INSTITUT ZA NAUČNA ISTRAŽIVANJA I RAZVOJ
INSTITUTI PËR HULUMTIME SHKENCORE DHE ZHVILLIM
INSTITUTE OF SCIENTIFIC RESEARCH AND DEVELOPMENT
ULCINJ - ULQIN

INTERNATIONAL SCIENTIFIC JOURNAL
"Monte"
Ulcinj

Monte (Ulcinj. Online) ISSN 2661-2666

Monte (Ulcinj) ISSN 2661-264X (Print)

Crossref

DOI prefix:10.33807

International Scientific Journal,,Monte,,

Year 2019: August
Volume 6.No.2

ISSN 2661-264X

Printing Presses:
Doo,,Kelam Company –Montenegro

Publishing house:
Institute for Scientific Research and Development-Montenegro

Scientific Board :

- Acad.Prof.Dr. Slobodan Nešković, (Serbia)
- Prof.Dr.George Aspridis (Larissa)
- Prof.Dr.Alina Huz(Grecc)
- Prof.Dr.Gabriele Natalizia (Rome)
- Prof.Dr.Sibylle Hailbrunn (Israel)
- Prof.Dr.Arda Arikan Akdeniz (Turkey)
- Prof.Dr.Arian Gjia(Germany)
- Prof.Dr.Marcel Pikhart (Czech Republic)
- Acad.Prof.Dr. Konstantin Pochivalov, (Russia)
- Prof. Dr. Slađana Benković FON (Serbia)
- Prof. Dr. Robert Dimitrovski (Macedonia)
- Prof. Dr. Akhter Alam(India)
- Prof. Dr. Anatoly Avdenko (Ukraina)
- Prof. Dr. Valentin Nedeff (Romania)
- Prof. Dr. Vladimir P. Sergienko (Belorus)
- Prof. Dr. Laszlo Karpati (Hungary)
- Prof. Dr. Michael Minch (USA)
- Prof. Dr. Miodrag Brzaković (Serbia)
- Prof. Dr. Andrej Raspor (Slovenia)
- Prof. Dr. Zoran Mastilo (B&H)
- Prof. Dr. Seadin Xhaferi (Macedonia)
- Prof. Asoc. Dr.Azeta Tartaraj (Albania)
- Prof. Dr. Mirsad Nuković (-Serbi)
- Prof. Dr. Tibor Petres (Hungary)
- Prof. Dr. El Thallasinos (Greece)
- Prof.Asc.Dr.Ibish Mazreku(Kosovo)
- Prof. Dr. Marko Todorović (Serbia)
- Prof. Dr. Heinrich Meister (Switzerland)
- Prof.Dr.Arben Malaj(Albania)
- Mr. Sampurna Mehta (India)
- Prof. Dr. Alba Robert Dumi (Albania)
- Prof. Dr. Rosemary Ekechukwu (Nigeria)
- Prof. Dr. Radovan Stojanović (Montenegro)

Table of Contents

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908433
ISSN 2661-264X (Print)

INDUSTRIAL OWNERSHIP IN ALBANIA: TRADEMARKS

MSc.Anjeza Dajzmaili
Lecture/Lawyer of Intellectual Property

The term of industrial property in Albanian legislation, it refers to a complex of institutes that have the function of guarantee to the distinctive signs of entrepreneurship and the intellectual creation with technological content.

1.1 The concept of trademark in Albania legislation

Trademarks are signs that can distinguish goods or services that produce or give a subject, from those of another subject. As a trademark can serve: words, combination of letters and numbers, logo, drawing, color, wrapping form, etc. Generally, as a trademark may serve any sign that can be presented graphically, through lines and figures[1]. There are countries that allow the registration of so-called "invisible" trade such as those of voice or the fragrance of a product.
(the first registration is also allowed in our country).
In any case it should be a perceptible sign with at least one of the senses. In fact, the Industrial Property Law is limited to several aspects that we can summarize at several points:- "Brand Right" is provided in Article 144 of the Law, which regulates the cases of legal protection of a mark. The right to seek protection from the law on industrial property it has every subject that is registered by the manners prescribed by the law of a distinct brand or services, by earning the exclusive right to the product or service acquired. This means that the right to a trademark has any entity that registers its trademark before the DPPI institution[2]. In the absence of registration, Albanian legislation does not grant the right to protection. Does Albanian legislation protect a brand that has years in the market but has not been registered under the applicable law? The answer to the question is given in Article 144.

1 Article 140, Law Nr.9947, date 7.7.2008 Industrial Ownership Law.
2 Article 144, Law Nr.9947, date 7.7.2008 Industrial Ownership Law.

Specifically, if we take the case of a brand that has been operating in the market for years but has not been registered in the form required by law and another brand with similar products or services is marketed and is registered according to the

form required by the law, if so the latter is protected by the Albanian legislation. And a trademark that is not registered under the law regulations does not have any kind of protection either by civil code.

Otherwise, it occurs in Italian legislation (Article 2571 of the Italian Civil Code) [3], where a subject has an unregistered trademark he has the right to continue to use it, although other commercial entities are registered in the form required by law.

According to Italian legislation, the protection of the trademark in cases where the subject has not registered with the relevant institution is protected by Article 2571 of the Italian Civil Code. This article protects all those brands, which are in the market but are not registered in the form required by the law on industrial property and precisely because they have acquired a name from the consumer Italian legislation recognizes the right to use protection.

So even though a new brand to the market is similar to an existing but unregistered brand, the first one cannot hinder the operation of the unregistered brand market.

In Albanian legislation this case is not granted, but if we make a narrow interpretation of Article 144 it is understood that the registered mark enjoys the right of legal protection and consequently the right to prevent a similar brand that is earlier in the market but which is not registered.

- "Collective Brand" is foreseen for the first time in Albanian legislation by the Industrial Property Law. Under current law, specifically Article 165, collective marks mean those marks by which brands of goods are distinguished or serviced by any association or form of collective legal arrangement[4].

Some co-partners require a collective mark for a production or service they provide under the applicable law. The collective brand is a brand totally different from the individual brand, where the latter is intended to distinguish the products or services of a venture from another venture into competition.

To better clarify Article 165 of the Industrial Property Law, let's give some examples:

3 Italian Civil Code, Article 2571 "Preuso".
4 https://www.laleggepertutti.it/codice-civile/art-2570-codice-civile-marchi-collettivi.

- BANCOMAT: is a collective brand that is used by many companies as an agreement that respect the regulations set by the trademark holder at the time of the deposit.
- GRANA PADANO: It is a famous brand known for its high quality Italian cheese. This brand can only be used by companies that follow a rule on how to produce cheese to be in the standards of this brand and they can only use the brand of Grana Padano[5].

So, as explained in the above examples to register a collective brand together with the application, a regulation should also be filed that determines who the mark may be used and what are the necessary criteria that the product should have to be part of this mark. The regulation is drafted to the trademark holder who may be a public entity or a private entity. These types of trademarks also run the warranty function for customers by buying a product or service that contains some features that is distinct from others. For this reason, the collective brand is a certified guarantee brand. But also the collective mark differs from the individual mark for how the registration is made and the criteria that must be met at the time of filing the application. Because for collective trademark registration it is much more complex than for individual brands because it asks for registration the introduction of a regulation that disciplines the use and clarifies the rules on the control that the trademark holder must perform to ensure that the regulation will be respected Sickness cases will apply to entities that do not respect them.
- "Opposition to a trademark" [6] under Albanian law may be claimed by the applicant of a previous trademark, the owner of a trade name, a natural person, the owner of a prior industrial property right, any person who has the right to Authorized Users of Certification Marks, or Brand Licensors by the Brand Owner. The registration of a trademark allows its holder to exercise exclusive rights only to his own products. The Brand User (Seller of Products) has the obligation not to compromise the manufacturer's trademark.

5 Clemente Tartaglione, Fabrizio Gallante, "Il marchio nella strategia di sviluppo delle imprese moda", Ares 2.0, Rome, 2009.
6 Article 152, Law Nr.9947, date 7.7.2008 Industrial Ownership Law.

- Reinstatement in time of the right[7] - In all cases where, in the absence of the applicant's will for mark registration, a situation is created which directly causes the refusal of the application for registration of the mark, the law in Article 151 / c provides for the right applicants to request resettlement within a period of not later than 2 months from the occurrence of obstacles that have caused the refusal of the trademark registration and not later than one year from the date of expiry of the lost time limit.

Restitution on a deadline is a right that is valid as long as the law permits because after the expiration of the legal deadlines it loses the right to register the trademark. However, at the moment when it exercises the right to resettle in time and it is accepted by the Industrial property institution then the legal consequences caused by disrespect of time shall be deemed not to have occurred.

- Ownership transfer of a mark- The mark may be transferred or leased in whole or in part a part of its products or services for which it is registered until in any case by the transfer or from the license there is no inaccuracy or deception of the type product or service that are in the customer's assessment. When a trademark is made up of a figurative mark or a sign of fantasy or another branch, it is assumed that it's exclusive right to be transferred together with the enterprise.

In order to regulate competition between undertakings and to ensure their recognition in the market, the legislator has foreseen some legal provisions on distinct signs. We can share them in signs; (or otherwise known as distinct typical signs), but these provisions also apply in case of symbols created specifically by the entrepreneur (such as advertising panels, online domain name or slogan (where the latter are called atypical signs).

Undoubtedly, all typical and atypical signs perform an important function because they contribute to customer orientation by establishing the formation and preservation of the clientele[8]. Certainly, the lawmaker has taken into account the legal protection of the entrepreneur's interest:

- Being free to choose distinctive signs
- Exclusive use of signs
- Giving it the ability to transfer it.

7 Article 151/c Law Nr.9947, date 7.7.2008 Industrial ownership Law.
8 Gian Franco Campobasso, Manuale di diritto commerciale, UTET Giuridica, 2017, fq 34-56.

1.2 The juridical nature of distinctive signs

Regarding the juridical nature of distinctive signs is in an open debate on the doctrine, which is divided into two concepts:

1. That distinctive signs can be included in the category of intangible goods even if they are not entirely intellectual creations; the entrepreneur enjoys a right of ownership over them[9] (authors Santini, Ascarelli).

2. Distinctive signs have autonomy and are not immaterial good. The overwhelming person enjoys no right over them because they are directly related to the product or service they offer.

The brand is a sign or symbol that can distinguish, within a range of products or services, those that come from a particular business.

The brand has distinctive function and reference function on the product or service of entrepreneurship. It is distinguished from typical "firm" signs, where it only distinguishes the entity, while the brand is able to distinguish a variety of (a bunch of) products within a range of other wider products. It also distinguishes itself from the "symbol" that approaches many brands that differentiate the location of the company, where it may appear to be numerous.

It is also worth mentioning the appealing feature of the brand, which is related to the businessman's interest in its registration as an ability to distinguish its products from competitors but also preferred ones (such as known brands). This is very important on the topic of protection because it makes legally valid protection of the brand's function, in which the businessman has certainly made an investment to make his favorite products and as such these investments have to be protected (such as original wardrobe or perfumes).

1.4 The legal function of a protected Brand

The protection of distinctive signs[10] responds to individual and collective interests. Among individual interests, distinctive functions and appealing brand functions are introduced, while collective interest highlights the brand's warranty function in terms of product quality assurance. This evidences that we have 3 key functions of the brand:

---

9 Alessandra Avolio, Silvia dell'Angello, Compedio di Diritto Commerciale, Simeone, 2009.
10 World Intellectual Property Organizations. (n.d.) What is a patent? Retrieved September 27, 2008,taken from: http://www.wipo.int/freepublications/en/intproperty/450/wipo_pub_450.pdf

1. Distinctive function
2. Attractive function
3. Quality assurance function.

A first European Union intervention in the field of industrial law was in 1988 directives protecting trademarks. The owner of a trademark through industrial property law seeks to protect the trademark and characteristics of that service or product or, otherwise, protects the trademark from unauthorized use[11].

Actually today, anyone can register a brand; they can even give the full or partial license rent for it. This means that the one who owns a trademark can allow another third subject to take for rent the trademark license.

The brand usage criterion is also provided in the law, which stipulates that in case the use of the registered trademark for 5 years it does not lose the right to be protected.

1. The trademark distinctive function according to Article 141 of Law No. 9947, dated 07.07.2008, on Industrial Property, is changed when the ordinary user distinguishes between a different number of goods and services by another number of goods and services same as the first, without eliminating their trade origin.

2. The appealing brand function strengthens even more the importance of a brand and its role in the market. Using a branded product or service creates a certain number of users on the market, of course thanks to the attractive features that it has offered on the market (such as service or product quality). Over time, the brand becomes an inexhaustible swing of its users; in this sense the brand enjoys an appealing feature that a title of a brand when it creates it needs to be considered.

3. The guarantee's operation[12] relates to "market laws" for which, if the quality is reduced, the consumer's preferences on that brand diminish (or diminish) proportionally (The typical case of the guarantee function relates to the determination of territorial geography or origin of the product especially in that food which indicate a kind of quality level from the product coming).

