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# The Heritage





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# THEORIES ON CRIME, CAUSES OF MANIFESTATION, TYPOLOGY, STRUCTURE, ACTIVITIES AND CONDITIONS

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## Abstract

In this deductive-inductive scientific research of the descriptive type, they aim to help researchers in understanding the complex social phenomenon of crime, through the theoretical reflection of theories on crime. In this study we will examine the current literature on theories and typologies of organized crime based on scientific arguments. Crime typologies can be categorized into three groups: 1. models that focus on the physical structure of the operation of an organized crime, 2. the activities of organized crime and 3. the social, cultural and historical conditions that facilitate the activity of organized crime. The study will focus on the study of theories on crime and the examination models of the physical structure as well as the functioning of an organized crime organization. The theories on the study of crime have been developed independently from the theoreticians of each theory, and the typologies on the structure of organized crime have been developed mainly isolated from each

other and seem different. In this research will analyze theories on crime, typologies to determine their individual elements.

**Key words:** *crime, typologies, structure, activity.*

## Introduction

Crime is an intentional act (individual or group) in violation of criminal law, committed without defense or justification and prosecuted by the state as a crime or misdemeanor. So a crime comes as a result of the violation of a specific criminal law. Criminal law deals with acts committed against society as a whole, and criminal offenses, also known as crimes. This can be distinguished from civil law which relates to complaints between individuals or, indeed, individuals and businesses such as companies and other organisations. Crime presented a historical social phenomenon, which is not excluded from any society, state or life of a person, but keeps pace with the social, economic, political and technological evolution of human society, under the influence of many factors, social, economic, political, geographical, biological, psychological.

Criminal punishments for violating society's norms have existed since ancient times, but the first reported use of the word "crime" was around 1250, during the Middle Ages, also known as the medieval era, which lasted from the end of the V's. until the end of the 15th century. The etymology of the word, 'crime' comes from the Old French word *crimne*, which is derived from a word *crimen*, a Latin word, the definition is an accusation, indicating 'I give judgment' or 'I decide'. As is often the case, there is a level of uncertainty about the exact meaning of the word crime and exactly where it originated. Historian and linguist and Canadian dictionary author, Rabbi Ernest Klein, claims that the Latin word *crimen* actually came from the ancient Greek word *Krima*, whose definition is punishment or a judicial sentence, originally, crime came from the phrase, the cry of distress, suggests Rabbi.

Viewed historically, crime as a criminal offense has an ancient history, generally manifested in the archaeological period known as the Middle Paleolithic era, which spans between 35,000 and 300,000 years ago, when Neanderthals lived on earth. The first recorded crime of homicide is believed to have occurred around 430,000 years ago; it was an act performed by those known as *homo heidelbergensis* or *homo antecessor*. It could have been

another species, but archaic homo sapien is a safe bet and covers all the bases. But the murder of this primitive man found in Northern Spain was certainly not the first case of committed murder; for the very nature of human beings and of our ancestors lends itself to vengeful, punitive, and otherwise selfish actions against other members of our species. General theories of crime and delinquency recognize that a comprehensive event of crimes and deviance can be processed using limited explanatory factors. These small explanatory factors illustrate all types of crime for all members of the population and every dimension of criminal careers. Studying the general theory of crime is important because it helps individuals understand crime and criminal justice. Ideas discuss the making and breaking of the law, criminal and deviant behavior, and patterns of illegal activity. Criminology and criminologists study crime. Criminologists seek to explain the reasons why people commit crimes (break the criminal law) and behave in a criminal manner. The determining factors of crime are of nature; biological, psychological, social, economic, political, geographical, demographic, etc.

### **Biopsychological theory**

The representatives of the psychobiological theory try to explain the crime depending on anomalies or organic disorders, believing that endogenous (internal) factors are determinants in the criminal behavior of persons, behavior that is inherited genetically. The founder of the biological theory, Cesaro Lombroso, developed his famous theory on "Innate Crime", or "Atavistic Crime" in his famous work "L'uomo delinquente" <sup>1</sup>. In the wake of his biological and anthropomorphic studies carried out on prisoners, Lombroso came to the conclusion that the criminal is a kind of atavistic species "reproducing in himself primitive savage instincts, the instinct of the lowest animals", degenerate, unmasked by a series of physical and mental anomalies, easily recognizable by physiognomy (external appearance); huge jaw, raised cheekbones, big ears, raised forehead, insensitivity to pain, tattoos, etc.)<sup>2</sup>

According to Lombroso, the born criminal is psychologically characterized by these features:

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<sup>1</sup> . This work was published in 1876 with the title "L'uomo delinkuente studiato in reporto alla Anthropologia, alla Medicina legale ed alle discipline carcerarie". After some corrections, in the fifth and last edition (1897), it came out with the title: L'uomo delinkuente in tapporto alla Antrapologia, alla Ggiurisprudenza ed alla Psichiatria.

<sup>2</sup> . Ponti and Marzagora, Compendio di Criminalogia, op. and cit., p.68.

