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The Mediating Effect of Communication on the Relationship Between Leadership Style and Employee Commitment

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Abstract

This study investigates the relationship between leadership style, and employees' commitment among Dubai government servants. The main objective of this study is to determine the relationship between leadership styles and employees' commitment at Dubai Immigration Department (DID). The study also aims to examine the mediating effects of communication in the relationship between leadership styles and employees' commitment in DID. The target population of this study is 6000 employees working in DID. Thus, the sample size will be approximately 361. This research will use simple random sampling techniques.

Keywords: Leadership style, employee commitment, communication, organization.

Introduction

This study investigates the relationship between leadership style, and employees' commitment among Dubai government servants. This chapter provides the background of the study and places the basis of its organizational outline. For a long time, leadership was defined as achieving results through people. This implies seeing people as resources for results. Then, leadership came to be seen as the ability to influence the behaviour of other people, whether or not there is a hierarchical relationship (Zhou, & George, 2003). Leadership is the process of persuasion, for example, through which an individual, or leadership teams, induce a group to devote themselves to goals championed by the leader, or shared by the leader and his followers (Yang, F.H. et al. 2011). These definitions are not unconnected; all have their concepts defects put differently, but that leads us to have a single conclusion about leadership and what it is to be a leader. To be able to lead is not to exercise power over people, but to make them feel the will to follow the decisions and execute them, just as the leader must receive from his collaborators suggestions and opinions for improvement, and also execute them (Yang, F.H. et al.2011).

Problem Statement

The proposed study aims to identify the relationship between the effects of leadership styles and employees' commitment. Leadership and commitment studies are recent in the UAE, and we still need new studies that can help leaders understand what best practices and styles are to increase employees' commitment. The growing competition has driven organizations in a quest to improve efficiency and commitment. In this new reality, Dubai Immigration

Department needs leaders who collaborate to increase the commitment of collaborators, since the organizational commitment leads to the improvement of productivity and competitiveness.

Literature review

The literature review is one of the essential phases in a research process, since it allows the researcher to develop a theoretical and conceptual framework (in which the hypotheses can be developed and tested) and to obtain a greater objectivity in the definition of the problem, avoiding the risk of reinventing the wheel. Treating a question very similar to that of another author does not necessarily mean repeating our work. The key is to be well aware of the methodologies and techniques adopted so that, with regard to the specific issue, one can contribute with added value (Sekaran, 2003).

The initial review, therefore, is essential to know the current state of knowledge about the subject, and the researcher can then state his research question, taking into account what has already been done (Sekaran, 2003). In this perspective, starting from the selected topic, framed in the organizational context of the leadership style, employees' commitment and organizational performance, the literature review for the dissertation focuses on the topics of transformational leadership style, employees' commitment and organizational performance.

Research Methodology

Research methods and methodology can be viewed in terms of methods as being some of the ingredients of research, whilst methodology provides the reasons for using a particular research recipe (Bryman, 2012; Bryman and Bell, 2012). Similarly, research methodology specifies the approach used by the researcher in the collection of data upon which inferences, interpretations, and predictions.

the research method that is employed to determine the relationship between leadership style, employees' commitment and organizational performance, communication as mediator in UAE public organization. For this, it includes research processes like research design process, sampling design process, instrument development process, data analysis process etc.

The exploratory research focuses comparative report of practiced or used measures among immigration department in Dubai allied to the objectives of exploring the impact and significance it can contribute in the sustainability of the immigration department and implementation of leadership style. To achieve overall goals, objectives and measure researcher's hypotheses, the study incorporates collected data and relevant related literatures and researches to support significance of the research topic. Researcher employs appropriate research instruments to collect data required for the study. The research design includes structured set of survey questionnaire to be distributed among Dubai immigration department.

Overview of Conceptual Framework

The theme leadership becomes increasingly strategic for organizations, because it is important to know the profile that makes the leader capable of generating greater commitment in their followers. Organizations need to seek competitive advantage in their business environments and we can assume that leaders play a key role in the organizational commitment of their leaders, which can ultimately contribute to the generation of competitive advantages for the organization (Yang, et al, 2011; Mathieu, John, Zajac & Dennis, 1999).

An appropriate leadership style can promote better levels of commitment to an organization's employees and motivate those employees to stay in the organization. Because commitment is performance-related (Allen & Meyer, 1990), organizations are interested in research that can help their leaders improve the level of commitment of their employees. The decision to focus this research on the communication as a mediator of leadership to enhance employees' commitment at DID is driven by the increased demand for leadership efficient communication that is in contrast to the shortage of these well-qualified leadership in the job market.

Instruments (Questionnaire)

The questionnaire contains of four sections: section A, B, C, and D. section A is about the demographic information of the respondents including gender, age, educational qualification, position etc. Section B is about transformational leadership (Individualized Consideration, Intellectual Stimulation, Inspirational Motivation, and Idealized Influence), Transactional leadership (Contingent Reward, Exception Management (Active), Exception Management (Passive)) and Laissez-Faire. Section C is about the Communicational Effectiveness and section D is about the Employee Commitment. The last section contains some open-ended questions in order to give respondents time to rapid themselves and help the researcher obtain appropriate and valuable knowledge on the currents condition of leadership style and challenges it faces which obstructs its positive implementation in immigration department in Dubai.

Data Analysis & Result

To analyse the data, both the descriptive and inferential statistics were adopted. Descriptive statistics analysis, including frequency, mean and standard deviation were performed using Statistical Package for Social Sciences (SPSS) software to describe the profile of the respondent (Huck, 2012; Zikmund & Babin, 2006).

Next, inferential statistical analysis, specifically Structural Equation Modelling (SEM), was carried out to test the research hypotheses (Tabachnick & Fidell, 2007) that have been proposed SEM was chosen over other statistical analysis techniques due to its applicability to test a comprehensive and complex model. That is, SEM not only test model fit reliability and validity, but also test direct and indirect relationship simultaneously (Garson, 2012a). In addition, SEM works with a minimum measurement error as it is reduced using confirmatory factor analysis (CFA) and provides a better model visualization (Garson, 2012a).

A complete structural equation model (SEM) was made up of two sub-models i.e. the measurement model and the structural model Instead of testing measurement and structural models simultaneously (single-stage approach), this research performed SEM using two-stage approach as it is widely used in marketing research (Anderson & Gerbing, 1988; Garson, 2012a; Hair, Black, Babin, & Anderson, 2010; Kline, 2011). Following the suggestion, this research first validated the measurement model using confirmatory factor analysis (CFA) before testing the proposed structural model.

Conclusion

The study results concluded with insight findings which study intended to explore. According to empirical studies and literature review show that there is significate relationship between Transformational Leadership, Transactional Leadership and Laissez- faire. The conclusions to date three component as group to have positive result by enhancing employee commitment.

References

- [1] Allen, N. J., & Meyer, J. P. (1990). The measurement and antecedents of affective, continuance and normative commitment to the organization. *Journal of occupational and organizational psychology*, 63(1), 1-18.
- [2] Anderson & Gerbing, 1988; Garson, 2012a; Hair, Black, Babin, & Anderson, 2010; Ares, G., Mawad, F., Giménez, A., & Maiche, A. (2014). Influence of rational and intuitive thinking styles on food choice: Preliminary evidence from an eye-tracking study with yogurt labels. *Food quality and preference*, 31(13), 28-37. doi: /10.1016/j.foodqual.2013.07.005
- [3] Bryman, A. (2012). *Social research methods*. Oxford university press.
- [4] Garson, G. D. (2012a). *Structural Equation Modeling*. Asheboro, NC USA: Statistical Associates Publishing.
- [5] Garson, G. D. (2012b). *Testing Statistical Assumptions*. Asheboro, NC USA: Statistical Associates Publishing.
- [6] Mathieu, John E., Zajac, Dennis M. (1999) A review and meta-analysis of the antecedents, correlates, and consequences of organizational commitment. *Psychological Bulletin*, Vol 108(2), Sep 1990, 171-194
- [7] Sekaran, U. (2003). *Research methods for business* (4rd ed). USA: John Wiley & Sons, Inc.
- [8] Tabachnick, B. G., & Fidell, L. S. (2007). *Using Multivariate Statistics* (5th edition ed.). Boston, MA: Pearson Education. Inc.
- [9] Yang, F.H. et al, (2011) Elucidating the Relationships among Transformational Leadership, Job Satisfaction, Commitment Foci and Commitment Bases in the Public Sector, *Public Personnel Management*, Volume 40 No. 3 Fall 201
- [10] Zhou, J. George, J.M. (2003) Awakening employee creativity: The role of leader emotional intelligence, *The Leadership Quarterly* 14 (2003) 545-568
- [11] Zikmund, W. G., & Babin, B. J. (2006). *Exploring Marketing Research*. Mason, Ohio: Thomson South-Western.

The Impact of Leadership Practices on Total Quality Management and Organizational Performance in the UAE Interior Ministry

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Abstract

This study examines the moderating impact of leadership practices (LP) in TQM and organizational performance (OP). Through literature review, four hypotheses were derived which are tested in the UAE to better understand the nature of the relationship between TQM and LP as well as the impact of TQM on OP in the public sector departments in the UAE. Data were collected by distributing questionnaire to 230, data we analyzed by using descriptive and inferential statistics. The research showed the impact of LP on TQM and OP.

Keywords: Total Quality Management (TQM), Organization Performance (OP), Leadership Practices (LP), Quality Management (QM), United Arab Emirates (UAE).

Introduction

Many organizations around the world are implementing TQM, however, success varies depending on the approach used to accomplish the desired improvement. Leadership has been identified as one of the critical determinants in the success of TQM within organizations and it sets the culture necessary for TQM to flourish (Levin, 1993). The increasing interest in Total Quality Management (TQM) can be traced to a greater awareness of the role of management theories, practices, and organizational development on business results. TQM is usually considered as a tool to accomplish quality in the infrastructure (Zakuan, Yusof, Laosirihongthong and Shararoun, 2010), in achieving customer satisfaction (Buch and Rivers, 2001), improved results (Todorut, 2012), and continuous product and process improvement (Todorut, 2013).

Management theories such as TQM, and Human Resource Management all support leadership as expressed in management's commitment as a success factor to TQM efforts (Hellsten & Klefsjö, 2000). Buch and Rivers (2001) found that employees perceive leadership to be committed to TQM when TQM values are integrated into departmental or organizational cultures. Quality leadership seeks to continuously empower workers, improve the hierarchical culture and elevate collaboration to reach organizational objectives and goals (Prabhakar & Yaseen, 2016). Yet, the extent to which the leadership role and practices impact TQM and affect organizational practices and performances respectively remains under-researched. (Baird, Jia & Reeve, 2011).

Overview of Conceptual Framework

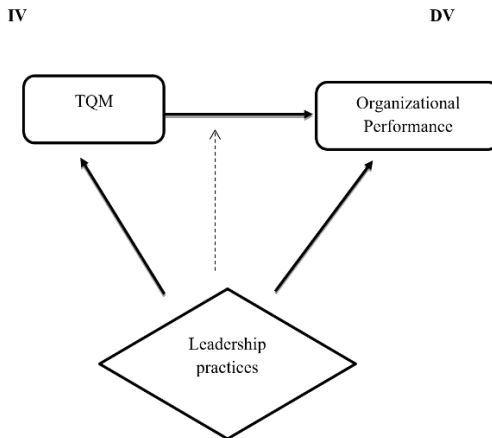


Figure 1: Proposed Conceptual Framework

Problem Statement

The United Arab Emirates (UAE) is a nation that is progressing fundamentally in financial and advancement part, however unfit to interpret comparative rate of improvement to different regions. While these are early indications of advancement, measures have been taken to slowly enhance this by drawing on outside aptitude. In spite of this, holes remain which has educated the requirement for this exploration into assessing the connection between leadership and quality administration in the UAE. Quality administration is essential to any association, since various administration standards might be embraced and utilized by top administration to manage them and their associations to enhance their execution (de Menezes, 2012). As indicated by Choong (2013), the essential concentration of value administration is to meet the prerequisites of client and to surpass the desires of clients. Hoyle (2017) contend that pioneers at all levels need to make empowering conditions, heading and solidarity of reason that will empower the association give quality to the client. In doing this distinctive quality administration strategies and procedures might be received by pioneers to enhance quality. Consequently, this examination means to assess the connection between quality administration and initiative, and the quality administration strategies pertinent to enhancing administrations in the UAE public.

From the hypothetical viewpoint, there has not been a satisfactory examination of the issue of QM practices in public sector. As indicated by Laohavichien et al. (2011), existing administration hypothesis has not been used in the territory of QM. They express that, "A significant part of the current QM look into, notwithstanding, has not utilized any builds from initiative hypothesis to assess the significance of administration in quality administration. These researchers affirm that further research is important to consolidate both value-based and transformational administration into QM models. Likewise, Lakshman (2006) states that, "the part of leadership in overseeing quality is generally unaddressed in the initiative writing; inquire about on quality administration as a genuine part of the pioneers has not gotten much consideration. The creator stresses that his hypothetical system opens the way to additionally look into in the administration practices by analyzing the conduct of both particular and general behavioral measurements related with add up to quality administration reasoning

which have not been tended to in the conventional behavioral worldview of initiative research. A comparative proposal is offered by Berson and Linton (2005), who feature the requirement for future research in looking at the connection between leadership styles and quality administration practices. States that a portion of the current research has brought up issues about the measure of impact directors have over quality change, and the confirmation demonstrating which administration activities are viable for quality change isn't solid. Sousa and Voss (2002) additionally recommend that further research ought to be directed to analyze the connection amongst QM and initiative styles. In this manner, situated in the holes distinguished, the scientist is occupied with exploring the impact of administration styles particularly identified with transformational, value-based, and free enterprise initiative on QM rehearses in broad daylight area associations in UAE.

Literature review

TQM Practice: UAE Context

TQM is relatively new in the Middle East due to globalization (Cheng, Johansen & Hu, 2015). UAE has witnessed drastic changes in the business sector in the last three decades (Escribano, 2017). Business management in UAE is relatively different from western countries. In Islam, business values and cultural values are interwoven (de Waal & Frijnis, 2016). The current recognition for Dubai reflects the commitment of the emirates towards quality and also highlights the significant role played by the UAE in propagating TQM principles in the region. This stimulates Dubai public sectors like ministries to move away from its reactive, low-cost based strategy that relies on cheaper labor toward developing a new competitive edge based on quality.

The DQA cultivates and directs the brilliance of associations to win a quality honor, as well as to reinforce their quality activity through a useful appraisal report (Lasrado, 2016). The DQA display was seen by all associations as a way to deal with quality change and commit to quality management. In return, winning associations have displayed interesting projects created to grasp the DQA factors (de Waal & Frijin, 2016). Despite the tremendous growth potential, there is still lack of well-defined model that shows how leadership practices, OP and TQM are collectively considered as strong drivers of performance in UAE.

One empirical consideration of TQM in UAE context referred to the application of TQM to translation of Arabic and the adoption of TQM in non-profit organizations in the UAE. In this sense and generally in the UAE context, TQM is viewed based on three key principles, namely: a focus on customers and stakeholders; participation and teamwork by everyone in the organization; and a focus on process supported by continuous improvement and learning (Alhashmi, 2016). In light of this, Alhashmi (2016) affirmed that all employees are encouraged and expected to adopt the mindset that recognises that good service, goods, quality products are all essential for the survival and long-term survival of the organization.

Leadership Practices and TQM

Quality means different things to different people. Whatever the perception of quality is, it usually includes service excellence, value to customer, meeting top specifications and standards and customer satisfaction (Kudtarkar, 2014). TQM by definition implies systematic actions that are company-wide and implemented according to certain sets of procedures in a team spirit. None of these steps is possible without the full buy-in of top management. To implement TQM, leaders are needed to drive the entire organization to rethink and rework

systems, processes, culture, communication and customer care so that the organization can be more competitive, achieve financial goals and increase and customer satisfaction. All of these mean that leadership is crucial to achieving TQM (Kudtarkar, 2014).

Ebrahimi and Rad (2017) also state that leadership and TQM are intertwined because both depend upon a solid responsibility from the administration and an attention to human resource development. The TQM approach focuses on ensuring that the organization is doing its best work. This means that the leadership practices must include the use of explicit criteria for measuring the quality of work along with procedures for spot-checking that goods and services live up to these expectations. Literature also suggests that some basic criteria can be used to determine whether an organization has selected the right leadership practices (Khan, 2009). These criteria are; capability for better organizational performance; improved performance in meeting customer desires; and superior knowledge and work gratification for the organization's staff. Leadership though similar to management means more; it includes developing and maintaining a vision that responds to customer requirements. A visionary leader will exhibit a clear vision, with long-range orientation, coaching the employees, using participative change and employee empowerment towards desired organizational change (Anderson, Rungtusanatham & Schroeder, 1994). TQM theory holds that leadership is a significant role in the successful implementation of TQM practices. Ulle and Kumar, (2011) identified certain leadership practices like commitment to TQM, empowerment of employees, communication to ensure full understanding of the organization's goals as important ingredients in TQM. Leadership is also important in building strategic partnerships with suppliers and responding to consumer's demands (Ulle & Kumar, 2011).

Leadership and Organizational Performance

Samson and Terziovski (1999) found that some categories of TQM practices were particularly strong predictors of organizational performance. Leadership, management of people and customer focus were found to be the strongest significant predictors of operational performance (Samson & Terziovski 1999). This is consistent with literature on behavioural factors where executive commitment, employee empowerment, and an open culture have been shown to produce competitive advantage more strongly than other TQM techniques such as process improvement, benchmarking, and information and analysis (Khan, 2011).

Leadership effectiveness in the private or public sectors and the extent to which this impacts OP is also linked to leadership styles. The decision of leaders as explained by Parshuram (2015) is that aggregate quality is the duty of all individuals in an organization, with top administration assuming the chief part and that a transformational leadership style is the best style for building up the aggregate responsibility required for quality from all levels of the organization.

While this study does not aim to ascertain the best leadership style for any organization, it has used this explanation to identify specific dimensions peculiar to all effective leadership styles. For instance, transactional leadership is renowned for prioritizing and ensuring compliance from followers through both rewards and punishments (Tan, 2013). As explained by Safari and Ghasemi (2012) transactional leadership centres on the role of performance, supervision, management, reward and punishment which help organization achieve their intended goal and mission.

Research Methodology

The research design and explanations in to justify the selection of positivism, deductive, survey, quantitate, cross-sectional as essential components for conducting this study, which examines relationship between the three constructs being tested in the UAE. Therefore, data collection using a survey is appropriate in order to test problem deducted from literature in previous section. The whole research design leading to techniques and procedure for data analysis is illustrated in Figure2.

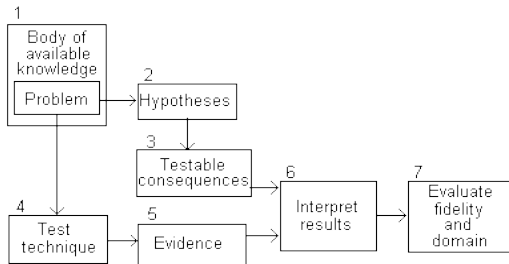


Figure2: Research process (Bergman, 2008)

Population and sampling methods

The organization and departments used in this study is one of the main ministries supporting public sector services in the UAE. Respondents will be drawn from three main service departments in the MOI as indicated. This population is selected because of the nature of their duties and as the key departments in MOI with significant leadership responsibilities and information that are relevant to the study area and hypotheses being tested. Furthermore, duties of these departments are also output related which makes it possible for them to comment, evaluate and provide details that can help assess organizational performance which is one of the variables being tested in this study.

The three departments selected for this study have a total of 7,000 employees. The goal was to sample at least 5% of the total staff population in each department to reduce the chance of error in the results. According to Petty et al (2009), in quantitative research, sample size must be at least 5% of the total population to be representative. This gives a minimum sample size of 350.

Instruments (Questionnaire)

Primary data for section II especially data relating to OP is collected using an adapted version of the EFQM questionnaire using the five-point Likert type rating scale for each question. As discussed, EFQM model have enablers and result components. The result components are also argued to be outcomes and performances of organizations (Kudtarkar, 2014). Based on this, the instruments for OP are based on the four result criteria i.e. customer, people, organization and society results. Questions relating to each of these four results are selected from the EFQM questionnaire. This is done with the intention to assess MOI and to determine whether the impact of TQM dimensions generate the corresponding results that mirror appropriate OP for the ministry.

A total of 75 questions were retained for the final version of the EFQM questionnaire used. Each item included options with scores ranging from a 1 to 5 for each item of the Likert scale

with 5 being the most favorable response. This provided provide a total score of 75 in the following order

25 for TQM

30 for LP (10 for transformational leadership, 10 for transactional leadership, 10 for Laissez-Faire leadership)

20 Organizational performance (5 for people results, 5 for customer results, 5 for society results and 5 for key performance results)

Data Analysis & Result

No	Objectives	Methods	Data Analysis
1	To identify the TQM challenges in various organizations (private & public) that could help to improve the organizations performance.	Systematic Review of related Literature.	Data Reliability Test. Cronbach Alpha.
2	To examine the EFQM model using in public sector as well as private sector.	Systematic Review of related Literature.	Descriptive Statistics.
3	To identify the most dominant leadership practice on Organizational Performance at MOI.	Survey Questionnaire	Hypothesis Testing

Conclusion

The main result of the study there is an impact of TQM within Organization. The adjust R2 value of 4.91 shows that the regression have statistically significant. The regression analysis shows that TQM influence the organization performance.

References

- [1] Alhashmi, M. (2016). Embedding TQM in UAE translation organizations. *QScience Connect*, 3.
- [2] Anderson, J. C., Rungtusanatham, M., & Schroeder, R. G. (1994). A theory of quality management underlying the Deming management method. *Academy of management Review*, 19(3), 472-509.
- [3] Baird, K., Jia Hu, K., & Reeve, R. (2011). The relationships between organizational culture, total quality management practices and operational performance. *International Journal of Operations & Production Management*, 31(7), 789-814.
- [4] Berson, Y., & Linton, J. D. (2005). An examination of the relationships between leadership style, quality, and employee satisfaction in R&D versus administrative environments. *R&D Management*, 35(1), 51-60.
- [5] Buch, K. and Rivers, D. (2001). TQM: the role of leadership and culture, *Leadership & Organization Development*. *Journal*. Vol. 22 Issue: 8, pp.365-371.
- [6] Bergman, M.M. (2008). *Mixed methods research*. Thousand Oaks, CA: Sage.

- [7] Cheng, Y., Johansen, J., & Hu, H. (2015). Exploring the interaction between R&D and production in their globalisation. *International Journal of Operations & Production Management*, 35(5), 782-816.
- [8] Choong, K. K. (2013). Understanding the features of performance measurement system: a literature review. *Measuring Business Excellence*, Vol. 17 Issue: 4, pp.102-121.
- [9] de Menezes, L.M. (2012). Job satisfaction and quality management: an empirical analysis. *International Journal of Operations & Production Management*, Vol. 32 Issue: 3, pp.308-328.
- [10] de Waal, A., & Frijns, M. (2016). The influence of the UAE context on management practice in UAE business. *International Journal of Islamic and Middle Eastern Finance and Management*, 9(2), 236-253. Dijkstra, L. (1997). An empirical interpretation of the EFQM framework. *European Journal of Work and Organizational Psychology*, 6(3), 321-341.
- [11] Ebrahimi, Z. F., & Rad, R. H. (2017). The relationship between TQM practices and role stressors. *International Journal of Management Practice*, 10(3), 295-325.
- [12] Escribano, G. (2017). *Euro-Mediterranean versus Arab Integration: Are they compatible?*. In Arab Development Challenges of the New Millennium (pp. 219-248). Routledge.
- [13] Hoyle, D. (2017). ISO 9000 Quality Systems Handbook-updated for the ISO 9001: 2015 standard: Increasing the Quality of an Organization's Outputs. Routledge.
- [14] Hellsten, U. & Klefsjö, B. (2000). TQM as a management system consisting of values, techniques and tools. *The TQM Magazine*, Vol. 12 Issue: 4, pp.238-244.
- [15] Khan, M. A. (2011). Total quality management and organizational performance-moderating role of managerial competencies. *International Journal of Academic Research*, 3 (5), 453-458.
- [16] Khan, R., Rehman, A. U., & Fatima, A. (2009). Transformational leadership and organizational innovation: Moderated by organizational size. *African Journal of Business Management*, 3(11), 678-684.
- [17] Kudtarkar, S. G. (2014). Deming award, a journey towards business excellence. *Journal of Business and Management*, 1-9.
- [18] Lakshman, C. (2006). A theory of leadership for quality: Lessons from TQM for leadership theory. *Total Quality Management & Business Excellence*, 17(1), 41-60. <https://doi.org/10.1080/14783360500249729>
- [19] Laohavichien, T., Fredendall, L. D., & Stephen Cantrell, R. (2011). Leadership and quality management practices in Thailand. *International Journal of Operations & Production Management*, 31(10), 1048-1070.
- [20] Lasrado, F. (2016). Business excellence in the United Arab Emirates through soft TQM. *Human Systems Management*, 35(3), 229-236.
- [21] Levin, L. S. (1993). The role of leadership in total quality management. *Engineering Management Journal*, 5(1), 17-18.
- [22] Parshuram, H. (2015). Total quality management as applied to service sector with relevance to Indian situations. *Journal of Management Research and Analysis*, 2(2), 127-132.
- [23] Petty, R. E, Briñol, P., Loersch, C., and McCaslin, M. J. (2009). *The need for cognition*. In M. R. Leary & R. H. Hoyle (Eds.), *Handbook of individual differences in social behaviour* (pp. 318-329). New York, NY: Guilford Press

- [24] Sadikoglu, E., & Olcay, H. (2014). The effects of total quality management practices on performance and the reasons of and the barriers to TQM practices in Turkey. *Advances in Decision Sciences*, 2014, Article ID 537605, 17 pages.
- [25] Safari, H., Abdollahi, B., & Ghasemi, R. (2012). Canonical correlation analysis between people criterion and people results criterion in EFQM model. *Total Quality Management & Business Excellence*, 23(5-6), 541-555.
- [26] Tan, B. I. (2013). TQM adoption and organizational performance of family owned businesses: A literature review and proposed structural model. *International Journal of Modelling in Operations Management*, 3(1), 1-19. doi: 10.1504/IJMOM.2013.052053
- [27] Todorut, A. (2012). Sustainable Development of Organizations through Total Quality Management. *Procedia -Social and Behavioral Sciences* 62, 927-931.
- [28] Todorut, A. (2013). The Need of Total Quality Management in Higher Education. *Procedia - Social and Behavioral Sciences* 83, 1105-1110.
- [29] Samson, D., & Terziovski, M. (1999). The relationship between total quality management practices and operational performance. *Journal of operations management*, 17(4), 393-409. [https://doi.org/10.1016/S0272-6963\(98\)00046-1](https://doi.org/10.1016/S0272-6963(98)00046-1)
- [30] Sousa, R., & Voss, C. A. (2002). Quality management re-visited: a reflective review and agenda for future research. *Journal of operations management*, 20(1), 91-109.
- [31] Prabhakar, G. V., & Yaseen, A. (2016). Decision-making styles and leadership: evidences from the UAE. *International Journal of Management Development*, 1(4), 287-306.
- [32] Ulle, R. S., & Kumar, A. S. (2014). A Review on Total Quality Leadership in TQM Practices-Industrial Management and Organizations. *International Journal of Emerging Research in Management &Technology*, 3(5), 152-155.
- [33] Zakuan, N. M., Yusof, S. M., Laosirihongthong, T., & Shaharoun, A. M. (2010). Proposed relationship of TQM and organisational performance using structured equation modelling. *Total Quality Management*, 21(2), 185-203.