11 Christopher Pappas, "Intellectual Property & Copyrights Research Paper Covering Cases", Business Ethics, Law and Communication, 2008.
12 Sony Corp. of America vs Universal City Studios Inc. (1984). Retrieved October 23, 2008, fromEnfacto http://www.enfacto.com/case/U.S./464/417/.

But even in this regard, it is predicted in the law to protect this function (of course to protect the collective interest) wherever a brand is capable of creating confusion or lying to the consumer[13]. Also, we clarify that the industrial property law prohibits the deterioration of the quality of the product or service that characterizes a brand. This argues that protecting collective interest does not consist solely in guaranteeing a constant quality of a product or service to a brand, but to enable consumers to knowingly choose about a product. The legal instrument in protecting these interests is the exclusive right, which is understood as a real or absolute right.

13 Article 156/2, Law Nr.9947, date 7.7.2008 Industrial Ownership Law.

Conclusion

Industrial property is one of the most important intellectual property institutes. In the Albanian legislation is an area, which is still not in the levels of European Union countries. The industrial property concept for the first time in Albania entered in 2009 with the Industrial Property Law, through which the General Directorate of Industrial Property was set up. In 2018, the legislation underwent significant changes, where the main focus was on specifying procedures for marking a trademark and deadlines. But the responsible institution, the Directorate of Industrial Property, has a lot of work to do.

One of the main problems is the lack of proper information of domestic enterprises on the importance of protecting a business. For this reason, the last few years both state institutions and European Union institutions are working precisely to sensitize entrepreneurs to protect their business by registering with DPPI. It is also a very important institute with regard to the income that it guarantees for the state budget, one more reason to give the institute the proper significance.

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908435
ISSN 2661-264X (Print)

FACTORING AS A NEW POSSIBILTY IN THE FINANIAL SECTOR

Dr. Arjeta HALLUNOVI
University Aleksander Moisiu Durres

Prof. Dr. Elez OSMANOVIC

Abstract
Over the past fifteen years, an increasing number of small and medium-sized companies have begun to consider factoring as a practical source of working capital. Unfortunately, the availability of accurate information and time has not kept the same pace with the growing interest in this used form of funding. The financial sector, especially the banking sector, has been hit by the difficulties generated by the tensions of debt dependence, which are affecting the banking market assessment and its ability to create medium and long-term funds. Consequently, making a comparison with the past, in general, the most valued valuation methods are the cost of funds which have increased significantly. Current economic conditions, characterized by credit constraints, make factoring one of the most favorable solutions for businesses. This funding method is one of the ways it takes a short time to negotiate and one of the easiest methods to provide working capital funds.
Factoring services offer an alternative to credit to companies that need little help with funds. By selling your receivables to a factoring company, you receive a portion of the forward amount and receive the rest, minus a percentage that the company receives as a payment as soon as the amount is collected. You get most of your funds before the customer has paid the account, instead of waiting until after paying the bill. The factoring service works to collect accounts receivable so that you can devote your resources and efforts elsewhere to your business. Through factoring, businesses can: -Enable their boards and senior management to make better informed decisions. -Proactively manage the provisions and effects on capital plans. - Make strategic decisions with a view to mitigating risks in the event of current underlying conditions. - Get assistance in understanding the evolving risk nature of the banking sector.

Key word: Albania, Factoring, Services, Financial Institutions

I. Introduction

The crisis that began in 2008, continues even today its effects. While some countries suffer more than other countries, the European Union, in general, is influenced by the economic slowdown with possible impact on consumption and investment decisions. For small and medium companies, one of the simplest and fastest way to keep working kapitak is converting accounts receivable into immediate cash using a transaction known as a financial transaction called "factoring". Many companies that are new to the market or the growth phase can not wait 30-90 days to their customers to pay their bills. In order to survive and continue to grow, they need their money more quickly. Factoring frees up money receivables so you can get paid for what you possess much before customers pay bills. It is very flexible, very effective form of business financing. Even if it used as a short-term solution, even if used as a permanent means of financing, factoring with those of the K immediately optimize cash flows without sinking in even deeper debt. Factoring is a simple mechanism to accelerate the receipt of money are won before. No debt is created, so there is no interest to pay, and no principal to repay. Rather than create a debt on the balance sheet, factoring of receivables creates secure cash flows and improves business classification in connection with loans. It strengthens the balance because it creates more cash on hand and fewer receivables. Moreover factoring does not require a transfer of ownership or transfer. Factoring is the only source of business financing where the amount of capital you able to grow at the same portion of sales success. As soon as you grow, and the more bills to recreate the more cash you will able to krojuar even more sales and marketing initiatives.

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908435
ISSN 2661-264X (Print)

II. Literature review

Factoring term refers to both purchase and sale of bills receivables at a discount from face value. The structure, terms, conditions of such a transaction may vary in several ways. Companies engaged in the business of buying receivables are called "factors". "Factors" provide flexibility and entrepreneurial awareness rarely demonstrated from banks or other lenders, whose activities are limited by regulations or laws (Vasilescu, 2010). Companies that sell receivables referred to as "clients" or "seller" (not the borrower). Customer Customers, who currently detyohen for money represented by bills are known as "customers" or "the account debtors". The money factor provides a client as initial payment for the factored invoices are called "advance". Factoring differs from commercial lending because it involves a transfer of assets more than a loan in cash. In assessing the risk, primarily fakrotët see more quality asset that is purchased (for example, ability to collect receivables) rather than financial condition of the seller/client. This focus makes factoring a convenient tool for many growing businesses where traditional commercial borrowing proves that it is impractical and unavailable. Factoring is essentially a two-pack services (Salinger, 2006). *Lending*-Credit Services include assessment of the customer's credit reliability of the accounts which factor will purchase, on the basis of sales invoices associated with each account. Factor usual bases these estimates on a combination of asset data and public data on the performance of accounts payable. As shown, the SMEs that use factoring are basically the function of granting credit. The added value here is that commissioners factoring enjoy significant economies of scale decisions, reflecting their high access to credit information.

Companies that can benefit from factoring. The list is virtually as long as the index of consumers that they need to have. Any company that is experiencing the stage of entry, growth or maturity, needs good cash flow. If flows of a company's money is good and the company has always enough money to pay his bills, pays payroll and taxes, and can be expanded to the desired extent without help, then this company does not need factoring. However, if it is necessary to improve the cash flow, factoring can be one of the best ways to achieve it. A company that considers factoring will need to have at least one customer whose bills can be factored. The new companies are opened from several months to several years, as long as they have the best receivable, are often good candidates. Customers are very large corporations that often make their vendors to wait 60 days or more to pay as part of their terms to do business with them. These customers are usually good to be factored. Companies that sell strictly so customers will not be factoring their receivables. A good strategy to improve the cash flow of a company is accepting credit cards from customers consuming, and factoring their receivables for businesses and government customers (Bakker, Klapper and Udell, 2004).

III. Results

Like any other business even factoring has its risks, but there are also tools for managing this risk, which are described in the second chapter of the thesis. As mentioned in all the above items, the factoring industry is gaining greater development due to the bad condition of the liquidity of companies or banks. This chapter describes the moment when a company needs to factoring and become cost analysis of factoring commission. One of the strengths of factoring is that it improves the cash flow of the company. For this reason, this chapter will be analyzed through a concrete example of how improved cash flow when a company is financed through factoring. Then through the analysis of financing or factoring bank loan, we will see that factoring is lower cost than bank loans, if the need for liquidity is short term. In the last issue of this chapter we will explain the method of calculating the expected return and will conclude a factoring company can have a high annual rate of return. Specific risk of factoring. There are many people who want to live comfortably, without taking over the risks inherent in the cash market. They prefer to deposit their savings in savings deposits, treasury bills or where the end of the period are sure you will earn interest on the amounts deposited and will have to secure their money. This category of people can not undertake the creation of a factoring business, as it itself carries risk. When companies operate in this kind of business, carry upon them the risk of losing money. These risks are limited to four potential often:

-*Failure by the client.*

A customer can not pay one or more bills for many reasons: the dispute born with its suppliers for quality product or service offered, lack of liquidity to pay at the right moment, business closure or bankruptcy. Commissioners factoring in the time of drafting contracts, are very careful to protect themselves from this type of risk.
-Poor management of supplier businesses.

A supplier that does not have good skills in the management of its businesses could bring problems in connection with the factoring company. If the supplier's service is poor, or poor quality products are, they bring the client dissatisfaction, therefore he does not pay the bills. Registration of invoices held in incorrectly is another problem stemming from bad business management. Such a problem makes it more difficult to enable connection of a factoring agreement. So factoring companies, prior to conclude an agreement, clearly define the managerial skills of business administrators.
Personal events.

In his personal life supplier may also have unexpected events like severe illness, separation from spouses, death of a family member, which affect the business of the supplier. But even in these cases, which are unexpected, as anyone can be in such events occur, commissioners try to minimize factoring through risk management tools.
-Fraud

Fraud by the supplier is unpleasant but possible. Such frauds are the most varied. One is receiving payment from a supplier itself in time that must collect factoring company and the supplier did not passes factoring company but keeps to himself. Another trick may be the sales invoices which are still the customer's requirements are not met, as no finished product without distributing etc. Or another possible fraud is a supplier instructs the client is no longer in relation to the factoring company and therefore payments should go back suppliers. Even when the supplier owns a company that misleads and has not paid clients, which in fact has neither the company nor the client is a fraud which could face factoring companies. However, if there is any fraud, factoring companies, which can be prepared for such losses, they should achieve this kind of loss to keep to a minimum.
Risk management methods. Factoring companies, sooner or later, will face the risk of loss during their activity. But they try to reduce this risk as much. They always keep in mind the fact that the possibility to lose, especially large amounts, increases dramatically when:
a) finance large amount of supplier invoices,
b) not prepare a regular analysis of suppliers or do not use the proper legal documents to protect their investment.

Thus, if a factoring company spends money on an unsteady hand, then you should not be surprised if he loses. Currently, there are many risk management mode, which can be used by either factoring company. As with other investments, these methods do not provide the factoring companies that will not lose a penny, but rather they reduce the possibility of losing especially large losses. The main ways you can use a factoring company to manage risk are divided into five categories:
-Setting the limits.

The limits that establishes a factoring company depend on the amount of funds it has and how much is tolerant to risk. These limits prevent the company to become overly focused. Funding limits determine the maximum monthly amount that the company finances new suppliers, as well as the limit for each supplier.

-Setting the industry that the company will finance the factoring.
In fact there are plenty of companies that need liquidity to continue their operation in the market, but factoring companies do not have to take risks and their capital to waste time with all these companies. There are some that are more suitable for financing with factoring.

-Performing a good supplier analysis.
Analysis must pass four stages: defining desired supplier, the customer desired determination, the determination of whether the new bills are bills that you want to finance and undertake appropriate actions to ensure payment of outstanding bills. All these will make the factoring company to be very careful at the time of signing a contract with the supplier.

-The creation and establishment of reserves.
The reason for the creation of reserves is simple. If a company has factoring invoices that are not liquidated in time, you can use the reserve fund, so as not to affect its cash flow.

-Guarantees for loan.
This method of risk management is more important for large companies factoring, which decide on funding large amounts. This guarantee is achieved through insurance companies, which provide unpaid supplier bills that are financed by the factoring company.
But all factoring companies, when business finance, must draw up a list of policies to be followed in order to minimize the risk of loss. This list will help a lot, especially at the time of obtaining a new supplier, new client or new bills.

IV. Conclusions

Factoring, as a phenomenon that is spreading across the world, has received due attention in connection with legislative support and accountability at the beginning of XXI century. In order to enable congressmen to factoring companies should adopt laws that ensure them an equal operating environment with companies operating in other business areas. It is a form of predominantly financial instruments and an important source of external financing for small and medium-sized enterprises (SME's). Factoring is not a traditional investment, but an industry that can operate people who want to make a fortune, taking into account the risk and quality of service factoring. There are at least two differences between factoring and bank loans, which are in favor of factoring as a better financial alternative for small and new firms: First, these two alternative financing tools vary according to the type of collateral. In the case of factoring, accounts receivable which are yet unrealized assets used as collateral, while in the case of bank loans are stable assets that are used as collateral. Secondly, the difference between factoring and bank credit is in the process of credit risk assessment. While banks are interested in credit analysis firm that requires credit, factoring companies investigate qualitative and quantitative characteristics of suppliers and its customers. Factoring is not free from risk. A factoring broker can face many risks, but only smart people can cope with success and manage these types of risks. Using the tools of risk factoring, factoring Commissioner can manage to profit to be higher than the loss. Funding via Factoring is one of the tools that requires less time and one of the easiest methods for providing liquidity. Factoring avoids the need for long-term financing and generate constant need for cash flow. Factoring reduces overall costs, when you can apply for commercial loans and short application time, as credit analysis is not a long time and also takes certain prepayments. Factoring, unlike other forms of kredidhënjes, involves three parties that facilitate communication, decrease in payment deadlines, creating opportunities for liquidity and increasing investment power business. Factoring is widely accepted as an alternative source of funding and is used in almost every industry that sells business-to-business or business-to-government. Factoring is the ideal form for funding:

✓Business trade, manufacturing and services trade with buyers
✓Businesses with extended payment terms or with high loan
✓Businesses with rapid growth or seasonal sales fluctuations
✓Businesses that have receivables and inventory lrtë that offer less banking collateral
✓Businesses that are moving into new markets or expand to new clientele
✓ Young enterpreneurs and newly started businesses\

V. Reccomandations

Presentation and application of factoring as a short-term source of funding for SMEs will be successful if it is accompanied by an appropriate education and awareness campaign. The Albanian banking system is liquid and generally used for investments in treasury bills and lending to immovable property collateral. I think it would be preferable to be taken to the base and other asset classes as collateral, such as accounts receivable. Factoring is a flexible resource, it is not strictly defined and that makes it adapted to the environment. The lack of accessible information for business loans makes factoring warranty (which factor is responsible for the credit of the buyer) impractical, because there are known both buyer and seller. For this reason, it is recommended using no guarantee factoring (where the factor is not responsible for the credit of the buyer). Factoring A company should determine the type of society that will finance because they can not risk capital and time with some companies that need liquidity to continue their operation in the market.