- moral insensitivity,
- Premature antisocial immaturity,
- bragging,
- Light-headedness, instability.<sup>3</sup>

Theoreticians of the Italian positivist theory, Lombroso, Ernico and Raffaele Garofalo (the biggest representatives of the Italian positivist school) gave great value to studies with a biological tendency towards crime, but also recognizing exogenous (external) factors of the type social factors that affect the criminal tendency. According to Garofalo, "there is a class of criminals who have psychic anomalies and very often anatomical anomalies, of a non-pathological character, but degenerative or regressive and sometimes atypical, for which they lack a sense of altruism and act only on the basis of their own desires. These are the ones who commit murder for simple motives of selfishness, without being influenced by prejudices, without the indirect involvement of the social circle".<sup>4</sup> Also according to Garofalo, there are two subclasses of criminals; "The first is individualized based on the lack of feeling of mercy. Under this quality, they may commit serious anti-social behavior under the influence of social, political or religious instigators. The second is composed of individuals without a sense of honesty (due to atavism or heredity, strengthened by motives of the social circle) that appears, generally, in less violent criminal forms".<sup>5</sup> But the issue of crime cannot be determined or defined only by a medal, but must be seen as the entirety of the complexity of the phenomenon. Which means that the biopsychological theory did not find the form, the way nor the right way of dealing with the issue of crime based only on the biopsychological aspect but not on the genetic aspect of the phenomenon, in a word the biopsychological theory is not the only way that scientifically to define the phenomenon such as crime.

### **Theory of social disorganization**

The theory of this theory focuses on the explanation of crime with the lack of socialization in individuals, this is due to learning, defects during childhood or due to imitation, association, or integration in different criminal groups or subcultures. According to this theory, the family, school,

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<sup>3</sup> .Lombroso, C. (1896) *L'uomo delinquente in rapporto all'antropologia, alla giurisprudenza ed alle discipline carcerarie*, edition V, Turin: Fartelli Bocca Editori, p. 428.

<sup>4</sup> .Garofalo, R. (1890) *La Criminologie. Etude sur la nature du crime et la theorie de la penale*, Collection Etude, Kindle Edition, p. 80.

<sup>5</sup> .Ibid., p. 42.

community, friendship, etc., are instances that create the process of individual socialism, they are the ones that favor or intervene in this process.<sup>6</sup> Unfortunately, even the theory of social disorganization did not manage to deal with the phenomenon of crime in a scientific analytical way, basing itself on some variables of the phenomenon.

### **French cartographic and sociological theory**

Based on scientific data in the first half of the 19th century, in the study of crime and criminality, researchers begin to pay attention to the processing and analysis of criminality data, this approach was realized thanks to a group of French sociologists, who were gathered around the school of moral statistics, and the cartographic school led by its main representatives; Quetelet and Guerry, and then the sociological school (or otherwise known as the French school of Lyon, whose most prominent representatives were; Lacassagne and Trade),<sup>7</sup> who studied the phenomenon of crime as a social phenomenon, opposing the ideas of the Italian positivist school, mainly the thesis on innate crime.<sup>8</sup>

After publishing the first crime statistics on a national scale, Guerry published a scientific study in which, through the use of ecological maps, it gives different crime indicators depending on different social factors, highlighting the studies that linked crime with poverty, as well as the lack of accompanying schooling. Guerry, I come to the conclusion that poverty is not in itself the cause of crimes against wealth, but the main cause is found in opportunity. Regarding the issue of education, it was concluded that the areas with the highest level of education had the highest indicators of violent crimes, while the lowest indicators of these crimes corresponded to the lowest levels of education.<sup>9</sup>

The analytical study of criminal statistics led "Adolphe Quételet" to present the hypothesis of relative deprivation, which referred to people's awareness of social inequalities. This can leave room for the appearance of

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<sup>6</sup> .Singel & Welsh, *Juvenile Delinquency*, op. Quoted. Page 132. Hassemer & Munoz Conde, *Introduccion a la Criminologia*, Vep, e cit., Page 78.

<sup>7</sup> . Hysi, *Criminology*, op. E cit. page 94. Hagan, *Introduction to Criminology*, op. cit. , page 164.

<sup>8</sup> .Siegel, *Criminology*, op. cit. , page 188.

<sup>9</sup> .Bernard, Snipes, Gerould, *Vold's Theoretical Criminology*, vep, e cit, page, 94-95. Jones, *Criminology*, op. cit., p. 81-82.

feelings of injustice and bitterness,<sup>10</sup> as an influencing factor in the commission of criminal offenses in the poor classes, proving that crime is a necessary result of social organization in such a way that "society prepares criminals and the guilty are only the means by which they are executed".<sup>11</sup> In his study, Quételet showed the opinion that minors were more prone to crime compared to adults. According to him, crime is a social, mass phenomenon, not an individual; it is a surprisingly regular and constant size; and it is a normal phenomenon, in the sense that it is inevitable, sustainable, regular, necessary.<sup>12</sup> Meanwhile, Alexander Lacassagne highlights the importance of the social environment (middle society). He distinguished two classes of criminogenic factors; Individual (of somatic or physical character) that would have to do with the social tendency, decisive in committing criminal behavior.<sup>13</sup> According to him, the social environment in the broadest sense; (physical, climatic, and above all human) is a crucial factor in the appearance of crime, society holds in its bosom the seeds of all crimes that will be committed. It therefore comes to the conclusion that criminality can be reduced if the social causes that feed it, encourage it change or are transferred.

The last but not least known of this school was Gabriel Trade, who published a series of laws to give a better meaning to crime and criminality, among the most well-known is the law of imitation, so according to him one person imitates another in depending on the frequency of contacts they have with each other. After applying this law during the studies of criminality, he came to the conclusion that crime, being a social behavior, can be an imitated behavior and in the murder of the place where it takes place, it can be a fashion object or become a habit, in a tradition that is passed down.<sup>14</sup> As with other theories on crime, neither the French cartographic and sociological theory, failed to fully explain the phenomenon of crime, the complexity, the dimension that constitutes crime, failed to elaborate in a scientific way, because it was based only on the social component of crime, not the

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<sup>10</sup> .Garrido and Redondo, *Principios de Criminology*, vep, e cit, page, 87. Hassetmer and Munoz Conde, *Introduccion a la Criminology*, vep, e cit, page. 80-81.