The Relation Ship Between Management Process and Performance of RTA in UAE Technological Orientation as Moderator

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Abstract

Transportation in United Arab Emirates (UAE) have contributed largely to economic output, import, and export in the manufacturing sector, creating employment opportunities in service sectors and expanding the export base. They are playing a role of key service providers and vendors to many big corporations. The significance of the contributions of project management process in Road and Transportation internationally and encourages more development initiative to support road and transportation from Middle Eastern region and United Arab Emirates (UAE). This study investigates the project management process, technological orientation and organizational performance of Infrastructure in United Arab Emirates (UAE). The size of the sample is designed with a view to establish the internal and external validity in order to generalize the findings to the population. As the study used Structural Equation Modelling, a higher sample above 400 was considered. A total of 436 responses were considered for the final analysis of the study.

Keywords: Technological orientation, Management process, performance.

Introduction

This study investigates the project management process, technological orientation and organizational performance of Infrastructure in United Arab Emirates (UAE). This first chapter provides an overview of the study and lays down the foundation of its structural scheme. Transportation in United Arab Emirates (UAE) have contributed largely to economic output, import, and export in the manufacturing sector, creating employment opportunities in service sectors and expanding the export base. They are playing a role of key service providers and vendors to many big corporations too (UNDP, 2007). The significance of the contributions of project management process in Road and Transportation internationally and encourages more development initiative to support road and transportation from Middle Eastern region and United Arab Emirates (UAE). Internal and external challenges are increasingly in globalization to limit their opportunities and growth. An ideal project management process is an important choice of the financial decision in any firm (Markus Kohlbacher, 2013). The choice of project management is critical not just a result of the nest to expand return to the

shareholders, yet it vital in view of the effect such choice on an association's capacity to manage focused contribution.

Problem Statement

Construction come expertise delays within their completion because of varied reasons in the world and United Arab Emirates (UAE) is not any exception. Once a project is delayed, it's a negative impact on the involved parties. Projects being completed on time and handed over is recorded as a performance indicator from technical and business purpose of view. Therefore due to the significance of the Infrastructure performance within the United Arab Emirates (UAE) national economy and due to the prevailing 'research gap' in the identified area of knowledge, there is a clear need for a study to understand the combined impact of project management process, technological orientation, and organizational performance in transportation services in United Arab Emirates (UAE). A clear vacuum in the available research material in the United Arab Emirates (UAE) in this context is observed, however, some findings by the scholars in other countries were noted in related areas of research. Road and transportation plays a key role in coping with critical global issues such as gender empowerment, climate change, and poverty alleviation. Road and transportation are entities that innovate and commercialize their own innovations (Hua Song et al., 2016). Road and transportation are considered to be a vital determinant of economic growth. However, a visible gap in available research material in the road and transportation in the United Arab Emirates (UAE) context was evident in the area of research; however, some observations by scholars in the other countries were noted in the related areas of research. Many studies have been done over time in order to gain an insight as to what determines the success of the project management process and process orientation in organizational performance. In the existing phenomenon, it was clearly established that the role of the properly planned project management process in the small and medium enterprises makes a significant contribution to the nation's economy. However, the overall performance in both financial and market measures are seriously affected by the firm's project management process (Lenahan et al, 2018). The situations of management gap exist when an organization is unable to secure the business or there is a lack of sufficient capital despite the fact that there is a profitable opportunity available (Lenahan et al, 2018). The lack of research done in the area, which is the relationship between project management process, technological orientation and organizational performance in United Arab Emirates (UAE), will be addressed via this research to fill this knowledge gap. Many factors affecting the project process were intensively researched, but less attention was paid as to how does the combined effect of the relationship between project management process and organization performance for the Infrastructure in United Arab Emirates (UAE) and how does the same impact the success of the Infrastructure. Even with the limited amount of academic research that has been done, this was based on the developed countries and only a few were from the developing countries and both were done in isolation. Thus, this research focuses on attaining an insight as to how road and transportation success in United Arab Emirates (UAE) via project management process.

Literature review

Technological Orientation in Project Management

Technology assumes importance within the context of project management because of bigger challenges in today's technology-enabled work surroundings, wherever technology tools are habitually used for collaboration, communication, and preparation of project management

practices (Anantatmula, V. S, 2008). It's changing into common observe for even co-located project groups to use the electronic medium for the needs. Not standing the importance of technology, analysis has shown that it's tough to associate the utilization of technology with business performance and therefore the absence of such relation is compute to project performance similarly. However, technology will play a serious role in supporting project managers in managing comes effectively and with efficiency. Many studies have self-addressed the importance and leadership form of project managers (Anantatmula, V. S, 2008).

3.2 Project Management Process and organizational Performance

An ideal project management process is an important choice of the financial decision in any firm. Though planning gives a broader meaning, Baldwin et al, (2009) gave a comprehensive meaning to business planning. According to their view, business planning should include financial management, human resource, marketing and merchandising, product development, and technology. Hence, their standpoint on business planning is the chosen meaning for business planning for this research.

A business plan is a comprehensive document. A comprehensive business plan covers key areas of business management including all primary and supportive activities of the business as explained in the value chain analysis by Michael Porter. Research done by Fuad and Al-Shaikh (1998) contended that lack of planning is a primary cause of business failure. Planning prior to commencing the business is a key ingredient of business success. Lussier and Pfeifer (2002) considered it in their research, which was done on business success vs. failure (comparison between US and Croatia), and stated that the deficiency in business planning was a key variable of business failure. They revealed that US entrepreneurs did more planning before commencing businesses than those in Croatia. Fuad and Al-Shaikh (1998) recognized that US entrepreneurs are more knowledgeable about business planning and its importance than those in Croatia. According to their study, entrepreneurs' knowledge about the preparation of a business plan and its importance was a reason for the difference between the US and Croatia. There are enough small and big professional advisers in the US in the field of professional services; hence, it is an added advantage to entrepreneurs in US over those in CEEC (Central Eastern Europe Croatia). Fuad and Al-Shaikh (1998) had conducted research aiming to find causes for business failure in developing countries, especially in Jordan. They found similar reasons for business failure as found by Gaskill et al, (2002). In their research, among the key variables, the lack of a business plan was considered as a significant cause for business failure.

3.3 Leading and Project Management Process

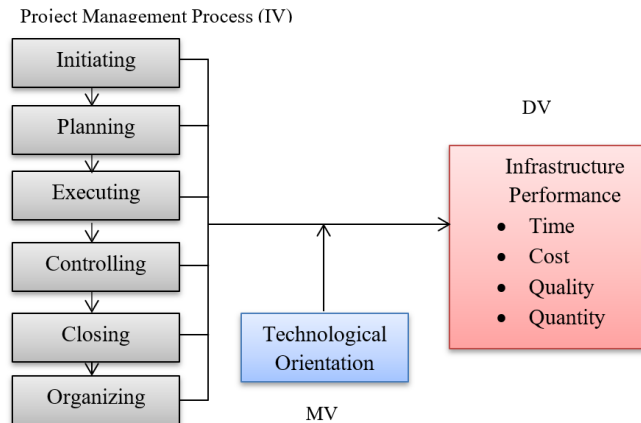
Human resource, marketing skills and knowledge, and education were some other causes of business failure recognized by many scholars. Poor quality staff recruitment, staff management and retention were identified as matters associated with failed firms. Lack of recognition of the stages of a product's life, poor recognition of the market, the competitive environment, and lack of marketing skills were predominantly cited factors for business failure in articles. Education of entrepreneurs was also identified as a notable factor for business failure. Many scholars say those who have a higher education have less of a tendency for business failure (Longenecker et al, 2000; Ooghe & Prijcker 2007; Ghosh, et al 2001; Temtime & Pansiri, 2004). etc had stated that having higher education and the effective use of marketing will increase the chances of success.

Research Methodology

Research methodology explains the methods/ techniques used for this research. Its very important in research to specify the study population, were the population is complete set of features that retain a particular common characteristic defined by the sampling criteria reputable by the researcher (Neven & Jasenko, 2018).

The main limitation is recognized as the non-availability of data base of failed firms in terms of project management. The decision has been taken to distribute the questionnaire to 700 employees irrespective of whether they were failed firms. In other words, the questionnaire has been distributed to RTA employees. The total target population is 361 employees.

Overview of Conceptual Framework



Instruments questionnaire

The questionnaire for this study is a closed ended type. The questionnaire was two parts as follows: section : included the demographic data of the study sample using five main categories, gender, age ,education, position, experiences). The questionnaire scale that measure each variable was designed after examining a number of previous studies in order to come up with a suitable indicators for each variable these studies helped formulating the final questionnaire (Ahmes, Fiaz & Shoaib, 2015; Downes, 2014; Edwards, Handzic, Carlsson & Nissen, 2003; Lee & Choi, 2003).

Data Analysis & Result

Component Transformation Matrix

Component	1	2	3	4	5	6	7	8	9	10	11
1	.466	.415	.468	.024	-.075	.443	-.113	-.056	.296	.290	.001
2	-.105	.226	.010	-.645	.289	.090	.385	.482	-.006	.071	-.212
3	-.209	.165	-.120	.359	-.565	.180	.585	.239	.167	-.053	.070
4	-.469	.300	-.053	.290	.589	.132	.099	-.300	.367	-.058	-.005
5	.223	.038	.014	.552	.352	-.084	-.149	.687	-.122	-.062	-.033
6	.417	-.132	.090	.193	.253	-.170	.641	-.342	-.276	.148	-.212

7	-.102	-.752	.336	-.015	.146	.228	.150	.150	.337	.131	.251
8	.377	.044	-.542	-.124	.183	.250	.105	-.030	.021	-.109	.653
9	-.157	.269	.447	-.041	.012	-.507	.111	.033	-.136	.112	.633
10	-.140	-.018	-.349	.077	-.014	-.077	-.089	.051	-.016	.914	.010
11	-.294	.004	.165	.074	.051	.576	-.029	-.048	-.726	.046	.119

Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

Covariance's and Correlations

		Covariances				Correlations
		Estimate	S.E.	C.R.	P	Estimate
PMI <-->	TEO	.056	.025	2.272	.023	.128
PMI <-->	OPT	.203	.033	6.171	***	.403
PMP <-->	TEO	.104	.034	3.012	.003	.166
PME <-->	OPY	.025	.034	.730	.466	.042
PMM <-->	OPT	.055	.043	1.285	.199	.070
PMM <-->	OPY	.065	.049	1.323	.186	.073
OPQ <-->	OPY	.047	.040	1.170	.242	.068
OPT <-->	OPY	.053	.035	1.509	.131	.090
PME <-->	TEO	.012	.025	-.464	.643	.025
PMC <-->	PME	.321	.044	7.353	***	.467
PME <-->	OPT	.294	.037	7.900	***	.559
PMP <-->	OPY	.011	.045	.249	.803	.014
PMP <-->	PMM	.019	.055	.352	.725	.018
OPQ <-->	OPT	.058	.035	1.655	.098	.095
TEO <-->	OPT	.012	.026	.459	.646	.026
PMI <-->	PMP	.324	.044	7.294	***	.471
PMI <-->	PME	.230	.033	6.909	***	.457
PMI <-->	PMM	.016	.040	.398	.691	.021
PMI <-->	OPY	.023	.033	.710	.478	.041
PME <-->	OPC	.185	.030	6.251	***	.444
PMM <-->	OPC	.051	.034	1.496	.135	.081
OPC <-->	OPY	.015	.028	.541	.589	.032
PME <-->	OPQ	.004	.034	.105	.916	.006
PMI <-->	OPQ	.031	.033	.936	.349	.052
PMM <-->	OPQ	.053	.049	1.082	.279	.057
TEO <-->	OPC	.013	.020	-.627	.530	.035
TEO <-->	OPY	.042	.030	1.410	.158	.081
PME <-->	PMM	.008	.042	.183	.855	.010
PMC <-->	PMM	.015	.053	.285	.776	.015

		Covariances				Correlations
		Estimate	S.E.	C.R.	P	Estimate
TEO <--> PMM		.040	.036	1.103	.270	.058
PMO <--> OPT		.026	.030	.863	.388	.049
PMP <--> PMO		.058	.039	1.492	.136	.080
PMI <--> PMO		.019	.028	.661	.509	.037
PMO <--> TEO		.034	.026	1.327	.185	.073
PMO <--> PMM		.066	.042	1.547	.122	.082
PMO <--> OPY		.064	.035	1.827	.068	.106
PMO <--> OPQ		.010	.034	.294	.769	.016
PMO <--> OPC		.009	.024	.384	.701	.022
PMO <--> PME		.056	.030	1.877	.061	.105
PMP <--> OPQ		.048	.045	1.072	.284	.057
PMP <--> PME		.303	.044	6.829	***	.421
PMC <--> OPT		.274	.043	6.380	***	.398
PMI <--> PMC		.244	.040	6.066	***	.370
PMC <--> PMP		.301	.053	5.642	***	.321
PMC <--> TEO		.009	.032	.286	.775	.015
PMC <--> PMO		.021	.038	.556	.578	.030
PMC <--> OPY		.051	.044	1.156	.248	.066
PMC <--> OPC		.217	.036	5.978	***	.399
PMC <--> OPQ		.005	.043	.125	.901	.007
TEO <--> OPQ		.066	.030	2.202	.028	.123
OPQ <--> OPC		.014	.027	.503	.615	.028
PMI <--> OPC		.194	.030	6.525	***	.486
PMP <--> OPC		.245	.039	6.310	***	.431
OPC <--> OPT		.130	.027	4.768	***	.312
PMP <--> OPT		.153	.041	3.749	***	.214
e32 <--> e33		.262	.040	6.461	***	.323
e33 <--> e34		.229	.040	5.707	***	.279
e4 <--> e5		.125	.021	5.879	***	.377

The Chi-square/degree of freedom value (2.876) is less than 3.0. The most popular and commonly used goodness of fit measures such as GFI, AGFI, NFI, CFI, TLI, IFI, and the parsimony fit measures are observed to be within the required limits. The RMSEA (root mean square error of approximation) for the measurement model is 0.006 is less than the cutoff value of 0.05. Similarly, the RMR (root mean square residual) is within the limit of 0.02. Considering the fitness indices shown by the model, it is inferred that the measurement model achieved the required model fit. Thus, the model is found to be unidimensional (Byrne, 2010; Hair et al., 2013).

Conclusion

The present study has examined the project management process related issues in organizations in United Arab Emirates (UAE). The relation between demographic profile of respondents and the project management process, technological orientation, and organizational performance was assessed. The study found that the technological orientation significantly mediates the relationship between the project management process and the organizational performance. These arguments further strengthen the importance of technology orientation as recognized by Anantatmula, V. S, (2008).

References

- [1] Ahmed, S., Fiaz, M., & Shoaib, M. (2015). Impact of Knowledge, Management Practices on Organizational Performance: an Empirical study of Banking Sector in Pakistan. *FWU Journal of Social Sciences*, 9(2), 147-167.
- [2] Anand, G., Ward, P. T., & Tatikonda, M. V. (2008). Role of explicit and tacit knowledge in Six Sigma projects: An empirical examination of differential project success. *Journal of Operations Management*, 28(4), 303-315
- [3] Anantatmula, V. S. (2008). The role of technology in the project manager performance model. *Project Management Journal*, 39(1), 34-48
- [4] Baldwin, J., Gray, T., Johnson, J., Proctor, J., Rafiquzzaman, M., & Sabourin, D. (2009). *Failing Concerns: Business Bankruptcy in Canada*. Statistics Canada.
- [5] Byrne, B. M. (2010) *Structural equation modelling with AMOS: Basic concepts, applications and programming*.
- [6] Downes, T. (2014). *An evaluation of knowledge management practices in nonprofit community services organisations in Australia* (pp. 01-457). Lismore: Southern Cross University.
- [7] Edwards, J., Handzic, M., Carlsson, S., & Nissen, M. (2003). Knowledge management research & practice: visions and directions. *Knowledge Management Research & Practice*, 1(1), 49-60. <http://dx.doi.org/10.1057/palgrave.kmrp.8500005>.
- [8] Hair, J. F., Ringle, C. M., & Sarstedt, M. (2013). Partial least squares structural equation modelling: Rigorous applications, better results and higher acceptance. *Long range planning*, 46(1-2), 1-12.
- [9] Hua Song, Kangkang Yu, Anirban Gangly, Rabia Turson. (2016) "Supply chain network, information sharing and SME credit quality", *Industrial Management & Data Systems*, Vol. 116 Iss: 4, pp.740 - 758
- [10] Gaskill, L. R., Van Auken, H. E., & Manning, R. A. (1993). A Factor Analytic Study of the Perceived Causes of Small Business Failure. *Journal of Small Business Management*, 31 (4).
- [11] Ghosh, B., Liang, T., Meng, T., & Chan, B. (2001). The key success factors, distinctive capabilities, and strategic thrusts of top SMEs in Singapore. *Journal of Business Research*, 209- 221.
- [12] Lee, H., & Choi, B. (2003). Knowledge Management Enablers, Processes, and Organizational Performance: An Integrative View and Empirical Examination. *Journal of Management Information Systems*, 20(1), 179-228.
- [13] Lenahan O'Connell, Juita-Elena (Wie) Yusuf, Khairul Azfi Anuar, (2018) "Beyond new roads and bridges: Understanding public preferences for investing in urban non-

- automobile transportation infrastructure", *Journal of Public Budgeting, Accounting & Financial Management*, Vol. 30 Issue: 2, pp.175-190.
- [14] Lusssier, R. N., & Pfeifer, S. (2000). A Comparison of Business Success Versus Failure Variables U.S and Central Eastern Europe Croatian Entrepreneurs. *ET&P*, 59-67. Retrieved 12 10, 2012, from <http://www.taranomco.com/wp-content/uploads/2013/11/38.pdf>
- [15] Longenecker, C. O., Simonetti, J. L., & Sharkey, T. W. (2000). Why organizations fail: the view from the front-line. *Management Decision*, 503-513. Retrieved
- [16] Markus Kohlbacher, Hajo A. Reijers, (2013) "The effects of process-oriented organizational design on firm performance", *Business Process Management Journal*, Vol. 19 Issue: 2, pp.245-262
- [17] Neven Šerić , Jasenko Ljubica (2018). Sampling and Types of Samples for Market Research in the Sports Industry, (ed.) *Market Research Methods in the Sports Industry*, pp.155 - 165
- [18] Temtime, Z. T., & Pansiri, J. (2004). Small Business Critical Success/Failure Factors in Developing Economies: Some Evidences from Botswana. *American Journal of Applied Science*, 18-25
- [19] Fuad, N., & Al-Shaikh. (1998). Factors for Small Business Failure in Developing Countries. *Advances in Competitiveness Research* , 6 (1).
- [20] Ooghe, H., & Prijcker, S. D. (2007). Failure processes and causes of company bankruptcy: a typology. *Emerald database*, 223-242. Retrieved 8 15, 2012, from Hyperlink <http://www.emeraldinsight.com/0025-1747.htm>
www.emeraldinsight.com/0025-1747.htm
- [21] United Nations. (2007). *World Population Prospects 2007*. UNITED NATIONS. Retrieved 3 March 2018, from <https://esa.un.org/unpd/wpp/Download/Standard/Population/>

Transport Corridors as a Social-Economic Energizer

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Abstract

Transport corridors and their socio-economic impact have been analyzed and explored in many cases. In the transport sector, there is a series of problems that affect the quality of life of the inhabitants in different regions. These issues need to be analysed and to find the cause and consequences that they cause and hinder the further development of the region initially and subsequently affect the national level. Moreover, roads as a construction structure have a very important role in the economic development of a country. They enable quick and convenient transportation of people to settlements as well as the economical transport of goods. The geographical position of the places, the natural beauties, and the sea are a prerequisite for tourism development. But in many cases, the natural and attractive attractions for tourists remain unused due to the lack of roads or the existence of a poor road network. The inspiration for the development of this topic comes from the daily observation of the transport situation and from receiving information through various publications such as studies, strategies or thematic books, discussions with colleagues and various events related to this sector. The research is focused on a specific case that can combine the theoretical part with the real situation to confront them both between using a specific methodology. The aim of this paper is to extract some of the reasons for regional development and energizing. As a case study is taken a part of route 7, in the Balkan peninsula which connects Albania with Kosovo and Serbia. Discussions on the construction of a highway between Albania and Kosovo are early, they were born on the eve of the First World War in Austria-Hungary. Even in the 1970s and 1980s, there was a discussion about building a road that would have to connect two locations. Based on this, it looks a good reason to search more and to analyse some effects of it in the social and economic life of citizens and residents of the impacted areas.

Keywords: transport corridors, socio impact, economic development, residents, transport situation.

Introduction

The purpose of this study thesis is realization of a good and focused study on the transport sector and regional development that it promotes in good planning cases related with transport corridors. In this regard, these transport corridors in their successful cases have acted as energizers for areas that were previously neglected by lack of infrastructure. After the creation of these interventions they have undergone a new development and are seen as an interactive part of these corridors.

The relationship between transport and development is a subject of considerable theoretical interest and practical importance, and one that has occupied a good deal of attention over many years in both advanced and less-developed countries. Ideas about the nature of the relationship between transport and development have changed considerably over time. Of course, the basic importance of transport is not in question: transport is clearly a factor of fundamental importance in all economic activity, and the cost of transport one of the most significant variables in the market price of any commodity. (B. S. HOYLE 1973).

Transport has a major impact on the spatial and economic development of cities and regions. The attractiveness of particular locations depends in part on the relative accessibility, and this in turn depends on the quality and quantity of the transport infrastructure. In another scale of observing the state of things, cities are changing with the movement of people and businesses out from the center, increased suburbanization and the desire for lower residential and job densities. Suburbanization of employment has followed, and the simple local journey-to-work pattern or the public transport based movement to the strong central area employment location has been replaced by more complex longer distance car based movements.

At the regional scale, the links between transport and development are also evident. However, the links between transport and urban development is not well known, even in a physical sense. At the regional level, much infrastructure investment is justified on the basis of regional development benefits which accrue directly from improved accessibility. These benefits include a greater attractiveness for new firms who might move to the area, cheaper distribution of goods and a general expansion of the labour market areas (D. Banister, N. Lichfield 1995).

It is of conventional wisdom in development theories to consider inequalities as a structural factor of spatial accumulation (Dwyer, 1990). Transportation, among other factors, reinforces spatial inequality by linking a priori the most productive places. When a set of large cities are interacting at the regional level, they reinforce the regional spatial inequality of accessibility by their corridors of interaction; transportation corridors.

From an economic perspective, transportation corridors provide two fundamental attributes for territorial development: lower distribution costs and land supply for diverse activities. Since spatial accumulation tends to occur at productive places where there are adequate land supply and accessibility, corridors are in that context an efficient regional urbanization structure.

The emergence of transportation corridors, as a process, is the overlay in time and space of diverse transportation modes where they (the corridors) become the structure of urban regions. We can no longer speak of a set of interacting cities, but of a regional transactional space composed of diverse - more or less linked - specialized economic functions; a new spatial region (Jean-Paul Rodrigue 1996).

Looking back in time these aspects that are mentioned by the authors are so well found and well implemented in different cases of corridors or old ancient roads all over the world. In a specific case that is taken in consideration in this study is an old case as transport corridor in the ancient world near the Balkan is Egnatia road. The Via Egnatia was built by a Roman senator named Gnaeus Egnatius, who served as praetor with the powers of proconsul in the newly conquered province of Macedonia in the late 140s BCE. A milestone found near the place where the Via Egnatia crossed the Gallikos River, just west of Thessaloniki, is evidence for his activities. The

bilingual inscription, now in the Archaeological Museum of Thessaloniki, correctly records a distance of 260 miles to Dyrrhachium (modern Durrës), the port on the Adriatic Sea where the road started. The road was very important. Connecting the eastern and western part of a once powerful state, the Macedonian kings had already built a road from the Adriatic to the Aegean Sea. For the Romans, it was essentially the continuation of the Via Appia: anyone coming from Rome and travelling to the east, would come to Brundisium, cross the Adriatic, reach Dyrrhachium (or Apollonia), and continue along the Via Egnatia (M. Fasolo 1976, F. O'Sullivan 1972).

Inspired by this the case study of The Road of Nation in Albania or Route 7 in Balkan peninsula which connect the port of Durres with Corridor X in Nish in Serbia, is taken in consideration for realization of this study one part of it. Otherwise called as Durres-Morine Corridor (Kukes) has a regional impact. It is likely to have more opportunities for transport links between the Adriatic Sea and the Mediterranean Sea provides Ports of Durres and Shengjin and has addressed in tire trade and the country of choice, to please Kosovo, Montenegro, Serbia, North Macedonia, and other Balkan countries such as Romania, Bulgaria and beyond.

In the main regional network, it is considered as the most optimal connection of the Pan-European Corridor VIII to X on the Durres-Kukes-Pristine- Nish route. The construction of this Corridor is of particular importance due to the fact that freight and passenger transport occupies the major share of transport both domestically and with Kosovo. Important road segments, integral parts of the East-West, North-South, Durres-Morine corridors, tourist roads and those leading to the border crossings, have been constructed and put into use. Damaging factors are the illegal constructions along the main roads that still prevail, **mainly due to the lack of second level infrastructure and access roads.**

Material and Methods

Beyond research and theoretical understanding of the transport corridors and their role in regional development, the continuation of the study and research topic focused toward concrete analyzing of an Albanian case study. Below is the way which is followed for the data collection and which methodology is adapted to attend for it.

The social impact analyses were focused on stakeholder's analyses while the economic impact analysis will be oriented towards analyzing the analysis of the annual report. 1) The first is stakeholder analysis; 2) The second Annual Reports Analysis.

Stakeholder Analysis considers as an important technique for stakeholder identification and analyzing their needs. In this case it will use to identify all key (primary and secondary) stakeholders who have an interest in the issues with which the project is concerned. In this case, which is important for *Albania and Kosovo* too, generate their activity a series of individuals, for whom rise two questions; who has the power and who has the interest?

No.	Power	Interest
1.	Investors	Taxi driver
2.	Citizens (Type1)	Bus driver
3.	Transport companies	Shop service
4.	Citizens (Type2)	Individuals (key in flows)
5.	Farmers	

Citizens (Type1), those who live near access points

Citizens (Type2), those who live far, or on the other side of the area.