References

Bakker, Marie H. R., Leora Klapper, and Gregory Udell. (2004). The Role of Factoring in Commercial Finance and the Case of Eastern Europe. World Bank Working Paper. No. 3342.

Borgia, D. J., Swaleheen, M., Jones, T. L., and Weeks, H. (2010). Accounts Receivable Factoring As A Response To Weak Governance: Panel Data Evidence. International Business and Economics Research Journal, 9(2).

Denčić-Mihajlov, K., and Milenković-Kerković, T. (2011). Factoring as a financial 150 alternative: Evidence from Serbia. Economics and Organization. pp. 411-420.

García-Santillán, A., Moreno-García, E., and Núñez, A. C. A. (2014). Factoring as a financial alternative to firms (Case of study of firms providing services to the Federal Electricity Commission). Journal of Applied Finance and Banking. pp. 193-207.
Ivanovic, S., Baresa, S., and Bogdan, S. (2011). Factoring: Alternative model of financing. UTMS Journal of Economics. pp. 189–206.
Klapper, Leora. (2005). The role of factoring for financing small and medium enterprises. World Bank Policy Research Working Paper 3593. World Bank.
Klapper, L. (2000). The Determinants of Global Factoring. World Factoring Yearbook 2000.
Klapper, L. (2006). The role of factoring for financing small and medium enterprises. Journal of Banking and Finance. pp. 3111-3130.
Perman, Peter. (1984). Factoring: Passport to financial freedom. Industrial Management & Data Systems. pp. 26–28.
Mbatha, M. T. (2011). Risks and rewards of providing “reverse factoring” as a financing technology for small and medium-sized enterprises in South Africa.
Oramah, B. O. (2013). From the periphery to the centre - Africa as the growth market for factoring. In M. Bickers (Ed.), World factoring yearbook 2013 (pp. 6-9). Kent, United Kingdom: BCR Publishing Ltd.
Smith, J.K and Schnucker, C. (1994). An empirical examination of organizational structure: the economics of the factoring decision. Journal of Corporate Finance. pp. 119–138.
Soufani K. (2002). On the determinants of factoring as a financing choice: evidence from the UK. Journal of Economics and Business. pp. 239–252.
Soufani K. (2002). Factoring and UK small business. Journal of Small Business and Entrepreneurship. pp. 78–89.
Soufani, K. (2002). The Decision to Finance Account Receivables: The Factoring Option. Managerial and Decision Economics. Vol. 23. No. 1.
Spasić, I., Bejatović, M., and Dukić-Mijatović, M. (2012). Factoring - Instrument of financing in business practice –Some important legal aspects. Ekonomska istraživanja, 25. pp. 191-211.
Salinger, F. R. (2006). Salinger on factoring. Sweet and Maxwell.
Vasilescu, L. G. (2010). Factoring – Financing alternative for SMEs. Proceedings of the Management of International Business and Economics Systems, Greece. pp. 13-23.

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908437
ISSN 2661-264X (Print)

ADMINISTRATIVE APPEAL

Msc. Barjam Gjishti

Lawyer / Lecturer Tirana Business University (Faculty of Law)

Abstract

The term public administration in the Albanian legal system identifies the group of state administration bodies / public entities that contribute to the performance and functioning of state administration in matters of its competencies.

The provision for the first time defined by the bodies that are part of the public administration is Article 3 of the Code of Administrative Procedure, 1999, repealed by the new Administrative Procedure Code, which provides in Article 3, point 6, "the public organ" bodies that are part of the public administration are those exercising administrative functions. The new Code of Administrative Procedures shall designate as a public administrative body any central administration body, local authority, law enforcement authorities, as long as they perform administrative functions, public entities and any natural or legal person who has been given by law, statute or any other form provided by the legislation in force, the right to exercise administrative functions. All public bodies that do not exercise administrative functions are excluded from this definition.

1.1 An appeal against the Administrative Act

Against the administrative acts, the legislator has recognized the right to appeal any entity that claims to have violated the subjective right and legitimate interest. Administrative appeal against the lawlessness of administrative act and administrative inaction is divided:

According to the Code of Administrative Procedures, an Administrative Complaint can be addressed to the competent body and the superior body. According to Article (134/ a) the appeal should be proposed to the body that issued the outlawed administrative act and not to the superior organ because competent to review the administrative appeal is the body that issued the unlawful administrative act. If the appeal has been addressed to the hierarchical body and not to the body that issued the unlawful administrative act, it shall without delay forward the body that issued the unlawful administrative act. The appeal is proposed for motives of legality under Article 109 of the Code of Conduct and suitability, from which any subject that claims to have been subjected to subjective

rights or legitimate interests by the action of administrative bodies during the exercise of administrative functions.

Article 134/1 of the Code of Administrative Procedure excludes the application of the provisions of this Code on the administrative appeal against the act and administrative inaction whenever otherwise provided by the law, in this case the rule prevails, the special legal rule on the general rule. Entities affected by the activity of public bodies exercising administrative functions should take into account the law of the body regulating its activity and the manner of administrative appeal.

This exception is defined in point "c" of this article, which expressly states; another public body explicitly designated by law. The lawyer has established the code of administrative procedures on the administrative appeal in a second position with purpose to ensure the legal protection of all interested parties whenever the organic law of creation and function of the public body does not expressly state the appeal against the activity the body to whom the appeal is addressed or the law itself determines that the appeal is in conformity with the rules of the administrative procedure code.

Article 134 of the Code of Administrative Procedure does not clarify the cases when we do not have a hierarchy of relations between public bodies and to which body is addressed the administrative appeal. The answer to Article 129 in point “a” of the Code of Administrative Procedure foresees cases of exhaustion of administrative appeal and exclusion from this rule under point "a", the law does not provide for a higher body for filing an administrative appeal or when this body is not constituted. " It is clear that the administrative appeal under the code of administrative procedures is exercised whenever there is a hierarchical relationship between the administrative bodies and if this is not the case, the parties are addressed directly to the administrative court or acted according to the substantive law of the respective public organ.

While for administrative inaction, the code clearly defines the competent body for reviewing the administrative appeal, which is the supreme organ of the body that did not act. In both cases, the hierarchy of administrative acts must exist between the administrative bodies. The field of application of an administrative appeal has a general character, which is permitted against all acts and administrative inactions (e.g. issued by bodies in respect of which a hierarchical superior exists), and in cases in which the law does not exclude the possibility of appeal.

The Code of Administrative Procedures in the chapter on administrative appeal has not envisioned as a way of annulling, abrogating or amending an administrative act or issuing a rejected act "Informal Request", provided by the Code of Administrative Procedure of 1999 and then abolished.

For the first time, the new Code of Administrative Procedures provided for the right of appeal against procedural actions. According to Article 130/2/3 of the Code of Civil

Procedure, procedural action is any act, act or omission of a public body undertaken during the administrative procedure but which is not an administrative act. This right of appeal with the object of unlawful procedural actions is exercised only if the law allows it to be appealed separately; otherwise these procedural actions are appealed together with the complaint on the illegality of the administrative act for the motives of legality or conformity.

In the Code of Administrative Procedure, the appeal to the same body that issued the administrative decision cannot be done if it does not have a superior above him.

The Administrative Complaint creates the obligation for the administrative body to make a decision at the end of the review of the appeal.

The administrative appeal against the administrative act has a suspense effect on its execution until the notification of the appeal decision. On the other hand, the Code has foreseen in cases where the appeal has no suspense effect on the administrative act when it is for object:
i) Collecting taxes, taxes and budget revenues;
ii) Police measures;
iii) Implementation of the administrative act is in the interest of public order, public health and other interests.
Against the act imposing the prohibition on the suspense effect of the appeal, the code gave the party the right to appeal to the administrative court within 5 days from the date of notification of the decision.

- According to the Law on the Establishment and Functioning of Public Bodies, which performs administrative functions during decision-making, this is an exception to the general rule that applies whenever the special law clearly and expressly defines the right of appeal, the manner of appeal and the body whose appeal is directed. Otherwise, the provisions of the Administrative Procedure Code are applied on an administrative complaint. The appeal is directed to the motives of legality or appropriateness in ways that are defined in the organic law for each administrative body, e.g., against administrative acts of Ministers, public entities or other collegial bodies. We can mention, for example:
- Law no. 9643, dated 20.11.2006, Article 63, "On Public Procurement", which provides for two levels of administrative appeal. The first appeal is addressed to the contracting authority within 5 days and during the appeal review procedure he suspends the procurement procedure. the contracting authority has the right to review the administrative appeal within 5 days and to conclude the decision on the receipt of the complaint by deciding or repealing the contested act as illegal or issuing the act required by the interested party, refused by this body or if it does not receive it for review or does not receive any allowance within the 5 day time limit. After this degree of complaint has been consumed the party has the right to address a complaint to the Public

Procurement Agency within 5 days from the day of receipt of the decision of the refusal by the contracting authority or from the day of the 5 day deadline that this authority had available for reviewing the administrative appeal.

By deciding to accept the administrative appeal by abolishing the administrative act as an outlaw or by issuing the required act, the body issues a new act with legal effects of a lawful act, which regulates the consequences, previously created by the illegal act.

- Law no. 9000, dated 30/1/2003, "On the organization and functioning of the Council of Ministers" has given the Prime Minister the right to control the work of members of the Council of Ministers and other central administration institutions. The Prime Minister has the power to suspend the implementation of the acts of the ministers, other central governors in his or her ministry, on his own initiative or with the appeal of interested parties when the subjective rights of the ministers or central institutions have been violated. The Prime Minister shall present the reasons and the concrete solution to the Minister or the Central Institution in order to amend or repeal the acts suspended by the Administration. If the Minister or the Central Institution does not respect the Prime Minister's request for a concrete solution of the disputed problem, which consists of issuing a new act or acting in accordance with the law, then he acts according to law no. 90/2012 "On the Organization and Functioning of the State Administration" which allows the superior body in our case the Prime Minister to act by exercising the powers of the inferior authority until the resolution of the case by amending or abolishing the unlawful administrative act.
The Prime Minister has the authority to review the administrative appeal against the acts of the Minister or the heads of the central institutions in the direction of the Prime Minister according to Law no. 9000, dated 30/1/2003, "On the organization and functioning of the Council of Ministers and Law no. 90/2012 "On the Organization and Functioning of the State Administration" which acts according to the Code of Administrative Procedures on Administrative Complaint, as provided for in Article 30 of Law no. 9000, dated 30/1/2003. The specific law itself invokes the provisions of the administrative code as long as it does not explicitly define the manner, deadline and review of the administrative appeal.

It is clear that the special laws regulate the specific administrative relationship for each public body exercising administrative functions, whereby the body is provided with the compensation for filing the complaint, the attendance of its grades, the deadline for filing the appeal, the filing date of the appeal and the format of the decision he takes. Exhaustion of administrative appeal as a condition set forth by law no. 49/2012 for the administrative court to instructs the party to address the administrative lawsuit, the administrative court of the district where the authority is part.

- With regard to the suspense effect of the administrative appeal under the code of administrative procedures and exceptional cases, other bodies established by special law provide for the means of delimitation of the administrative act when exercising the

administrative recourse. If it is not foreseen otherwise, it is operated according to the code of administrative procedures.

1.2 Proposal of Administrative Complaint

An administrative recourse may be proposed for the protection of subjective rights and the protection of legitimate interests under Article 128 of the Code of Civil Procedure, which legitimizes any entity that, by administrative action or inaction, claims that its rights and legitimate interests have been violated.

- The proposal for administrative appeal against the administrative act and the refusal to issue the administrative act must be submitted within the general deadline provided for in Article 132 of the Code of Conduct within 30 days. This period starts from the date of notification or when the subject is known on the enacting clause of the administrative act or refusal to issue the administrative act by the competent body. So from the moment in which the person in question has knowledge of the administrative decision to issue the administrative act and the decision to refuse to issue the administrative act.