<sup>11</sup> .Cited by Jones, *Criminology*, op. e cit, page, 82. Brenard, Sinaps and Gouldner, *Vold's Theoretical Criminology*, op. e cit, page, 96.

<sup>12</sup> . Siegel, *Criminology*, op. cit., p. 188. Brenard, Sinaps and Gouldner, *Vold's Theoretical Criminology*, op. cit., p. 95.

<sup>13</sup> . Cited by Gassin, R., Cimamonti, S. and Bonfils, Ph. (2011) *Criminologie*, edition VII, Paris; Dalloz, page, 185.

<sup>14</sup> . Nunez and Alonso Perez, *Naciones de Criminologia*, op. cit., p. 59

dimensions. other crimes, so it remained a one-dimensional, non-comprehensive theory.

### **Ecological Theory (Chicago School)**

The Chicago school was founded by Robert E. Park<sup>15</sup>, which is based on the study of criminality from an ecological point of view, connecting criminal phenomena with the social structure in which it develops under the function of the surrounding environment (social disorganization).<sup>16</sup> The main representatives of this school were Clifford R. Shaw and Henry D. McKay who conducted their studies in three directions:

1. Ecological studies that analyzed the geographic distribution of criminality (geographic and demographic factors);
2. The creation of crime prevention programs, known as the Chicago Area Project, as well as;
3. Collection of autobiographies of criminals that produced three true stories.<sup>17</sup>

The main idea of the ecological school was the "zonal hypothesis" raised by Ernest W. Burgess as an illustration of the analysis of crime in the city of Chicago. He divided the city into five zones.

The inner area was the central shopping district (area 1). The closest area is the "transitional area", a damaged open space where factories, suburbs and Chinatown are located (area 2). Furthermore, there is the third area where the workers live (many of whom have "run away" from area two, this included area 3) and area 4 and 5 constituted the areas with the most influx of housing away from the level of the surroundings. The hypothesis had to do with the fact that the newcomers, who were initially settled in the transitional zone,

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<sup>15</sup> . Robert Ezra Park (February 14, 1864 – February 7, 1944) was an American urban sociologist who is considered to be one of the most influential figures in early US sociology. Park was a pioneer in the field of sociology, changing it from a passive philosophical discipline to an active discipline rooted in the study of human behavior. He made significant contributions to the study of urban communities, race relations, and the development of empirically based research methods, particularly participant observation in the field of criminology.

<sup>16</sup> . Hagan, Introduction to Criminology, vep, e cit, page, 174.

<sup>17</sup> .Moyer, I. (2001) Criminological Theories. Tradition and nontradition voices and themes, Thousand Oaks, CA: Sage Publication, page 111. Hagan, Introduction of Criminology, own, cited, page 175-176.

would improve their situation if they moved to zone 5. If the city grew significantly, the spaces that had been in zones 3 and 4 could be merged and form part of the transitional area, with its same problems.<sup>18</sup>The phenomenon of crime cannot be explained in a partial or local way, but in a comprehensive and global way, that's why it looks like Ernest W. Burgess. According to Shaw and McKay, criminality and crime in individuals has its origin in the non-major phase of their lives, therefore the most appropriate way to prevent crime and criminality according to Shaw and McKay is prevention in the good. Therefore, the cornerstone of their theory of the study of juvenile delinquency (the ecological studies of delinquency initiated by Burgess), is the study of neighborhoods, which highlights in the city of Chicago a relationship between:

1. Areas where juvenile criminals live (spot maps);
2. The total percentage of the juvenile population and specific data of those who have had relations with the criminal justice system (rate maps);

#### **The distribution of criminality in certain areas (zone maps).<sup>19</sup>**

Based on the studies carried out for several years in a row; Shaw and McKay draw this conclusion, that the difference between criminals and those who are not such has nothing to do with individual traits or characteristics (personality, intelligence or physical conditions), but with the characteristics of the respectable neighborhoods where they live.<sup>20</sup>Specifically, the authors affirm that the neighborhoods with the highest indicators of criminality are neighborhoods that also have other problems such as; the spread of industry, immigration, damaged houses (buildings), infant mortality and disease, add to the fact that the residents of these neighborhoods are economically weaker in the city.<sup>21</sup>They clearly explained the criminal traditions of these disorganized neighborhoods from a social point of view, where the secret connection of children with gangs and other forms of crime is important, contacts with groups and their activity gave them the opportunity to learn the techniques of acting criminal, as well as joining their friends in crime. In this way, they

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<sup>18</sup>. Jone, Criminology, op.cited, page, 93. Siegel and Welsh, Juvenile Delinquency, op.cited, page, 236.

<sup>19</sup>. Shaw, CR and McKat, HD (1872) Juvenile Delinquency and Urban Areas, ed II, Chicago, p 173.

<sup>20</sup>. Lundman, RJ (2001) Prevention and Control of Juvenile Delinquency, ed. III, New York: Oxford University Press, pg, 59. Siegel and Welsh, Juvenile Delinquency, , op.cited , pg, 136.

<sup>21</sup>. Shaw, CR and McKat, HD (1872) Juvenile Delinquency and Urban Areas, op. cit., 69-71, also Curran and Renzetti, Theories of Crime, op. cit., p. 102. Lundman, Prevention and Control of Juvenile Delinquency, op.cited, page, 65.

acquire characteristics related to the position they have as members of these groups.<sup>22</sup>

According to these researchers, crime and criminality have their roots in the dynamic life of the community, summarizing their analysis in this way; "in the less economically developed areas, where there is a lot of poverty and frustration; where in the history of the city the immigrant groups have brought a variety of culturally different institutions and traditions; where there are great disparities between the social values to which the population aspires and the availability of facilities to obtain these values in a conditioned form, the development of crime is a very distinct form of organized life. <sup>23</sup>Theory studies (Chicago school) offer an overture of crime in their city, but in other cities and other societies crime has a different perspective, and that crime as a global phenomenon cannot be elaborated based on a local example.