For the two questions raised above the table lists a list of those individuals or groups who have the interest or the power to use this corridor. Each of them has individual intentions that are expressed based on the interest they have to move from one point to another, from origin to destination. **In the case of those who have the power**, (investors, citizens, transport companies, farmers):

Power				
Investors	Citizens	Transport companies	Farmers	Ministry of Infrastructure and Energy
Their goal is to derive benefits from the investment made	Their purpose is to efficient the time of circulation	Their goal is to minimize transport costs and to benefit time.	To safe their farms compact (Land and greenhouses)	Its purpose is to orient investment
Benefits from the concession for the maintenance of the road axis	There are potential for setting up new service businesses along the corridors	Avoiding delays during movement.	To increase production and reduce costs	To oversee the project and its stages of implementation
	Create motion fluxes and impose them, and consequently the investment worthiness			

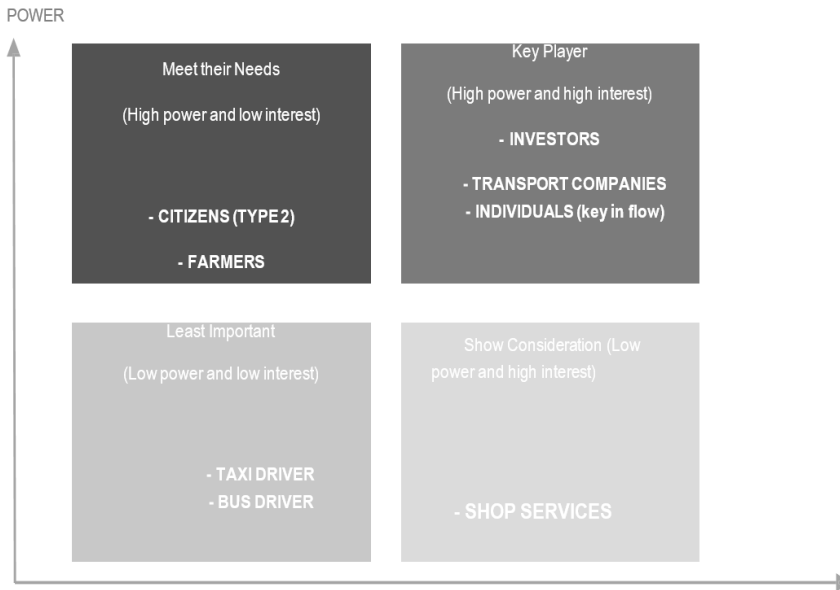
Source: the author.

In the case of those who have interest (Taxi driver, Bus driver, Shop service, Individuals):

Interest			
Taxi driver	Bus driver	Shop service	Individuals
The primary purpose is to understands the need of the people to reach destinations on time and safe.	The primary purpose is to understands the need of the people to reach destinations on time and safe.	It aims to position itself in a strategic location along the corridor to benefit more customers	Intend to shorten travel time
Minimize cost and maximize profit.	Enhance service delivery to increase the number of travelers	Offer quality services to increase customers	Aim not to ruin their personal vehicles

To achieve significant gains and increase the frequency of the road.	there should be low tax rates for road frequency.	Aims to have low competition to maximize profit	They should be safe during the journey
			Access different points (cities) along the voyage, providing access and exit along the corridor

Source: the author.



Source: the author.

INTEREST

In the above chart are positioned according to interest and their stakeholder power which, depending on the level expressed, have taken the positioning. The methodology used is based on how stakeholder analysis is built considering those who have more relevance and influence in this analysis.

To better understand the level of engagement and satisfaction for the project, has been used the scale rank, which has 5 levels of stakeholder that have been analyzed above.

The five levels that are taken into consideration are explained below.

Stakeholder	Unaware	Resistant	Neutral	Supportive	Leading
Investors					
Citizens (Type1)					

Transport companies					
Citizens (Type2)					
Taxi driver					
Bus driver					
Shop service					
Individuals (key in flows)					
Farmers					

Source: the author.

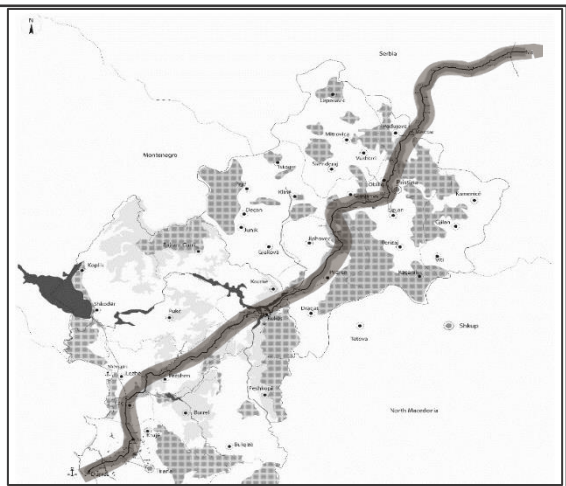


Fig.1 Route 7 part of Corridor X, Durres-Nish.

Fig. 2 "The Road of the Nation", (Route 7)

Durres-Nish. Source: the author. Source: graphic edit the author.

Annual Reports Analysis

The four-lane highway became the largest infrastructure project in Albania. Its initial cost was estimated at about € 600 million, but then it came close to € 1 billion, though it never came to a final figure of its full cost up to the current stage.

Often times, the economics specialists, starting from the huge cost change, with almost 80% of the initial cost, which has often sparked little debate in Albania, have led to the question of whether this route has been economically rentable, which means if the economic benefits are higher than the costs of building this road.

In October 2003, Albania and Kosovo liberalized a considerable trade between them, to reach in 2007 with CEFTA entry into full liberalization of bilateral trade.

In 2009, the value of import / export amounted to about 10 million euros, a figure similar to the whole 2003-2006 period (10.4 million euro) (INSTAT 2015). The Albanian Institute of Statistics shows that during the period 2010-2014, exports were those who suffered significant fluctuation, but they have been drastically increasing compared to 2009 levels. There was a trend up until 2012, which went down in 2013 and marked an increase in 2014. Thus during 2014, they accounted for 7.3% of exports from 6.2% in 2010. Albanian exports to Kosovo during this period were mainly concentrated in the "Minerals, fuels, electricity" and "Construction materials and metals" groups INSTAT.

According to INSTAT data, in 2015, the volume of trade exchange between the two countries amounted to ALL 26 billion, marking an increase of almost three times, compared to the level of 2009 and over 7 times from 2005 INSTAT.

In 2015, Kosovo became the second most important Albanian export destination for the first time. They reached almost ALL 21 billion or about 11.4% more than in 2014. In 2015, exports to Kosovo accounted for 8.6% of the total, from 7.3% in 2014 and 4.7% in 2007 before the Durres Kukës road (K.Prifti 2018).

The most exported product from Albania to Kosovo in 2015 was cast iron and steel with about ALL 5.4 billion (4% annual growth) followed by fuels and minerals, with about ALL 5 billion, which saw an annual increase of 22% (K.Prifti 2018).

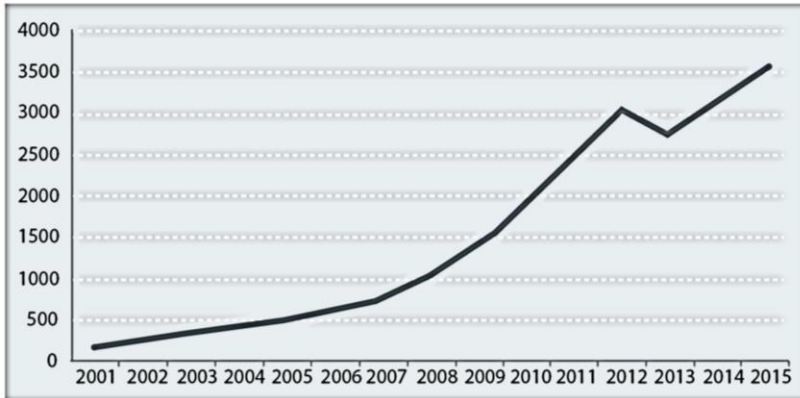
Excessive growth, albeit from a small base, in the same period marked the export of agricultural products. Vegetables sales in Kosovo increased by 45%, reaching 750 million ALL. Even the exported fruits were 50% higher than the previous year, to reach nearly 600 million ALL.

Other businesses that have seen increased activity with Kosovo are also the ore processors and furniture makers. While cement is one of the products that failed to find the neighboring market in 2015 (K.Prifti 2018).

In addition to the tourism sector, "Nation's Road", was given the opportunity for Kosovo Albanians to have a tourist destination that offered everything from the point of view of natural resources, otherwise called "patriotic tourism" and compared to "SanTropéz" tourism for compatriots. INSTAT data shows that inflows of foreign allowances across the land border (where Morina's inflows accounted for more than 50% of the total) marked a significant increase shortly after 2008, fivefold by 2015.

In 2010, the number of foreign visitors to Albania was estimated at about 3.5 million, of which about 1.7 million were citizens of Kosovo. In one year in Albania there are about 1.5-1.8 million citizens from Kosovo, 70% of whom come during the period June-August. According to statistics,

a citizen from Kosovo stays in Albania on average 3.8 days and 83% of them stay at the hotel. The average daily cost per person of a citizen from Kosovo amounts to 55 EUR, (INSTAT 2015).



Graphic 1. Entries of foreign nationals through the land border in years (thousand). Source: INSTAT Albania.

During 2009, the tourism industry estimated a value that was about 29% higher than that of export of goods and services. The shortened travel distance (in 2.5 hours) made coastal areas more accessible and at a lower cost. From the calculation of this data using INSTAT statistics, it turns out that the annual economic benefit of Albania only from the development of tourism sector with Kosovo that has brought the construction of this highway is as follows:

No. tourists	Average daily spending	Day of stay	Benefit
1.7 million (KS)	55 EUR	3.8 days	355.300.000 EUR

Conclusions

At the end, this research concludes that some of the obtained results are part of a subjective assessment made by the author and his reasoning on the case and the data that has been possible to gather. At the end of this assessment of this corridor, first in social terms, it is more positive as it has affected the speed of movement of residents and their access to certain services. The economic impact of this investment is huge but in this case the study is try to be more oriented in specific sectors where it had more impact.

Another positive impact has been the investment in this road has also been and the "employment".

In the table below are identifying some evidence and economic data, which are classifying as the positive and negative effects that the "the Road of Nation" has had at regional and national levels.

No.	Positive Impact	Negative Impact
1.	Increasing employment in one of the poorest regions of Albania	High project cost
2.	Minimize transport cost	Interruption of other investments in public infrastructure during the construction of this road

3.	Reduce of circulation time	Increasing public debt for investment
4.	Creating a common economic space	The impact of policy on project decision making
5.	Increase in the level of trade between Albania and Kosovo	Low efficiency of the project
6.	Development of the tourism sector	Political allegations of corruption and misappropriation of government funds
7.	Development of access from the port of Durres	Failure to improve logistics for the port of Durres
8.	Increasing the number of tourists	Non-financing of residents during areas where the old road was passing
9.	Impact on other sectors (properties, real estate agencies)	
10.	Development of inter-regional links	
11.	Creating better opportunities for countries like Kosovo and Serbia to have quick access to the Adriatic Sea and beyond.	

In general, public investments in the road transport infrastructure and not just in the nation's road have two main economic benefits. These benefits consist of, a) increase of interregional access, b) reducing the cost of transport (at regional level and wider). Taking into consideration these benefits, it is expected that transport will affect direct and indirect economic growth (through other factors) as appropriate. In Albania, high spending on public investment over the years has increased productivity and have added accumulation of public capital. Investment on this historic road in general, has a positive social impact for the reason of resident's connection and generation of life in this areas.

Bibliography

- [1] D. Banister and N. Lichfield (1995), Transport and urban development. E & FN SPON An Imprint of Chapman & Hall, edited by Alexandrine Press, Oxford.
- [2] Dwyer, D.J. (ed) (1990), Southeast Asian Development: Geographical Perspectives, Essex, England: Longman
- [3] F. O'Sullivan, The Egnatian Way (Great highway series). Newton Abbot: David & Charles; Harrisburg: Stackpole Books, 1972. Pp. 264.
- [4] FORUM, (2013), Roads to a Common Economic Space Albania - Kosovo. Document Curiaweb, Supported by the Konrad Adenauer Foundation
- [5] HOYLE. B. S. (ed) (1973), Transport and development, geographical readings, pg.10, London: Macmillan. Selection, editorial matter and introduction by B.S. HOYLE.

- [6] INSTAT (Instituti i Statistikave), institute of statistics of Albania (2019). K.Prifti, (2018), The economic profitability of the Nation Road.
- [7] J.-P. Rodrigue (1996), Transportation Corridors in Pacific Asian Urban Regions, Department of Geography, Centre for Research on Transportation, East Asian Studies Centre, Université de Montréal.
- [8] M. Fasolo, La via Egnatia I. Da Apollonia e Dyrrachium and Herakleia Lynkestidos (1976), Roma 2003. Stampa: I.G.E.R. srl, ISTITUTO GRAFICO EDITORIALE ROMANO di Pieraldo Vola & Figli

Piero Gobetti: Not Only an Analysis of Italian Affairs

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Abstract

Piero Gobetti (Turin 1901- Paris 1926) has been always considered just as a political writer of Italian affairs, but this amounts to an understatement. In his journals, Gobetti took into account several foreign countries with regard to politics, economy, culture, customs and traditions. In these analysis Gobetti proved to have extensive knowledge of the inland dynamics of each state described.

Keywords: Gobetti, foreign affairs, Socialism, cultural heritage

Introduction

Even though Piero Gobetti wrote mainly about Fascism and Italian affairs in the 1920s, simultaneously his three journals (*Energie Nove*, *Rivoluzione Liberale* and *Il Baretti*) showed great interest in international politics. France, Belgium, Russia, Germany and the United States were at the heart of essential reflections.

Gobetti and France: cultural heritage and Socialism

Gobetti was an ardent Francophile: this is due mainly to the strong bond between Piedmont and France. In the years in which Gobetti wrote, French culture was a reference point for the turinese *intelligentsia*. According to Norberto Bobbio:

From the Enlightenment since now, all the movements of ideas born in France have affected Italy [...]¹.

In addition to it- as Pietro Polito noted²- the French thinker Georges Sorel played a strong role in the birth of the Italian labor movement³: Gobetti dedicated to him a special issue of *Rivoluzione Liberale*.

¹ N. Bobbio, *Alcune osservazioni sui rapporti culturali Italia-Francia*, in N. Bobbio, S. Nitti et al., *Piero Gobetti e la Francia. Atti del colloquio italo-francese*, Franco Angeli, Milano, 1985, p. 45.

Original text: "Non c'è stato movimento di idee in Francia, dall'Illuminismo in poi, che non abbia avuto la sua immediata ripercussione in Italia [...]"

See also G. Bergami, *Torino e la cultura francese negli anni '20*, in N. Bobbio, S. Nitti et al., *Piero Gobetti e la Francia* cit., p. 71.

² See P. Polito, *Gobetti e Sorel*, in "Mezzosecolo", n. 6, 1985-1986, pp. 29-62.

³ Sorel (1847-1922) attempted to fill in what he believed were gaps in Marxist theory, resulting in an extremely heterodox and idiosyncratic view of Marxism. Beginning in the second half of the 1880s, he published articles in various fields (hydrology, architecture, physics, political history, and philosophy). In 1893, he publicly affirmed his position as a Marxist and a socialist. His social and political philosophy owed much to his reading of Proudhon, Karl Marx, Giambattista Vico, Henri Bergson and later William James. Sorel's engagement in the political world was accompanied by a correspondence with Benedetto Croce and later with Vilfredo Pareto. Sorel worked on the first French Marxist journals, *L'Ère nouvelle* and *Le Devenir social*, and then participated at the turn of the century in the revisionist debate and crisis within Marxism. He took the side of Eduard Bernstein against Karl Kautsky.

In other words, French heritage was something important to Italy; the same could not be said for English or German culture¹.

In *Rivoluzione Liberale* (1922-1925) some French events such as the military occupation of Düsseldorf in 1921 and the invasion of the Ruhr Valley in 1923 were carefully analysed: Gobetti stressed that France would have been able to determine risky political developments and a negative impact on Europe. In Gobetti's opinion, France was still a powerful country: the Treaty of Versailles and the decisions it gave rise to testified how authoritative this State was in the 1920s. Raymond Poincaré, responsible for what happened in the Ruhr Valley, was described as follows:

His [of Poincaré] "lawyerly" patriotism makes him a man of a rethoric petty bourgeoisie².

According to Gobetti, Poincaré was the leading representative of the so called "democratic imperialism"³.

But beyond everything, the most interesting articles written by Gobetti concerned a socialist politician, Paul Painlevé, running for president in 1924. Painlevé was, first of all, a mathematician given to politics: his Enlightenment background and scientific approach made him a true representative of France.

As Gobetti reported,

Enlightenment and parliamentary tradition coexist in him [...]; the distrust of Fascism is something intrinsic for him⁴.

Concluding his reflections, Gobetti affirmed that Painlevé represented that political class able to mitigate the *revanche* policy and solve the reparations issue.

Gobetti and Belgium: "echo chamber" for European events

Even though, at first glance, Belgium seems a *pièce ajoutée* of France, Gobetti devoted a separate study to it. Religious conflicts, position of the various political groups and economy were closely reviewed.

This was the "portrait" of the country:

Its [of Belgium] strength lies in the balance among agriculture, industry and trade. Relations with foreign countries are extremely delicate: no form of audacity is allowed to Belgium with complete impunity, all the world crises have a detrimental effect on its trade [...]. In the European context the people of Belgium are provincial and continuously dragged to play a role beyond their power⁵.

¹ England and Germany influenced Italy particularly in the field of philosophy.

² P. Gobetti, *Le elezioni in Francia*, in "Rivoluzione Liberale" (from now on RL), III, n. 19, May 6, 1924, p. 73; the article is also included in P. Spriano (edited by), *Scritti politici* (from now on SP), pp. 664-673, p. 667.

³ *Ivi*, p. 669.

⁴ P. Gobetti, *Un candidato all'Eliseo*, in SP, pp. 680-683, p. 681.

Original text: "L'Illuminismo scientifico si è sommato con il tradizionalismo parlamentare francese [...]; la diffidenza verso il fascismo è quasi una riserva innata".

⁵ P. Gobetti, *Fiamminghi e Valloni*, in RL, IV, n. 30, November 30, 1925, pp. 121-122; the article is also included in SP, pp. 866-876, p. 872.

In “Rivoluzione Liberale” Belgium was described as a country bound to face continuous challenges and so endowed with an extraordinary capacity for renewal.

As Gobetti added, its modernity also consisted in a well-organized railway system, in a optimistic and business State Socialism (involving most of the Catholics) and in a wide-ranging welfare state¹.

Nevertheless, the upcoming elections seem to be what matters most to Gobetti, because they entailed a real risk of social twisting: past issues (such as the twenty-year crisis of Belgian Socialism, the disunity of the Catholic Party, the nationalist revival and the trend towards regionalism) could have occurred again and cause an explosion of the whole situation.

Gobetti and Russia: among history, ecstatic contemplation and Liberalism

In *Energie Nove* (1918-1920) and *Rivoluzione Liberale* (1922-1925), Piero Gobetti wrote several essays on Russia and in particular on the 1917 Revolution; Language, Literature and Leninism were the three *Ls* sparking Gobetti's interest. Together with his wife, Ada, he began studying Russian with the aim of translating Andreiev's works²; but ultimately, it is the phenomenon of the Bolshevik revolution that motivated Gobetti's general passion for Russia.

In “Frammenti di estetismo politico” and “La Russia dei Soviet”, Gobetti presented the Revolution as one of those mythical and unrepeatable events that history offers only rarely: for this reason it had to be contemplated rather than judged. As he reported:

The Russian Revolution is history, you must study it; it is a social phenomenon [...]. You have before you a world of constant progress, and you looked for the scheme in which to enclose it [...]. The Revolutions do not look at the past. They create and shape new realities. The government of Lenin and Trotzki is a *de facto* government. It is the will of Russia. A state organization and not a scientific investigation. Life and not the book³.

Gobetti stressed the importance of such a simple and fundamental concept: the Revolution is a fact and a new democracy is born. At first, he seemed to categorically reject any form of manipulation of the phenomenon, preferring a historical and objective interpretation to one of political expediency.

In Gobetti's writings, Lenin and Trozki were called great statesmen who elevated Russia to the level of Western civilizations, facing dangerous government responsibilities⁴. And then:

¹ Ivi, p. 867.

See also F. Somenzari, *Gobetti e la politica internazionale nelle riviste “Energie Nove” e la “Rivoluzione Liberale”*. Introduzione, in F. Somenzari (edited by), *Piero Gobetti. Vita Internazionale*, Aras, Fano, 2017, p. 62.

² Gobetti defined Leonid Andreiev “the greatest of contemporary Russian writers”. See P. Gobetti, *Leonida Andreiev*, in “Energie Nove” (from now on EN), II, n. 8, September 30, 1919.

Andreiev was defender of the revolution of 1905 and contrary to that of 1917, but above all he was against the excesses of Bolshevism.

³ P. Gobetti, *Frammenti di estetismo politico*, in EN, II, n. 10, November 30, 1919; the article is also included in P. Spriano (edited by), *Scritti Politici* cit., pp. 206-213. Original text: “La Rivoluzione Russa è storia, voi dovete studiarla; è un fenomeno sociale [...]. Avete dinanzi un mondo in formazione, e voi cercate lo schema in cui rinchiuderlo [...]. Le Rivoluzioni (e tutta la storia del resto) non guardano il passato. Creano e plasmano nuove realtà. Il governo di Lenin e Trotzki è un governo di fatto. E' la volontà della Russia. Un'organizzazione statale e non un'indagine scientifica. La vita e non il libro”.

⁴ See P. Gobetti, *La Russia dei Soviet*, in “Volontà”, February 15, 1921; the article is also included in P. Spriano (edited by), *Scritti politici* cit., pp. 197-206, p. 197.

They [Lenin e Trotzki] are not only Bolsheviks; they are the men of action who have awakened a people and are recreating a soul for them¹.

The position taken by Gobetti led the communist Antonio Gramsci to write that Gobetti was a young man who had understood the greatness of the Revolution and its leaders².

However, after this first contemplation of the phenomenon of the Russian Revolution, in 1921 Gobetti denied himself, by stating:

Trotzki affirms a liberal³ view of history [...]. Only for tactical necessities and for historical needs, the Revolution- full of Liberalism, in a country like Russia, home of the *mir*, worshiper of every form of community- must take the name and sometimes the appearance of socialist work [...]. It is up to the historian to affirm the truth above political contingencies⁴.

From the ascertainment of the extraordinary nature of the Revolution and from a gaze that wanted to be as objective as possible, Gobetti moved on to an extremely partial political interpretation, placing the Russian events into the riverbed of the liberalism current. According to Gobetti, Trotzki carried on (without knowing it) a liberal, non-socialist design.

In this case, Gobetti's interpretation is neither shareable nor sustainable, but it is very interesting because it clearly demonstrates the non-systematic nature of his thinking⁵.

Gobetti and Germany: from Versailles to Weimar

In the twenties of the twentieth century German affairs were so important that "Rivoluzione Liberale" dedicated one of its issues entirely to Germany⁶. Gobetti and his fellow writers were very interested in the political and economic context mainly because of Versailles Treaty. Gobetti's considerations were strongly influenced by the thought of Gaetano Salvemini and by the works of Francesco Saverio Nitti.

In refer to Versailles Conference, Gobetti was pretty clear from the beginning:

Versailles not only is not a peace, but it excludes peace⁷.

As I have already said, in his judgment the turinese thinker was affected by several readings; however, precisely in those years, the Piero Gobetti Publishing House decided to print "La Paix", written by Nitti, who had been the Italian Prime Minister in 1919 and had opposed to punitive measures towards Germany. With regard to the Versailles Peace, Nitti affirmed:

¹ P. Gobetti, *Rassegna di questioni politiche*, in EN, II, n. 6, July 25, 1919, pp. 132-139; the article is also included in P. Spriano (edited by), *Scritti politici* cit., p. 151. Original text: "Non sono solo dei bolscevichi, sono gli uomini d'azione che hanno destato un popolo e gli vanno ricreando un'anima".

² P. Gobetti, *Paradosso sullo spirito russo*, Einaudi, Torino, 1969, p. XXI.

³ In this case, the adjective "Liberal" has to be understood in its historical sense, that is "relative to the Liberal Party". Today the term "Liberal" is used with the meaning of "progressive".

⁴ P. Gobetti, *Trotzki*, in "Il resto del Carlino", April 5, 1921; the article is also included in P. Spriano (edited by), *Scritti Politici* cit., pp. 206-210. Original text: "Trotzki afferma una visione liberale della storia [...] Soltanto per necessità tattiche e per esigenze storiche quest'opera [la rivoluzione] feconda di liberalismo, in un paese come la Russia, patria del mir, adoratrice di ogni forma di comunità, deve prendere il nome e talvolta anche le apparenze di opera socialista [...]. Spetta allo storico affermare la verità al di sopra delle contingenze politiche".

⁵ See P. Polito, *L'eresia di Piero Gobetti*, Raineri Vivaldelli, Torino, 2018.

⁶ See "Rivoluzione Liberale", III, n. 1-2, 1924.

⁷ P. Gobetti, *Il trionfo della democrazia*, in "Rivoluzione Liberale", II, n. 4, February 1st, 1923; the article is also included in P. Spriano (edited by), *Scritti Politici*, Einaudi, Torino, 1997, pp. 448-452. Original text: "Versailles non solo non è una pace, ma esclude la pace".

The damage caused by the war has been massive and it will undermine Europe for the next fifty years: the damage caused by the peace (conceived as a peace of war) has been still worse [...]. The peace treaties- as Clemenceau affirmed- were a way to continue the war.

I can say that there has been a failure of peace together with a failure of war¹.

The above-mentioned quotations show an intense exchange of views between Gobetti and Nitti.

In this issue entirely devoted to Germany, the second most important topic was the economic scene arising from the Versailles Conference.

Reparations were so exorbitant that Versailles Treaty underwent six modifications before its entry into force in 1921. Between 1921 and 1924 the Treaty encountered six further changes because of Germany's insolvency.

According to "Rivoluzione Liberale",

During these four-year negotiations Germany payed very little, but this situation in and of itself had destabilised its financial system and internal order [...]².

Despite the failure of the Treaty, the Entente powers continued to expect German payments in gold³.

The Weimar Republic together with Socialism was the third topic considered by the review. Specifically, "Rivoluzione Liberale" examined the relationships between the *Reich* and the *Länder*, that is a significant part of the new Constitution⁴.

Gobetti and the United States of America

In Gobetti's writings even the United States were taken into consideration and not by chance: the First World War brought about the entry of the United States themselves into European life and dynamics, especially at the end of the conflict. Although in the 1920s President Harding carried on the motto *America first* - the basis of a highly isolationist policy - the Wilsonian conception of Europe and international relations was destined to have a lasting echo in the Old Continent, even by virtue of territorial changes which it produced at the Versailles Conference. The Fourteen Points and the birth of the League of Nations deeply engraved on the new European balance⁵.

¹ F. S. Nitti, *La Paix*, Piero Gobetti Editore, Torino, 1925, pp. 59-61.

Original text: "I danni della guerra sono stati grandissimi e per cinquant'anni almeno l'Europa li risentirà: i danni della pace, concepita come una *peace of war*, sono stati più grandi [...]. I trattati, come disse Clemenceau, erano nel suo concetto un modo di continuare la guerra [...]. Posso dire soltanto che, se vi è un fallimento della guerra, vi è stato anche un fallimento della pace".

² A. Cabiati, *Il fallimento delle riparazioni*, in "Rivoluzione Liberale", III, n. 1-2, 1924, pp. 6-7.

Original text: "Durante queste trattative e quadriennali, la Germania non aveva pagato gran cosa; ma in compenso aveva sconquassato la sua finanza e l'ordine interno [...]".

³ Ibidem.

⁴ G. Ansaldo, *La Prussia e il federalismo*, in "Rivoluzione Liberale", III, n. 1-2, 1924, pp. 1-3.

In refer to the Weimar Constitution, see U. Villani-Lubelli, *Dall'Impero alla nascita della democrazia: il fragile equilibrio politico nella Repubblica di Weimar*, in "Le Carte e la Storia", I, 2017, pp. 122-135.

⁵ It's essential to remember that, based on the principle of self-determination of peoples, the Austro-Hungarian Empire had disintegrated, giving rise to numerous national states; moreover, with respect to Italy, Wilson had taken a very tough position, denying it some strategic territories. See M. Cattaruzza, *L'Italia e la questione adriatica (1918-1926). Dibattiti parlamentari e panorama internazionale*, Il Mulino, Bologna, 2014.