- The appeal proposal in the case of administrative inaction, except when silent approval is enforceable, the appeal is filed no earlier than 7 days and no later than 45 days from the date of expiry of the deadline set at the end of the administrative procedure under section 91.92 of Administrative Code of Procedure. The deadline for the completion of the administrative procedure is 60 days or extended for justified purposes. Excluded from this rule, unless otherwise provided in the special law of a public body exercising administrative functions.

- An administrative appeal to an administrative act involving two or more parties of the same interest can be submitted by a party or by all parties, extending the effect also to other parties if only one party has filed.

- An appeal under Article 134 / a of the Code of Conduct is addressed to the competent body that issued the administrative act, by depositing in the secretary, which appoints and delivers the verbal process to the complainant.

- An appeal under Article 134 / a / b of the Code of Canon Law may be directed through the postal service, with notification that the body has received the complaint on date x.

- Appeal to another body designated by law, which determines the body to whom the appeal is addressed.

-The Code of Administrative Procedures does not foresee as an obligation for the complainant to be provided with a lawyer during the procedures governing the

administrative appeal but does not preclude the right of anyone to be represented by which through an act of representation.
If an administrative recourse has been proposed to another body established by law from the one set forth in the administrative procedure code, it shall immediately forward it to the competent body without delay. This omission is also the supreme organ of the body that issued the administrative act.

- The administrative appeal against administrative inaction under Article 134/3 of the Code of Administrative Procedure is addressed to the supreme organ of the body that has not issued the administrative act, by depositing it in the secretary, which issues and delivers the verbal process to the complainant.

-The administrative appeal against administrative inaction under Article 134/3 of the Code of Conduct is addressed to the supreme organ of the body that has not issued the administrative act, through the postal service, with the notification that the body has received the complaint on x date.
If the appeal against administrative inaction is directed to the competent body that has not issued the administrative act or another body created by the special law, it shall forward it without delay to the competent body, ie to the superior organ, together with the case file and a written report on the reasons silence.

1.3 Effect of Administrative complaint with an Administrative Act

The administrative appeal against the administrative act for the motives of legality and the lawfulness brings legal consequences provided by Article 133 of the Code of Administrative Procedure, suspending the execution of the administrative act of pork in the notification of the administrative appeal decision. The competent body after having received the complaint also considers the nature of the appealed administrative act regarding the suspense effect of the execution of the administrative act under Article 133 of the Code of Administrative Procedure. As the case may be, decide on the suspension of execution or forbidding the suspension of the execution of the appealed pork act at the conclusion of the administrative review until the notification of the appeal decision.
Article 133 of the Code of Administrative Procedure, is a general administrative norm, which is applied whenever otherwise provided in the special law. Suspension of the execution of an administrative act applies only to an administrative act that is presumed to be illegal, and not to the case of "rejection of the issuance of administrative act" and "administrative inaction." If the administrative act includes two or more parties with the same, the administrative appeal against the act submitted by one of the parties extends the effects of the suspension to all parties involved, so if the administrative act has violated the interests of two or more parties where one party has the right to submit an administrative complaint in its interest and not act on behalf of all parties, since it needs an act of representation to act in the name and on behalf of everyone, the complaint challenges the execution of the administrative act for all subjects of plagued

by administrative action. The Code of Administrative Procedure in paragraph 3 of this Article provides for taxation cases of exclusion from the execution of the administrative act when:
a) The administrative act aims at collection of tax and other budget revenues;
b) The administrative act relates to police measures;
c) The public body, which reviews the complaint, considers that the immediate application is in the public interest, public health and other public interests, in which case the public body that examines the administrative appeal has a power in assessing the purpose it seeks for gold administrative act (o public order or health or other interests), respecting the principle of proportionality under Article 12 of the Code of Administrative Procedure, in taking a decision on the suspension of the execution of the administrative act. The protection of the public interest or other rights may limit an individual's right.

Referring to points 1 and 4 of Article 133 of the Code of Administrative Procedure, I think that they are contradictory because paragraph 1 of this article states that "the appeal suspends the execution of the act", whereas point 4 gives the right to the competent body after having received the administrative appeal to consider the "motives for suspension" for those complaints that have the administrative acts that are suspended, so that they do not fall under the provisions of paragraph 3 of this article and the special law. According to point 4, the administrative body has the right to decide "the prohibition of the suspense effect of the appeal", but this point does not state the reasons or more precisely the motives that lead the body to make such a decision. It is clear that this point leaves a wide scope for the interpretation of the factual and legal consequences that will produce the administrative act and the "suspension of the execution of the act" on the assessment of motives that do not allow the body to take a decision to ban the effect of a suspense act.

Article 133 must be interpreted in this form by the public authority before accepting the administrative appeal in the first order of:
i) Verify the exception from the general rule, so the special law prevails over the code of administrative procedure regarding the suspension of the execution of the administrative act;
ii) Verify the exceptional cases provided for in point 3 of this Article;
iii) Verify the cases provided for in point 3, letter "c", of this Article, for motives of public order, public health and other interests;
IV) At the conclusion of the above-mentioned projections, if the case does not exist before these exceptions, then application 1 of this Article applies.

The public body shall decide on the suspension of execution under paragraph 1 of this article without the need for motives or analysis of circumstances, as this right is known to the complainant and is compulsory for the public organ.

The complainant has the right under point 4 of this Article to address to the Administrative Court within 5 days from the date of notification, only in cases when:
i) The public body decides the prohibition of the suspense effect under point 3, letter "c", when it considers that the public interest prevails over the personal interest, but always in the assessment of the "public interest" must act according to article 12 of the Code of Administrative Procedure, on the principle of subsidiarity, that in fact the assessment of the motives was not made in observance of the legal provisions, Article 133 and 12 of the Code of Administrative Procedure, to justify the decision to suspend the suspension because the grounds set out in Article 133 of the Code of Administrative Procedure do not stay and the procedure followed does not respect article 12 of this Code. Prohibition of suspense effect is another administrative action but is not an administrative act. Another administrative action is part of the administrative action category.
ii) The body decides the prohibition of the suspense effect because it is before the cases provided for in paragraph 3 of Article 133 of the Code of Administrative Procedure, but the party alleges that the administrative complaint has an administrative act for which no prohibition of effects is foreseen suspension.

Conclusions

The violation of legitimate interests in administrative law occurs when the citizen and the public administration are located in two different levels and especially when the latter acts as a subject of public law through the issuance of an administrative act, other administrative act or adoption of an administrative measure. In these cases, a citizen cannot claim the protection of a subjective right to public administration, but only the protection of legitimate interest. His position is protected, regarding the protection of the primary interest in the legality and accuracy of the public administration's action. Against the public administration are also protected the subjective rights which are the advantageous legal situations that the law attributes to a subject, knowing certain legal rights and its ability to protect these legal situations directly and immediately without mediation of public or private entities. Real rights or credit rights are part of the concept of subjective law and are legally protected even if the legal entity that has violated these rights is a public administration. Everyone has the right to address to the public administration or the Administrative Court according to the case and the provisions of the law with the right legal remedies.

Bibliography

Sokol Sadushi, The Administrative Right 2. Tirana 1999.

Ermir Dobjani, The Administrative Right 1. Tirana 2010.

Ermir Dobjni, Elsa Toska, Erajd Dobjani, Erlir Puto, The Administrative Right – Control over public administration, Tirana 2013.

Carlo Emanule Gallo, Giustizia admministrativa. Torino 2007.

Esat Stavileci, explanatory dictionary of administrative terms, Pristina 2010.

Agur Sokoli, The Administrative procedural right, Prishtine 2005.

Legislation:

The Enactment Nr.44/2015 of "The Code of Administrative Procedure of Republic of Albania”.

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

PUBLIC OPINION ABOUT ENVIRONMENTAL POLLUTION

PhD Fatmir Emurllai
Faculty of Contemporary Science and Technologies,
South East European University,
Tetovo, Republik of North Macedonia
Institut for Environment and Health
E-mail: Fe26925@seeu.edu.mk

Abstract: The industrialized society now understands that one of the most necessary investments represents the protection of the environment, they have also realized that for the created state the main culprit is the man himself, by not keeping proper account of the nature that surrounds it. Air pollution and care for the environment during the years is a primary concern of many national and international institutions. Retention in this regard is part of the lives of citizens of these countries. Unfortunately, there is a lack of constructive awareness in less developed countries where the Republic of Northern Macedonia also participates. Some cities in this small country face enormous environmental pollution. In those settings, the municipality of Tetovo is also a preoccupation of this research.

Keywords: environmental protection, pollution, correct attitude towards nature, undertaking the measures by the relevant institutions.

INTRODUCTION

The protection of the living environment becomes ever greater demand for the survival of human civilization. There is also a need for mobilization of all human resources in terms of capacity building for the effective implementation of leading policy with the environmental life protection. It is clear that one of the main reasons for the degradation of the living environment is the inappropriate way of human behavior, as well as insufficient education for rational use of available resources. We can rightly say that today education represents the core strategy of governments, UN, international organizations and local non-governmental groups in the protection of the living environment.[1]

The right to a healthy living environment is a universal human right, as well as an individual right, but at the same time a collective obligation for all citizens to save themselves to preserve the environment.[2]

Health protection consists of measures, activities and procedures for maintaining and the advancement of health, the living environment and the working environment, the rights and obligations that are realized in the health insurance, as well as masses, activities and procedures taken by organizations in the field of health for maintaining and advancing people's health, prevention and extinguishing of diseases, damage and other health deteriorations, early detection of diseases and health conditions, early and efficient medication and rehabilitation with the application of professional medical measures, activities and procedures.[3]

In a new report published for the Paris Conference on Climate Change by EEA in Copenhagen, it is estimated that 430,000 premature deaths per year in Europe are related to air pollution. Air pollution continues to harm the overall health of people and reduces the quality of life and life expectancy. This also has a significant impact on increasing medical care costs and because of job shortages for health reasons it also reduces the productivity of the entire economy.[4]

Air pollution is one of the most serious problems in the world. It has to do with the introduction into the atmosphere of polluting substances that affect people's health and the environment. The atmosphere is one of the most important ways of distributing polluting substances to the environment. The distance to the transport of polluting substances to the atmosphere may be several hundred to thousands of kilometers. This causes atmospheric pollution often have a regional character even global character. These pollutants are emitted from various sources and some of them act among them to form new compounds in the air. When we consider that, heavy metals are elements that can not be broken down, then these metals will continue to stay in the environment. Unlike many organic pollutants that eventually degrade in carbon dioxide and water, heavy metals will tend to accumulate in the environment, especially in lakes, at the estuary or in marine sediments. These metals can be transported from one part of the environment to the other. Downloads from heavy metals to the environment are a global problem, because they are an ever-increasing threat to the environment in general.[5]

---

[1]Ismaili, M, Durmishi, B (2006) : Shoqeria dhe menaxhimi I mbrojtjes se mjedisit, Tetove

[2]Kushtetuta e Republikes se Maqedonise, neni 43

[3]sluzben vesnik na R.M, zakon za zdravstvena zastita, osnovni odredbi, clen 1

[4]https://portalb.mk/222101-ndotja-e-ajrit-shkakton-vdekje-te-parakohshme/

[5]https://www.slideshare.net/ervisicara/projekt-ndotja-e-mjedisit-ervis-cara

The main sources of emissions of polluting substances are particularly metallurgical factories and plants, mines, combustion by-products, industrial releases, agricultural and urban development, pesticides containing heavy metals and traffic.

Ecological education is an active developmental process of learning in which individuals and groups benefit from much needed knowledge, meaning and skill for solving action, motivated, responsible and above all else in terms of achieving and maintaining dynamic equilibrium in the living environment.[6]

At the time of activities that could have an impact on the quality of ambient air, each is obliged to behave carefully and responsibility to avoid and prevent the pollution of environmental air and the harmful effects on health and the environment in general.[7]

Viewed from the above-mentioned perspectives the ongoing analysis has to do with one of the most polluted environments on the planet earth. It is about the city of Tetovo, located in the northwest part of the Republic of North Macedonia. In this research a considerable number of Tetovo population were surveyed mainly of young age, of different sexes and nationalities.

Of the respondents, 167 men and 153 women participated, expressed in percentage of 52% male and 48% females. Of the above mentioned number 148 are aged 15-16 years while 172 17-18 yr. In this research, there are participants of 197 people living around the city of Tetovo (rural areas), and 123 in the city. Viewed by ethnicity, 160 are Albanians, 90 Macedonians, 50 Turks, 20 others. Of this number, 148 were first-year students and 172 of the fourth year. In the following we will highlight only some of the most interesting questions of this research.