### **Learning theories on crime**

The most prominent exponent of learning theory is undoubtedly Albert Bandura, (Albert Bandura's social learning theory suggests that observation and modeling play a primary role in how and why people learn. Bandura's theory goes beyond the perception of learning as a result of direct experience with the environment), this theory tries to explain the phenomenon of crime in society through people's behavior interacting mutually with the factors of knowledge, behavior and environment, <sup>24</sup>undermining the decisive role played by social variables in explaining the development and modification of human behavior, as well as the formation of individual personality. The theory emphasizes the fact of childhood behavior (social learning) of children up to adulthood, as well as emphasizing the importance of the experience of learning in childhood and adolescence to encourage, form and maintain patterns of behavior. <sup>25</sup>In the first way, they try to explain "deviant behavior" based on the principles of social learning, touching on three essential aspects;

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<sup>22</sup>. Show, CR and McKat, HD (1872) Juvenile Delinquency and Urban Areas, work cited, page, 171.

<sup>23</sup>. Ibid., page, 319.

<sup>24</sup>. Banduara, A. (1977) Social learning theory, Englewood Cliffs, NJ: Prentice Hall, page 10.

<sup>25</sup>. Banduing, A. and Walters, RH(1963) Social Learning and Personality Development, New York: Holt, Rinehart and Winston, p, 10, Siegek and Welsh, Juvenile Delinquency, op, cited p. 154.

1. Behavioral features of social models, to which the child has been exposed (learning through observation or imitation);<sup>26</sup>
2. The possibilities (dangers) of reinforcing his learning history <sup>27</sup>and
3. Teaching methods <sup>28</sup>that have been used to develop and change his social behavior.<sup>29</sup>

Bandura and Walters conclude that both excessive freedom and excessive strictness are directly related to children's aggressiveness. A rather strict father figure and a mother who gives excessive freedom have a negative influence. <sup>30</sup>According to the theory of learning, criminal behavior, aggressive behavior, deviant behavior, are learned through training, imitation, that in childhood and adolescence, the attempt to elaborate the phenomenon through imitation, observation, seems to be non-serious and one-sided. one-dimensional, not as a multi-dimensional approach as is the crime phenomenon.

### **Theory of differential connections**

The founder of the theory of differential connections is Edwin Sutherland (Edwin Hardin Sutherland, August 13, 1883 - October 11, 1950), he was an American sociologist. Sutherland is considered one of the most influential criminologists of the 20th century, according to the criminologist and sociologist, Edwin Sutherland, criminology is the body of knowledge about crime as a social phenomenon, including within its scope the process of making and breaking laws and the response to breaking laws) according to Sutherland, deviant or criminal behavior, like normal or social behavior, is learned. <sup>31</sup>This theory also focused on the explanation of criminality,

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<sup>26</sup> .Banduar and Waltere, work cited, page 95, define learning through observation (imitation or identification) as "the tendency of a person to reproduce actions, behaviors or emotional responses that exhibit real or symbolic life patterns", emphasizing also that imitation plays an important role in acquiring deviant behaviors (page, 57).

<sup>27</sup> . On the influence of positive reinforcement, vice and punishment in the development of aggressive female behaviors, (see Banduara and Walters, work cited page, 122.

<sup>28</sup> "Direct teaching through rewards, encouragement and other methods of discipline plays an important role in building and maintaining examples of social behavior", Banduara and Welters, work cited, page, 111.

<sup>29</sup>.Bandura Walters, work cited, page, 53.

<sup>30</sup> .Banduara and Gatti, *Delinquenza giovanile*, work cited, page, 79.

<sup>31</sup> The main objection to this hypothesis, which is considered the first of the nine points that creates the theory of differentiated connections, has to do with how learning justifies criminal behavior with a random or episodic character. \* Binder, Geis, and Bruce Jr., *Juvenile Delinquency*, op.cit., p. 177.

especially of minors, which behavior continues even in adulthood, based on the conclusions of the theory of differentiated connections, which states that there are groups that remain loyal to legal norms and groups that violate legal norms, the basic idea of the theory is the reasoning of the possibility of an individual to become a criminal depends on the way of interest and the continuity of the connections that he has with others.<sup>32</sup>

### **The theory of subculture**

The most prominent representative of the subculture theory is Albert Cohen<sup>33</sup>, who starts from the proposition according to which, "every action is the result of continuous efforts to choose the problems of non-adjustment, that is, it is rejection of the reference group."<sup>34</sup> According to Cohen, most maladjustment problems are resolved normally, but in certain cases individuals find deviant solutions. The reason for these wrong choices should be sought in the "reference groups" that are around them. At first, individuals choose those solutions that fit the expectations of their reference groups. When these solutions prove inadequate, they look to other groups whose culture offers more appropriate responses. Subcultures arise when there are a number of people with similar adjustment problems for whom there are no institutional solutions or alternative reference groups that offer different answers. Thus, if the circumstances are favorable, this group of individuals can meet and unite, creating a new subculture through which they will solve their problems of social acceptance.<sup>35</sup> Criminal subculture according to Cohen, it can be conceived as: "a system of beliefs and values that develops in a process of communicative interaction between individuals, who, due to their place in society, find themselves in a similar situation related to solving problems of adaptation - problems for which the dominant culture does not offer satisfactory solutions".<sup>36</sup>

The impossibility of integrating individuals into social strata (eg, moving from the lower to the middle strata) creates favorable conditions for the formation of a new subculture, which in many cases is a criminal subculture. In his work

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<sup>32</sup> .Lamnek, work cited, page, 30. Hassemmer and Munoz Conde, work cited, page, 73.