In the above-mentioned journal "Energie Nove", Gobetti focused on Wilsonism and the League of Nations; the writer's judgment on this international organization (wanted by the Democratic President) was in some ways cautious and even a little suspicious: according to Gobetti, the League of Nations was characterized by excessive abstractness and a utopian vision that damaged its own work. So wrote Gobetti:

To correctly understand and evaluate everything that passes under the name of the League of Nations, we cannot stop at an examination of the potential abstract value of the idea, but we must immediately see its value in relation to social life, that is we must study in which practical forms it [the League] can be implemented¹.

It was not only the idea itself relevant, but its practical implementation, its sustainability: "the politician feeds on reality".

The appeal to democracy as a pivot of peaceful coexistence and a guiding principle of international relations alone was not enough, beyond the morality that this internationalist project carried with it. On this point, Gobetti was very close to Salvemini's position.

Beyond the criticisms, in the pages of Gobetti there is however the recognition of the value of the *New Diplomacy*, that is of a vision that, in spite of its specific and contingent limits, will reveal itself in the long-term forward-looking.

A few years later, on the occasion of Wilson's death, Gobetti wrote:

To realize his greatness, the judgment must instead concern his American figure, in the history of America. His own election to the presidential seat is a solemn fact: as early as 1914 he had turned out to be a great statesman. After the mediocrity of presidents like Taft or Roosevelt, the temper of a Lincoln emerges in Wilson².

Conclusions

As I have already written, Gobetti's thought also concerned the international political context and not just Italian affairs. The end of the First World War and the Versailles Conference obliged him to consider several countries in terms of economic and social conditions, political situations and general effects after the events above-mentioned.

What emerges from Gobetti's analysis is a composite picture of Europe and of the United States in the 1920s.

References

- [1] B. Bongiovanni, *Da Marx alla catastrofe dei comunismi. Traiettorie e antinomie del socialismo*, Unicopli, Milano, 2000

¹ P. Gobetti, *La Società delle Nazioni*, in EN, I, n. 5, January 1-15, 1919; the article is also included in P. Spriano (edited by), *Scritti Politici* cit., pp. 65-67.

Original text: "Per intendere e valutare rettamente tutto ciò che passa sotto il nome di Società delle Nazioni, non ci possiamo fermare ad un esame del valore potenziale in astratto dell'idea, ma dobbiamo scendere subito a vederne il valore in relazione alla vita sociale, dobbiamo studiare cioè in quali forme pratiche essa si può attuare".

² P. Gobetti, *Uomini e idee. Lo stile di Wilson*, in RL, III, n. 7, February 12, 1924; the article is also included in P. Spriano (edited by), *Scritti politici* cit., pp. 591-593. Original text: "Per rendersi conto della sua grandezza il giudizio deve invece riguardare la sua figura di americano, nella storia dell'America. Già la sua elezione al seggio presidenziale è un fatto solenne: già nel 1914 si era rivelato un grande statista. Dopo la mediocrità di presidenti come Taft o Roosevelt, in Wilson si sente la tempra di un Lincoln".

- [2] C. Panizza (edited by), *L'autobiografia della nazione*, Aras, Fano, 2016
- [3] Cabella (edited by), *Gobetti tra Riforma e rivoluzione*, Franco Angeli, Milano, 1999
- [4] E. Alessandrone Perona, *Le provocazioni della ricerca*, in "Passato e Presente", n. 97, 2016, pp. 103-120
- [5] F. S. Nitti, *La Pace*, Piero Gobetti Editore, Torino, 1925
- [6] F. Somenzari (edited by), *Piero Gobetti. Vita internazionale*, Aras, Fano, 2017
- [7] F. Somenzari, *Wilson, l'internazionalismo e la nuova diplomazia: un quadro complesso tra fallimento momentaneo e valore duraturo*, in «Scienze e Ricerche», n. 24, marzo 2016, pp. 16-20
- [8] F.S. Nitti, *La tragedia dell'Europa. Che farà l'America*, Piero Gobetti Editore, Torino 1924
- [9] G. Salvemini, *Dal Patto di Londra alla Pace di Roma. Documenti della politica che non fu fatta*, Torino, 1925
- [10] G. Scroccu (edited by), *Piero Gobetti. La "rigenerazione" dell'Italia e la politica del primo dopoguerra: gli anni di Energie Nove*, Biblion, Milano, 2014
- [11] H. A. Winkler, *L'eredità di Weimar*, Donzelli, Roma, 1999
- [12] J. B. Duroselle, *Da Wilson a Roosevelt. La politica estera degli Stati Uniti dal 1913 al 1945*, Cappelli, Bologna, 1963
- [13] L. Beghin, *Da Gobetti a Ginzburg. Diffusione e ricezione della cultura russa nella Torino del primo dopoguerra*, Istituto storico belga di Roma, Roma-Bruxelles, 2007
- [14] L. Ginzburg, *Gobetti e il significato della Rivoluzione Russa*, in «Quaderni di giustizia e libertà», n. 5, dicembre 1932, pp. 88-92
- [15] M. Cattaruzza, *L'Italia e la questione adriatica (1918-1926). Dibattiti parlamentari e panorama internazionale*, Il Mulino, Bologna, 2014
- [16] N. Bobbio, F.S. Nitti *et al.*, *Piero Gobetti e la Francia. Atti del colloquio italo-francese*, Franco Angeli, Milano, 1985
- [17] P. Polito, *Il liberalismo di Piero Gobetti*, Centro Studi Piero Gobetti, Torino, 2006
- [18] P. Polito, *L'eresia di Piero Gobetti*, Raineri Vivaldelli, Torino, 2018
- [19] P. Polito, *La rivoluzione russa come una rivoluzione liberale*, in «Critica liberale», n. 225, vol. XXII, 2015, pp. 180-182
- [20] P. Spriano (edited by), *Scritti Politici*, Einaudi, Torino, 1997
- [21] Storer, C., *A Short History of the Weimar Republic*, New York, Tauris, 2013
- [22] U. Villani-Lubelli, *Dall'Impero alla nascita della democrazia: il fragile equilibrio politico nella Repubblica di Weimar*, in "Le Carte e la Storia", I, 2017, pp. 122-135

Inclusive Education Between Humanistic Idea and Corporative Model of Education: Are the Special Schools Better?

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Abstract

In this paper a paradox of global educational politics is problematized (GERM – global education movement) that is reflected in education reforms of numerous countries as it is insisted on uncompromizing introduction of inclusive education, while at the same time, more and more bigger breakthrough of neoliberalism is evident in education. Neoliberal education, that is corporative model of education, based on marketing orientation and imposing the demands for higher academic standards in order schools to be more competitive, is contradictory to humanistic and egalitarian idea of inclusion in education with the final aim of improvement of inclusive education in which all children, young and adults no matter of differences, are given an opportunity to take part in and to give their own contribution. In practice, it is also questioned the co-existence of inclusive education and corporative model of education along with presenting the reflections and researches of some authors who emphasize the advantages of special education.

Keywords: inclusive education, neoliberal education, corporative model of education, special schools, researches of inclusive education

Introduction

Philosophy of inclusive education is that all children have right to be educated together with their peers in regular classes in schools that are the closest to their place of residence. It is necessary to differ the determination of inclusive education both in broad and narrow sense. Inclusive education being understood in wider sense is related to strategies of inclusion into regular educational system of all the children that due to some of their characteristics (age, sex, abilities, race, ethnic and religious membership, health status etc.) are being exposed to different kinds of marginalization, segregation, isolation and discrimination as in school so in society in general. In narrow sense, inclusive education is related in including the children having disability-related differences (disorders with eyesight, hearing, talking, mental insufficiency, behavioral disorders, multiple disorders) into regular schools. Our intention is to problematize the paradox of global educational politics (GERM – global education reform movement) reflecting in the fact that in educational reforms of numerous countries it is insisted on uncompromizing introduction of inclusive education but at the same time, a breakthrough of neoliberalism in education is more and more evident. Neoliberalism in

education is characterized by procedures such as evaluation, classification, quantification, accreditation standardized tests, evaluation criteria and orientation toward perfection that is manifested in shape of increased competition among schools. As Tolofari (2005) has noted, education becomes a product at the market which should be more effective and efficient, students become buyers of services, but supply and demand are determined by market mechanisms, that is neoliberals want competition, choice, efficiency and accountability.

Inclusive Education vs Corporative Model of Education

In that regard, some authors (Hardy and Woodcock, 2015; Kreitz-Sadberg, 2015; Skrtic, 2009; Slee, 2011) consider as neoliberal market orientation and individualised view upon society imposing bigger demands in respect to academic standards in order schools to be more competitive, are contradictor to the idea of inclusion in education. According to Stubbs (2008) inclusive education refers to a wide range of strategies, activities and processes that seek to make a reality of the universal right to equality, relevant and appropriate education where all differences according to age, gender, ethnicity, language, health status, economic status, religion, disability, life-style and other forms of difference are acknowledged and respected. Therefore, inclusive education represents a humanistic idea whose final aim is the improvement of inclusive society enabling to all children, young and adults regardless of differences to take part and contribute in it. Of course, such understanding of society does not imply the balance – does not mean as all the members of society are equal ones, but all regardless to afore mentioned differences have equal right to possibility to take part in and to belong to the society, that is to educate in accordance with their abilities. Such understanding of „equality“ contributes to eradication and decreasing of the all forms of segregation, separation, isolation and discrimination.

On the other side, instead to be engaged in strengthening up the necessary diversity being understood under the concept of inclusive education, neoliberal ideology suggests a revival of one-dimensional interpretation of school based on individualism, competitiveness, social darwinism, talent myth and similar, that leads to marketing of education, that is abolishing the education as basic human right and common good. As Liasidou mentioned, „the values of the marketplace are enshrined in educational institutions, which are called upon to produce 'human resources' in order to fulfil the demands of the global economy, thereby relating to the margins those students who are allegedly deemed 'unfit' to meet the demands of corporate modes of schooling (e.g. disabled students)“ (Liasidou, 2015:8). So, neoliberal educational trends represent an attack on egalitarian norms, social equality, right to possibility all to take part in and belong to the society, therefore to be educated in accordance with their abilities that represents the essence of inclusive education concept.

Apple (2001) perfectly detects the key elements of corporative educational mode where the education is mainly based on transferring the neutral knowledge on the students but the basic role of school is „to fill in“ the students with knowledge needed for taking part in fast changing world. The executive arbiter in evaluation of transfer and knowledge acquisition are tests of acquisition intended to state the educational level as „objectively“ as possible. If everything functions well, „good“ students will finally „learn well“, gain good results, take good positions and work on good jobs in society and to earn much more money. This effectiveness line is followed by financial benefit of schools and school systems in charge of knowledge transfer and preparation of „good“ experts. Newly enthroned centers of power have inviolable right to define „the history of real culture“ and „real knowledge“ (Apple, 2001:9). This construction of

good schooling, good management and good results in final, has been traced by those social powers that gained a domination in society aiming to increase the profit and their own positions, finding decisively important interest in education. Apple recognizes four key interest groups having a monopoly over education in The United States of America, and they more and more impose to the rest of the world the ideal of „good“ and „real“ knowledge, the adequate method of revising of the „functionality“ of acquired knowledge strongly influencing the „peripheral“ cultures to re-shape and continually come closer to the ideal knowledge core of global culture. Apple recognizes those social powers through the impact of neoliberals, neoconservatives, aggressive populists and technomanagers.

Corporative educational model based upon neoliberal economic ideas is characterized by the values of market to be applied onto educational institutions where the value of student is reflected in how much is able to contribute to the labor market, that is „students have been increasingly viewed as profitmaximizing pawns in the service of an 'audit culture', whereby a school's 'effectiveness' is measured against simplistic and superficial assesment procedures akin to corporate rationality“ (Liasidou, 2015:11). As a rule, students that are not able to adjust themselves into corporative educational model are those originating from ethnic minorities, poor students, as well as those having various disabilities. Therefore, all those students included in inclusive education concept. Along with all previously said, a question is imposing whether the concept of inclusive education (especially its narrow understanding), has any sense in those educational systems where neoliberal ideas dominate?

The idea of inclusive education which is utterly human and has its scientific-theoretical basis and justification (e.g. Allport's contact hypothesis¹, Vygotsky's zone of proximal development² and similar) is senseless to a good extent in corporative educational model that is based upon competitiveness and oriented to perfection, so it is questionable whether including a child, at any cost, having some disability into regular school be of any advantage for it. Kaufman (1989) for example, considers as a try all these students to be included into regular education is equally forcedly and discriminating as it would try to include the all students into special classes and special institutions. At the same time, it should bear in mind that there are categories of children which, along with the best conditions and support can not be included into regular education. Advantages of special schools for education of some categories of children with disabilities in regard to inclusive schools a famous philosopher Mary Warnock in the introduction of the book *Celebrating the Special School* gives the following arguments:

I profoundly believe that for many children, not only those with the most severe or multiple disabilities, special schools are their salvation. They can trust their teachers to understand their difficulties and they can be free from the teasing and bullying that they fear from their fellow students (and this fear is more intense for those children who are not visibly or obviously disabled, such as those with autism in its various degrees). One of the huge

¹ The concept of inclusive education, especially its socialization and non-academic aspects, is based on the contact hypothesis. According to the contact hypothesis, the general student population is expected to reduce prejudice, ie to form positive attitudes, to accept diversity and to build friendships through repeated contact / exposure to children with disabilities (Cerić, 2019).

² Vygotsky's consideration of „zone of proximal development“ and his understanding of disabilities from socio-cultural aspect could be accepted as theoretical starting point of inclusive education. The conception of „zone of proximal development“ enables individualization of learning process and explains positive influence of social environment on development, upon demand of inclusive education disciplines for educating heterogeneous groups of students in regular schools is based. Making distinctly shift from biological to socio-cultural explanation of disabilities, Vygotsky anticipated today's broadly accepted social model, which is in the basics of inclusive education, according to its barriers to learning and participation arise through an interaction between students and their context; the people, policies, institutions, cultures, and social and economic circumstances that affect their lives (Cerić and Alić, 2005).

advantages of a special school for such children is that it is small. In a small school, a child knows everyone and is known by all the staff. The staff, too, know one another and work in a collegiate atmosphere, where they can share their insights and their problems. Special schools are, of course, not cheap. But the policy of inclusion in mainstream schools should not be cheap either if it is to provide enough support for individual students to enable them to flourish. It is not enough that children with special needs in mainstream schools should be supported by teaching assistants; they need expert, trained teachers, who can teach them in small groups, or one-to-one. This is something that few mainstream schools can offer. What has been wrong with the policy of inclusion has been the idea that if some children with special needs can flourish in the mainstream they all can (2006: viii-ix).

Furthermore, the inclusive schools imply considerable investment into education of teachers working with children having disabilities and creating the adequate conditions for their work, as well as school infrastructure and resources (teaching aids and apparatus, adjusted access to school, space and material conditions and similar. Apple picturesquely talks about it:

While in an ideal situation I would prefer to have inclusive schools, on the other hand, in the realities of too many classrooms what we have now are rising class sizes, decreasing budgets, more social problems in the schools, and the intensification of teachers' labor. To quote from one of my friends who teaches in the schools of my own city, 'Michael, I don't have time even to go to the bathroom during the day.' Given this kind of situation, what is happening in many ways to teachers is that the rhetoric is saying "inclusion," but the reality says 'Dump these children into a regular classroom, and give no help, no assistance, no resources to teachers who are already in conditions that make life extremely difficult.' Hence, in the real situation in a considerable number of schools and classrooms, what we have is often equivalent to what we did when we closed mental hospitals in the United States. We dumped people back into the communities and let them sink or swim, with little long-term support. And by and large, they sank (Apple, 2004: 200).

Palmer et al (2001) analyzed the written comments of 140 parents of students having serious disabilities in order to establish the reasons why do they support or are against the curriculum of inclusive education. Reasons for parents' support are assurances as their children would learn more in regular classrooms. Parents opposing the inclusion mostly thought as the seriousness of disabilities of their children prevent any kind of benefits from such curriculum, therefore, inclusive classrooms would not be appropriate for education of their children.

Gilmour (2018) considers that researches, unfortunately, gave just weak evidences as educational inclusion brings benefits to students with disabilities, and that studies reporting on better academic results and sociability outcomes for students with disabilities being taught at regular schools, suffer from lack of methodology. Less evidences suggest that the teachers of regular schools are adequately prepared to meet unique academic and social needs of disabled students. One of crucial methodology lack in research of inclusive education is that they are mostly based on presumption as students with disabilities are educated in a vacuum; i.e. they are mostly focused on effectiveness gained at students with disabilities while the impact of educational inclusion on typical fellow students and teachers is ignored. Mutual interaction between teachers and students with disabilities from general population is exactly imposed as the research field whose results could direct a future discussion on inclusive education and improve school inclusive practice.

The fact that disabled students included into regular classrooms fall behind their typical fellow students, and that their mere placement into inclusive classrooms does not improve their academic achievements is confirmed by results of meta-analyses of 23 studies conducted by Gilmour et al (2018). Namely, they established that in regard to reading ability at students with disabilities there is standard deviation about 1.17 in relation to typical fellow students which represents a falling behind during more than three years in academic improvement.

The research conducted by Siperstein et al (2007) shows that including children with intellectual disabilities could increase negative attitudes toward them in general students' population. The authors of this study polled random sample comprising of 5837 students of secondary schools on national level about their attitudes to including their fellow students with intellectual disabilities into regular schools. The findings show that students: (a) have limited contact with students with ID in their classrooms and school; (b) perceive students with ID as moderately impaired rather than mildly impaired; (c) believe that students with ID can participate in nonacademic classes, but not in academic classes; (d) view inclusion as having both positive and negative effects; and (e) do not want to interact socially with a peer with ID, particularly outside school. The key findings gained by Hardiman et al (2008) , comparing social competences of children with mild intellectual disabilities in inclusive contrary to segregated school environments, show that children in inclusive schools do not significantly differ from children at segregated schools in regard to social competences which support a presumption that children having intellectual disabilities can function well in various educational environments.

Conclusion

The concept of global education policy has appeared over the last few decades, and it is about phenomenon that implicates the characteristics of educational reform present at the global level (GERM). The metaphors "marketing meta-governance" (Woods, 2011) and "Westernized version of educational modernization" (Alić, 2018) refer to undertaking educational reforms in the US, UK and other Western-centric socio-political systems, based on neoliberal ideologies, whose fundamental goal is to restructure education so that it begins to contribute to economic growth and development . Such an understanding of education that rests on the demand for competitiveness, profitability and increased productivity is at odds with the concept of inclusive education based on concerns about human rights, social justice, collegiality and the common good. Neoliberal versions of inclusion are harmonized with the standards agenda supported by the ascendancy of market-based imperatives (Dyson, 2005).

And finally, our ultimate question might be: is there any possibility to accomplish the idea of inclusive education in predominantly market and neoliberally oriented world?

One, among, not so many positive examples exists in Finland, which have somehow avoided neoliberal directions, and maintained a strong focus on a social democratic vision in education policy and practice, have managed to achieve higher educational standards and more equitable educational outcomes for learner diversity (Hargreaves and Shirley 2012; after Liasidou, 2015:10). While explaining the nature of Finnish educational reforms, Sahlberg (2010, after Liasidou, 2015:10) points to the fact that the country has not been influenced by the global education reform movement (GERM), which has emerged from the interests of supranational development agencies and has been geared towards introducing high-stakes accountability regimes for schools.

Having in mind a positive Finnish example, a resistance to market-oriented educational system is possible exclusively in a case of entire social emancipation directed to the ideal of social justice. Such concept enables the equal possibilities to all students, egalitarian distribution of all resources, minimizing the effects of competition among students, gradual building up of a higher level of confidence among the all participants within educational system especially among teachers, parents and students. Such approach, besides the social model, directs much more to some key standpoints of spiritual-scientific pedagogy, that is still considered to be remote, idealistic and humanistic point of view onto education (Alić, Cerić and Habibović, 2018). Finally, within a tradition of spiritual-scientific pedagogy is said: The aim of bringing up is education as a subjective way of culture existence, but not achieving the skilled qualification, so, it brings to conclusion as education is spiritual achievement, inner accomplishment, the state of soul, higher life, „ethos“ of living area, a credential into timeless values...(König and Zedler, 2001).

Meanwhile, such humanistic ideal is totally opposed to neoliberal, competitive, corporative models of education. If, by market logic, a gap between „typical“ and students with disabilities deepened, in that case it perhaps better following the traces of Mary Warnock's thoughts as well as numerous researches on effectiveness of inclusive education, to save the children with disabilities from additional stigmatizing and to improve the work of special schools?

References

- [1] Alić, A., Cerić, H., and Habibović, S. (2018). *The rulers of "No man's land": study of cultural contact and social impact of the United World College of Mostar*. Sarajevo: Dobra knjiga.
- [2] Alić, A. (2018). *Kulturalni modeli odgajanja – uvod u antropologiju porodice*. Sarajevo: Perfecta.
- [3] Alić, A., Cerić, H., and Habibović, S. (2017). Evaluations of Students and Teachers on Quality of Teaching Process Regarding Working Styles. *European Journal of Social Science Education and Research*, 4(4), 94-100.
- [4] Apple, W.M. (2001). *Educating the Right Way: Markets, Standards, God, and Inequality*. New York: Routledge Falmer.
- [5] Apple, M. W. (2004). *Ideology and curriculum*. Routledge.
- [6] Cerić, H. (2019). Postaje li inkluzivno obrazovanje ideologija suvremenog obrazovanja? *Sarajevo Social Science Review*, Vol.1-2:7-19.
- [7] Cerić, H., Alić, A. (2005). *Temeljna polazišta inkluzivnog obrazovanja*. Zenica: Hijatus.
- [8] Dyson, A. (2005). 'Philosophy, politics and economics? The story of inclusive education in England'. In Mitchell, D. (Ed.) *Contextualising Inclusive Education: Evaluating Old and New International Perspectives*. London: Routledge, 63–88.
- [9] Gilmour, A. F. (2018). Has inclusion gone too far? Weighing its effects on students with disabilities, their peers, and teachers. *Education Next*, 18(4), 8-17.
- [10] Hardy, I., and Woodcock, S. (2015) "Inclusive Education Policies: Discourses of Difference, Diversity and Deficit." *International Journal of Inclusive Education*, 19 (2): 141–164
- [11] König, E. and Zedler, P. (2001). *Teorije znanosti o odgoju*. Zagreb: Educa.
- [12] Kreitz-Sandberg, S. (2015.) "As an Educator You Have to Fix Many Things on Your Own. Teachers Perspectives on Organizing Inclusions in Various Welfare Contexts." In: *Rights of Children in the Nordic Welfare States*, edited by G. H.Jacobsen, 145–167. Copenhagen: NSU Press.

- [13] Liasidou, A. (2015). *Inclusive education and the issue of change: Theory, policy and pedagogy*. Springer.
- [14] Palmer, D. S., Fuller, K., Arora, T., & Nelson, M. (2001). Taking sides: Parent views on inclusion for their children with severe disabilities. *Exceptional children*, 67(4), 467-484.
- [15] Skrtic, T.M. (2009). Reflection – Tom Skrtic. In *Taking Stock of Special Education, Policy & Practice: A Retrospective Commentary*. Edited by Skrtic, T. M., Horn, E. M., & Clark, G. M., 421-422. Denver: Love Publishing Company.
- [16] Slee, R. (2011). *The irregular school: Exclusion, schooling and inclusive education*. Routledge.
- [17] Siperstein, G. N., Parker, R. C., Bardon, J. N., & Widaman, K. F. (2007). A national study of youth attitudes toward the inclusion of students with intellectual disabilities. *Exceptional children*, 73(4), 435-455.
- [18] Stubbs, S. (2008). *Inclusive Education: Where There Are Few Resources*, Atlas Alliance, Norway.
- [19] Tolofari, S. (2005). New public management and education. *Policy futures in education*, 3(1), 75-89.
- [20] Warnock, M. (2006). *Foreward*. In: Farrell, M. (2006). *Celebrating the special school*. David Fulton Publishers.
- [21] Woods, P. (2011). *Transforming Education Policy: Shaping a Democratic Future*. Bristol: Policy Press.

The Social and Environmental Effects of Foreign Investment in Kosovo

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Abstract

The effects of different foreign companies that are expected to invest in Kosovo is a significant aspect of its effect in the environment. Pollution is an important factor that has become a major problem today. The geo-physical status of the country, situated in the central Balkans region, happens to be a corridor of economic change and prosperity. That prosperous positive upcoming change may be halted due to the continuous disruption of toxic and poisonous fumes being released into the atmosphere. Institutions are expected to undergo a real-time monitoring technique that will be able to allow certain factories to set up their headquarters and allow for production in law abiding rules and in full relation to the health environmental issue.

Keywords: Economy, prosperity, environment, health, toxic.

1. Introduction

The country's economy is highly dependent on healthy foreign and domestic investment. Nations that are net yet highly developed, like countries in the west, are facing a very different situation. It happens to be that they have not met the standard requirements for investment. It is required that those standards are up to the dated requirements and that it would include the health issue as well as the well-being of clean air and the minimum requirement of pollutants being released into the atmosphere.

2. The major problem

Even though there happens to be an acceptable lawful purpose as to what degree level the air can be or is allowed to have a specific coefficient of pollutants into the atmosphere, that would underline the fact that this law is not respected by many investors along with the companies. Such companies have managed to employ many people and have created new jobs, however they have not respected the law that prohibits the high levels of pollution into the atmosphere.

It would be reasonable to dignify the fact that on the long term investors are willing to invest in places and countries where they can get a better deal rather than having to focus on the environmental health issue problem effecting the atmosphere. If one was to analyse the

situation on the long term, then we would understand that such a case would have serious replication's on the country's environmental and polluted cities, this would also take into account that as well as the motion were serious investors would be interested to come and invest in places where there is a law abiding institution.

According to the (AKMM, 2018), in Kosovo, the levels of NO₂ have indicated that they have surpassed the continental acceptable values of VML 40 µg / m³) in two distinct cities Hani-Elezi, Gjilan and Prizren. It's pretty much the same in neighboring countries like Albania(SH.com,2020). It is believed that 60% of the population live in areas where dust and mini-pollutants have overpassed the acceptable levels of clean air that would be in accordance to OBSH 35 µg / m³. The world health organization has emphasized that lowering the level of pollution into the atmosphere from 70 to 20ug.m⁻³ will lower the death rate by 15% caused from polluted air.

This brings into the account the fact that serious investors will not invest into countries like Kosovo where it will cause an increase in the level of pollution into the atmosphere and at the same time lowering the company's image in the business world. Therefore, it must be taken into account that foreign investment is in proportion to the health environmental problem and the pollution in the atmosphere.

3. The Social effects to the problem

The society is highly effect by the rate of investors as to where and how they will decide on their investment strategy. The Energy we use is directly related to the environmental effect. This will bring into account that the greenhouse gases that have also had an effect as to how much we can tolerate the factories that allow pollutants into the atmosphere. The oxides released into the atmosphere have shown a great deal of impact as to how much we can allow more investors to invest in some highly populated areas. The location to be decided for certain power plants is another important factor that has to be taken into account. This is because toxic fumes and waist can harm the environment.