---

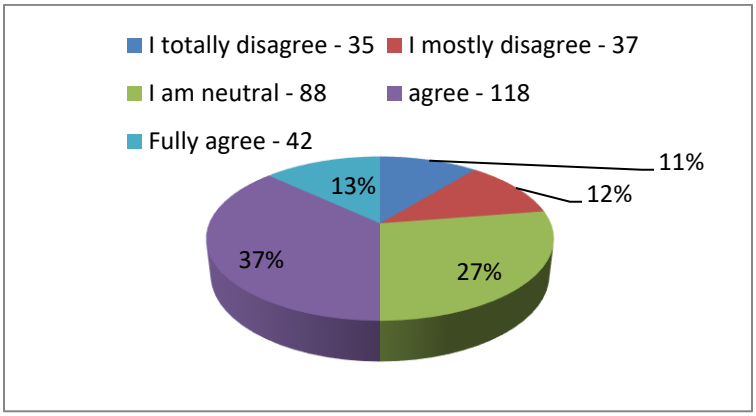
[6]Srbinovski, M. (2005), Environmental education, Prosvetno delo, Skopje

[7]Sluzben vesnik na R.M, Zakon za kvalitet na ambientalniot vozduh,

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

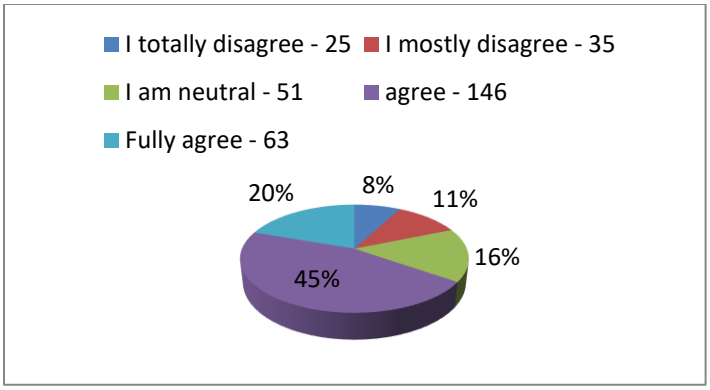
Degree for researching your attitudes for assessment of the living environment

1. Very fast Earth will be overcrowded



It is worrying that the question posed is noticed a lack of knowledge of high school youth about a vital problem for the future of the planet earth. This is evidenced by the fact that the 88 respondents expressed their neutrality.

2. Human beings have the right to adapt their living environment to their needs .

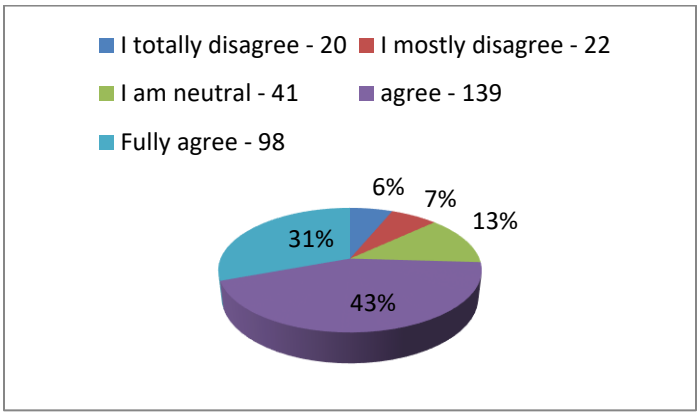


Failure to provide information even further comes to the answers given by the second question, where only 25 of the respondents expressed their position that they do not at all agree that human beings have the right to the living environment to adapt to their needs.

Still worrisome is the number of those who agree, respectively, fully agree that a person has the right to dispose of the environment according to needs and desires.

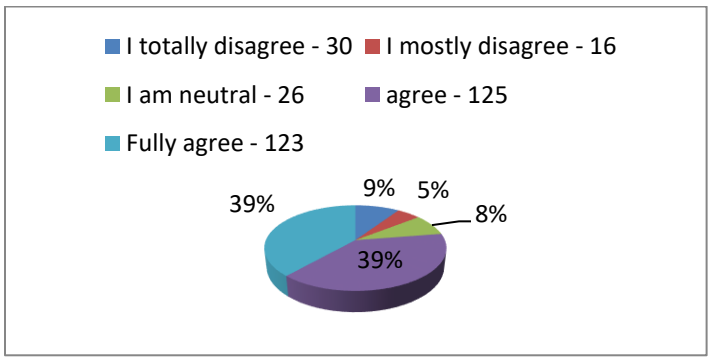
ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

3. When a person harasses nature, often faces dire consequences.



The answers to the third question are surprising, where 139 respondents agree that man often faces with terrible consequences in cases of harassing nature. If this is added to 98 respondents that completely agree, then everything becomes clearer. If we focus on the answers from the third question then we can conclude that maybe the preliminary questions were not sufficiently clear for the surveyed age groups and they have given not adequate answers to those questions.

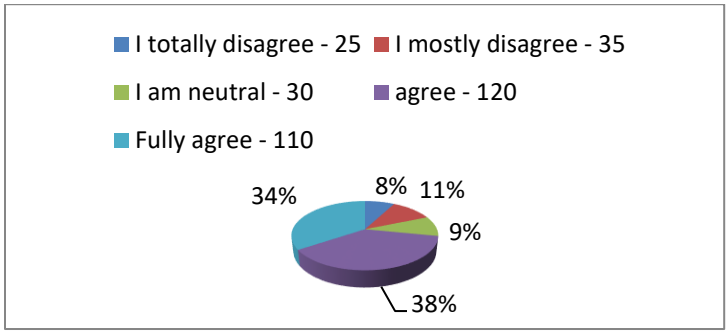
4. Human beings greatly misuse the natural environment.



The fourth question even more confirms our assumption due to the fact that in these questions 125 respondents claim that human beings abuse the environment, while 123 others fully agree

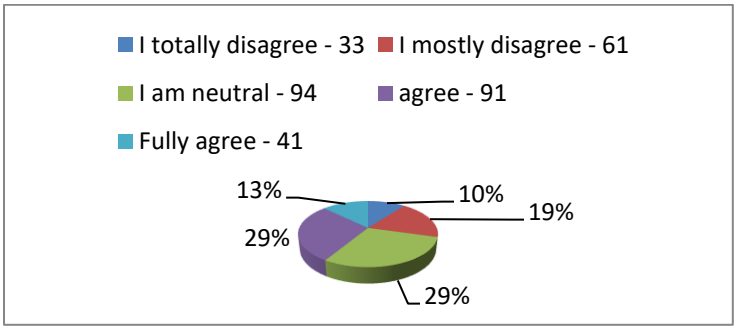
ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

5. The plant and animal world have the same right to life as humans



We are surprised by the fact that youth logic much more fairly than the older age groups for some fundamental issues related to the preservation of the environment. This is also evidenced by the answers given from the next question where 230 respondents agree or fully agree that the plant and animal world have the same right to life with humans.

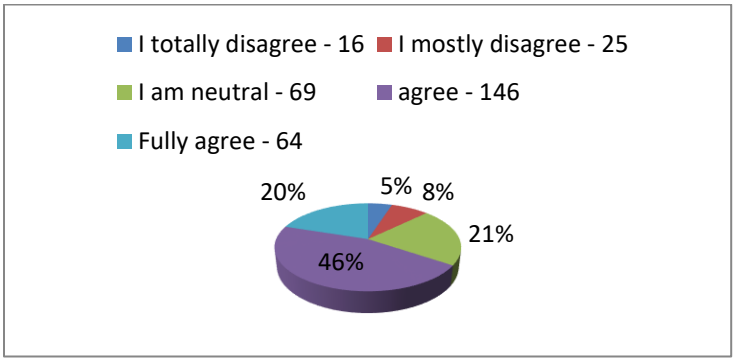
6. Nature is strong enough to eliminate harmful effects caused by developed countries



The next question to a significant extent reflects failure to properly inform the youth of Tetovo regarding industrial development. They did not do a better analysis, but have responded that nature is the one that in itself creates balance, bypassing the fact that traditionally developed countries have been the biggest environmental polluters. But this is not a rule, because many exceptions can be counted e.g the Republic of North Macedonia does not participate in developed industrial countries but is one of the most polluted sites in the globe. But because of the objectivity of these analyzes every time we have to consider the geographic extent of a state and the number of people living there.

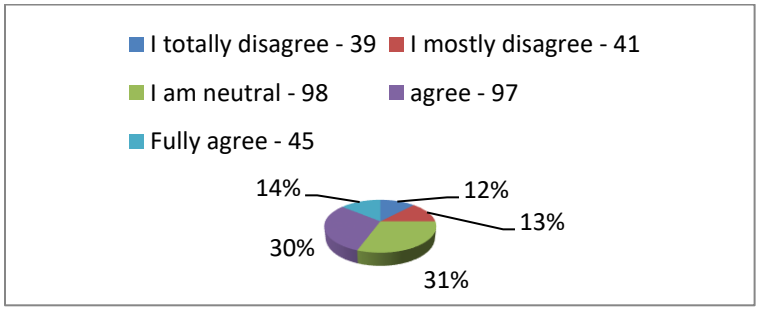
ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

7. Despite the great capabilities, as human being, we must nevertheless subject ourselves to the laws of nature



The next question again expresses a sound logic of the Tetovo high school youth, with the fact that 210 respondents have been expressed that apart from all achievements, human being must respect the laws of nature.

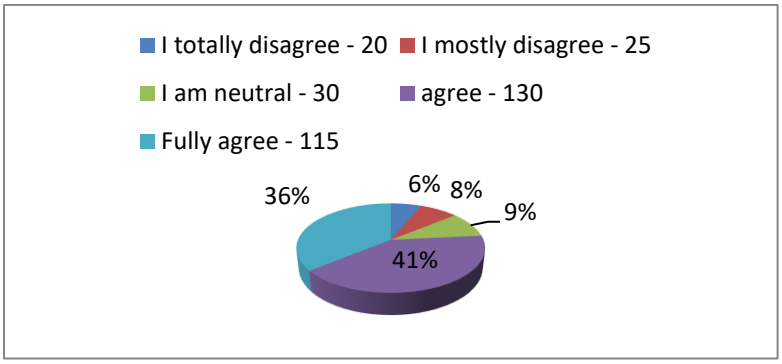
8. The so-called statement ,,ecological crisis'' that is threatened to the human race is exaggerated (excessive)



In the next question again, there is a slight fluctuation of attitudes with the fact that a significant percentage of respondents share the conviction that the ecological crisis debated in many local and global forums appear exaggerated.

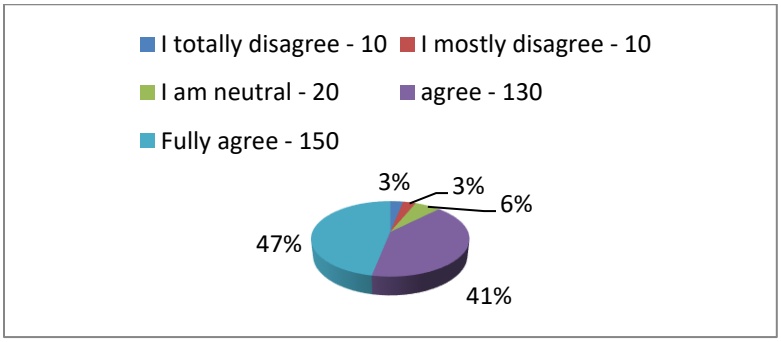
ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

9. Nature is very fragile and vulnerable



The next question is clearly noted the logical attitude of the respondents with the very fact that most of them (130 agree and 115 fully agree) agree with the fact that nature is however viable and vulnerable to the uncontrolled actions of the human factor.

10. If we continue to do so with the environment, we will soon be faced with a great ecological catastrophe



To the last question asked, the surveyed youths of the high schools in Tetovo have proved their full maturity with the very fact that they have rightly perceived that people can do everything but not to behave with irresponsibility to the nature surrounding them. They give clear messages to their answers if people behave with no responsibility to the living environment will soon be faced with consequences respectively with great ecological crises which will make the imbalance in the relation kind human – nature and from all that biggest loss will be human type.

ISSN 2661-2666(Online) International Scientific Journal “Monte” DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

Conclusions and recommendations

Based on the data obtained from the questionnaire we can conclude that the high school youth despite the elementary knowledge of the living environment, still, there is a need for additional activities in their schools explaining to them what are the capabilities of nature and resources that it has, what are the possibilities of nature in relation to the large number of residents living on Earth today, to be taught that nature and everything that exists is in harmony with one another and every touch in this harmony causes its disorder.

On the other hand, youth should understand that people should not rule the living things and everything else that exists on Earth but to coexist with them and cultivate them.

Regarding the "ecological crisis", youth should know that it is not exaggerated, but with it as an existent reality, we should be regarded as individuals, as social groups and as an organized society, beyond what is meant by the conclusions of numerous national and international organizations and institutions that deal with this issue.

Starting from these recommendations, the municipality of Tetovo should be more active with regard to the development of activities from this field by holding various environmental seminars, collaborating with non-governmental organizations for citizen sensitization about how important a clean environment is. Also unavoidable necessity represents cooperation with central and international institutions to attract investment in this field, not to bypass in any way particular segments that contribute to raising the awareness and culture of citizens about the living environment.

