the Grameen Bank and a pioneer in microfinance, Yunus has been instrumental in promoting social entrepreneurship and financial inclusion. His work demonstrates

how economic tools can be used to address social issues, particularly in the context of poverty alleviation.

Amartya Sen: A Nobel laureate in economics, Sen's capabilities approach emphasizes the importance of enhancing people's capabilities and freedoms. His work has implications for understanding the broader goals of economic development, including social well-being and justice.

Gar Alperovitz: An economist and historian, Alperovitz explores alternative economic models, including worker cooperatives and community ownership structures. His work addresses the potential for decentralized, community-driven economies.

Julie A. Nelson: Nelson focuses on feminist economics and social provisioning, emphasizing the importance of recognizing unpaid labor and the impact of economic policies on social well-being. Her work contributes to a broader understanding of economic systems beyond traditional measures.

Richard Wilkinson and Kate Pickett: Authors of "The Spirit Level," Wilkinson and Pickett examine the social and economic impacts of income inequality. Their research highlights how more equal societies tend to have better overall social outcomes, contributing to discussions on social economy.

Robert Shiller: A Nobel laureate, Shiller's work includes behavioral economics and the study of economic narratives. His insights into the psychological and social factors influencing economic behavior contribute to a more comprehensive understanding of economic systems.

Edmund Phelps: Known for his work on inclusive prosperity, Phelps emphasizes the importance of broad-based innovation and entrepreneurship in achieving sustainable and inclusive economic growth. His ideas align with social economy principles.

Mariana Mazzucato: Mazzucato explores the role of the state in fostering innovation and shaping economic development. Her work challenges traditional notions of public and private sector roles and has implications for socially inclusive economic policies.

These authors offer diverse perspectives on the intersection of economics and social issues, contributing to the broader understanding of social economy within the field of economics.

The analysis of Social Economy in contemporary times

In contemporary times, the social economy continues to evolve, influenced by changing societal values and economic paradigms. Social enterprises leverage technology for greater impact, utilizing digital platforms to reach wider audiences, enhance efficiency, and innovate in delivering social goods and services.

Organizations increasingly adopt hybrid business models that blend for-profit and social impact goals, reflecting a more nuanced approach to addressing both economic and societal needs. There is a growing focus on impact investing, where investors seek financial returns alongside measurable social or environmental impact, driving the integration of social objectives into traditional economic frameworks.

Social economy initiatives are increasingly interconnected globally, with collaborations and partnerships fostering knowledge exchange and the adaptation of successful models across borders. Many social economy ventures prioritize environmental sustainability, reflecting a broader awareness of the interconnectedness between economic activities and ecological well-being.

Governments and policymakers are recognizing the importance of the social economy and implementing supportive policies to encourage its growth, providing a conducive environment for social enterprises to thrive.

Consumers are more conscious of their purchasing decisions, seeking products and services from businesses that align with their values, thereby influencing the social economy landscape. Efforts to promote inclusivity in entrepreneurship have gained momentum, with initiatives supporting underrepresented groups in starting and growing social enterprises. Understanding these contemporary trends in the social economy is essential for researchers, policymakers, and practitioners seeking to navigate the intersection of economic and social goals in today's dynamic landscape.

Results and discussions

The results and discussions in research on social economy and its impact on economical studies are diverse, reflecting the complexity and multidimensional nature of this field. Here are potential outcomes and discussions that may arise from studies on social economy:

Economic Viability:

Results: Positive financial performance and sustainability of social economy entities. Discussion: Explore how social enterprises and cooperatives achieve economic viability while balancing social and environmental goals. Assess the factors contributing to financial success.

Social Impact:

Results: Measurable positive effects on social well-being, such as poverty reduction, community

development, and improved quality of life. Discussion: Analyze the specific social outcomes generated by social economy initiatives. Discuss challenges in quantifying and evaluating social impact.