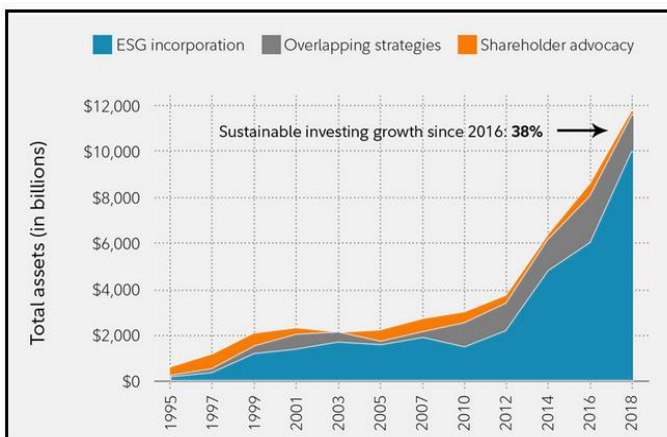


Figure 1: Sustainable Investments (www.forbes.com, 2019)

According to figure 1, it can be seen clearly that towards the end of the year 2016 an increase in the investment growth has been raised and it has given rise to a continuous growth. We can

base this data and take into account the fact that this investment has to be carried out and that it brings into work more jobs.

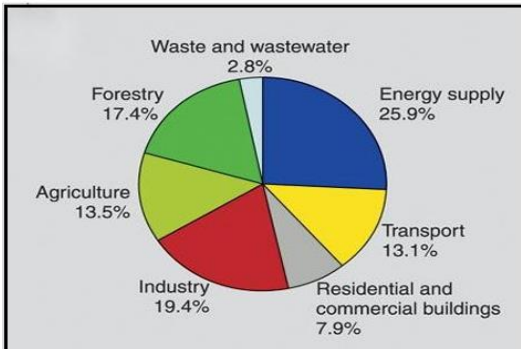


Figure 2: The Greenhouse emission (O'Connor, 2009)

Figure 2 shows the total greenhouse emission for the year 2004. It can be clearly understood that the highest level of pollutants and toxic is mainly from the energy supplier sector and the industry. This is a very important because these two sectors are sectors for an increment in job requirements and we do expect that these figures to continue to grow more. It must be taken into account that in regard to these two sectors both are highly essential and that they must meet the so called environmental friendly demand that will not contribute to increasing the levels of pollution and its pollutants.

4. Significant Analysis

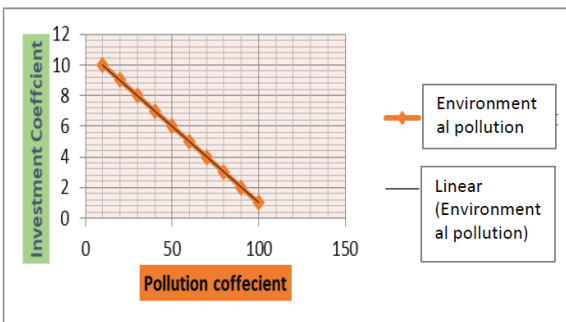


Figure 3: The Investment Report (Yeoh, 2019)

Figure 3 shows the potential investment ability in relation to the levels of pollution. It can be understood here that as the level of pollution continues to increase the chances of investment decrease. This indirect rationality was further analysed and we understood that it would require an online twenty-four 7 measurements, on the levels of pollution in the atmosphere in order for us to understand and take into account the fact that we require a certain level of efficiency, allowing us to be maintained within the acceptable range. In addition to that we will still be allowed to have continuous acceptable investment strategies.

Conclusions

We believe that this paper makes an important contribution to the economic development of the country because it incorporates two positive elements. The first is that it emphasizes the importance of ambient, the clean air for a developed country and a healthy life, and the second enables companies to calculate their exact level of pollution at which they are able to function using a very low cost model, which is easy to use and implement and provides us with very precise results.

Bibliography

- [1] AKMM. (2018). *Raport vjetor per cilesine e ajrit ne Kosove* . Prishtine: Ministria e Mjedisit dhe Planifikimit Hapësinor.
- [2] O'Connor, P. (2009, December 21). World Socialist Web Site. *Climate change, emissions trading schemes and the profit system*, p. 1.
- [3] SH.Com, R. (2020, March 19). Shqiptarja.com. *Raporti për cilësinë e ajrit, sa njerëz vdesin në Shqipëri nga ndotja*, p. 1.
- [4] Yeoh, N. (2019, October 29). Forbes. *Sustainable Investing? Here's What Millennials Need To Know In The U.S.*, p. 1.
- [5] <https://www.forbes.com/sites/neilyeoh/2019/10/26/sustainable-investing-heres-what-millennials-need-to-know-in-the-u-s/#73f6814b1e8a>
- [6] <https://www.wsws.org/en/articles/2009/12/etpo-d21.html>
- [7] <https://www.who.int/>
- [8] <http://niph-rks.org/>
- [9] https://indep.info/wp-content/uploads/2019/08/INDEP_Qershor-2019_Cilesia-e-ajrit-ne-Kosove.pdf

„So Far and No Further!“ – Thoughts on Legitimacy of the Hungarian Border Fence

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Abstract

In 2015, Hungary was unexpectedly affected by the irregular migration flow, which marked a beginning of a new era in the history of the European migration – in terms of its quality and its size. The European countries have been forced to admit irregular migrants from the developing countries in increasing numbers. Mass migration – not only because of its irregular nature, but also because of its qualitative and quantitative changes – has created a major challenge for the authorities concerning the legal responses. In many countries, including in Hungary, the public opinion related to the irregular migration has forced the legislators to take the necessary measures against it in order to protect the public safety. In Hungary – although the irregular migration is a multifaceted phenomenon, therefore the legal responses affect many parts of the internal legal system – the law enforcement and the criminal law have been focused by the legislator. In the face of the increased migratory pressure – in order to protect the security of Hungary – the Hungarian government has accepted a package of the legal measures. The first step was the construction of the physical border fence at the Serbian-Hungarian and the Croatian-Hungarian border, and as a second stage the Hungarian Parliament adopted the Act CXL of 2015 which created the legal framework on protection of the mentioned border fence (for example creating new statutory definitions). Whereas not only the Hungarian Criminal Code, but also the Act of Criminal Procedure were amended by the mentioned act, it is necessary to deal whether the construction of the border fence can be considered as a legitimate step with special reference to the international and European commitments of Hungary. The mentioned question is considered as a preliminary one, because in default of legitimacy all of the measures adopted by the Hungarian Parliament and the Government would be considered unlawful. The paper deals with the mentioned problem and analyzes the legitimacy of the Hungarian border fence taking into consideration the international and European standards. ¹

Keywords: Hungarian border fence, irregular migration, border barrier, fight against the irregular migration in Hungary, migratory situation in Hungary, FRONTEX, Schengen Border's Code, Treaty on European Union.

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1. Introduction

In 2015, Hungary was unexpectedly affected by the irregular migratory flow, which marked a beginning of a new era in the history of the European migration. As a result of emigration, European countries have been forced to admit irregular migrants from the developing world in increasing numbers (TRIANDAFYLIDOU & MAROUKIS, 2012, p.1). Between 2009 and 2010, about 100,000 illegal immigrants were caught in the act at the borders of the Member States each year (MOREHOUSE & BLOMFIELD, 2011, p. 8.). In 2013, the total number of non-EU nationals intercepted at the border of EU Member States was 92,575 (GAINCHE, 2015, p. 105.). As the migration crisis intensified, in 2014 this number had increased to 276,113 people at the pan-European level. This represented an increase of more than 138% compared to previous years (Europol, 2016, p. 7.).

Contrary to previous trends, between 2014 and 2015, partly from the Balkan states and from the destabilized countries in the Middle East and North Africa, mass emigration began to the countries of the European Union, which meant a big challenge not only for the Member States themselves, but also the European integration. This trend has not changed significantly in recent years. In 2015 and 2016, the number of illegal immigrants entering the European Union rose to unprecedented levels. According to FRONTEX data, in 2015 the EU states recorded nearly 1,800,000 illegal border crossings at the height of the migration crisis, while in 2016 still extremely high, 511,047 irregular border crossings were detected (Frontex, 2018, p. 8.).

Mass migration, not only because of its irregular nature, but also because of the unprecedented qualitative and quantitative transformation of the response to be given by some Member States, has created a major challenge not only for border control, but also for the internal law enforcement, - and the public health authorities, furthermore, the other internal social organizations. In many Member States, including in Hungary, public opinion related to the irregular migration has forced the legislators to take quick and effective actions against it. In Hungary – although the irregular migration is a multifaceted phenomenon (Hegyaljai, 2016, p. 12.), therefore the legal responses affect many parts of the internal legal system – the law enforcement and the criminal law have been focused by the legislator. However, criminalization is not a widespread response in the European Union. Typically, in Western European states, the illegal border crossing and the illegal residence are not considered as criminal offenses (Guild, 2016, p. 24.). Although, there is a shift towards criminalization (Lévay, 2017, pp. 153-162.) of certain forms of illegal migration, it is not considered as a criminal offense in the domestic law of the most Member States. It is, of course, another question that according to the so-called "marginalization theory", illegal immigrants who are marginalized in the country of destination often drive their fate towards committing crimes (Leekers, 2012, p. 17.), which should be judged in accordance with the substantive criminal law of that state.

It shall be emphasized that as a primary response to the phenomenon of illegal immigration itself, the criminal legal action reacts more likely to that criminal activities based on illegal migration, such as trafficking in human beings, smuggling of human beings and related organized crime (MITSILEGAS, 2015, p. 48.). The illegal immigration has been used by the mentioned crimes in order to reinforce its status in the European Union, taking advantage of Europe's openness and its declared fundamental freedoms (Galateanu, 2017, p. 601).

In accordance with the above-mentioned fact, in the political dialogue, illegal immigration is often regarded as a threat to state sovereignty as well as to public security, whereby the states

have the right to protect their borders. The emphasis of the mentioned aspects is justified by the need on the one hand to respond to the conduct - videlicet the illegally enters the territory of a foreign state - itself, and on the other hand to the security challenges concerning the illegal stay (Spena, 2017, p. 354).

2. The legal antecedents of the Hungarian border fence

Since the beginning of 2015, when the migratory pressure has intensified in Hungary, the idea of the more effective legal measure against the irregular immigration has become part of the political dialogue in Hungary. If we look only at the number of asylum seekers between 2014 and 2015, it is clear, that by July 2015, this number had risen to 78,000, compared to the about 43,000 asylum applications filed in 2014. By the end of 2015, the number of asylum seekers was close to 180,000 (Póczik, 2018, p. 11). In this mentioned, increased migratory pressure, the Hungarian government has adopted a package of legal measures, mainly for the sake of the security of Hungary. The first step was the establishment of a physical border barrier and creating legal regulations facilitating its construction. As second step the Hungarian Parliament adopted the Act CXL of 2015 which created the legal framework for managing mass immigration by amending a lot of internal acts. Of course, the Hungarian legislator also intended to protect the physical border fence by legal means. As the legislator pointed out in the part of the general legislative justification of the above-mentioned Act in 2015: "the state borders can be protected only by the installation of ever more serious facilities. The function of these facilities is not only to complete the state's self-defense, but also to signal that the state has right to self-defense, and that right must be respected by everyone."

For the above-mentioned reasons, stopping the irregular migratory flow and establishing the internal legal items in order to reach the mentioned aim was declared by the Hungarian Government in 2015. The first step in the realization of this legal policy was the decision of the Government 1401/2015, which set a deadline of 1 July 2015 on the one hand to "prepare for the construction of a 4-meter high border barrier on the Serbian-Hungarian border at about 175 km length" and on the other hand to make the necessary legal measures in order to protect it.

After the mentioned decision – as a second step, before the entry into force of the necessary amendments concerning the Hungarian criminal law and criminal procedure law – the Hungarian legislator had the goal to protect the construction of the border fence. Due to the mentioned political aim the Government adopted the decision 213/2015 in August which punished with fine that acts which violated partly the construction site of the border fence and partly its construction. The mentioned fine – depending on its gravity – was from 30.000,-HUF to 500.000,-HUF.

Following these precedents, the Hungarian Parliament adopted the Act CXL of 2015 on 4 September 2015. This act introduced significant changes in several areas in the Hungarian internal law. The reason for the legislation was multi-directional. On the one hand, logistical and other social tasks related to immigrants crossing the Hungarian border meant a significant economic burden for the country, which had to be remedied. On the other hand, the goal of legal policy was to protect state sovereignty, and to develop a definite border protection policy in order to express the state's self-defense function. It should be noted that – as Tamas Hoffman a senior researcher at the Institute of Law of the Hungarian Academy of Sciences said - the application of a temporary physical border lock is not "devilish" either. In its view, a State

is entitled, by virtue of its sovereignty, to defend its own borders in this way, provided that it meets its obligations under international law (Póczik, 2018, p. 15).

The above-mentioned act amended a lot of parts of the Hungarian legal system, not only the criminal law and the criminal procedural law, but also the legal regulation concerning the migration policy and also the Act on State Borders. As the above legislation created a criminal legal protection for the border barrier and introduced special procedural rules in the Hungarian Act on Criminal Procedure as well, it is reasonable to consider whether the construction of the border fence itself can be considered lawful. The paper would like to find the answer to the question whether the building of the physical border lock at the external borders can be considered as lawful measure in accordance with international and EU commitments of Hungary.

3. The Hungarian legal history of the unlawful border crossing

It shall be emphasized that any individual conduct in order to enter the territory of Hungary through the installed border barrier is necessarily unlawful. However, the irregular or unlawful border crossing was not an unknown act in Hungarian legal history. In the Act V. of 1978 which was the first Hungarian Criminal Code – called Code Csemegi - such a provision which punished the mentioned act cannot be found (Hautzinger, 2016, p. 190). However, it is interesting that the Act XL of 1879 in its Article 70 – among the offenses against of public security - regulated the conduct of returning to the territory of Hungary without permission of the authorities during the period of expulsion (Tóth, 2016, p. 225). It can be underlined that in that first period the unlawful entry could not be considered as itself an offense, just if it was committed by an expelled person. After the mentioned act the Act XVIII of 1940 resulted a kind of tightening in the mentioned question. It amended the Act VI. of 1903 on Passport Management by creating a criminal offense referring to that case if the perpetrator crossed the border unlawful by breaching the legal requirements on using of the passport.

However, the Act V of 1961, which repealed the Special Part of the Csemegi Code, significantly amended the criminal policy. According to the mentioned act it shall be punished by imprisonment of between six months to five years on the basis of Article 203 Par. (1) if the perpetrator entered Hungary without permission or unlawful, or by using such a passport which obtained unlawfully.

The Act IV of 1978 on the third Hungarian Criminal Code – from its entering into force – qualified the unlawful crossing border as a criminal offence with the above-mentioned content till 1 January 1990. From this time the elements of mentioned crime supplemented by the case of armed crime as a special method of committing the crime.

Nowadays, the unlawful crossing border is also a sanctioned conduct however, not by the Hungarian Criminal Code but by the Article 204 Par. (1) of the Act II of 2012 on Administrative Penal Code – as the Code states: any person who crosses or attempts to cross without permission or unlawful the Hungarian state border perpetrates the illegal crossing of the state border. Therefore, the first question is, whether it is possible to take action, even by means of criminal law, against a migrant arriving at the country's borders who wants to enter the territory of Hungary unlawful through the border barrier, and the second is whether it is possible to defend Hungary itself against irregular migration at the country's external borders by construction of the border barrier?

4. Interpretation of the Hungarian border barrier and our conclusions

The state's right to self-defense is based on its sovereignty. States, if their international commitments do not limit it, can decide on the basis of their right to self-defense, how to protect their sovereign territory from persons who seek to enter it illegally. Therefore, a matter of fact that the protection of state borders is a right based on the sovereignty of the state, but also an obligation concerning its citizens. Articles 3-4 of the Treaty on European Union and the Treaty on Functioning of the European Union (hereinafter: the Treaty) are clear that the question analyzed above cannot be considered either the exclusive competence of the Union – these areas are: customs union; the establishing of the competition rules necessary for the functioning of the internal market; monetary policy for the Member States whose currency is the euro; the conservation of marine biological resources under the common fisheries policy and the common commercial policy - or shared competence with the Member States. However, it is important to underline that the Treaty also declares the prevention of and the fight against irregular migration as a clear objective of the EU in its Article 79. Par (1): „The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings”

However, in our view, the Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (hereinafter: Schengen Borders Code) based on Article 77 Par. (1) Sec. (c) and Par. (2) Sec. (b) and (e) of the Treaty is also important. The Schengen Borders Code already states in Par. (6) of its Preamble that border control by the Member States at the external borders must contribute both to combating irregular immigration and trafficking in human beings and also to the internal security and public policy and public health of each Member State. Article 5 Par. (3) of the Schengen Borders Code deals with the protection of the external borders as an important task at Member State level, in accordance with the fundamental objectives set out in the Preamble. Therefore, the Member States should introduce in their national law sufficiently effective, proportionate and dissuasive sanctions for unauthorized crossing of external border at places other than border crossing points or at times other than the fixed opening hours. However, when establishing sanctions, Member States should pay attention to the exceptions based on Article 5 Par. (2) of the Schengen Borders Code and to the other international obligations. The mentioned exceptions are – for example - the followings: individuals or groups of persons in the event of an unforeseen emergency situation; individuals or groups of persons, where there is a requirement of a special nature for the occasional crossing of external borders outside border crossing points or outside fixed opening hours, provided that they are in possession of the permits required by national law and that there is no conflict with the interests of public policy and the internal security of the Member States.

Examining the exceptions, it can be emphasized that the members of the irregular migratory wave who intend to enter the country in a way that adversely affects the installed border barrier cannot be considered as an exemption declared by the Schengen Borders Code. Therefore in the cases the Member States provide for sanctions against such illegal entry.

It is necessary to declare that the above-quoted provisions of the Schengen Borders Code, and its regulations concerning the official checking on external borders do not prohibit for the Member States the use of an installed technical tool for border protection. This is also

reinforced by the definition of the Schengen Borders Code on border surveillance and its more detailed definition in Article 13 Par. (1). According to the Schengen Borders Code the border surveillance also includes the prevention from circumventing border control. The Article 13 Par. (1) states that the purpose of border surveillance is (a) to prevent unauthorized persons from crossing the border, (b) to take the necessary measures against persons who wish to cross the border unlawful and to prevent the cross-border crimes. In order to achieve effective border surveillance, all of usable tools could not be regulated, but it would not make sense to regulate. Therefore, Article 15 of the Schengen Borders Code merely requires that the tools used shall ensure an efficient, high and uniform level of border control.

In other words, with regard to the protection of the external borders, the relevant provisions of the Schengen Borders Code require that: (1) Member States protect the external borders effectively and efficiently; (2) border surveillance activities shall be organized in such a way which can prevent illegal border crossings; (3) the Member States, when organize their border surveillance activities, shall use that means which can meet the requirements of the Schengen Borders Code at a high level; (4) the Member States shall regard to exceptions provided by the Code. Based on this cumulative set of requirements, according to our opinion the technical border barrier installed at the external borders of Hungary is not objectionable. Here it shall be highlighted that Regulation (EU) 2016/1624 of the European Parliament and of the Council on FRONTEX states in its Article 5 that FRONTEX shall cooperate with the national authorities for the purpose of implementing integrated border management, however, according to the last sentence of Article 5 Par. (1): „Member States shall retain primary responsibility for the management of their sections of the external borders.”

At the same time, there have been also numerous humanitarian legal criticism - based on that thought that the member of the migratory flow can be considered as refugees - referring to on the one hand the border lock and to the other hand the Hungarian criminal law which provided legal protection for it. In order to examine this humanitarian legal arguments, it is necessary to deal with the provisions of the International Convention relating to the status of refugees adopted on 28 July 1951 and its Additional Protocol of 31 January 1967 (hereinafter: the Geneva Convention which was announced in Hungary by the Law decree 15 of 1989) the relevant regulations of the Treaty and the EU Charter of Fundamental Rights.

According to the Article 31 Par. (1) of the Geneva Convention, Hungary is under an obligation not to punish refugees who have come directly from a country where their life or liberty was endangered, because of unauthorized entry, provided that they report promptly to the authorities and justify their unauthorized entry. The European legal framework cited also regards the Geneva Convention as governing. The Article 78 Par. (1) of the Treaty orders the establishment of a common asylum policy (Witold, et.al., 2018, pp. 457-494) in the European Union in accordance with the provisions of the Geneva Convention. The Article 18 of the European Charter of Fundamental Rights, concerning the right to asylum, also declares that this right shall be guaranteed with due respect for the rules of Geneva Convention and for the Treaty. Therefore, the question to be answered is whether the construction of a border barrier can be considered as a violation of the provisions of the Geneva Convention or not. According to the above-mentioned provision of the Geneva Convention, the international legal rule does not in itself preclude Hungary's right to create criminal sanctions in order to prevent irregular entry into Hungary. Namely, the mentioned provision attributes fundamental importance to the principle of directness.

According to the Geneva Convention, Hungary undertook "only" not to criminalize illegal border crossing, which takes place directly from the territory of a state, where the life or freedom of the person or persons, who later is granted refugee status, was endangered at the require level declared by the Geneva Convention. Namely, due to the geographic characteristics of Hungary, and based on the nationality composition of the immigrants arriving and coming to Hungary, the violation of the principle of directness does not even arise, therefore, the establishment of the border barrier and the legislator's aim to ensure entering Hungary's territory legally, in a controlled manner, is not objectionable. The border barrier cannot be interpreted as an obstacle referring to the principle of directness regulated by the Geneva Convention. Furthermore, it is another question that the intention of an illegal immigrant who tries to enter the country's border through a border fence cannot be aimed at cooperation with the authorities. Therefore the condition - concerning the obligation to immediately report to the authorities - of the impunity guaranteed by the Geneva Convention cannot apply.

The unlawful crossing of the border fence in itself justifies the absence of the conditions required by the Geneva Convention. Thus, the Hungarian legislator has adopted important measures for not only the protection of external borders at European level, but also for the practical application of the Geneva Convention. The compatibility of the Hungarian legal solution with the European commitments is also confirmed by the above-mentioned Schengen Borders Code, which explicitly provides in its Article 5 Par. (3) for national legislation to introduce penalties, in accordance with their national law, for the unlawful crossing of external borders. The Schengen Borders Code also requires that these sanctions shall be proportionate, effective and dissuasive. In this context, it is important to point out that Article 3 Par. (2) of Directive 2008/115 of the European Parliament and of the Council also describes residence as an illegal stay as a result of an illegal border crossing contrary to Article 5 of the Schengen Borders Code.

The Hungarian literature has also often argued that border barrier, and the legal regulations based on it, can be considered problematic items in the light of the Rome Convention for the Protection of Human Rights and Fundamental Freedoms. The focus of this argument is one of the provisions concerning the expulsion. According to the Article 60 Par. (2a) of the Hungarian Criminal Code, that person who is sentenced by imprisonment because of a crime against the border barrier shall be expelled from the territory of Hungary. It shall be emphasized that Article 1 of the 7. Additional Protocol to the European Convention on Human Rights (hereinafter: the Rome Convention) deals with the guarantees for the expulsion of foreigners. At the same time, it is important to emphasize that the persons protected by the Additional Protocol are lawfully resident in the territory of a state acceding to the Rome Convention. For such persons, the system of expulsion rules is not based on automatism, and guarantees consistent with the Rome Convention have been included by the legislator in the Hungarian Criminal Code. However, that foreigners involved in a crime against the border barrier typically do not have a residence permission in Hungary, and has no intent to cross the border legally, therefore, the construction of the border fence and creating the crimes against the border barrier by the Hungarian legislator in order to protect on the one hand the fence installed, and on the other hand the European external borders and the Hungarian public security, cannot be considered as problematic measures.

References

- [1] EUROPOL (2016): European Union Terrorism Situation and Trend Report 2016.
- [2] FRONTEX (2018): Risk Analysis for 2018.
- [3] GALATEANU, Oana (2017): *Illegal Migration and the Migration Phenomenon at the Frontiers of Romania*. Contemporary Readings in Law and Social Justice. Vol 9 (2),
- [4] GUILD, E. et. al. (2016): *Irregular Migration, Trafficking and Smuggling of Human Beings: Policy Dilemmas in the EU*. CEPS Paperback
- [5] HAUZINGER Zoltán (2016): *Büntetőjogi tényállások a külföldiség és a migráció vonzásában*. In: Hautzinger Zoltán (szerk.): *A migráció bűnügyi hatásai*. Magyar Rendészettudományi Társaság Migrációs Tagozat, Budapest
- [6] HEGYALJAI Mátyás (2016): *Migráció, bűnügy, nemzetközi kitekintés*. In: Hautzinger Zoltán (szerk.): *A migráció bűnügyi hatásai*. Magyar Rendészettudományi Társaság Migrációs Tagozat, Budapest
- [7] Laure Basilien-GAINCHE, Marie (2015): Immigration Detention under the Return Directive: The CJEU Shadowed Lights. *European Journal of Migration and Law*, Vol. 17.
- [8] LEEKERS, Arjen et. al. (2012): *Crime among irregular immigrants and the influence of internal border control*. Crime Law SocChange 2012. Vol. 58.
- [9] LÉVAY Miklós (2017): „Crimmigration” avagy kriminológiai kutatások a bevándorlás kriminalizálásáról. In: *A tudós ügyész. Tanulmányok Bócz Endre 80. születésnapjára*. Szerk.: Finszter Géza-Korinek László-Végh Zsuzsanna. HVG-ORAC, Budapest
- [10] MITSILEGAS, Valsamis (2015): *The Criminalization of Migration in Europe. Challenges for Human Rights and the Rule of Law*. Springer
- [11] MOREHOUSE, Christal&BLOMFIELD Michael (2011): *Irregular migration in Europe*. Migration Policy Institute, Washington DC
- [12] PÓCZIK Szilveszter (2018): *A határárral kapcsolatos bűncselekmények elkövetőinek szociológiai vizsgálata a Csongrád megyei büntetőeljárások alapján*. Kriminológiai Tanulmányok Vol. 55.
- [13] SPENA, Alessandro (2017): *A Just Criminalization of Irregular Immigration: Is it possible?* Criminal Law and Philos, Vol. 11.
- [14] TÓTH Judit (2016): *Hatékony, arányos, visszatartó? Az engedély nélküli határátlépés szankcionálása*. In: Hautzinger Zoltán (szerk.): *A migráció bűnügyi hatásai*. Magyar Rendészettudományi Társaság Migrációs Tagozat, Budapest
- [15] TRIANDAFYLIDOU, A & MAROUKIS, T. (2012): *Migrants muggling: Irregular migration from Asia and Africa to Europe*. Springer
- [16] Witold Klaus, Miklós Lévy, Irena Rzeplinska, and Miroslav Scheinost (2018): Refugees and Asylum Seekers in Central European Countries: Reality, Politics and Creation of Fear in Societies. In: Helmut Kury, Slawomir Redo, Editors, *Refugees and Migrants in Law and Policy. Challenges and Opportunities for Global Civic Education*. Springer, Cham, 2018.

Priming Matrix – Collective Nonconscious Programming

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Abstract

Contemporary sociology, and especially social psychology, explores the mechanisms of priming, automaticity, and their effects on social behavior. Priming matrix is a new concept, a phrase semantically coined by the author in order to explain such complex socio-psychological phenomena in the area of social cognition. This study makes an analyses and description of the dynamics and mechanisms of the programming from a socio-psychological aspect, Transactional analysis, and the perspective of Christian psychotherapy. Methodologically, new concepts are applied: priming matrix and types of representations (Ilievska) with its operational elements (stimulus, prime, representation, subliminal level), and the concepts: awareness and collective nonconscious schemes (Ilievski, 2015), which are described as an opposite of the natural way of life, the personal autonomy and the real freedom. Each person has a basic need for relation, psychological organization, and structure. In its foundation lies the creation of basic mental constructs, socio-cognitive schemes, which have a neurobiological ground. In addition, human behavior can be programmed, nonconsciously, on multiple levels: individual, collective, global, through the complex psychological processes, modeling and conditioning, to the more subtle forms of priming, creating passive automatic social behavior.