ISSN 2661-2666(Online) International Scientific Journal “Monte” DOI : 10.33807/monte.2.201908439
ISSN 2661-264X (Print)

Exploited Literature

Ismaili, M., Durmishi, B., (2006), Shoqëria dhe menaxhimi I mbrojtjes së mjedisit, Tetovë

Kushtetuta e Republikës së Maqedonisë së Veriut, neni 43

Sluzben vesnik na R.S.M, Zakon za zdravstvena zastita, osnovni odredbi, clen 1

Sluzben vesnik na R.S.M, (2012), Zakon za kvalitet na ambientalniot vozduh, Skopje

Srbinovski, M., (2005), Environmental education, Prosvetno delo, Skopje

https://portalb.mk/222101-ndotja-e-ajrit-shkakton-vdekje-te-parakohshme/

https://www.slideshare.net/ervisicara/projekt-ndotja-e-mjedisit-ervis-cara

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908441
ISSN 2661-264X (Print)

Development and Reforming in Public Reforms and Health care system in Albania, support and reflection.

Prof. Leonardi Ramon
Prof. Alba Robert Dumi

"La Sapienzza University", Roma University,Italy
Email:alba.besi12@gmail.com

Abstract: The Health Care Systems in Transition (HiT) profiles are country-based reports that provide an analytical description of a health care system and of reform initiatives in progress or under development. The HiTs are a key element of the work of the European Observatory on Health Care Systems. HiTs seek to provide relevant comparative information to support policymakers and analysts in the development of health care systems in Europe. The HiT profiles are building blocks that can be used: to learn in detail about different approaches to the organization, financing and delivery of health services; to describe the process, content and implementation of health care reform programmes; to highlight challenges and areas that require more in-depth analysis; and to provide a tool for the dissemination of information on health care systems and the exchange of experiences of reform strategies between policy-makers and analysts in different countries.

The HiT profiles are produced by country experts in collaboration with the Observatory's research directors and staff. In order to facilitate comparisons between countries, the profiles are based on a template, which is revised periodically. The template provides the detailed guidelines and specific questions, definitions and examples needed to compile a HiT. This guidance is intended to be flexible to allow authors to take account of their national context. Compiling the HiT profiles poses a number of methodological problems. In many countries, there is relatively little information available on the health care system and the impact of reforms

General information of this paper research

The Albanian Health sector is in the continuing transformation in the function of the realization of the proper standards. To realize the reform in this sector and to help the decision makers in their decision is necessary to have the right information on the source of the financing of health sector, on the destination of the expenditure in this sector and their control. "The establishment of the National Health Service is an integral part of the new Albanian Government program and it is also the fairest intervention intended to upgrade the system of service financing at the levels required by providers and recipients of health services.

In this paper research we are try to present the current situation concerning our insurance scheme, developments in financing the primary health care and hospital sectors, our future projects to improve the way of financing hospital services, etc. were displayed in this presentation. Our learning and evaluation team reviewed every incoming evaluation to ensure that it met the quality standards in our policy. When evaluations failed to meet the standard, the three most common concerns, wich are analyze in this paper: (1) evaluation teams received too many questions—especially questions that are too general and ill-defined—relative to the resources available for the evaluation, (2) the data collection and analysis methods were not appropriate to answer the evaluation questions, or (3) evaluation reports.

Keywords*:* HIV aids, Health sector, National service, Progress in health service, Performance

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908441
ISSN 2661-264X (Print)

Jel Clasification: I 10, I13, I15, I 16

1. Introduction

Albania's population is younger than that of other European countries. A third of its 3.1 million inhabitants is under the age of 15, and 40% is younger than 18. The population grew by 1.2% per year in the period 1980–1999, with a fertility rate in 1999 of 2.4 children per woman of childbearing. The country experienced even higher population growth in earlier decades, encouraged by the pronatalist policy of the Communist regime. A high proportion of Albania's population lives in rural areas, amounting to 58% in 2001. However, since restrictions on freedom of movement were lifted in the 1990s, there has been a level of internal migration from rural to urban areas,that is unprecedented in Albania. In 1979, only 33.5% of the population was urban. This figure rose to 35.5% in 1989, and in 2001 it reached 42.1%. Due to this influx, the population in the district of Tirana

The term health insurance is commonly used in our country to describe any program that helps pay for medical expenses, whether through privately purchased insurance, social insurance or a social welfare program funded by the government. Synonyms for this usage include "health coverage," "health care coverage" and "health benefits." In this paper research we want to present the new low reforming in health care system in Albania.Like any robust reform process, we face significant challenges across a spectrum of efforts. (Gottler A. Focus 2014)
This article presents a summary of the current status, of health Albanian system. The developing health care system of undergraduate, postgraduate and continuous medical education in Albania and suggests opportunities for development and partnerships that would help the country's medical education reform**.**Designing country strategies, in Albania was more time and labor intensive than originally anticipated, particularly because a large number of partners were engaged in the process to determine tough trade-offs. In the year ahead, we will continue to prioritize the development of country strategies and enable better coordination with our partners to reconcile competing priorities and focus on areas where we each have a comparative advantage. (Hana E, ISKSH 2012)

Our effort to focus our assistance programs has been successful for the past two years either because we successfully exited from sustainable projects or because our programming was too minimal to have a true impact. As we look ahead, we must continue to make tough choices and use each country's strategy as the backbone for decision-making to ensure the greatest development impact.The health sector is defined as the priority sector in the Albanian Strategy for the social and economic development.

1.1. PHC Provider Payment System and Albanian health care amount

From 1995 through 2007, HII funded only GP salaries. It was clear during this transition period that HCs had little or no management or operational autonomy. MOH and the HCs themselves were unable to monitor important elements of their medical activities, and no one was directly responsible for the success or failure in providing services to the population. The HCs had no indicators for measuring and evaluating the performance of providers, and there were few financial and professional incentives to improve the quality of their services.

In 2007, the GOA initiated a comprehensive reform of the health system. This led to a change in the method of funding providers, and began the transition of HII to a single-payer. This was followed by steps to consolidate the PHC budgets in HII, and to allocate it by region, and then to allocate it by Health Center. The Director of the HC (as well as a Board) would be responsible for managing the funds in the bank accounts for each HC. A contract process was designed between HII and each HC to specify the package of services to be provided in the HC in order to receive payments from HII. (National Health Accounts (NHA), Albania, July 27, 2010)

1.2 Health Care Reform and management of the civil servant in Albania

The Economics of Public Health Care Reform in Advanced and Emerging EconomiesPublic administration reform is another key priority of the Opinion. The adoption in May of the Civil Service Law, one of the measures required for obtaining candidate status, was a major step towards de-politicising public administration. The law, entering into force in October, is essential for building a professional, effective and merit-based public administration. It aims to create a consistent legal framework comprising state administration, independent institutions and local government units. It provides a clear classification of civil servants formally establishes a top-level management civil servants corps and provides the basis for a transparent recruitment and promotion system. (USAID, Albanian Reform 2013, pp 13)

2. Health management administration

The Administrative Council includes 11 representatives, one each from of MOH, Ministry of Labor, Social Affairs and Equal Opportunities, and MOF, the General Director (GD) of HII or his/her representative, the Director of the Social Insurance Institute or his representative, a representative of the workers' syndicate, a representative of the health care providers as defined by the Order of the Medical Doctor, a representative of the self-employed individuals and a representative of the consumers' association who represent the beneficiaries of the Fund The law abrogates existing legislation without providing the necessary transitory provisions until its implementing legislation enters into force; the government approved in September 2013 technical amendments to avoid this legal vacuum. Timely adoption of the secondary legislation compliant with the principles of the law and proper implementation is essential. The Law on General Administrative Procedures is still pending.

2.1 Social environment and social effects

Such attitudes are a reflection of the quality of life residents seek to enjoy and preserve, whether it is limiting growth in order to maintain the rural image of a small community; expanding the boundaries of the village; or providing a variety of housing choices to new, diverse residents and businesses. Changes in a community's social well-being can be determined by asking the individuals and representatives of groups or neighborhoods in the area to make explicit their perceptions and attitudes about the anticipated changes in the social environment.

2.2 Curent reforms in health care system

Any health reform to be undertaken has to take into consideration the existing informal payments, as gifts or as unofficial payments, made by own willingness or not. Recently the rules for formal payments from the uninsured persons are being enforced, this is supposed to decrease the informal payments, but at the

same time this carries the risk of excluding the poorest from health care service. Reforms should provide protection to the most vulnerable social groups, as poor, elderly, Roma and Egyptian minority, etc. Some of the current reforms undertaken or envisaged by the government are: the patient referral system; introduction of official fees; calculation of service costs; and digitalization and 'informatization' of the health care system. (ISKSH Albania reforms 2013)

3. Literature Review and Hypotheses

Declining rates of coverage and underinsurance are largely attributable to rising insurance costs and high unemployment. As the pool of people with private health insurance has shrunk, Americans are increasingly reliant on public insurance. Public programs now cover 31% of the population and are responsible for 44% of health care spending. Public insurance programs tend to cover more vulnerable people with greater health care needs. (USA Health indicators, Logann, Internet link, 2012)

In a more technical sense, the term is used to describe any form of insurance that provides protection against the costs of medical services. This usage includes private insurance and social insurance programs such as Medicare, which pools resources and spreads the financial risk associated with major medical expenses across the entire population to protect everyone, as well as social welfare programs such as Medicaid and the State Children's Health Insurance Program, which provide assistance to people who cannot afford health coverage. (Meddings F &Gottler A. Focus 2014). In Albania health care system, we are trying to implementation these good experiences.

3.1 Some data in Albanian conditions

The voluntarily insurance is another opportunity to be insured. The contribution rate is 3.4% of minimal month salary. Budget for the year 2011 is estimated to amount to 27.4 billion, or a 7% increase compared to 2010. This growth will make possible a salary increase of 4-5% on average for other health sector employees. The amount to be allocated for the drugs reimbursement will be also increased and it will amount to Lek 6.7 billion (Source: ISKSH, year 2010)

Visits carried out in primary health care / per year (no)
Persons examined at the family physician for the first time (no.)
Growing of the population interest to use the health system

Tab 1 Data analyze on 2010 year indicators of the health services utilization through health insurance scheme

The new residents and their associated activities will require a variety of services pro-vided by the areas public and private institutions. A social impact assessment must determine the quantity and variety of

anticipated needs. The goods and services most commonly included in a social evaluation are open space and parks; cultural and recreation facilities; education; health care; special care for the elderly, the disabled, the indigent and preschool-age children; police and fire protection; and a variety of administrative support functions. (Gotemm S, Jesr Usa, 2014)

The optimum amount of resources that would be required for the satisfaction of needs is based on either planning standards, which are guidelines established by professional organizations and government agencies, or service levels, which are observed national (or regional) average amounts of resources expended per capita or some unit of size.

H1: Albanian new health insurance law reforming in Albania, as a new vision of the health care system under EU standarts.

Health care costs have been growing rapidly in the past several decades. Since 1970, total real per capita health spending has increased fourfold, while spending as a share of GDP has increased from 6 percent to 12 percent in advanced economies. In emerging economies, total health spending has increased from below 3 percent of GDP to 5 percent. These increases have put great fiscal pressure on governments and financial pressure on households and businesses.

H2: A local health finance specialist was deployed prior to the arrival of two international consultants to perform the initial identification, collection, and review of documents relevant to HII's evolving history and mission, organizational structure, processes, and relationship with other health sector institutions.

The Health Insurance Institute (HII) has made significant progress over the last 15 years to movetoward a single-payer model for the implementation of compulsory health insurance coverage in Albania. This progress has been made in coordination with a national strategy for health reform bythe Government of Albania (GOA), the Ministry of Health (MOH), and other GOA and healthsector institutions. (ISKSH journal 2013)

H 3: The services have started to be fragmented and a higher priority is given to the quantity than to the quality. That the health insurance scheme currently includes all vulnerable categories, categories which are covered by the Albanian state

New programs, from mentoring to training to individual consulting support, can help support our next generation of development leaders, no matter where they are from.The National Health Accounts 2003 estimate that Albania spent 43.8 billion Lek (USD 360 million) overall on the health sector and per capita expenditures of 13,983 Lek (USD 114.7).

3.1 Public services and social impact of variety of life

The total expenditure on health is 5.9 percent of the GDP and is significantly higher than previous estimates that had placed health care expenditures at 2.9% of GDP. This level of expenditure is more in line with middle income countries and is lower than the average for European neighbor's countries. These partnerships do not mean that we write blank checks to foreign governments. Assessments are used to identify specific institutions that will be good partners.

3.2 Macroeconomic stability and influences in health care system

The imperfections in the health care market imply that governments must play an important role. However, there is no single model that delivers the best results across all countries. The pervasiveness of market failures and a desire to ensure that access to basic health care reflects need and not ability to pay have motivated extensive government involvement in this sector in advanced and emerging economies (Musgrove, 1996). The nature of government intervention (e.g., mandates, regulations, provision, and financing) has varied substantially across countries and over time, as has the level of public health spending. Source: (The economics of public health care reform in advanced and emerging economies, David C& Sanjeev G. – Washington, D.C)

4. Methodology

4.1. Research Goal

In this survey we aim to identify the mediating affect of Albanian health care reforms, under EU consideration we inspirate to go ahead. The review was conducted in April- December 2011, 2012, January –December 2013. We are formed 50 questionaries in health care institutions and 30 questionaries with ill people. The methodology used for the review consisted of:

- Collection and review of background documents prior to field work;
- Meetings to discuss objectives and processes with the EEHR team at the project office;
- Interviews with USAID and other counterparts;
- Interviews and data collection with key stakeholders at HII, MOH, and other relevant health
- sector institutions; DRSKSH (Directory of health care services) in Vlora, Tirana, Shkodra
- Site visits to regional facilities (Vlora, Tirana, Shkodra) and a private hospital in order to observe conditions and discuss various issues, relationships, roles, and responsibilities
- Analysis of findings and presentation of recommendations.