<sup>33</sup> . Abraham Albert Cohen (1895 –1981) theory states that deviance and delinquency are the result of subculture formation. According to Cohen, a subculture is a group that working-class youth form to gain status and praise when they cannot live up to middle-class values)

<sup>34</sup> .Sampson, RJ and Groves, WB "Le teorie socio-psicologiche della delinquenza minorile". The work cited, p. 11.

<sup>35</sup> .Ponti and Merzagora Betsos, Compendio di Criminologia, work cited, page, 122.

<sup>36</sup> .Cited by Lamnek, work cited., page 28. (dissertation of Bledar mustfaraj, page, 60).

"Delinquent Boys", Cohen distinguishes five characteristic features of criminal groups of the lower social class. It refers to elements such as: non-utilitarian quality, destruction, complete negativism, instant gratification and distrust of authority.<sup>37</sup> In his theory, Cohen assigns an important role to class, focusing on the lower social classes and the tension or anxiety they feel in the face of unequal conditions compared to those of the middle class.

#### **According to Cohen's theory;**

1. Many minors from the lower class\* especially males (they had low results in studies);
2. Performance in school is related to criminality;
3. Poor school achievement is the result of the conflict between the dominant middle-class values that dominate the school system and the values of the lower classes;
4. Low-class delinquents form criminal subcultures trying to reduce their frustration and allow self-perception by displaying antisocial values.<sup>38</sup>

Cohen's theory of subcultures and Sutherland's theory of differentiated connections can be explained through the theory of neutralization techniques (Theory of neutralization and drift), represented by David Matza and Gresham Sykes. These authors argue that the theory of social learning not only presents a very simple description, but is also very deterministic, because the description as criminal or non-criminal are not different from the whole.<sup>39</sup> Matza and Sykes provide arguments that the dominant culture has hidden some underground, secret values that stand face to face with conventional values.<sup>40</sup> Certain groups, such as the case of criminals, tend to highlight what

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<sup>37</sup> .Cohen, work cited, page, 36, Cohen seeks Morton's theory of anomie asserting that this theory does not explain the "non-utilitarian" character: of criminal subcultures, as well as other characteristic types that remain outside the analysis of this theory.

<sup>38</sup> .Bartollas and Schmalleger, Juvenile Delinquency, cited work, page, 172. (Bledar, p. 63.)

<sup>39</sup> Against the subcultural theory of learning, they argue that instead of being separate, conventional social values and subculture values (as traditionally conceived, thinking that the criminal subculture was separate and against the norms and values of the dominant culture) are in relationship with each other; forms of criminality are a hidden part of conventional culture. See Lanier, Henry and Anastasia, Essential Criminology, op. cit., p. 146.

<sup>40</sup> Lanier, Henry and Anastasia, Essential Criminology, op.cited, page, 147. Moyer, Criminological Theories, op.cited, page, 143.

the authors call underground values <sup>41</sup>at the expense of formal values. <sup>42</sup>"Techniques of nullification" of Sykes and Matza is the most important part of their theory, they think that the laws are weak and vulnerable, since they contain their own forms of nullification, the authors of nullification justify the behavior in opposition to the law, the reasons presented that after committing an illegal act to justify and remove any guilt feelings of the subject.

### **Theory of social structures**

The representatives of the theory of social structures hypothesize that the main causes of crime and criminality can be found in the disorder or instability of social structures and institutions, therefore, they consider crime as a consequence of social disorder.

### **Theory of anomie (Durkheim and Morton)**

Durkheim's point of view on crime has created the basis of the introduction of sociology in the science of criminology, which until the emergence of the views of Durkheim and Morton, the main schools in criminology were biopsychological and positivist schools. Durkheim is noted for his views on the treatment of crime as a normal social phenomenon. According to Durkheim, the concept of anomie expresses crisis, disruption of collective order and the collapse of norms and values in force in society (social order), due to sudden social transformations or changes. In all societies (at a certain historical moment) there is a type of rule or social order <sup>43</sup>defined and accepted as right by the general part of the subjects that "determines with relative precision, the maximum welfare that each class of society can create or achieve lawfully. <sup>44</sup>In this state, the majority of individuals understand the highest point their ambitions can reach and do not aspire to anything beyond, since individuals with healthy moral formation are respectable, obedient to social rules and think that they do not it is good to ask more. "Each one, more or less, is in harmony with his conditions and wants nothing more than what

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<sup>41</sup>Among the underground values, the authors understand: short-term hedonism, the natural, the invitation to express, new experiences, kidnapping, the aggressive male role, focusing on others.

<sup>42</sup>As formal values, it is noted: immediate gratification, delayed gratification, planning, acceptance of bureaucratic rules, routine, predictability, non-aggressiveness, self-centeredness.

<sup>43</sup>For Durkheim "under normal circumstances, these rules are expanded by the division of labor, since normally the division of labor produces social solidarity (which is understood as internal solidarity, spirits of cooperation and a feeling of common solidarity)." If the division of labor does not bring solidarity, it means that the relations of the bodies are not regulated, so they are in a state of anomie", Ne Tha division of labor in society", quoted work, page 277.