Keywords: priming matrix, representations, awareness, collective nonconscious schemes, automatic social behavior

Introduction

Contemporary sociology, particularly social psychology, nowadays are intensively studying the phenomenon of priming and its effect on human behavior. It also encompasses the mechanisms of automation, unconscious processes and programming that can have the ultimate effect on human behavior, raising questions about the possibility of impact, unconscious control to its automation.

Such hypotheses are attractive not only in the field of sociology and psychology, but are also based on pre-established philosophical and anthropological doctrines, as well as theological discourses, specifically in the field of Christian psychotherapy.

Priming and social priming are concepts in modern social psychology that were first explained in the domain of modern marketing and consumerism in terms of the impact on the consumer choice.

The phenomena and mechanisms of priming have not been elucidated so far, and there are several studies investigating its impact on human behavior.

This study is an attempt and enthusiasm by two authors, each with his specific professional aspect to contribute to the elucidation of this complex socio-psychological phenomenon, by applying a new descriptive hypothesis regarding the structure, dynamics and mechanisms of priming.

Thus, a new concept – priming matrix (Ilievska) is constructed as an innovative socio-psychological construct and a semantic term by which analysis and descriptive work is performed.

The concepts of Transactional Analysis, such as social psychology and communication theory are applied, as well as the perspective of Christian psychotherapy with the concepts: collective unconscious schemes and awareness (Митрополит Струмички Наум, 2015).

Social Environment and Human Behavior

Man as a subject exists in the milieu of his environment, with which he is in constant complex communication vectors, such as social interpersonal relationships and individual interpersonal processes.

Part of the communication takes place at the overt, explicit level, but the vast majority at the covert, implicit level. Moreover, social cognition reveals that besides the processes on the level of consciousness and rational reasoning, much of it is perceived and processed below the threshold of consciousness as unconscious processes.

The basic principles of functioning of the human psyche are the following:

1. Every being exists and is organized through contact and intimate relation, which is the basic principle of ego psychology.
2. Throughout development, the psyche is structured and differentiated into coherent systems of thoughts, feelings, somatosensory perceptions that Eric Bern (1964) defines as ego states (Parent, Adult, Child) analogous to Freud's: Id, Ego, Super (Freud, 1999).
3. Human cognition tends to form mental constructs – prototypes (stereotypes, values, cultural norms) that are considered to have a central role in priming and creating a priming effect. The following is explained through the diagrams offered.
4. Ego states have a social dimension, with a continuum and capacity for constant co-creation in the social environment that opens up a new perspective on them as “socio-cognitive schemes” (Scilligo, 2009). In this way we emphasize their tendency towards fluidity and external relation to the social environment, “the ego states as active social-cognitive processes, or schemas, continually being re-created in the dynamic interaction between the individual and his or her environment” (De Luca and Tosi, 2011).
5. Apart from the mechanism of internalization, according to the contemporary theory of the embodied cognition, the mental apparatus also has a tendency for externalization, whereby “cognition often reaches out into the world allowing external entities to act as representations

in the cognitive system consisting of both the individual and the environment” (Clark & Chalmers, 1998; Hutchins, 1995; Zhang, 1997).

The essential question is exactly “how do these external entities affect the individual’s cognitive ability to perform a particular task?” (Svensson and Ziemke, 2005).

Stimuli and Stimuli Hunger

The need for an environmental, external factor in maintaining human psycho-biological existence and normative functioning is indisputable for adequately satisfying the basic psycho-biological needs that Eric Berne defines as “six hungers” (Berne, 1970).

One of those psychological needs is “stimuli hunger” or the need for emotional, sensory, and psychological stimuli that provide psychodynamic equilibrium and biological existence.

This is the dyad and relational dimension that defines the human – environment relationship from which derives all and more complex relational and communication phenomena.

In this way, human beings are subjected to influences from the social environment that allow them to be modeled from an early age, to more complex forms of influence or manipulation of its mindset, which can trigger automatic, involuntary and unconscious behaviors (Bargh and Williams, 2006).

Stimulus __ Mental Representation__ Cognitive Outcome __ Behavioral Outcome

Figure 1.

Priming and Priming Effect

At the core of priming is the use and manipulation of different types of external, relevant stimuli that perform priming or facilitation and incidental activation of internal socio-mental representations.

Such activated representations subsequently trigger certain emotions, thoughts, and behavior within the recipient that are beyond his control, in the absence of intention, will, and consciousness at all.

Basic features of the priming phenomenon in general are:

1. Relevant stimulus (object, behavior, emotion).
2. Subliminal level of action.
3. Unconscious mental processes without the intention and participation of the recipient.
4. Incidental activation of the mental scheme.
5. Automatic social behavior.

PAC Model in the Light of Priming – Structure and Dynamics

PAC Model consists of three ego states (Berne, 1964): Parent (P), Adult (A), Child (C).

Adult ego-state (A), the neopsyche, which has its neurobiological basis in neocortex, is responsible for the subject's specific, adequate, and purposeful behavior in the external environment and maintaining internal equilibrium. Adult enables the process of continuous "hic at nunc" creation of new constructs, which we defined as empirical.

In the priming process, through this ego state one usually undergoes direct priming by observation of external models. In addition, the behavior of others that imply a certain goal may result in the adoption of another's goal within the observer, "automatic goal pursuits."

"Individuals may automatically adopt and pursue a goal that is implied by another person's behavior" (Aarts, Gollwitzer & Hassin, 2004).

In addition to behavior, by observing someone else's emotional reactions, the recipient can imitate another's facial expression and even experience another's emotion. In this way we are susceptible to constant contamination from the external environment by causing unconscious, rudimentary emotional reactions to the Child's ego state (archaeopsyche).

This phenomenon, known as "emotional contagion," is described by Hatfield, Cacioppo and Rapson (1994). The same priming effect can be caused by a simulation in the absence of the object, but by mentalization of the introjected object (Smith and Mackie, 2014).

In the Parent's ego state, extero-psyche, there are social representations (stereotypes, cultural traits) that are formed in relation to significant others (parents, social environment, culture, society) as a result of the process of modeling, conditioning and social adaptation. At this level, mental representations, "trait concepts and stereotypes become active automatically in the presence of relevant behavior or stereotyped-group characteristics (Bargh, Chen and Burrows, 1996)."

New Perspective on the Concept of Representation

In classical cognitive psychology, representation refers to mental, cognitive schemas which are simply defined as "a hypothetical internal cognitive symbol that represents external reality" (Morgan, 2014).

Contemporary views, besides the internal, also include the external component in their creation and the continuous feedback loop between the subject and the external environment, which include the concept of external representation – or embodied representation (Svensson and Ziemke, 2005).

"Theories of embodied cognition have suggested that cognition often reaches out into the world allowing external entities to act as representations in the cognitive system consisting of both the individual and the environment" (Clark & Chalmers, 1998; Hutchins, 1995; Zhang, 1997).

We have formed a new terminology and systematization of representations from the perspective of Transaction Analysis, applying the First Order Structural Model diagram (Berne, 1964).

In creating the new hypothesis of the Priming Matrix concept, cognitive representations have a central function. In the previous text, it has been argued that in current trends and research, the terms and definitions of them are changing.

A new concept of representation (see: Figure 2) is constructed (Ilievska).

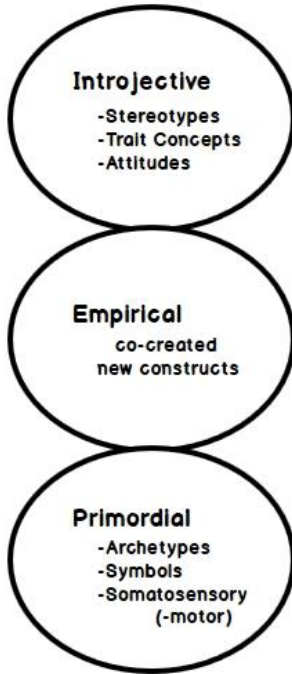


Figure 2
Types of Representation

Three types of representations are defined, which have been systematized analogously to the three ego states according to the PAC model:

1. **Introjected** – socio-cultural mental constructs (stereotype, trait concept, attitudes) incorporated in the ego state Parent.
2. **Empirical** – ongoing and in continuous creation in the ego state of Adult as a result of the interrelationships between “I – Other.”
3. **Primordial** – archaic, symbolic, somatosensory and sensomotoric representations in Child.

Priming Matrix (PM)

PM is a descriptive model of the complex socio-psychological phenomenon of priming and priming effect (see: Figure 3).

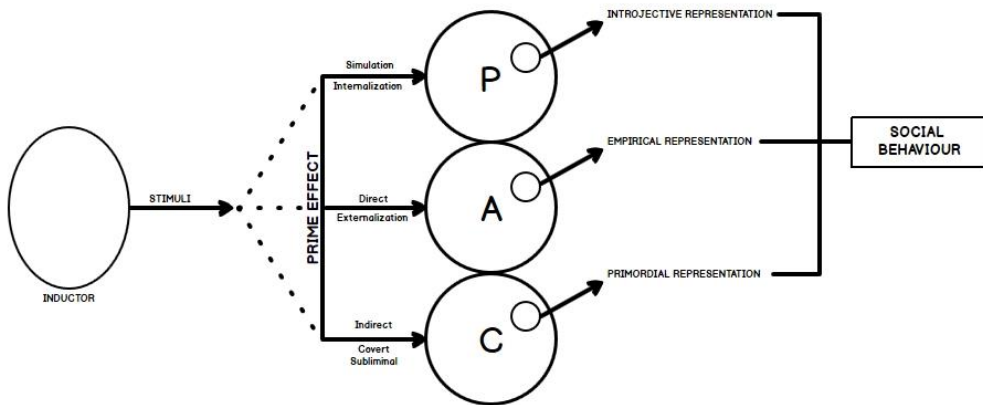


Figure 3
Priming Matrix

PM is a field in which complex relational phenomena and interactions between the inducer and the recipient take place, by the use of relevant stimuli that activate activate internal representations (primordial, empirical, interactive) and result in certain pro-social behaviors.

Priming matrix is an elementary form through which the processes of manipulation and automaticity of an individual's behavior take place. Through its mechanisms the secular model of life is implemented with the phenomena of cultural homogenization, globalization, indoctrination.

In explaining the mechanisms of its creation we postulate that this phenomena are involved in the formation and dynamics of PM:

1. Stimuli hunger.
2. Sensation transference – a term used for unconscious evaluation of people about a product based on how the item looks, not on the actual item itself (Smith, 2015).
3. Ulterior transaction – two messages are transmitted at the same time. One of these is an overt or social level message. The other is a covert or psychological one.
4. Third rule of communication – the behavioral outcome of an ulterior transaction is determined at the psychological and not at the social level.

We have particularly emphasized the phenomenon of nonconsciousness as a factor used in the dynamics of PM, the hidden level of communication, and the manipulation of internal mental representations.

PM is a scheme by which we explain action at the individual level, but its effects are systematic and global. This is how we relate this phenomena with the CNS (Collective Nonconscious Schemas), which are described below.

Awareness vs. Nonconsciousness

From the point of view of Christian psychotherapy, awareness implies belief and knowledge of one's self and one's position with God, where "man is none and nothing, and the Lord Jesus Christ is all, and what we are and what we have (Митрополит Струмички Наум, 2020).

We can show this true awareness practically through an ascetic struggle of "continually gathering and keeping one's mind in the words of prayer, that is, by concentrating His name in prayer."

Any existence out of the true consciousness is nonconsciousness in the area of illusion and the domain of priming matrix.

Collective Nonconscious Schemes (CNS)

CNS are constructs that are created outside the point of reference – God at the level of the unconscious. They arise under the influence of the secular pattern of life and are a departure from the ontological determinism of man (Илиевски and Илиевска, 2018).

They are created outside the axis of natural way of life and the three stages of spiritual development; hence, one begins to live on a level of external identification with incomplete and fragmented forms (state, nation, party) and undergoes a process of disintegration and fragmentation (Митрополит Струмички Наум, 2015).

CNS are a product of the fallen nature of man and arise as a result of the collision between one's individual passions and his thoughts coming out of the distracted mind due to the unpurified energy, which is directed – through the Ego – in the world (secondary function of the mind).

Instead of a Conclusion

One needs to be aware that people today have internalized the world with all its emerging objects and particulates as a psycho-socio-cultural representation in the collective nonconscious in each of us.

Not only do people live in the world, but the world lives in people as well. People are interconnected through their passions (Иlievski, 2015), which are part of their fallen nature, the unconscious part of the psyche – Id (Freudian psychoanalysis).

In this way people are susceptible to the effects of processes in the domain of priming and illusion. This is also facilitated by the ego, as a basic apparatus through which – and most of the time – the modern man functions, torn apart and alienated from his inner, true, spiritual self.

The way out of such a matrix is offered only through the real awareness of the essential existential position of man in relation to the Creator and the activation of the primary function of his mind through the three stages of spiritual development (Иlievski and Иlievska, 2018):

At the first stage (purification of the heart from the passions), the energy of the mind is purified from incorporated mental representations and contamination.

At the second stage (illumination of the mind), the sufficiently purified mind descends in the spiritual heart where dwells the only and true Image, the Divine (and not some mental representative).

At the third stage, deification, there is identification with the Divine Image as a highest and ultimate goal of one's self-actualization as a person. According to Christian anthropology, this is the concept of true freedom, autonomy, and determination of man outside any matrix and pattern.

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References

- [1] Aarts, H., Gollwitzer, P.M., Hassin, R.R. (2004). Goal Contagion: Perceiving is for Pursuing. *Journal of Personality and Social Psychology*, 87(1), 23-37.
- [2] Bargh, J.A., Williams, E.L. (2006). The Automaticity of Social Life. *Sage Journals*, 15(1), 1-4.
- [3] Bargh, J.A., Chen, M., Burrows, L. (1996). Automaticity of Social Behavior: Direct Effects of Trait Construct and Stereotype Activation on Action. *Journal of Personality and Social Psychology*, 71(2), 230-244.
- [4] Berne, E. (1964). *Games People Play – The Basic Handbook of Transactional Analysis*. New York: Ballantine Books.
- [5] Berne, E. (1970). *Sex in Human Loving*. New York: Simon and Schuster.
- [6] De Luca, M. L., Tosi, Maria. (2011). Social-Cognitive Transactional Analysis: An Introduction to Pio Scilligo's Model of Ego States. *Transactional Analysis Journal*, 41, 206-220.
- [7] Freud, S. (1999). *The Standard Edition of the Complete Psychological Works of Sigmund Freud, Volume XIX (1923-1925): The Ego and the Id and Other Works, 1-308*. London, UK: The Hogarth Press and the Institute of Psychoanalysis.
- [8] Hatfield, E., Cacioppo, J.T., Rapson, R.L. (1994). *Studies in Emotion and Social Interaction. Emotional Contagion*. Cambridge University Press; Editions de la Maison des Sciences de l'Homme.
- [9] Ilievski, N., Metropolitan of Strumica (2015). Basics of the Ascetical (Christian) Psychotherapy. *Contributions. Sec. Med. Sci.*, 36(1), MASA, 165-173.
- [10] Ilievski, N., Ilievska, A. (2018, Sep.-Dec.). Spiritual Development in Social Context: The Role of Christian Psychotherapy in the Formation of Identity, *European Journal of Multidisciplinary Studies*, 3(4), 126-130.
- [11] Илиевски, Н., Илиевска, А. (2018, April). Психолошка глaд, консумеризам и мас-интpојекција – два модела на живот, *Меѓународен дијалог: Исток – Запад (психологија и образование)*, 5(3), 209-212.
- [12] Morgan, A. (2014). Gone Mental Representations. *Synthese*. 191(2), 213-44.
- [13] Митрополит Струмички Наум (2020, March 14). Retrieved from <http://mpc.org.mk/MPC/SE/vest.asp?id=7244>
- [14] Митрополит Струмички Наум (2015). *Премин од душевност во духовност*. Велјуса, Македонија: Манастир Воведение на Пресвета Богородица Елеуса, 202-207.

- [15] Scilligo, P. (2009). *Socio-cognitive Transactional Analysis*. Rome, Italy: LAS.
- [16] Smith, E. R., Mackie D. M. (2014). Priming from Others' Observed or Simulated Response. *Social Cognition*, 32, 184-195.
- [17] Smith, N. (2015), *The Secret Life of Sensations: How Design Affects Perception*, Retrieved from <http://nvision-that.com/design-from-all-angles/the-secret-life-of-sensations-how-design-affects-perception>
- [18] Svensson, H., Ziemke, T. (2005). *Embodied Representation: What are the Issues?* Retrieved from: <https://www.researchgate.net>

Women's National Volleyball & Basketball teams in Albania performed in Drop Jump 60 cm

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Abstract

Volleyball and Basketball women's have different performances from each other due to their special specifics of the game. From the specificity of their training, there are differences in the physical qualities of individual and team sports performance, where one of the elements is vertical jumping. This study is concentrated on two teams: Women's Volleyball Team (V) and Women's Basketball Team (B) 15 members each, focusing on 30 subjects. Players were measured in physical parameters; Age (V-24: B-27), Body Height (V-180.4cm; B-173.4cm), Body Weight (V-70.37kg; B-63.88kg), BMI (V-21.67%; B-20.93%). The players performed the test DJ60cm in the platform Leonardo® Ground Force Reaction Plate (GRFP) which expresses Force max (kN), Power max (w/kg), Time Contact (TCs), Air Time (TAs), TA/TCs. The results obtained by GRFP showed different team values of the two sports in the parameters of Fmax $V65.19 < B74.07$ n/kg, Pmax $V31.26 > B23.06$ w/kg, TCs $V0.231 > B0.198$, TAs $V0.436 > B0.34$ and TA/TCsec $V1.96s > B1.71$ sec. Results revealed that V players jumped higher ($p, 0.001$) than B players. Finally, the Drop Jump60cm test has different performance between individual players, despite the fact that in the team average it turned out that Volleyball players is higher in this test. Drop Jump is the typical plyometric test. Furthermore, tests such as DJ can be a useful method for assessing differences and monitoring vertical jump training programs from collective sports.

Keywords: drop jump, volleyball, basketball, players, air time.

1. Introduction

In Albania, the sports of volleyball and basketball are quite populated in all age groups. Volleyball and Basketball sports have a different performance from each other due to their special specifics of the game. Regardless of the specifics of the way of playing, players must develop vertical jump during the game. A volleyball player during a game or a match alongside the technical elements - should develop tactical and technical elements such as; attack, block, service and/or following by vertical jumping. Basketball players in addition to running on the field and technical elements must also jump during a tribulation or the realization of the shot. The best perfection of a vertical jump is achieved through certain training in order to increase the height of jump. Several scholars have shown that jumps in height can be greatly improved through plyometric exercises. To assess the vertical jump is

needed the application of Bosco tests such as Drop Jump (1) that made possible the definition of the height of the optimum fall from which the player takes \ wins the maximum jumping and the connection between the height of the fall, the time of contact and flight-time. Some authors have reported (2) that commanded plyometric training shows that exercises are effective to increase the jumping, speed and skill of players. Plyometry is a form of resistance exercise that refers to the stretch-shortening cycle (SSC) such as jumps or doing vertical or horizontal jumps (3). Plyometric training(4) is widely used in order to improve jumping ability, especially in sports such as volleyball and basketball (5, 6, 7, 8, 9).Coaches need exercises less time consuming and help to improve the vertical jumping ability of their players. Individual differences in physical fitness parameters among players have been attributed to long-term sport training specificity (10). Furthermore, a comparison of drop jumping performance (DJP) among athletes, using the achieved jump height normalized to the stretch load as a criterion, revealed that volleyball players surpassed track and field jumpers, soccer players, and physical education students (12).

2. Methodology

This study is concentrated on two teams: Women’s Volleyball Team (V) and Women’s Basketball Team (B) 15 members each, focusing on 30 subjects. Players were measured in physical parameters;

Table1 Anthropometric Measurements (Volleyball&Basketball players)

Team	Nr	Age	BH (cm)	BW(kg)	BMI(kg/m ²)
Volleyball	15	24	180.4	70.37	21.67%
Basketball	15	27	173.4	63.88	20.93%

2.1. Protocols of the Test Performed

After were conducted anthropometric measurements and later on the tests in vertical jump performance of the protocol tests .The players performed the test DJ60cm in the system platform Leonardo® Ground Force Reaction Plate (GRFP) which expresses Force max (kN), Power max (w/kg), Time Contact (TCs), Air Time (TAs), TA/TCs in University of Sports, Tirana. The players one by one performed on the cube height 60cm, with their hands on their loins. Through a free fall from the height of the cube they leave themselves falling into GRFP platform and rapidly the reaction after contacting with GRFP they should jump in vertical as high as possible. The test has been developed 3 times and we got the best measure of the contact time and the time in the air.

Drop Jump Test

Table2. Data obtained from GRFP (Volleyball&Basketball players)

Nr.	Fmax N/kg		Pmax w/kg		Time Contact TCs		Air Time TAs		TA/TC	
	Vboll	Bboll	Vboll	Bboll	Vboll	Bboll	Vboll	Bboll	Vbol /	Bbol /
Average	65.1 9	74.07	31.2 6	23.0 6	0.231	0.198	0.43 6	0.34	1.96	1.71
Min	84.6 1	98.04	40.6	36.1 2	0.298	0.226	0.50 5	0.45 2	2.83	2.32

Max	53.3 4	66.31	19.5 7	3.75	0.149	0.155	0.30 9	0.09 6	1.49	0.62
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2.2 Statistical analyses

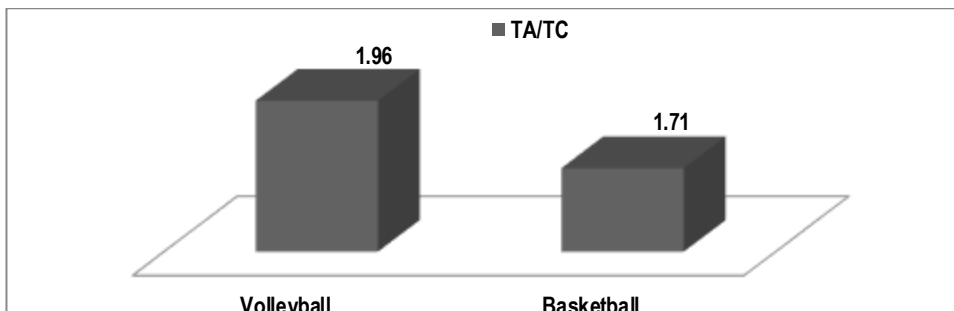
A unilateral analysis of variance (ANOVA) on data from 30 athletes was performed in order to identify changes in the parameters of the DJ60cm test; Scheffe post hoc analysis was run to show differences between groups. T-tests of paired samples were performed to compare DJ60cm parameters. Moreover, a PCA with a Varimax rotation was executed to examine a possible tendency towards the dependence of temporary force or peak between groups of athletes when executing DJ60cm test. All statistical procedures were performed using the Package Statistics for Social Sciences 10.0.1 software (SPSS) Inc., Chicago, IL). An alpha level of 0.05 was used.

3. Results

Nr.	Fmax		Pmax		Contact Time TCs		Air Time Tas		TA/TC	
	N/kg		w/kg							
V15-B15	Vboll	Bboll	Vboll	Bboll	Vboll	Bboll	Vboll	Bboll	Vboll	Bbol l
Average	65.1 9	74.07	31.2 6	23.0 6	0.231	0.198	0.43 6	0.34	1.96	1.71
Min	84.6 1	98.04	40.6	36.1 2	0.298	0.226	0.50 5	0.45 2	2.83	2.32
Max	53.3 4	66.31	19.5 7	3.75	0.149	0.155	0.30 9	0.09 6	1.49	0.62

The results obtained by GRFP showed different team values of the two sports in the parameters of Fmax $V_{65.19} < B_{74.07} \text{ n/kg}$, Pmax $V_{31.26} > B_{23.06} \text{ w/kg}$, TCs $V_{0.231} > B_{0.198}$, TAs $V_{0.436} > B_{0.34}$ and TA/TCsec $V_{1.96} > B_{1.71} \text{ sec}$. Results revealed that V players jumped higher (p, 0.001) than B players. Finally, the Drop Jump60cm test has different performance between individual players, despite the fact that in the team average it turned out that Volleyball players is higher in this test.

Graphic.1: Drop Jump test at measurement.



4. Discussion

The correlation between the tests was measured according to the Pearson's moment product. The results showed a high correlation coefficient ($r = 0,924$) and statistically significant ($\text{sig} < 0.05$). Results revealed that V players jumped higher (p, 0.001) than B players. Finally, the Drop Jump60cm test has different performance between individual players, despite the fact

that in the team average it turned out that Volleyball players is higher in this test. Drop Jump is the typical plyometric test. Furthermore, tests such as DJ can be a useful method for assessing differences and monitoring vertical jump training programs from collective sports. It is held an analysis to determine whether the test and measurement methods used were available to identify whether the groups did achieve high or poor performance. Data were used to calculate force parameters such as peak power output is normalized for body weight (FMAX) and maximum power output is normalized for body weight (PMAX). The rate of force development during the ascending phase to the duration of ground contact (Tc) and the time to reach the peak force, expressed as the percentage of TA / TCs. Some training studies have found that plyometric training based on DJs does not significantly enhance jump height or lower limb power, while other reports showed a large variability in the magnitude of such enhancement. Several factors, including a training program design (the type of exercises, training duration, training frequency, volume and intensity of training), subject characteristics (age, gender, fitness level, sport practice) and methods of testing different types of vertical jumps may be responsible for the conflicting findings concerning plyometric training. However, potentially inconsistent effects of DJ training may result from the differences in the DJ technique employed (11). Determining the optimal DJ jump height is important in player training. Vertical jumping can be assessed not only by the height of its development, not only by the height of the body and the height of the arm or detachment from the ground by touching the object, but also by the phase of stay in the air where enabled by GRFP. In this study were observed the differences between the two groups at the time of contact during the fall and the air time during the jump. ANOVA variation revealed significant changes ($f, 0.001$) regarding the age, height, and body mass of the female players examined.

5. Conclusion

According to the data obtained and presented above, they showed that the level of jump of volleyball and basketball players is at a low level of interpretation. Improving the ability to jump is a major training goal for many sports, and drop jump is the well-known training method used to achieve this improvement. However, an players in team games should be thrown higher than his or her opponent, and this jump should be executed faster than the opponent's jump. Individually the players need to improve their jump performance in order to achieve a better personal record. Compared to the reference table of the Reactive Forces Index (1.5-2.0RSI) for the Drop Jump test, we came to the conclusion that the level of Volleyball & Basketball players in Albania obtained in the result of the TA / TCs Index represents a moderate level of training, at the level of players prepared for moderate plyometric intensity.

References

- [1] BLATTNER, S., AND L. NOBLE. Relative effects of isokinetic and plyometric training on vertical jumping performance. *Res Q.* 50:583–588. 1979.
- [2] Bobbert, 1990; Markovic, 2007; Markovic and Mikulic, 2010
- [3] BOSCO, C., AND P.V. KOMI. (1982). Muscle elasticity in athletes. In: *Exercise and Sport Biology*. P.V. Komi, R.C. Nelson and C.A. Morehouse, eds. Champaign, IL: Human Kinetics, 1982. pp. 109–117.
- [4] BROWN, M.E., J.L. MAYHEW, AND M.A. BOLEACH. Effect of plyometric training on vertical jump performance in high school basketball players. *J. Sports Med. Phys. Fitness* 26:1–4. 1986.