Coherent links among - infrastructure and economic development

	Indicator A	Indicator B	Indicator C	Indicator D	Criteria X
First choice	142	118	157	159	166
Second choice	142	71	52	63	141

$M_{R=}\frac{n1(n1+n2+1)}{2} = \frac{4(4+5+1)}{2}$ = 20 cases of health treatment Mr+Ms= Ifs 20+ (57/4) = Ifs

The synthetic estimator for function code *f* of state *g* is:

$$\hat{Y}_{gf} = \frac{X_{gf}}{\sum_{f} X_{gf}} \hat{t}_g^{DB}$$

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908441
ISSN 2661-264X (Print)

These indicator is auxiliary information which is Mrs+ Mss (indic of perf)* Miq(indic of quality)* Mdt(indicator of disease treatment)/ number of emergent case for month from patient and treatment of ill where Obtained (first choice and second choice) are indicated portion of

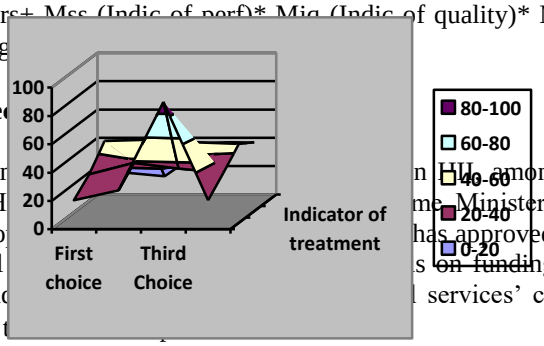
Census of Government and the state total, $\hat{t}_g^{DB}$ is obtained by the Decision-based from Equation, Mr+Ms= Ifs 20+ (57/4) = Ifs
In this study the criteria of indicator of sceerining is very high.

Given the increasing incidence of breast cancer disease and considering the important social policy struggle against this disease, we have set an important indicator for screening 80% of women at an age of risk (over 35 years) by the family physicians.With this result we treat the hypothese H1 and H2,

Indicator of HCF performance, this indicator, which is now part of the indicators of quality service, has been added so that the disease is caught in time, the increasing success of the treatment of these cases and decrease of mortality.also, another indicator of quality that has been added to the contract, has to do with a better examination of patients suffering from diabetes, taking account of the fact that this is a disease in expansion (we treat about 510 new cases per month) and with major consequences for the population.

values	21	14	55	26	27	47	17	28	29
Ranks	1	2	3	4	5	6	7	8	9
Performance of recover	12	35	45	56	67	68	69	98	95

Mrs+ Mss (Indic of perf)* Miq (Indic of quality)* MDT (Indicator of disease treatment)/ number of emerg



5. Re

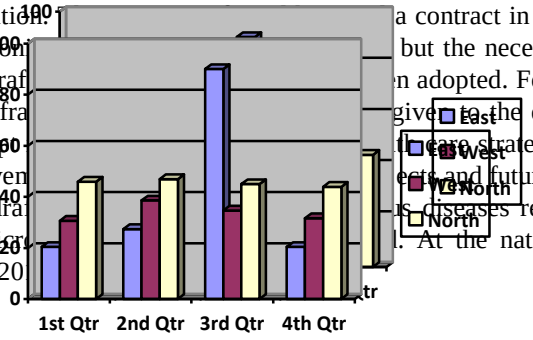
Recor n HL among other health sector stakeholders including the MOH me Minister's task force or at other Government levels as appro has approved the new contracts with health services providers of all s on funding at best the health centers based on the quality provid l services' costs and stricter controls for reimbursable drugs from t

6. Conclusions

All citizens of the Republic of Albania benefit from health insurance schemes, whether contributory or vulnerable categories, since the state contributes for the later. The contract emphasis the increase of the healthcare quality provided to the patients, through building capacities of health care personnel. This will

be achieved by the physicians' active participation in the system of Continuous Medical Education, as one of the priorities of HII funding policies. Another way of improving the health services quality is the financial motivation of health personnel based on everyone's performance and contribution.

The public hospital sector remains underdeveloped whereas the private sector is growing without proper regulation. a contract in January 2014 for the establishment of a National Electron but the necessary financial resources still need to be secured. The draf n adopted. For one reason or another, the services have started to be fra given to the quantity of services, than to the quality of health concep lthcare strategy in Albania is motivated extensive government involven ects and future plans. With regard to communicable diseases, a new dra s diseases remains to be adopted and national guidelines on antimicr . At the national level, reported immunisation coverage for 2013-20



References

Albanian Finance incomes 2009, pg 10, 45, *Albania and reforming economy*, www.economy Albania, com
An Overview of Public Administration in Albania pg 6 year 2008, *THANASI Durata (Internet link)*
Albanian publisher by Albania international bank 2010, report APA, net
Albania Government journal, pg 14, 27, 39 years 2009, *Albania Economy statistic facts*
Albanian government for educational priorities, report 2010 pg 12, 25,41,58,74
Alba DUMI, Roma Italy, "AIJS Journal" *The role of university in reformin of public sector*" 2012, pp 135
Alba DUMI "Albania health system under European Health indicators of development strategy", May, 2010, JERM, Jounal publish in USA, pp 1567
Albania Demographic and Health Survey 2008 – 09. Tirana, Albania: Institute of Statistics, Institute of Public Health and ICF Macro.

Bodie Zvi (Nobelist), "*Educational reforming strategy*" Merton Robert, Finance, (2002), foreword from Paul Samuelson, Nobelist.

Bishop, E. B. "*ROCE as s Tool for Planning and Contol", Long Range Planning*, 2, 4, 1969, 80-7.Bradler& Sediss *The raport Company*: Kingston, Ontario, 1989

Egamberdi, Nilufar; *Center for Economic and Social*
European Communities, L175, pages 40-48 "
Glueck, W.F. and Jauch, L. R. *Business Policy and Strategic Management*, 4th, edn, McGraw-Hill, New york, 1984
Higgins, J. M. 1983*Organizational Plicy and Starategic Management strategy 2nd edn*, Dryden New York,
Hofer, C, W. and Schendel, D 1983, *Dtrategy Formulation: Analytical Concepts*, West, St Paul,
Industrial Performance Analysis, 1987-1988 edn, ICC *Business Policy and Management* Capacity,2nd edn Irwin, Homewood, IL,1985.
ISKSH Fokus Magazine nr 14 year 2011, pp12 15 17, ISKSH Tirana Albania, Fokus Journal Year 2008, pp12,23,18

ISKSH Tirana Publishing Data, International Conference, pp 23

Institute for Public Health Journal, April 2009.Hoxha, A. International Society of Technology Assessment in Health Care.

ISKSH & MOH Data report Year 2010, pp 34,45,67,121

ISSN 2661-2666(Online) International Scientific Journal "Monte" DOI : 10.33807/monte.2.201908443
ISSN 2661-264X (Print)

EDUCATIONAL MEASURES ACCORDING TO ALBANIAN PENAL LEGISLATION

MIRGEN PRENÇE

Lecturer at Faculty of Law
Tirana Business University College

Abstract:
The paper analyzes the educational measures in the historical field beginning with the Albanian Criminal Code of 1928 until nowadays. The criteria for providing educational measures under the criminal legislation, as well as the assignment and revocation of educational measures, are analyzed. There are comparable types of educational measures under current criminal legislation to those of previous criminal codes to see what educational measures are appropriate to be put in legislation. Comparative aspects occupy a special place where our legislation will be compared with educational measures with some of Balkan states.

Key words: Educational Measures, Legislation, Criminal Law, Prevention, Penalty

Historical Review of Educational Measures

Educational measures although not specifically, they were grouped in the 1928 Criminal Code. At the request of the prosecutor, the court could decide that the juvenile should be locked up in an institute of education and improvement until he reaches the age of twenty. The court may revoke the closing decision at an institute of education and improvement and decide that the child be handed over to the parents or the person responsible for the education.

The criminal law[1] provided sanctions when the child was given to their parents or the responsible person for his education. In these cases[2] the court gave orders to take care for the child, the parents or the responsible person for his education. These people had the obligation to see the behavior of the child. If they did not realize that the kid perform any kind of delinquents, had to pay a fine from one hundred to five hundred gold francs.

The educational measure could be applied when for the committed offense is predicated a sentence of imprisonment, not less than one year.

Almost the same educational measures are also noted in the Criminal Code of 1952. Article 39 of this code provided as educational measures for the juvenile to be handed over the care of the parents, adopters, loved ones and other close relatives, have the opportunity to keep it, people or institutions and lock in a special institution of education and treatment.

[1] Article 54 par.1 Albanin Criminal Code, 1928.
[2] Article 54 par. 2 Albanian Criminal Code, 1928.

The Criminal Code of 1977 in Article 28 provided two educational measures: the placement of a minor in an educational institution and the leniency of the person for education to the collective or social organizations. With the changes in 1988, the following educational measures were added: social reprimand, the impetus for the attestation for one year, the assignment to a job that is paid less in 6 months in the same enterprise, institution and social organization, other social organization or organization within the district, prohibition of exercising a particular activity or skill for a period of one to five years and dismissal. Warning or reprimand by the police may be applied to those children who have committed minor offenses[3].

Regarding juvenile legislation, states can be classified into two groups.

The first group includes those countries that do not have a special law on juveniles in the legislation, but have a special chapter dealing with juvenile affairs in the Criminal Code. Here are parts of countries such as Hungary, Bulgaria, Slovenia, Lithuania, etc.

The second group includes those countries that have a special law on minors in domestic legislation. In this category are: France, Germany, Albania, Germany, Switzerland, Romania, Croatia, Serbia, Macedonia, Kosovo.

The Committee on the Rights of the Child emphasizes the fact that many provisions are left at the discretion of the Member States of the Convention on the Rights of the Child. Discretion is also related to laws and procedures. They may be dealt with in separate chapters in the general part of the Criminal Code and the Criminal Procedure Code or set out in a separate law[4].

There are countries where no person below the age of 18 is sentenced to imprisonment. These young people are under the auspices of social agencies and are not in countries that are part of the criminal justice system[5].

For juveniles, detention should be the last measure given and should be applied in special cases[6].

[3] Femi Sufaj, Marinela Sota, Rasim Gjoka, *Manual trajtimi per profesionistet qe punojne me femijet ne sistemin penitenciar*, INFBOTUES, Tirana, 2012, p. 11.
[4] Committee on the Rights of the Child, General Comment No. 10 "Children's rights in juvenile justice", p. 24. http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf
[5] Femi Sufaj, Marinela Sota, Rasim Gjoka, *Manual trajtimi per profesionistet qe punojne me femijet ne sistemin penitenciar*, INFBOTUES, Tirana, 2012, pp. 13-14.
[6] Femi Sufaj, Marinela Sota, Rasim Gjoka, *Manual trajtimi per profesionistet qe punojne me femijet ne sistemin penitenciar*, INFBOTUES, Tirana, 2012, p. 14.

States that are part of it, are obliged to take all measures to protect children from entering into conflict with the law. As a result of the lack of juvenile justice policy, the states only provide some statistics on the measures given to children who are in conflict with the law[7].

At the moment when an educational or educational measure is taken, the age of the child should be taken into account, reintegrating the child into society and taking a constructive role in society. This principle applies throughout the process of dealing with the child at the time of contact with the law enforcement agencies. It is necessary for the persons involved in the administration of juvenile justice to take into account child development and persistence[8]. In the doctrine was mentioned the idea that:

After the adoption of the Constitution in 1998, several important laws have been passed, which have completed the legal framework of the juvenile justice system, such as Law no. 8328 dated 16.04.1998 "On the rights and treatment of prisoners and detainees", Law no. 8331 dated 21.04.1998 "On the execution of criminal decisions", Law no. 8677 dated 02.11.2000 "On the judicial police", Law no. 8678 dated 14.05.2001 "On the organization and functioning of the Ministry of Justice", Laws on the State Police, the Prison Police, the organization of the judicial power in the Republic of Albania, etc[9].

All the laws mentioned above play an important role in the juvenile justice system, but it can't be said that the juvenile justice system is complete. The fact that the juvenile justice system is incomplete shows the inclusion of juvenile justice in justice reform.

The establishment of juvenile justice is indispensable, even delayed. This should be integral to the reform in justice, as Albania has a discrepancy between the standards set by the many international children's rights documents, dating back to the past and the projections in the law, between the standards for a friendly juvenile justice foreseen in different laws and degree of recognition and respect for them in practice; the number of children in contact with justice and the forms of reaction of the justice system[10].