<sup>44</sup>Durkheim, Il, suicidio, work cited, page, 331.

he can legally expect, as a normal price of his activity.<sup>45</sup> When society is troubled, as due to painful crises or due to sudden transformations, the person will be temporarily unable to exercise social order; (social changes) when social changes have occurred with extreme speed and the interests involved in the conflict have not had time to balance"<sup>46</sup>, which leads individuals unable to adapt to the state created through suicide (anomic suicide) or through the commission of crimes, because "this disorder of habits leads them to a state of immediate hyperarousal, which tends to calm down through the performance of destructive actions."<sup>47</sup>

Durkheim highlights that in the current society, due to changes in economic development, a series of economic crises arise (he uses the term crisis to refer to both economic catastrophe and<sup>48</sup> periods of prosperity and economic growth) that undermine social harmony and they bring about sudden changes and social upheavals that leave individuals without a point of reference to lean on or without goals to reach. In this way, the individual feels lost, disoriented and without references in a complicated world, both because members of the upper classes of society may be forced to live in conditions below what they are used to, or the opposite, individuals of low social classes, in welfare states, set themselves goals that do not correspond to their situation and cannot be achieved through legal means. In both cases, according to Durkheim, anomie is a social phenomenon, which, thanks to the lack of sufficient regulation (lack of norms), pushes individuals towards deviance, non-conformity and, finally, towards the commission of a criminal offense.<sup>49</sup> In fact, it was Robert K. Merton who actually developed the theory of anomie formed by Durkheim, looking at it in relation to the different forms of deviant behavior, creating the theory of social structure and anomie in his work *Social Theory and Social Structure* (1949). In this book, the author tried to discover, from a sociological point of view, "how some social structures exert a certain pressure on some individuals of society so that they continue to behave in a non-conformist and non-conformist manner."<sup>50</sup> Even Merton starts from the same concept as Durkheim to point out that among the different elements of

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<sup>45</sup>. Ibid., page, 332.

<sup>46</sup>. Durkheim, *The division of labor in society*, work cited, page, 289,

<sup>47</sup>. Durkheim, *Il suicide*, work cited, page, 330.

<sup>48</sup>. Above all, thanksgiving in periods of industrial or commercial crises, the antagonism between labor and capital. See Durkheim, *The division of labor in society*, page, 278, ...

<sup>49</sup>. Sigel and Welsh, *Juvenile delinquency*, op.cited, page 142. Hysi, *Criminology*, op.cited, page 111.

<sup>50</sup>. Merton, *Social Theory and Social Structure*, op.cit., page, 209.

social<sup>51</sup> and cultural structures,<sup>52</sup> two of them are of primary importance: The first has to do with the objectives, goals and interests determined by culture and that supported by the individuals of the society as legitimate objectives. A second element of the social structure determines the rules and controls them in ways that are conducive to the achievement of these objectives".<sup>53</sup>

The satisfaction of the individual is expressed in two forms of cultural pressure (satisfaction coming from the achievement of objectives and satisfaction coming from the way directed in institutional forms for their achievement), the effective balance between these two aspects of the social structure is maintained. When conflict arises between two cultural aspirations and socially defined paths, anomie arises. According to Merton, anomie is "the failure of the social structure, which is created when there is an immediate dysfunction between the cultural norms and objectives and the abilities of the individuals of the group, structured by society, to act in accordance with them".<sup>54</sup> The social structure, according to Merton, reaches a conflict between cultural goals and the possibility to use institutional means, respectively legal means, which leads to bias and criminal behavior. The first form of deviant behavior was called "innovation", which means "rejection of institutional practices, but preserving cultural goals",<sup>55</sup> (this type of behavior is related to criminality). The social tension created by the disagreement between the goals framed from the cultural point of view and the opportunities structured from the social point of view, led some individuals to commit criminal acts, especially in the lower strata of society, where according to Merton "exercise strong pressures towards deviance".<sup>56</sup>

This happens for the reason that "incentives for success determine the accepted values of the culture" and that "the paths available for achieving this goal are largely limited by class stratification", which means that all individuals can achieve the goal through legal means. But this path presents difficulties for the middle and especially the lower class, who have a low level of education and limited economic resources. "The dominant pressure encourages the gradual

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<sup>51</sup>. Sioas Meron, cited work, page, 241, by "social structure" is understood "the organized set of social relations that keep within them in different ways the individuals from the society or group".

<sup>52</sup>"Social structure" can be defined according to Merton, work cited, page, 241, "the organized totality of normative values that direct the common behavior of individuals of a given society or group".

<sup>53</sup>. Merton, veora quoted, page 210, (bledar dissertation page 68.)

<sup>54</sup>. Merton, work cited, fafe, 241) (blendar, dissertation 69).

<sup>55</sup>. Merton, work cited, page, 256,

<sup>56</sup>. Ibid., page 224.

easing of efforts, legal but not generally efficient, and the increasing use of counter-legal means, but not very efficient, which increases in proportion to the level of deviant behavior."<sup>57</sup>

From the theoretical analysis of the study of the presentation of R. Merton's idea on the direct connection of crime with the poor, he emphasizes: "Variefria is not a separate variable that acts in exactly the same way in all cases and circumstances; it is nothing but one of the interdependent social and cultural variables. Poverty in itself and the limitation of opportunity that comes from it is not enough to cause a very high proportion of criminal behavior. Even 'poverty in the midst of plenty' does not necessarily lead to this conclusion. But when poverty and the disadvantages that accompany it in trying to achieve the cultural values accepted by all individuals of society, are related to the cultural importance of success before the dominant goal, the normal outcome will be high proportions of criminal behavior."<sup>58</sup>

### **Theory of unequal opportunities**

The combination of the theory of anomie and the theory of differentiated connections, when elements of the theory of subculture intervene, creates the theory of inequality of opportunities (opportunity structure) represented by Richard Cloward<sup>59</sup> and Lloyd Ohlin<sup>60</sup>, according to which; "the concept of the structure of unequal opportunities makes possible the unification of the theory of anomie, which recognizes the concept of differences in access to legal means and the "Chicago tradition" in which the concept of differences in access to illegal means is implied".<sup>61</sup> The authors accept many of the arguments offered by Merton, they accept that in the American society there is a deep inequality between different social classes, during the legal approach to the cultural goals accepted by the society. As a

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<sup>57</sup> . Ibid, page 225.