- [5] Cometti G., & Cometti D. (2009). *La Pliometria (origini, teorie, allenamento)* (2nd ed.) Tivoli: Italy.60-67 pp
- [6] FATOUROS, G.I., Z.A. JAMURTAS, D. LEONTSINI, K. TAXILDARIS, N. AGGELOUSIS, N. KOSTOPOULOS, AND P. BUCKENMEYER. Evaluation of plyometric exercise training, weight training, and their combination on vertical jumping performance and leg strength. *J. Strength Cond. Res.* 14:470–476. 2000.
- [7] Fleck, S. J., & Kraemer, W. J. (2004). Advanced training strategies. In S. J. Fleck & W. J. Kraemer (Eds.), *Designing Resistance Training Programs* (3rd ed., pp.209-239). Champaign, IL: Human Kinetics
- [8] HEWETT, T.E., A.L. STROUPE, T.A. NANCE, AND F.R. NOYES. Plyometric training in female athletes. Decreased impact forces and increased hamstring torques. *Am. J. Sports Med.* 24: 765–773. 1996.
- [9] IZQUIERDO, M., K. HAKKINEN, J.J. GONZALEZ-BADILLO, J. IBANEZ, AND E.M. GOROSTIAGA. Effects of long-term training specificity on maximal strength and power of the upper and lower extremities in athletes from different sports. *Eur. J. Appl. Physiol.* 87:264–271. 2002.
- [10] MATAVULJ, D., M. KUKOLJ, D. UGARKOVIC, J. TIHANYI AND S. JARIC. Effects of plyometric training on jumping performance in junior basketball players. *J. Sports Med. Phys. Fitness* 41: 159–164. 2001.
- [11] Mathias V., Norman S., & Thorhauer, Alexander H., & Granacher Urs. (2012). Promoting lower extremity strength in elite volleyball players: Effects of two combined training methods . *Journal Sciences Medicine Sport*, Vol. 15, No. 5; 457--462 pp
- [12] WILT, F. Plyometrics—What it is—How it works. *Athl. J.* 55(76):89–90. 1975

Socio-Cultural Mobility as a Condition for Professional Activation of Staff

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Abstract

We have identified the basic types of human mobility: social, professional, academic and some mixed types: socio-professional, professional-academic, socio-cultural, etc. Carried out a comparative, comprehensive analysis, applying the method of sequential comparison of different interpretations of the concept of "socio-cultural mobility" with the use of systematic analysis, we substantiated the basic meaning of this concept: quality inherent in human (individual) which indicate a high level of social and cultural competence, social and general culture of the individual; the process of individual and group mobility of people in different socio-cultural environments (including professional environments in which a person operates), the process of realization of personal qualities, especially those that determine their ability to master social and cultural values and norms of a particular environment; achieved (or determined) result of activity, mobility in different socio-cultural environments (realized the potential of this type of human mobility for a certain period); criterion for evaluating activities in different socio-cultural environments, effectiveness, productivity, efficiency of the specified socio-cultural activities of man.

Keywords: socio-cultural mobility, condition, professional, activation, staff

Introduction

We emphasize that the socio-cultural mobility of a person develops in the social, and therefore – in the relevant professional and academic environments.

Socio-cultural mobility of the individual as a synthetic integrative quality of human is understood in broad and narrow meanings. In a broad sense, the concept of "socio-cultural mobility" is the quality of the individual to find and change socio-cultural position, status, to master new patterns of culture in different social, professional, academic and cultural environments. The narrow sense of the term "socio-cultural mobility" is the quality of human (individual), which is manifested in the acquisition of sufficient personal resources, social and cultural competence, personal, professional and academic culture, personal and professional

experience. This in turn provides effectiveness of social and cultural activities relations, rapid mastery of values, norms within one or more cultures or subcultures (stratum of society, profession, government, institution, organization, etc.).

From the scientific and practical view, the activity (operational, role, process) expression of human socio-cultural mobility is of special relevance. A broad understanding of the concept of "socio-cultural mobility" will include the ability, willingness and ability of a person to carry out their own activities in a fairly broad context, to acquire new competencies (social, cultural, individual, personal, and professional etc.) not only in one specific cultural environment, but also in the conditions of intercultural movements of the person (intercultural type of cultural mobility), or activity of the person in the conditions of multiculturalism and in the conditions of difficult social and cultural stratification of a society. Conditionally that is a multicultural person that able to operate in a wide range of social and cultural environments. Thus, the expression of socio-cultural mobility from a theoretical view should be broader, and go beyond the activity expression of the concept of "social culture", which traditionally refers to the integrated characteristics inherent in people as a rule of one particular society and culture.

The activity aspect of socio-cultural mobility presupposes its understanding in certain activity aspects, namely, in indicators, characteristics, attributes, signs of activity. We are talking, in other words, about the role interpretation of socio-cultural mobility. In such interpretations of cultural mobility can be found those internal and external factors, different conditions, visible and latent processes, which ultimately must ensure the sustainable formation of socio-cultural mobility of human in certain social, sociocultural, professional, organizational and other conditions, in a certain social, cultural, academic, professional space or environment. In essence, a somewhat narrowed aspect of the "style of activity" (its socio-cultural aspect) is studied, which, from our point of view, will not always be subject to algorithmization and modeling.

The functional structure of socio-cultural mobility of the employee can be represented as follows: socio-cultural mobility of a person in relation to the use of ascending materials, norms, standards, tools, approaches and methods of applying these tools, final results, ways of transition of ascending materials, norms and standards to the final product social, socio-cultural, professional, academic and other activities; socio-cultural mobility of a person (activity, process, role aspect of socio-cultural mobility with a focus on the result of activity). In the last sense, the concept under consideration, the most realized activating aspect (function) of socio-cultural mobility of the individual as its quality which is realized as a social, cultural competence only in activities.

Using some approaches of O. L. Emelyanov [1], we note that socio-cultural mobility of man can be further divided into elements: socio-cultural mobility in terms of understanding and acceptance of the content of values, norms of activities (goals, plans, programs, content of functions and tasks, technologies, methods, approaches, means, etc.) and socio-cultural mobility in relation to the presence of a person, from our position, a set of value-oriented and competency qualities in a person: abilities required (semantic, essential and activating aspect of socio-cultural mobility (structure of socio-cultural mobility of a person).

Substructure 1 of this structure is defined by us on the basis of structural and structural-functional analysis and functional-procedural purpose of social, cultural, socio-cultural, professional, academic and other environments, using methods: system analysis, structural-functional, expert-analytical, decomposition, parametric, modeling, structuring goals.

Substructure 1 of the structure of socio-cultural mobility consists of the functions of the socio-cultural environment, which are determined by the relevant objective factors (factors) necessary to maintain and develop socio-cultural mobility of people: socio-cultural orientation (formation of internal picture, worldview, internally consistent norms, values, preferences, etc.), norms (standards) of culture (socially approved behavior); socio-cultural adaptation, socio-cultural motivation, socio-cultural activation, socio-cultural education (training) and education. These are objective factors of socio-cultural mobility of people.

The first group of substructure 2 includes qualities that have a value-oriented nature and belong to the internal psycho-emotional, motivational, value-motivational areas: socio-cultural interests, intentions, expectations, socio-cultural orientation of the person, socio-cultural suitability, satisfaction with the social and cultural aspects of life.

Another group of substructure 2 consists of competency qualities, which, interacting with value-oriented, undoubtedly affect in the formation of social and cultural competencies and influencing the professionalism and various types of human mobility mentioned above. These are: innate abilities and acquired abilities; professional culture (cultural mobility); professional learning (academic mobility); social and cultural competence; socio-cultural experience. Value-oriented and competence qualities are subjective factors (factors) of socio-cultural mobility, they develop the internal needs of the individual in this type of mobility, and their formation takes place in close interaction with each other.

It is established that certain objective and subjective factors provide a systematic understanding of the impact of internal and external factors on a person in the process of his socio-cultural and professional development. They are activators of human activity in any field. These factors (activators) determine the quality, content, directions of formation, the results of the process not only socio-cultural but also professional development and development of the individual. The characteristics of the elements of the structure of socio-cultural mobility of people, including those involved in professional and academic (educational) activities indicate that each of them acts either as a certain internal process, as the purpose, result and quality of the process.

Literature

- [1] Emelyanov A. L. Level's typology of professionalism of civil servants / A. L. Emelyanov [El. resource]. – Access mode: <http://mmpk1.narod.ru/tugs.htm>.

Reviewing, as an Extraordinary Mean of Appeal

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Abstract

One of the fundamental rights that a subject in criminal proceedings owns, is the right to appellate a court decision, which besides the usual means of appeal in Albanian system of justice, are guaranteed also by extraordinary means of appeal as it's reviewing a decision despites any deadline of appeal. The review is the means of appeal, which aims to strike court decisions, which have become final, with positive expectations in each case, to improve the status of the offender. In the constitutional of Albania of 1998 this institute, was not regulated explicitly, but there was foreseen as part of jurisdiction of the High Court, where clearly was put that the high court had preliminary and reviewing jurisdiction. In the framework of the Justice Reforming in 2016, the HC Was stripped of its reviewing jurisdiction. The competence to re-examine a final court decision was given to the first instance court, which can judge in these cases any type of decision that fulfils the criteria to be reviewed, despite the fact if this decision has been taken by an Appeal Court or the High Court. Undertaking legal changes in constitute and Code of Criminal Procedure for this institute came as response/regarding to the legal vacuum found in Albanian system of justice as well as the contractual practice with the ECHR, established by the Albanian court. The Albanian system did not have the effective means to guarantee the right to a fair legal process, the implementation of which has been ascertained by the ECHR in some of the decisions given against Albania as (Xheraj vs Albania; Lika vs Albania etc.). Because of that, in the CPC, become larger the number of cases, when the re-examining of this type of court decision could be done. The purpose of this article is to present in a comparative form the institute of reviewing court decisions; it aims to prescribe how this mean of appeal was and how it is now after the reform, to continue further with the findings of problems that have arisen from the practice of implementing this means of appeal from its latest changes. Justice reform is still in its infancy and therefore the practice of elaborating this tool has been insufficient.

Keywords: Constitution, Review, final decision, high Court, ECHR, judgment in absentia, regular legal process.

Introduction

The right to appeal is one of the means that subjects have in any kind of process to guarantee the respect of their rights. An appeal is precisely the legal mean that ensures the individual's access to justice, and to the courts. This legal remedy has found legal regulation starting from international acts, constitution to by laws that operate within a country. The means of appeal,

legal systems have classified into two categories, ordinary means of appeal (appeal and recourse) and extraordinary means of appeal (Review and Restoration of the Right to Appeal in time). For the purpose of study in this article, we are presenting the characteristics that the review has, as an extraordinary mean of appeal.

Importance that characterized this mean, is that through it, a decision, which has become final and is already being executed or the execution, may have ended can be challenged. Emphasizing that this is not a rule, but it is an exception to the rule, only to protect the function of administering justice by the state authority and at the same time to protect the interests and rights of the parties in the judicial process. The Constitution ensures in Article 43 the right to appeal, where although it does not explicitly cite the review of the appeal, in the spirit of the law it is implied. Article 141 provided for the review jurisdiction of the High Court, implying that the court competent to adjudicate the review was the High Court. The latter, being a court of law, after undertaking the reform the lawmaker properly limited HC review jurisdiction by passing the review of the revision request to the court of first instance, which then forwards it to the competent court depending on the decision contested.

The review institute underwent significant changes both in terms of expanding the cases when it can be applied and changes related to the procedure for its implementation. These changes implemented by law no. 37/2017, came in response to findings from court practice over the years, or recommendations left by the ECHR, regarding Albania. Within this institute, this paper aims to analyse in a comparative aspect how it was and how this mean of appeal is actually. Additionally a great focus of our study is highlighting problems raised through courts practice and measures taken to solve these. In the situation where the implementation of the reform is still in the first steps of implementation, the analysis of this means of appeal is of particular importance for the doctrine of law.

Methodology

Analytical Methods – analysing the provisions of procedures, highlighting the innovations and shortcomings of this mean of appeal.

Comparative methodology – We have made a comparison of the provisions how this institution was and how it is now after the Justice Reform undertaken in 2017. In this way we can understand which the problems of this institution were and how well these problems the Justice reform addressed. On the other hand, from combination of these two searching methods, we can conclude whether they may have problems that may need solutions even after the legal changes, which we will recommend at the end of the article.

Review Characteristics

Review is an extraordinary and exceptional mean of appeal against a final criminal court decision, which cannot be challenged through ordinary means of appeal (appeal and recourse). In these circumstances, when the ordinary means of appeal have been exhausted, the decision is final and the case is considered closed based on the principle of *res judicata*.¹ The Constitution in here provisions foreseen the right of subjects to appeal², where despite the fact that the review is not explicitly cited, it is implied by interpreting in relation to other

¹ See section 2 Final decision, meaning and cases

² Constitution of Republic of Albania, amended 2016 Article 43 “Everyone has the right to appeal a judicial decision to a higher court, except when the Constitution provides otherwise.”

constitutional provisions. Article 34 of the Constitution of the Republic of Albania provides that: “No one may be sentenced more than once for the same criminal offense or be tried again, except for cases when the re-adjudication of the case is ordered by a higher court, in the manner specified by law”

In this article, are foreseen three of the most important principles of criminal procedure are foreseen: i) the principle of non-trial twice for the same criminal offense (*ne bis in idem*) ii) the principle of legal certainty (*res judicata*) and iii) the possibility of re-opening of the criminal case as an opportunity to deviate from the principle of legal certainty. With regard to the third principle, the possibility of reopening the criminal case determines that revision is allowed when conditions according to the legal provisions are filled. Such a sanction is foreseen also in protocol no. 7 of the European Convention on Human Rights¹. Deviation from the principle of legal certainty through revision aims to correct a judicial error in the administration of justice. In relation to this issue, the ECHR has stated in several cases that Court considers that the requirements of legal certainty are not absolute. “Departures from that principle are justified only when made necessary by circumstances of a substantial and compelling character”.²

Referring to article 449 of CPC, before changes happen, we could see two kind of application of revision i. *extra ordinem pro reo* and ii. *Contra reum*. In the first case, the *pro reo* review based on in the request of the convicted with purpose of bringing about a re-evaluation of the truth, with aim to challenge a sentencing decision and the possibility that re-opening of trial potentially brings the possibility of acquittal. Substantially the review must consist in the principle that justice must break the procedural framework of the final judgment closure.

In the second, *contra reum* revision asked by prosecutor, the subject is objection of a wrong innocence decision given by the court. The purpose was to punish those who commit a crime and due to judicial system mistakes, remain unpunished, which came against the principle of administering justice. The provision we can see came in contradiction with the principle *reformation in peius*, because it aggravates the position of the convicted. In the other hand, this provision has been limited by putting the deadline of 5 years in way to present a request for revision of acquittal by the prosecutor.

Through law, No.35/2017 the code changed relating to this provision. From now one the acquittal decision cannot be subject of revision procedure, giving in this way prevalence to reformation *in peius* principle.³ As prescribed after the changes implemented following the revision would be applied only in one way, in favour of the convicted that means would be only *extra ordinem pro reo*. As sanctioned in this article, legitimate persons to ask for revision are the convicted, the familiars when the latter is dead and the prosecutor.

¹ Protocol no. 7 of the European Convention on Human Rights Article 4, Right not to be tried or punished twice “1. No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State. 2. The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.”

² Ryabykh vs Rusia nr.52854/99, fq.52, ECHR 2003-IX). Bratyakin vs Rusia nr.53203/99, fq.63-68, 15 December 2005,

³ CPC, amended article 449/2 The revision of the final judgment of acquittal or conviction is not allowed when it aims at aggravating the position of the convicted person

The reasons, for which a review of a final decision may be requested, are in function of the ratio, which is to put an end to consequences of an unfair decision that is final. The request for consideration should be based on legal reason on which reviewing of decision arises, necessarily accompanied by the supporting documents, which support the claim. With law 35/2017, these legal reasons underwent an extension as a need of practice over the years.¹

Finally, the extraordinary character of this institution noted by the fact that its presentation is not limited with deadlines, except the three cases that justice reform on CPC, which will be addressed in the following of this paper.

2. Final decision, meaning and cases.

Albanian practice has presented a confusion regarding interpretation of what final decision means. What raised for discussion and as a need to unify the case law at High Court (HC) was that in theoretical terms terminology "enforceable decision", "final decision" and "res judicata" are expressions of the same legal notion, or these are different concepts from each other?

In unifying its practice, HC made an extended interpretation of these three concepts².

We must first understand that the final decision in terms of application of review institute refers to decision that has taken form of *res judicata*. In order to face such a form, decision must meet one of following two conditions:

Usual means of appeal have been exhausted, such as appeal and recourse to High Court, which means that parties have exhausted all three stages of the trial, or

He/she has overpassed deadlines for appealing, as provided by law for opposing a court decision.

In both of above cases, we can say that we are in front of the final decisions that have taken the form of *res judicata*, and therefore can be subject to review when the legal conditions foreseen for revision in CPC, are met.

On the other hand, we have final decisions that do not constitute *res judicata*, here we refer to cases of decisions that are enforceable but do not constitute a judgment because they are subject to trial by highest judicial instances. Here we can mention, for example, the decisions of Court of Appeals, which are enforceable because recourse to High Court does not automatically suspend execution of decision, but does not constitute a judgment. **In this case, the principle is that any final decision is always enforceable, but not the other way around, as not every enforceable decision is a *res judicata*.**

As we have stated above, we can say that object of the review includes decisions of three courts with the only condition that this decision have taken the form of what is known as *res judicata*.

If we look at international doctrine according to the definition contained in the explanatory report of the European Convention on the International Validity of Criminal Judgments, a decision is final "if, according to the traditional expression, it has acquired the force of *res judicata*. This is the case when it is irrevocable, that is to say, when no further ordinary

¹ See section 3. "Revision cases"

²http://www.gjykataelarte.gov.al/web/Vendime_Unifikuese_39_1.php Decision no. 3 date 03.11.2014.

remedies are available or when the parties have exhausted such remedies or have permitted the time limit to expire without availing themselves of them

A case may, however, be reopened in accordance with the law of the State concerned if there is evidence of new or newly discovered facts, or if it appears that there has been a fundamental defect in the proceedings, which could affect the outcome of the case either in favour of the person or to his detriment¹.

According to this definition, principle of not aggravating position of defendant/*reformation in peius*, does not apply that means that a decision even though it will aggravate the status of the convicted, may be revised, which is not applicable according to our legal system after the latest changes. Despite that, we shall mention that some legal systems have implemented such a way of application of this institute.² Regarding to that, ECHR in here practice has given her opinion in cases such as *Brumarescu vs Rumania*. According to the Rumanian system, it foreseen that the General Prosecutor, for any type of reason could asked in HC, for a re-opening of judicial proceedings, which were *res judicata*. ECHR in the decision explained that this was a violation of principle for legal certainty³.

This unifying practice has also been a good impetus for Albanian justice system that at time of undertaking justice reform has explicitly cited cases of a final decision⁴.

An important issue related with co-defendants in a trial that needs a special attention is, what happens to the defendant, in cases where some of them can appeal and some cannot. Does one's appeal have an effect on the others? Referring to legal provision implemented with undertaking of reform, we find that the decision becomes final for defendant who does not represent an appeal, with passing of deadline for appeal, if prosecutor, despite the appeal that

¹Explanatory Report to the Protocol No. 7 " To the Convention for the Protection of Human Rights and Fundamental Freedoms" Strasbourg, 22.XI.1984, article 3 ph. 22 p.6 referring to Commentary on Article 1. a: Explanatory report of the European Convention on the international Validity of Criminal Judgments, publication of the Council of Europe, 1970, p. 22.

² Ruse System, sanctions what is known as the "Supervisory Review", according to which the prosecutor in any case for any reason, although this may aggravate the position of the convict may request the reopening of the process for decisions that have taken the form of *res judicata*. Directorate-General for Human Rights Council of Europe F-67075, Strasbourg Cedex "The right to a fair trial", p. 65

³<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-58337%22%5D%7D> pg.61. "The right to a fair hearing before a tribunal as guaranteed by Article 6 § 1 of the Convention must be interpreted in the light of the Preamble to the Convention, which declares, among other things, the rule of law to be part of the common heritage of the Contracting States. One of the fundamental aspects of the rule of law is the principle of legal certainty, which requires, inter alia, that where the courts have finally determined an issue, their ruling should not be called into question."

⁴Criminal Procedure Code, article 462/3 " The following are final decisions: a) the first instance court decision when it is not appealed by the parties within the legal time limit, when it is non-appealable or when the appeal is not admitted for the reasons provided for in article 420 of this Code. In cases with co-defendants, the decision shall become final for the defendant who has not filed an appeal, notwithstanding the appeal of other co-defendants, if the prosecutor has not filed an appeal. When the prosecutor has not filed an appeal and the case is examined on the basis of the appeal of other co-defendants, the decision shall become final for the defendant who has not filed an appeal in a trial with co-defendants, notwithstanding the appeal filed with by the other co-defendants; b) the decision of the appeal court, when it finally settles the case, pursuant to letters "a", "b" and "c" of paragraph 1, of article 428 of this Code; c) the decision of the High Court in the cases of extradition and transfer of the sentenced persons.

may have been made by other co-defendants, has not filed appeal. While referring to provisions of CPC as a whole, we note that in cases of appeal by co-defendants, when it is not related to personal motives, it has legal effects on other co-defendants¹.

We note that although not explicitly, legislator has incorporated in, Latin principle "*beneficium Cohesionis*", benefit of attachment.

Beneficium cohaesionis-is a Latin principle, which shows that effects of appeal or recourse trial also come for co-defendants, who have not filed the appeal.²

What is worth addressing is whether such a principle is applicable or not in case of revision, and dilemmas that arise from the practice how are these resolved.

First, we need to understand what happens in a situation with co-defendants when some of them follow the trials in other instances, while some have not exercised the means of appeal.

If we refer to the legal provision for the final decision, it results that according to article 462/3 cited above the decision becomes final for a co-defendant when the conditions provided as above, are met³.

Following this logic, it turns out that the defendant regardless of the stage of the process for the other co-defendants can use the review as a mean of appeal.

Another case for discussion is the situation of co-defendants where only one of them exercises the review. In this case, which will be the effects of accepting the review for the other co-defendants?

In the logical course of applying the principle of *beneficium cohesion*, legal effects of the decision to admit the request for review for other co-defendants must be applicable. The practice of the High Court has followed the same line after the trial of the case Lika and Laska vs Albania by the ECHR, the High Court accepted their request for review and decided to overturn the previous decisions and return the case to the Shkodra Court of Appeals, to be tried with a another trial panel. In the retrial, before Shkodra Court of Appeals, the co-defendant Behar Lika participated in the retrial together with the two applicants despite the fact he had not claim for revision.⁴

Notwithstanding the above, we are of the opinion that the legal basis, regarding the application of this principle in the cases of the review institute remains deficient. Practice will require further interpretation to clarify what will happen in cases where co-defendants are not interested in being part of a retrial, because it was not convenient, as they may have benefited from amnesty or pardon, regarding to this they may have the will not to be part of the re-opening trial.

However, in the basis of addressing all these practices, we are of the opinion that the principle of not aggravating the position of the defendant/ *reformation in peius* should remain. This

¹Criminal Procedure Code, article 425/1

²<http://horizontal-facility-eu.coe.int> the legal framework for the re-examination and re-opening of criminal proceedings following the finding of a violation by the European Court of Human Rights: an assessment of the legal framework of Albania.

³ See section 2. Final decision, meaning and cases.

⁴ www.gjykataelarte.gov.al Decision no. 74 (00-2012-756), date 07.03.2012

principle should remain at the core of the legal reasoning of the courts, when facing these cases.

3. Procedural Status of the convicted asking for Reviewing.

One of the main aspects of reopening a judicial process is the determination of the status of the person, subject to the review institute. The procedural position is of essential importance for the convict undergoing review, therefore the state must provide all means to ensure avoiding the violation of rights guaranteed by the European Convention of Human rights.

The Unifying jurisprudence of HC stipulates that¹: *“In case when the convict's request is accepted and the Criminal College of the High Court, based on the reviewing jurisdiction it has under Article 453 of the CPC, proceeds with the review process, the defendant will continue to have the procedural status of the convict. Acceptance of the request for re-opening the judicial process does not entail the revocation of the sentence or the release of the convict, but only the re-opening of the trial for clarifying new circumstances, in order the court decision to respond to the truth. This fact will occur only if pursuant to Article 454 of the CPC, the Criminal College of the HC, or the competent court, which will adjudicate the case under review, considers it necessary to suspend the execution of the decision, because execution of the decision during the reopening process would have serious irreparable consequences.*

Acceptance of the request for review does not change the procedural position from that of the convict to that of the defendant.”

Regarding to the decision we can see that the HC relates the changing of the procedural status only with decision of innocence stated at the end of the re-opening trial. *“In case the Criminal College of the HC accept the request for reviewing and in the reopening trial process, at the first instance the convicted is declared innocent, procedural status will change in to the defendant. This situation (the status of the defendant) will continue until the new acquittal given after the review becomes final.”*

The CPC, in its provisions of Chapter IV, article 449 and following, deals in detail with the review institution. Regarding the procedural position of the convict that is subject to review with the undertaking of the reform is explicitly set out in the code, which is. The CPC stipulates that procedural status of defendant remain same until reviewing court decision is take². According to this sanction, we note that the legislature has not linked the change of procedural position with the type of decision taken by the review court explicitly; however, we can see that a number of changes such as this in question came because of the Unifying Practice of HC. Consequently, we continue to stick to the interpretation of the High Court, which links the change of procedural status with the innocence decision taken in the review process.

The practice of the Committee of Ministers, responsible for monitoring the implementation of ECHR decisions, has paid particular attention to the presumption of innocence in cases of reopening court proceedings. In the case of Sadak, Zana, Dicle and Doğan vs. Turkey through Interim Resolution ResDH (2004) 31,272³, the committee of ministers emphasized the standard and importance of the presumption of innocence. The committee in the interim resolution issued asked the Turkish state to take measures to avoid violating the rights of

¹www.gjykataelarte.gov.al , Unifying Decision no. 3, date 08.07.2013.

² Criminal Procedure Code, article 453/4.

³ <https://rm.coe.int/168059ddae>, accessed on 10.07.2020

persons who were already under a retrial process by decision of the ECHR. The latter, after receiving the decision by the ECHR and the commencement of the review process, for a period of 3 years was continue to detain, without giving an objective state justification for denying their request for release¹.

As stated above, the conduction of litigation in the context of the review needs a special importance in order to avoid violation of the rights of the convicted person. Referring to the practice of the ECHR and the Committee of Ministers in the above-mentioned case, this aspect of the judgment should be looked carefully. The principle of presumption of innocence as provided in Article 6 of the ECHR should be applicable to the retrial, which contradicts the procedural position determined in the unifying practice of the HC. The interpretation and elaboration of the HC regarding to the case, will be an important point in providing a solution in way to bring the implementation of law in line with the standards of the ECHR.

4. Revision cases

The review, as an extraordinary means of appeal, requires the detailed presentation of the application cases, in order to avoid abusive cases and to respect the principle of legal certainty and *ne bis in idem*.