There was a need for a specific law on juvenile justice to offer those who are charged or punished for criminal offenses, but also those who are victims or witnesses of these offenses, protection and treatment that is needed, other than adults[11].

[7] Commitee On The Rights of The Child, Children's rights in juvenile justice, 2007, p. 3. https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf
[8] Commitee On The Rights of The Child, Children's rights in juvenile justice, 2007, p. 6. https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf
[9] Femi Sufaj, *Sistemi i drejtesise per te mitur ne Shqiperi krahasuar me standartet nderkombetare* , Revista Shqiptare per Studime Ligjore, nr.1/2011, p. 66.
[10] Part of the speech of Prof. Dr. Vasilika Hysi ne kuader te tryezes se konsultimit publik me teme "Drejtesia e te Miturve ne fokus te Reformes se Sistemit te Drejtesise ne Shqiperi", http://www.reformanedrejtesi.al/aktivitet/drejtesia-e-te-miturve-ne-fokus-te-konsultimit-publik-per-reformen-ne-sistemin-e
[11] Part of the speech of Renate Winter, anetare e Komitetit te OKB-se mbi te drejtat e femijes ne kuader te tryezes se konsultimit publik me teme "Drejtesia e te Miturve ne fokus te Reformes se Sistemit te Drejtesise ne Shqiperi", http://www.reformanedrejtesi.al/aktivitet/drejtesia-e-te-miturve-ne-fokus-te-konsultimit-publik-per-reformen-ne-sistemin-e

January 1, 2018, Law No. 37/2017 "Law on Juvenile Justice" entered into force. Albanian lawmaker made steps in advance to protect the juvenile, providing for special rates for minors who commit criminal offenses.

From previous studies it has been noted that there were no specific services for children under the age of criminal responsibility, under 14 years of Albanian criminal legislation and who commit criminal offenses[12].

These specific services were created by the Law 18/2017 on the Rights and Protection of the Child, by the Council of Ministers Decision no. 635 date. 26.10.2018 for the activity of child protection structures, regarding the underage child for criminal responsibility, who is suspected or committed a criminal offense.

Implementation of educational measures

The Albanian lawmaker had erroneously provided for a provision as medical and educational measures without defining what was meant by them, but this matter was regulated by the entry into force of Law no. 36/2017 amending Article 46 of the Criminal Code and for educational measures refers to the Juvenile Justice Code.

Article 46 of the Criminal Code refers to the Juvenile Justice Code for the application of educational measures, but the Juvenile Justice Code in Article 4 provided in this Code do not include juveniles who commit criminal offenses under the age of accountability criminal. This category of minors has been excluded from the application of the Juvenile Justice Code.

Law 18/2017 on the Rights and Protection of Children has provided for protection units for children who commit criminal offenses and are under the age of 14 (excluded from criminal liability), child protection workers in the administrative unit of the municipality [13]. According to Article 55, paragraph 2, letter dh) of Law 18/2017 On the rights and protection of the child protective measures are imposed on a minor who has committed a criminal offense and, because of his age, has no criminal responsibility;

Law 18/2017 On the Rights and Protection of Children in its Article 66 provides for specialized oversight measures for under-age children for criminal responsibility such as:

a)going to school on a regular basis;

b)participation in activities of pre-service services;

c) the pursuit of medical treatment or psychological counseling;

[12] Aida Bushati, Geron Kamberi, Florian Xhafa, Holta Ymeri, Mona Xhexhaj, Nirvana Deliu, Sajmira Kopani, Konventa per integrim europian. Vleresime dhe rekomandime 2015-2016. Levizja Europiane ne Shqiperi, FLESH, Tirane, 2016, p. 28

[13] Article 50 of Law 18/2017 Per te Drejtat dhe mbrojtjen e femijes.

ç) Prohibitions to go or attend certain places.

In the case of a minor who has no criminal responsibility because of age, it is necessary to place a minor under a rigorous control regime to prevent his behavior with damaging consequences for society[14].

Educational measures can be classified into two categories:

a) Educational measures that apply under the Juvenile Justice Code when persons have criminal responsibility.

b) Educational measures that apply under Law 18/2017 on Rights and Child Protection for Children Exempt from Criminal Responsibility because they have committed a criminal offense when they have been under the age provided by law to have criminal responsibility.

The court is not obliged to provide an educational measure, but has the freedom to impose a sanction or educational measure. As provided by the provision, they are provided only by the court and not by another institution such as the prosecution or the police.

Article 55 of the Juvenile Justice Code provides for the conditions of avoiding prosecution when it comes to criminal offenses foreseeing a sentence of up to 5 years and when the other conditions provided for in the law are met, the prosecutor or the court may introduce educational measures for the minor.

The categories of people who are taken educational measures are: to children under the age of 14 who have no criminal responsibility and to children over 14 years in case they exclude from criminal liability (in the case of commission of the criminal offense the court did not appeal imprisonment but applies an educational measure).

The penal code does not provide for the minimum age when such a measure may be applied, whereas in relation to the age of the maximum application of this measure it is defined indirectly because it applies to minors, e.g people up to 18 years.

The educational measure of placement of a minor in an educational institution is irrevocable at any time when the circumstances for which this measure is abolished. The court has the legal obligation to review its decision from the moment one year has elapsed from the day of its decision.

The court must be careful when applying a measure restricting the freedom of the person such as imprisonment. When the court apply an educational measure and another restricting freedom should take into account the best interest of the child, the right to enjoy a better health status

[14] Shefqet Muçi, *E drejta penale. Pjesa e pergjithshme*. Albdesign, Tirane, 2017, p. 305.

and to benefit from the treatment of illness and health rehabilitation, the development of the personality, the gifts, the mental, social and physical abilities of the child.

Having the obligation deriving from the Convention on the Rights of the Child to take all legislative, administrative, social and educational measures to protect children from various forms of violence, ill-treatment, exploitation or sexual abuse, the court must apply a measure educational and, in exceptional cases, a measure that limits the freedom of the person[15]. In most cases, juveniles commit minor offenses and in many European countries these issues are resolved quickly and a sanction is imposed on juveniles, while in Albania it happens because such processes last for years and do not serve the minor's rehabilitation to be integrated as soon as possible in the society[16].

Comparative Review of Educational Measures

Kosovo:

Educational measures in Kosovo are provided in the Juvenile Justice Code. Article 20 of this code classifies educational measures that are assigned to minors in three categories:

1) mass-disciplinary;

2) added surveillance measures;

3) institutional measures.

Disciplinary measures include: judicial reprimand and send juvenile to a disciplinary center. These measures are assigned to a minor offender when the offense is committed by negligence. Additional surveillance measures presuppose increased supervision by the parent, adoptive parent, guardian or guardianship body. These measures are imposed on juveniles whose interests do not require isolation from their previous environment and are implemented in a long-term manner that the juvenile offers the opportunity for education, rehabilitation or treatment. The duration of this measure may not be less than three (3) months or longer than two (2) years.

Educational institutional measures are: send the juvenile to an educational institution, to a Correctional Education Institution or to the Special Care Institution. These measures are imposed on juveniles whose interests best suit their segregation from the previous and long-term environment, providing the minor with the opportunity of education, rehabilitation or treatment.

[15] Article 19 of Convention on the Rights of the Child.
[16] Etilda Saliu, *Masat e sigurimit personal per te miturit si autore te vepres penale*, Avokatia, no. 14/2015, p.59.

The lawyer has also established a general condition for all types of educational measures that have to do with not exceeding the maximum term of imprisonment foreseen for the criminal offense.

The duration of the educational measure may not exceed the maximum term of imprisonment foreseen for the criminal offense. Article 21 of the Juvenile Justice Code sets out the rules for the implementation of various educational measures.

Macedonia

Educational measures in Macedonia are almost the same as those of the Republic of Kosovo. Article 31 of the Law on the Rights of the Child provides for these educational measures:

1) Reprimand or dispatch to the Disciplinary Center for Minors;
2) Supervision by the parent, guardian, or dependent family;
3) Entity measures: instruction in the educational institution or correctional educational home.

The following Article 34 provides for the conditions for the implementation of various measures.

In the case of children committing criminal offenses, there is a kind of tension between education and punishment. This is also noticed in the legal reforms that took place in Germany in 1990, in the Netherlands in 1995, in Spain in 2000 and 2006, in Portugal in 2001, in France and in Northern Ireland in 2002, in Lithuania in 2001 in Czech Republic in 2003[17].

In England, educational and disciplinary measures applied to children range from 10 to 18 years old age.

Recommendations of the Council of Europe

Responding to juvenile offenders should be multifaceted several factors that need to be taken into account: the individual, the family, the school, and the community[18].

When a minor commits a criminal offense, the main purpose at the moment when an educational measure is awarded, is to prevent the commission of criminal offenses, their reintegration[19].

It is necessary that the legal norms to deal with educational measures should also apply to people who are young adults and have reached the age of 18. The purpose of applying adult

[17]Frieder Dünkel, *Juvenile Justice Systems in Europe-Reform developments between justice, welfare and 'new punitiveness'*, Kriminologijos Studijos, no.1/2014, p. 35.
[18] Recommendation Rec (2003) 20 of the Committee of Ministers to member States concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.
[19]Recommendation Rec (2003) 20 of the Committee of Ministers to member States concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

education to adults is that this category is moving from childhood to adulthood, is in a kind of transition. It should be emphasized the fact that there are a number of acts of international character that support the application of rules that are related to the minor to the young adult. For example The Convention on the Protection of the Rights of the Child, Rule 3.3 of the Rules of the Beyizhin, Article 17 of Council of Europe Recommendation CM / Rec (2008) 11 on sanctions and measures applied to young authors.

Recommendation CM / Rec (2008) 11 of the Council of Europe on sanctions and measures applied to new authors does not expressly provide for the types of sanctions or educational measures that apply to juveniles, but sets out some criteria to support states.

The recommendation in point 24 provides that states should envisage in domestic legislation:

a) the definition and manner of applying the sanction and the measures applicable to juveniles;

b) any condition or obligation that is the consequence of such an offense or measure;

c) cases where it is necessary to approve the juvenile before the application of the sanction or measure;

d) Institution responsible for establishing, amending and enforcing sanctions or measures;

e) procedures related to the change of sanction or measure;

f) Procedures for the regular and external monitoring of the implementing institution.

Conclusions:

In order to avoid ambiguity and make it easier to implement and understand educational measures, the Albanian lawmaker should amend Article 46 of the Albanian Criminal Code, where the referral should not refer only to the Juvenile Justice Code but also to the special law dealing with educational measures for juveniles who commit criminal offenses but are excluded from criminal liability.

From the analysis of Albanian legislation and that of Macedonia and Kosovo we noticed that the changes are not very large because the Juvenile Justice Code has been adapted to the juvenile crime legislation with European states.

Bibliography:

Aida Bushati, Geron Kamberi, Florian Xhafa, Holta Ymeri, Mona Xhexhaj, Nirvana Deliu, Sajmira Kopani, Konventa per integrim europian. Vleresime dhe rekomandime 2015-2016. Levizja Europiane ne Shqiperi, Flesh, Tirane, 2016.

Etilda Saliu, *Masat e sigurimit personal per te miturit si autore te vepres penale*, Avokatia, no. 14/2015.

Femi Sufaj, Marinela Sota, Rasim Gjoka, *Manual trajtimi per profesionistet qe punojne me femijet ne sistemin penitenciar*, INFBOTUES, Tirana, 2012.

Femi Sufaj, Sistemi i drejtesise per te mitur ne Shqiperi krahasuar me standartet nderkombetare , Revista Shqiptare per Studime Ligjore, nr.1/2011.

Frieder Dünkel, *Juvenile Justice Systems in Europe-Reform developments between justice, welfare and 'new punitiveness'*, Kriminologijos Studijos, no.1/2014.

Shefqet Muçi, E drejta penale. Pjesa e pergjithshme. Albdesign, Tirane, 2017.

Committee on the Rights of the Child, General Comment No. 10 "Children's rights in juvenile justice". http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf

Part of the speech of **Prof. Dr. Vasilika Hysi** ne kuader te tryezes se konsultimit publik me teme "Drejtesia e te Miturve ne fokus te Reformes se Sistemit te Drejtesise ne Shqiperi", http://www.reformanedrejtesi.al/aktivitet/drejtesia-e-te-miturve-ne-fokus-te-konsultimit-publik-per-reformen-ne-sistemin-e

Part of the speech of **Renate Winter**, anetare e Komitetit te OKB-se mbi te drejtat e femijes ne kuader te tryezes se konsultimit publik me teme "Drejtesia e te Miturve ne fokus te Reformes se Sistemit te Drejtesise ne Shqiperi", http://www.reformanedrejtesi.al/aktivitet/drejtesia-e-te-miturve-ne-fokus-te-konsultimit-publik-per-reformen-ne-sistemin-e

Recommendation Rec (2003) 20 of the Committee of Ministers to member States concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

Albanin Criminal Code, 1928.

Law 18/2017, Per te Drejtat dhe mbrojtjen e femijes.