<sup>58</sup> . Merton, work cited, page, 226. (blidar dissertation page 70)

<sup>59</sup> . Richard Andrew Cloward (1926 - 2001) was an American sociologist and activist. It influenced strain theory of criminal behavior and the concept of anomie and was a major motivator for the passage of the National Voter Registration Act of 1993, commonly known as the "Motor Voter Act". He taught at Columbia University for 47 years.

<sup>60</sup> . Differential opportunity theory in criminology is an ideology that Richard Cloward and Lloyd Ohlin proposed and assumes that young people who are unable to find financial reward and status through legitimate means will return to one (or more) of three possible subcultures to achieve certain goals. .

<sup>61</sup> Cloward, R. and Ohlin, L. E. (2011) *Delinquency and opportunity: A theory of delinquency gangs* (reprint) New York Routledge, page, 151.

response to this frustration, the most oppressed members of the group use illegal means to achieve them.<sup>62</sup>

The question arises why it happens? "Why" <sup>63</sup>According to Cloward and Ohlin, the answer lies in the equal or unequal approach to illegal opportunities, they remain faithful to the thesis that illegal means are not equally accessible to everyone. Taking the conformist or deviant role is not an easy thing to achieve; this approach depends on many factors ; such as economic status, age, gender, race, personality, etc.<sup>64</sup>

Three types of criminal subcultures siap Cloward, R. and Ohlin, are;

1. Criminal subculture, according to them, this subculture appears in those low-class, relatively unstable neighborhoods, in which the majority of the community knows each other, in these neighborhoods the role of major criminals is a model that is imitated by minors, who have been socialized in a criminal subculture, where they have the opportunity to learn these forms of behavior.<sup>65</sup>

2. Subculture of conflict; this subculture appears in less stable neighborhoods, characterized by social organization, where the majority of residents live in large solitary, which create groups of isolated and anonymous people, where there is no relationship between generations of criminals.<sup>66</sup>

3. The subculture of withdrawal or abandonment; there are individuals from the entire community of the lower social class, who fail in both opportunity structures (legal and illegal). These "double mistakes" form what is called (retreatist subculture). They choose a way of life outside their community using, drugs, alcohol, or any other type of avoidance.<sup>67</sup>

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<sup>62</sup> . Cloward, R. and Ohlin, Ll. E. (2011) Delinquency and opportunity, page 86.

<sup>63</sup> At this point, Cloward and Ohlin differ from Merton's argument, they criticize the idea according to which individuals who do not have the opportunity to achieve economic success through institutional means, respectively legal, are able to achieve economic success through means illegal. On the other hand, they argue that there is confusion in social structures regarding the availability of illegal means in the same way as for legal means. Cloward, R. and Ohlin, Ll. E. (2011) Delinquency and opportunity, page 146.

<sup>64</sup> .Curran and Renzetti, Theories of Crime, op. cit., p. 124.

<sup>65</sup> .Cloward, R. and Ohlin, Ll. E. work cited, pages, 22-23.

<sup>66</sup> .Ibid, page, 173.

<sup>67</sup> . Ibid., page, 183.

## Theory of tension and frustration

The most prominent representative of the theory of tension and frustration is Robert Agnew<sup>68</sup>, according to him there are several types of tension or frustration. apart from the traditional criminological formulation that differentiates between aspirations and achievements.<sup>69</sup> In his strain or frustration theory, Agnew and North emphasize negative relationships, harmful triggers, and stressful life events.<sup>70</sup> Agnew categorizes tension or frustration into three major types, each of which will cause anger and frustration to the point that it causes crime.

Agnew comes to the conclusion that the state of frustration is created when the individual is not treated the way he wants to be treated, therefore criminal behavior can be a kind of solution for the frustration that some people use to achieve their goals, to create new incentives to replace the lost or to get away from negative or harmful stimuli.<sup>71</sup>

## Hirschi's theory of control or social relations

Hirschi's theory of social control<sup>72</sup> has been one of the most prominent and dominant theories in the study of crime in the USA, it is based on the sociological concept elaborated by Durkheim of "social integration", on the concept of the "super ego" of Freud and in the theory of psychological control raised by the Glueck group. The most important part of Travis Hirschi's theory of social control has to do with the difference between control exercised by sources outside the individual than control exercised by the individual himself.<sup>73</sup> The first is known as "social control" and the second as "self-control".

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<sup>68</sup>. Robert Agnew (1953- ) Agnew proposed that various forms of strain cause individuals to experience negative emotional states such as anger, depression, and fear (Agnew, 1992). For Agnew, crime occurred when people sought criminal means to cope with their negative emotions.

<sup>69</sup>. Agnew aimed to revise Merton's theory of anomie, see, Moyer, *Criminological Theories*, op. cit., page 65, Agnew, R., Brezina, T., Wright, JP and Cullen, FT (2002) "Strain, Personality traits and delinquency: Extending general strain theory" in *Criminology*, February (40) (1) Proquest Criminal Justice, pages, 45-46, retrieved from [www.soc.umn.edu/uggen/agnew\\_CRIM\\_02.pdf](http://www.soc.umn.edu/uggen/agnew_CRIM_02.pdf), (viewed on 19.07.2024.)