Innovation and Adaptability:

Results: Identification of innovative practices and adaptive strategies within social economy organizations. Discussion: Explore how these entities innovate to address societal challenges. Discuss the importance of flexibility and adaptability in the social economy.

Collaboration and Networks:

Results: Evidence of collaboration and network structures among social economy entities. Discussion: Examine the role of partnerships and networks in enhancing the impact of social economy organizations. Discuss challenges and opportunities for collaboration.

Policy Influence:

Results: Impact of public policies on the growth and development of social economy models. Discussion: Assess the effectiveness of government policies in supporting or hindering social economy initiatives. Discuss potential policy recommendations.

Challenges and Barriers:

Results: Identification of challenges faced by social economy entities, such as limited access to funding, regulatory constraints, or market competition. Discussion: Explore strategies to overcome challenges and address barriers. Discuss the broader implications for the sustainability of social economy models.

Governance and Participation:

Results: Insights into governance structures and member/participant involvement in decision-making. Discussion: Discuss the democratic principles that underpin social economy organizations. Explore the implications of participatory governance for sustainability and social cohesion.

Cultural and Contextual Factors:

Results: Recognition of the influence of cultural and contextual factors on the success or failure of social economy initiatives. Discussion: Analyze how cultural and contextual nuances shape the implementation and impact of social economy practices. Discuss implications for global applicability.

Long-Term Perspectives:

Results: Consideration of the long-term effects and sustainability of social economy models.

Discussion: Explore how social economy initiatives contribute to long-term community resilience and well-being. Discuss challenges in maintaining impact over time.

Ethical and Responsible Business Practices:

Results: Identification of ethical business practices within social economy entities. Discussion: Discuss the role of ethics and responsible business practices in the success of social economy organizations. Explore implications for corporate social responsibility.

These results and discussions contribute to a nuanced understanding of the social economy, shedding light on its potential, challenges, and the broader implications for economic and social development

Conclusions and recommendations

Certainly, recommendations for the role and development of social economy within economic studies include:

Integrated Curriculum: Integrate social economy topics into economic studies curriculum. Providing students with a comprehensive understanding of economic systems, including social economy principles, prepares them for a diverse and evolving economic landscape.

Research Funding: Allocate funding for research on social economy initiatives. Supporting research in this field can generate valuable insights, contributing to the academic understanding and practical applications of social economy models.

Policy Support: Implement policies that recognize and support the social economy. Policy frameworks can create an enabling environment for the growth of social enterprises and cooperatives, fostering their contribution to sustainable development.

Collaborative Initiatives: Encourage collaboration between academia, businesses, and government agencies. Collaborative efforts can bridge knowledge gaps, facilitate information exchange, and promote the integration of social economy practices into mainstream economic discussions.

Capacity Building: Invest in educational programs and training for social economy practitioners. Strengthening the skills and capacities of those involved in social economy initiatives enhances their ability to create meaningful social impact and navigate economic challenges.

Measurement Metrics: Develop standardized metrics for assessing social and economic impact. Establishing clear measurement criteria allows for a more accurate evaluation of the success and effectiveness of social economy organizations, aiding investors, policymakers, and researchers.

Awareness and Advocacy: Promote awareness and advocacy for the social economy. Increasing awareness among policymakers, businesses, and the general public fosters a better understanding of the potential benefits of social economy models and encourages their adoption.

Incentives for Social Enterprises: Create incentives for businesses adopting social economy principles. Financial and non-financial incentives can motivate businesses to integrate social and environmental considerations into their operations, contributing to the growth of the social economy.

Global Collaboration: Foster international collaboration in social economy research and practice. Global collaboration can lead to the sharing of best practices, cross-cultural learning, and the development of innovative solutions to global challenges.

Ethics and Governance Standards: Establish and promote ethical standards and good governance practices for social economy entities. Clear ethical guidelines enhance transparency, accountability, and the overall credibility of social economy organizations.

Implementing these recommendations can contribute to the advancement and mainstreaming of social economy principles within economic studies and practice, fostering a more inclusive and sustainable economic landscape.

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