For this reason in the Albanian legislation are foreseen explicitly, which are the cases of applying this mean of appeal, which have been expanded with the undertaking of justice reform. We briefly present what the cases are, in order to dwell in more detail on the changes brought about by the reform regarding the new cases²

a. Consistence of judicial decisions

In CPC is prescribed that reviewing can be applied in case "*if the facts stated in the merits of the decision are not compatible with those of another final judgment*" This is put with the intention to avoid mistakes made due to wrong interpretation given to the same facts from different courts. Indeed courts cannot contradict each other, which mean that it is not possible for the same facts interpreted differently by different courts. This would show in a way that one of the courts has not been objective in its decision-making and rightly, within the framework and principle of due process, in terms of adjudication by an impartial court, this case is included in the field of re-opening judicial process.

b. Revocation of a civil or administrative court decision

The CPC determines in detail what is the importance and value of civil or administrative decisions in criminal proceedings³. According to this provision, such decisions determine whether a fact has occurred or not. Now that such decision is revoke, it rightly turns out that this fact did not happen and without the criminal fact, we have no criminal offense. As above, in order to have a fair legal process is need that the judicial process to be re-open.

¹ <https://rm.coe.int/training-manual-on-the-right-to-fair-trial-and-reopening-of-domestic-p/16808b7cab>. Accessed on 10.07.2020.

² Criminal Procedure Code, article 450

³ CPC article 71 Consequences of civil and administrative proceedings to the criminal proceedings¹. A final civil court decision is mandatory for the court that tries the criminal case only pertaining to the fact whether the offence was committed or not, but not about the guilt of the defendant.

c. Appearing or revelling new evidences that at the time of the trial weren't known

The court establishes its decision and conviction regarding the guilt or not of the defendant based on the interpretation of the facts and evidence presented by the parties in the proceedings. In case that after the decision made, new evidence appears which could change the course of events as well as the court decision; the revision of criminal proceeding needs to apply. In order for this case to apply, certain conditions must be fill:

- Consider evidence according to the meaning given by the code¹.
- Parties did not know the evidence at trial time, but it existed².

d. Falsification of trial acts or criminal fact

Now that through a final decision is found the falsification of the act, which was used by the court in the decision making, then the need arises to review this decision due to a fair trial. Same thing happens when the decision is make based on evidence, which are prove to have been false etc. In all cases, acting differently than expected would violate the principle of regular legal process.

In the following, we are representing the new cases added due to amendment of CPC through reform of justice. These provisions are mainly base on Unifying Practice of the HC over the years. In the other hand, changes came as a need for harmonization of the national law with the international standard, referring in this case to the ECHR jurisprudence (*Scozzari and Giunta; Assanidze*).; (*Öcalan; Krasniki; Gençel*) and other recommendations issued by EU institutions . Recommendation (2000)2 etc.

Regarding the amendments brought from justice reform, was note that the three new cases implemented as subject of revision, had in common the fact that the three ones were limited through deadlines. The purpose of such a thing is to avoid in somehow the possible abuse that may happen in practice with these cases and in the other hand to guarantee the principles such as legal certainty and *res judicata*.

e. European Court Human Rights Decision³

First, we should have clear which is the importance and effects of the ECHR decision for the states that has accept this court jurisdiction. If we see in article 46 of the convention, which foresee that the states ratifying this convention has undertaken the obligation to respect and execute the ECHR decision where they are part⁴. The convention in its entirety results that ECHR decision are not obligatory. Regarding to our national law in the articles of the

¹ CPC, article 149 /1 "Shall be considered as evidence the information on the facts and circumstances related to the criminal offence, which are obtained from sources provided for by the criminal procedural law, as well as in compliance with the rules defined by it, and serve to prove whether the criminal offence was committed or not, its ensuing consequences, the guilt or innocence of the defendant the level of his/her accountability.

² www.gjykataelarte.gov.al , Decision No.06 date 11.10.2002.

³ CPC, article 450/d "if the ground for the revision of the final decision results from a European Court of Human Rights judgment making the re-adjudication of the case indispensable. The request shall be filed within 6 months from the notification of that decision";

⁴ European Convention Human Rights, Article 46, Binding force and execution of judgments 1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties

constitution prissily article 5, 17/2,116,122 prescribes that after ratifying from the state international law is applicable and obligatory. The significance of ECHR decision comes out even from the fact that there is a whole mechanism responsible for monitoring the execution of the decision, Committee of Ministers. Additionally this structure function based on a whole regulation, which regulates the process of monitoring and measures that can be taken in case the execution is not done.¹ Albania has been subject of ECHR decision in several cases, due to this decision of ECHR stipulating revision process, implemented as one of the reason, for which the convicted could ask to reopen a final decision. As we put out this change came as a result of the jurisprudence of ECHR against Albania. Here we can mention Case Laska and Lika vs Albania²

“The Court concludes that the proceedings against defendant did not satisfy the requirements of a fair trial. There has accordingly been a violation of Article 6 § 1 in the present case. The Court observes that when an applicant has been convicted in breach of his rights as guaranteed by Article 6 of the Convention, he should, as far as possible, be put in the position in which he would have been had the requirements of that provision not been disregarded, and that the most appropriate form of redress would, in principle, be trial de novo or the reopening of the proceedings, if requested”³

In all these cases, the ECHR insists in the application of legal remedies, which would enable the reopening of proceedings against these entities, thus referring to the recommendation of the committee of ministers regarding the achievement of *restitution in integrum*⁴. This recommendation underscores the fact that states must guarantee effective remedies to achieve restitution *in integrum*, in order to respect the rights of these categories. Referring to

¹<https://rm.coe.int/16806eebf0> Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements rule 11 “Rule 11 - Infringement proceedings 1. When, in accordance with Article 46, paragraph 4, of the Convention, the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation. 2. Infringement proceedings should be brought only in exceptional circumstances. They shall not be initiated unless formal notice of the Committee’s intention to bring such proceedings has been given to the High Contracting Party concerned. Such formal notice shall be given ultimately six months before the lodging of proceedings, unless the Committee decides otherwise, and shall take the form of an interim resolution. This Resolution shall be adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee. 3. The referral decision of the matter to the Court shall take the form of an interim resolution. It shall be reasoned and concisely reflect the views of the High Contracting Party concerned. 4. The Committee of Ministers shall be represented before the Court by its Chair unless the Committee decides upon another form of representation. This decision shall be taken by a two-thirds majority of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee”
²<https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-98349%22%5D%7D>, accessed 13.07.2020

³ See also cases Caka v. Albania, 44023/02,, 8 December 2009;; Xheraj v. Albania, no. 37959/02, § 82, 29 July 2008; Öcalan v. Turkey [GC], no. 46221/99 § 210 in fine, ECHR 2005-IV) Shkalla vs Albania. https://www.legislationline.org/download/id/7430/file/Case_of_Shkalla_v_Albania_2011_en.pdf. accessed ECHR has argued in the same way, asking the states to guarantee the reopening of cases in such situations.

⁴https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e2f06, accessed 13.07.2020

the above and the Albanian state considered necessary to harmonize the legal framework with the international one, in terms of respecting the rights of individuals.

g. Revision, condition for extradition

In practice, there have been cases when states require appropriate guarantees in order to allow the extradition of persons wanted by justice to be prosecuted or to execute their sentences. One of the most famous cases, who highlighted not only the legal shortcomings but also the diplomatic relations of the Albanian state, was the case of Florian Meçe. The latter was wanted by Albanian state to serve the sentence, which was given in his absence. Following searches, justice authorities were able to identify his location in Spain. Albanian authorities request the extradition of this person from Spain. The extradition made possible by a decision of the Spanish National High Court, after they asked a guarantee for retrial of the subject, due to the issuance of a court decision by the Albanian courts, in his absence. As confirmed by case no. 1549/1 Prot. OF, dated 25.02.2010, by the Albanian state, through the Ministry of Justice, a guarantee was given for the observance of the right to retrial of the subject, pursuant to the Constitution and articles 147, 148, 449, 450, 453 of the Code of Criminal Procedure¹. After the extradition due to the legal vacuum, the Albanian state failed to respect the given guarantee, which ECHR expressed too, concluding that we have a violation of Article 6 by the Albanian state. To avoid similar situations it was foreseen in the code as one of the review cases and when required by the states as a guarantee for extradition.²

j. Judgment in absentia³

One of the rights that a person enjoys is the right to be present in a trial that takes place against him. Despite this right, legislation in many countries recognizes the trial in the absence of defendants, taking measures to guarantee their rights through a lawyer determined by the court. However, the effectiveness of a defender mainly, practices shows that leaves much to desire. The Albanian legislation provided for the only appeal against the decisions given in the absence of reinstatement in time, which was applicable only if you prove that there was an objective reason, which led to the loss of the time limit for appeal. While as we quoted above did not regulate the situation when the defendant was not at all aware of the criminal proceeding against him. In the framework of the harmonization of the law with international acts, the legislature with right, established trial in absentia, as one of the cases for the reopening of court proceedings⁴. Conducting a trial in such a situation violates due process of law, and one of the rights of the defendant, to be heard and to be present at the trial. Acting contrary to what was said above would lead to violation of Article 6/1 of the KEDNJ. The latter

¹ www.gjykatakushtetuese.gov.al Constitutional Court decision no. 21, date 29.04.2010.

² CPC, article 450/dh "if the extradition of a person tried in absentia is granted on the explicit condition that the case be re-tried. The request for re-trial may be submitted within 30 days from the date of extradition of the person. The request submitted within that time limit may not be refused."

³ CPC, article 450/e "if the person is tried in absentia pursuant to article 352 of this Code and requests the case to be re-tried. The request shall be filed within thirty days from the date he is informed. The request submitted within that time limit may not be refused."

⁴ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804f7581>, accessed 13.07.2020 Resolution (75) 11 On The Criteria Governing Proceedings Held In The Absence Of The Accused, see also Recommendation (2000)2

as stated by ECHR in the decision *COOLOZA vs. Italy* ¹. *Although this is not expressly mentioned in paragraph 1 of Article 6 (art. 6-1), the object and purpose of the Article taken as a whole show that a person "charged with a criminal offence" is entitled to take part in the hearing. Moreover, sub-paragraphs (c), (d) and (e) of paragraph 3 (art. 6-3-c, art. 6-3-d, art. 6-3-e) guarantee to "everyone charged with a criminal offence" the right "to defend himself in person", "to examine or have examined witnesses "and" to have the free assistance of an interpreter if he cannot understand or speak the language used in court " and it is difficult to see how he could exercise these rights without being present ".*

In the same line, the ECHR confirms in the case of *Sejdovic vs Italy* where it sets out in detail what are the general principles related to the trial *in absentia* and that this form of trial violates, listing as follows:

Right to take part in the hearing and to obtain a new trial;

Waiver of the right to appear at the trial;

Right of a person charged with a criminal offence to be informed of the accusations against him;

Representation by counsel of defendants tried in absentia;²

The Convention, although it does not prohibit adjudication in absentia, leaves it to the discretion of the contracting parties to provide the effective means of achieving the standards sanctioned by the convention for the conduct of a due process of law.

On the other hand, Committee of Ministers in 1975 approved a resolution, in which were foreseen 9 minimal criteria that states should accomplish during administration of the trials in absentia.³

¹<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-57462%22%5D%7D> (coloza vs Italy), accessed 13.07.2020

² <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-72629%22%5D%7D> (Sejdovic vs Italy), accessed 13.07.2020.

³ Resolution (75) 11 On The Criteria Governing Proceedings Held In The Absence Of The Accused (Adopted By The Committee Of Ministers On 21 May 1975 At The 245th Meeting Of The Ministers' Deputies) 1. No one may be tried without having first been effectively served with a summons in time to enable him to appear and to prepare his defence, unless it is established that he has deliberately sought to evade justice; 2. The summons must state the consequences of any failure by the accused to appear at the trial; 3. Where the court finds that an accused person who fails to appear at the trial has been served (atteint) with a summons, it must order an adjournment if it considers personal appearance of the accused to be indispensable or if there is reason to believe that he has been prevented from appearing; 4. The accused must not be tried in his absence, if it is possible and desirable to transfer the proceedings to another state or to apply for extradition; 5. Where the accused is tried in his absence, evidence must be taken in the usual manner and the defence must have the right to intervene; 6. A judgement passed in the absence of the accused must be notified to him according to the rules governing the service of the summons to appear and the time-limit for lodging an appeal must not begin to run until the convicted person has had effective knowledge of the judgement so notified, unless it is established that he has deliberately sought to evade justice; 7. Any person tried in his absence must be able to appeal against the judgement by whatever means of recourse would have been open to him, had he been present; 8. A person tried in his absence on whom a summons has not been served in due and proper form shall have a remedy enabling him to have the judgement annulled; 9. A

Our legislation has explicitly defined what trial *in absentia* mean by placing in a separate provision, the definition of this category and the manner of conducting the process for the latter.¹

According to this legal provision, *in absentia* refers only to those persons who have not become aware of the trial conducted and the decision given against them, thus rightly excluding persons who evade justice. After the search according to the legal provisions, the court suspends the trial for a period of 1 year. After a year, if the defendant is not found the trial continues by assigning a defence mainly.

From the analysis of the legal provisions, we can conclude a shortcoming of this trial in relation to the special forms of trial; here, we are referring to the abbreviated trial. According to the provisions governing this trial, it turns out that the defendant can file a request for summary judgment until the preliminary hearing², while if we refer to the review process, it turns out that this stage of the process is exhausted and goes directly to the trial, consequently the defendant loses the right to seek summary judgment.

We are of the opinion that the legislator should make an intervention in the legislation and include the review as one of the cases when the request for summary judgment could be submit during the trial phase on the merits.

5. Review Procedure and Judicial Practice

The law defines in details, which are the procedural stages a reviewing request goes through. The legitimate subject (the convicted person or the representative with special authorization

person tried in his absence, but on whom a summons has been properly served is entitled to a retrial, in the ordinary way, if that person can prove that his absence and the fact that he could not inform the judge thereof were due to reasons beyond his control.

¹ CPC, amended; Article 352 Trial in absentia (1. When the defendant in Free State, despite the searches pursuant to articles 140-142 of this Code, fails to appear in the hearing and it turns out that he has not been personally informed of the trial, the court shall decide its suspension and shall order the judicial police to continue the search of the defendant. After one year from the date of suspension of the trial for this reason and, at any time, when there is information on the location of the defendant, the court shall resume the trial, by ordering the repetition of the notification. The court shall declare the absence of the defendant if, even after the newly conducted searches, the defendant is not found. In this event, the trial shall be held in the presence of the defence lawyer.”2. The court shall declare absence of the defendant, if it is proved that the defendant is escaping from. In this event, trial shall be held in the presence of the defence lawyer. 3. The court shall declare absence even when it is proven that the defendant is abroad and it is impossible to extradite him. 4. The decision declaring absence is invalid when it is proven that such absence it due to his/her the absolute impossibility to appear. 5. When the defendant appears after the decision declaring his absence has been announced, the court shall revoke it. When the defendant appears after the judicial trial is declared closed, he may ask to be questioned. All actions performed before this moment shall remain valid, but if the defendant requests and the court deems it necessary for the decision to be taken, it may decide the re-opening of the judicial trial and the obtaining of the evidence requested by the defendant or the repetition of procedural actions. 6. Trial in absentia shall not be held in the case of a minor defendant. In such event, the court, after conducting the searches pursuant to articles 140-142 of this Code, shall decide the suspension of the trial. The rules of paragraph 1 of this article shall apply; to the extent they are compatible.

² CPC, amended article 403-406 Abbreviated Trial.

and the legal custody, family members when he / she dies, the prosecutor)¹ prepares the request, which he / she submits to the court of first instance that have given the decision. Before the changes brought by the reform, the competence to review the revision requests belonged to the High Court. The latter, being a court of law, was necessary to remove the reviewing jurisdiction, which in this case constitutes a trial of fact, a competence, which has passed to the courts of first instance that is a court of fact. The latter examines the request in the deliberation room, without parties' presence and after deciding on its admissibility sends it for retrial to the court of first instance or that of appeal, according to the fact if the challenged decision belongs to first instance or appeal court.²

Debate rose among law scholars over the transfer of this competence to the court of first instance. Such a theory is unsupported by scientific reasoning. In our opinion, we do not have any kind of violation in this case; we can even say that in this way the rights of the parties to a criminal process are better guaranteed. We note that the court of first instance does not address the merits of the case; it examines whether or not the request of the subject is based in one of the cases provided by law that legitimizes the review, and whether relevant evidences are presented to prove one of the cases elaborated as above. In this case is not violated principle of degree of judgment, but also the opposite is guaranteed such a principle, thus guaranteeing the right of access of the parties to the legal system. Attached to the request for review the applicant must have evidence justifying the review under the law as well as the appeal against the decision they are challenging.

The request is examined in the deliberation room without the presence of the parties. The question arises; a judge or a judicial body will carry out the review of the request. In our opinion, to give answer to this question we can refer on types of criminal offenses. Jurisdiction in this case should be decided referring to Article 13 of the CPC.³

¹ CPC amended, article 451 "The following persons may request the revision: a) the convicted person, the defence lawyer specifically authorised by him or his legal guardian, and, if the convicted person has died, his heir or relative; b) the prosecutor attached to the court having issued the decision."

² CPC amended, article 453/3 "If the request is admitted, the Court decides to send the case to another panel of the same court for re-trial. This decision is not subject to appeal

³ CPC amended "Article 13 Criminal of first instance and their composition (Changed by law no 9911 dated 05.05.2008, article 1) (Amended by Law No. 9911 of 05.05.2008, article 1) (Amended by Law No. 35/2017 of 30.03.2017, article 8) 1. Criminal offences shall be adjudicated in the first instance by judicial district courts and by the Anti-Corruption and Organised Crime Court, pursuant to the rules and responsibilities provided for by this Code. 2. The judicial district courts and the Anti-Corruption and Organized Crime Court of first instance rule, by a single judge, on: a) the requests of the parties during the preliminary investigations; b) the appeal against the prosecutor's decision on the non-initiation of the criminal proceeding or on the dismissal of the case, as concerns misdemeanours; c) the request of the prosecutor to dismiss the charge or the case, as concerns crimes; c) the request of the prosecutor to send the case to trial; d) the request of the prosecutor for the approval of the penal order; dh) the requests related to the execution of the criminal decisions; e) the requests on the reinstatement of time limits; ë) the requests related to jurisdictional relations with foreign authorities pursuant to Title X of this Code; f) any other requests provided for by this Code or by special laws. 3. The judicial district courts examine, by a single judge, criminal offences that are sentenced with a fine or with imprisonment for, at maximum, not more than 10 years. The other criminal offences are examined by a panel composed of three judges. 3/1. The Anti-Corruption and Organized Crime Court rules with a judicial panel composed of three judges, unless provided otherwise by this Code. This court examines with a single judge the criminal charges against public officials, pursuant to article 75/a of this Code,

Regarding to this provision we can notice that if a single judge gives the decision in the first instance, request for review of this decision will be with one judge, while if it is given by a panel of three, the request for revision will be examined by three judges. Furthermore, after assessing whether the conditions for the implementation of the review institute, are met, the court decides on its acceptance or not. The acceptance decision unappealable, in order to avoid delays in the court process. As we can see, the court can only comment on the admissibility criteria of the request and not on the merits of the case, which relates to the evaluation of the evidence and the trial as a whole. Failure to do so would undermine due process and the principle of equality of arms, as the parties are not present. Principle on which the constitutional court has also ruled with a decision stating that: *"The Constitutional Court reaffirms its position that the participation of the parties and respect for the principle of equality of arms and the principle of adversarial proceedings are important elements of a due process of law, within the meaning of Article 42 of the Constitution of the Republic of Albania. Regarding to this, the court hearing the case is obliged to take all necessary measures for the participation of the parties or their representatives in the process, which gives them the opportunity to express their views on the factual and legal aspects of the case at trial"*

*After the acceptance decision, the case will be sent to the competent court for the reopening process. During this stage, the convicted will continue keeping the same status until the trial is over.*¹

As above after acceptance, the case is send to the first or appeal court for judging. The court must apply the provisions of the first instance trial, within the limits of the grounds presented in the request for review.² The court valuate the new evidences came out in relation with the existed ones in way to conclude with a fair decision.

On the other hand regarding to the effects of the revision over the execution of sentences, we see that accepting the request for reopening a trial does not mean that execution of sentence is suspended. Only through a request to the court, can be suspended. However, states must be careful in such situations to avoid the continued violation of the rights of the individual, following the execution of a decision under review.³

During the implementation of the latest changes undertaken from the reform relating to this mean of appeal, there have been raised different issues. For this purpose, we took for study the decision of first Court of Tirana in 2019, whose subject was revision. From the study done results as follows⁴:

First there is confusion between two extraordinary means of appeal (reviewing and Reinstatement in the time- period) regarding the case in absentia. The convicted instructed not correctly by their defendant, did not use the appropriate legal remedy to challenge the

for criminal offences other than corruption and organized crime, punishable by fine or up to 10 years' imprisonment, in the maximum term. 4. Minors and young adults are adjudicated by the relevant court sections, established by law. These sections adjudicate also the adult defendants accused of criminal offences committed against minors. 5. Provisions of paragraph 4, of this article, do not apply in the cases referred to in paragraph 1, of article 80, of this Code.

¹ See section 3 "Procedural Status of the convicted asking for Reviewing."

² CPC amended article 455/2

³ See as above explained cases Sadak, Zana, Dicle dhe Doğan vs Turkey.

⁴ www.gjykataetiranes.gov.al we have analysed the decision of the first instance given for the year 2019.

court decision. This is because they still do not understand what we mean by trial *in absentia*, where the defendant is neither part of the process nor aware of the trial and what does it mean when the defendant is aware of the process that takes place against him but for objective reasons finds it impossible to be present. Out of 33 decisions that had as object of review, in 21 cases the convicted claimed that he was tried in absentia, in these 21 cases only in 8 of the cases the court accepted the claim together with the request for suspension of the execution of the sentence in question. Meanwhile, in one of the cases the court stated that the execution of the decision would continue because before the sentence the person had been under the measure "Precautionary detention in prison", justifying in this case the continuation of the execution with the associated danger posed by the subject based also in the criminal offence committed and convicted about. In other cases, court refused the claim for revision because the complainer did not fulfil the legal conditions foreseen in the code for revision, as:

Not submitting the claim within the deadline foreseen in the code with the last approved changes;

Not submitting the evidences legitimating the request;

Decision were not *res judicata*, which means the ordinary mean of appeal were still in force and could be used by the convicted, so with other words it was not a final decision.

Only in 10 cases, court argued non -acceptance decision with the justification that the decision asked for revision was not a trial in absentia.

As above, results that the court are really carefully and give a special attention to the reviewing institution, by analysing in details each component of this institution. On the other hand, we cannot say the same thing for the defendants, which need further training and elaboration in the new provisions implemented and especially about the trial in absentia.

Conclusions and Recommendations

Review is an important procedural institute, which is implemented in the framework of respecting the rights of individual's due process of law, avoiding the limitations and barriers created by legal proceedings after the decision becomes final.

At the core of this institute is the administration of justice regardless of the fact when it is ascertained. This mean of appeal has evolved through years by improving, with the purpose to guarantee the rights of parties in the process due to a fair trial. These changes came out as need to harmonize the national law with the international one, and in the other hand an important source for these changes was the unifying practice of the HC. Regarding to the above-mentioned sources justice reform undertook new provisions relating to the revision, as a mean of appeal and cases when this procedure may be applicable. Despite those changes, there are also situations that need intervention through legal changes or interpretation from the High Court.

First putting preliminary hearing as an intermediate phase on the process by not analysing in appropriate way its application, has violate some rights of the offender who has been judged in absentia. During the reopening process, we can see that the reviewing refers only for the phase of trial on the merits, so that phase of preliminary hearing is considered done and so is no need to repeat during the revision process. This provision does not allow to the convicted to submit the request for Abbreviated Trial, as far as this request can be submitted only in the preliminary hearing phase. Our recommendation is that article 403 to be changed, and right

for abbreviated trial to be submitted also after the preliminary phase is done or the suspension of the process during trial in absentia to be done as it is in Italian system, since in the preliminary hearing phase.

Additionally regarding trial, *in absentia* court must ensure as possible a complete *restitution in integrum* as long as the offender has not been part of the process and there was no knowledge related to the process against him.

In the first point of view, it seems that the regulation of trial in absentia has found an establishment in accordance with EU standards. Further must be wait to see the implementation through practice of courts.

Secondly, an important issue is the legal effects that have a decision for the co-defendants when for one the decision is *res judicata* and for the others they are still in the process in the other instances. In our opinion, in cases where the reason for the review of the decision is related to the merits of the case, the circumstances of the criminal fact and its authorship must certainly be taken into account and for the other co-defendants; in the context of judicial consistency, courts cannot be to be contradictory to each other in decision-making.

Even though this provision must be taken in consideration and to be pay a special attention cases when the co-defendants doesn't want to be part of the reviewing process regarding to the principle of *beneficium cohesion*.

Thirdly, regarding the suspension of sentences execution it is let in discretion of the court, after the convicted claims, to decide whether it must be suspended or not, in our opinion there the law must put some criteria's that, conditions based on which the court should refuse or not the request for suspension of execution. In this way, we avoid decision, which violates the rights of the accused in an unjustified way.

Fourthly, regarding the reopening process, the legal provisions seem to comply with the EU standards by giving the opportunity to the accused challenge the evidences against him, respecting his right to be heard in a trial. Further, implementation in practice of these legal provisions will be see.

Another problem are the transitory provisions, the lawmaker dint foreseen what happens with the cases that were in the HC before changes were implement. The practice will be confused relating to these cases; anyway, the courts must be carefully to avoid the violations of accused rights.

Finally, sanctioning of this extraordinary mean of appeal by the legislator is in line with the rights to conduct a due process of law, respect for the rights of the defendant and what is most important serves the purpose of the law, the administration of justice and the discovery of the truth.

References

- [1] Constitution of Republic of Albania;
- [2] European Convention Human Rights
- [3] Protocol no. 7 of the European Convention on Human Rights;
- [4] Explanatory Report to the Protocol

- [5] Resolution (75) 11 On The Criteria Governing Proceedings Held In The Absence Of The Accused,
- [6] Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements rule
- [7] Recommendation (2000)2 Recommendation No. R (2000) 2 of the Committee of Ministers to member states on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights
- [8] Directorate-General for Human Rights Council of Europe F-67075, Strasbourg Cedex "The right to a fair trial", p. 65;
- [9] Law No.7905, date 21.3.1995 Criminal Procedure Code of the Republic of Albania, amended ;
- [10] www.gjykatakushtetuese.gov.al
- [11] www.gjykataelarte.gov.al;
- [12] www.gjykataetiranes.gov.al
- [13] http://www.gjykataelarte.gov.al/web/Vendime_Unifikuese_39_1.php;
- [14] <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-58337%22%5D%7D>;
- [15] <http://horizontal-facility-eu.coe.int>
- [16] <https://rm.coe.int/168059ddae>;
- [17] <https://rm.coe.int/training-manual-on-the-right-to-fair-trial-and-reopening-of-domestic-p/16808b7cab>
- [18] <https://rm.coe.int/16806eebf0>;
- [19] <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-98349%22%5D%7D>;
- [20] https://www.legislationline.org/download/id/7430/file/Case_of_Shkalla_v_Albania_2011_en.pdf;
- [21] https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805e2f06;
- [22] <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804f7581>;
- [23] <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-57462%22%5D%7D>;
- [24] <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-72629%22%5D%7D>;
- [25] <http://horizontal-facility-eu.coe.int>