<sup>70</sup>.see, Agnew, et al., )"Strain, Personality traits and delinquency: Extending general strain theory", cited work 50-51.

<sup>71</sup>. Siegel and Welsh, *Juvenile delinquency*, op.cit., page 147.

<sup>72</sup>. **Travis Warner Hirschi** (1935 – 2017) founder of social control theory according to Hirschi suggests that delinquent adolescents fail to develop social bonds that consist of (1) bonding with parents, peers and school; (2) professional and educational commitment; (3) academic involvement; and (4) belief in social rules and conventions.

<sup>73</sup>. Lilly, Cullen and Ball, *Criminological Theories*, op.cit., page, 117.

Society tries to coerce its members through the acceptance model. According to him, first of all, it is social control that acts as a deterrent to avoid criminal acts, individuals who do not have social ties are more inclined to commit criminal acts, compared to those who have strong social ties. "Crime arises when the ties that unite us with society are broken or weakened." <sup>74</sup>In order to prove the connection, the behavior conforming to social norms or "acceptance" he put special emphasis on four control variables, each of which has to do with a strong social connection:

- 1.) Attachment (affect); it is a connection with an affective character, which develops through an intimate and continuous interaction (or relationship) (Continuing intimacy of interaction). This relationship will indicate (both the parents' love for the child, the degree of supervision that parents or teachers have over their behavior and communication with them) how much the teenagers felt understood, how regularly they will attend school, and how much they will respect the opinions of their parents and teachers. This type of connection is very close to Sutherland's concept of differential connection. For Hirschi, this point of view is superior in terms of avoiding "the problem of explaining the change in 'consciousness' in relation to others before it becomes part of his personality". <sup>75</sup>
- 2.) Commitment (compromise); it is a connection with a utilitarian character that can be defined as the degree according to which the personal interests of individuals have been transformed into a community of sustainable actions. According to him, this is the "rational component of acceptance" which means, the rational way of calculating the potential of profits and losses that individuals make at the moment of committing a deviant behavior, <sup>76</sup>where they "must take into account the consequences of a deviant behavior", the risk of losing the investment made through conventional behavior". <sup>77</sup>The concept of

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<sup>74</sup> .Hirschi, T. (1969, 2009), Causes of delinquency, Reprint, Piscataway, NJ. Transaction Publishers, page, 16.

<sup>75</sup> .Hirschi, causes of delinquency, cited work, page, 19.

<sup>76</sup> .Siegel and Welsh, Juvenile delinquency, cited work, page, 162, mentions this connection as "element of motivation", that is, it is the positive interest that the criminal has at the time of committing the criminal act.

<sup>77</sup> .Hirschi, Causes of delinquency, work cut page, 20. It is quite interesting the way in which this connection of Hirschi's utilitarian character is created with the psychological theory of De Greeff Greeff, for which it is essential to know how the thought was born criminal to the perpetrator. For this author, the evolution from the idea or the internal process for committing the crime (criminogenic) to the

compromise with the fact that the organization of the whole society of many people can be put at risk if some are involved in criminal activity. Most people create a reputation and position in society that they don't want to lose. These "ambitions" or "aspirations" play an important role in the admission process.<sup>78</sup>

- 3.) Involvement (participation); it is a factor of social control "since most individuals choose to live in accordance with the laws, since they have no possibility to act otherwise".<sup>79</sup>
- 4.) Belief represents a connection with an ideological character that is not equated with a deep moral conviction, but that has more to do with the idea that some values and norms acquire value due to social support. He was convinced that personal convictions cannot become an internal part of the personality without being constantly supported by society.<sup>80</sup>

The value of applying this theory means that by improving social control (especially for minors), love for parents, compromise with pro-social values, participation in pro-social activities, and strengthening moral convictions, will influence the reduction of their criminal behavior and actions. .<sup>81</sup> Through self-control theory, Mischael Gottferdson and Travis Hirschi developed a general explanation of criminal behavior (which is valid for both criminal and deviant and careless behavior, which was the basis of early studies of Hirschi. The main postulates of the self-control theory are: 1. The validity of all behaviors or actions through which individuals seek satisfaction immediate or short-term benefits, trying to avoid long-term costs.<sup>82</sup> 2. The commission of a certain criminal act is not motivated by any kind of

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criminal act goes through several stages, such as learning about the idea of the crime, accepting it and finally committing it.

<sup>78</sup>.Hirschi, cited work, page, 21. According to him, ambitions and aspirations help the acceptance process, even among young people. Adolescents can behave well in the face of any criminal behavior in fashion, in order not to risk their professional future as a result of the mistakes of youth.

<sup>79</sup>.Ibid page, 22.

<sup>80</sup>. Hirschi, cited work, page, 22. If the degree of approval is low, thoughts and beliefs will have unstable foundations, where submission will be easier before difficulties, these thoughts and beliefs will disappear. On the contrary, if the degree of approval is high, it will be noticed that individuals, because of these beliefs and thoughts, will behave in a more correct way. This is where the importance of constant efforts to strengthen these convictions comes into play.

<sup>81</sup>.Sampson and Groves, "Le teorie socio-psicologiche della delinquenza minorile" work cited, page 4.

<sup>82</sup>. Hirschi, T. and Gottferdson, M. R. (1994) "Substantive Positivism and the idea of Crime" in Hirschi, & Gottferdson, ( Edit). "The generality of deiance", Transaction Publishers, pages, 256, 261, and 266, according to the authors "from the point of view of social control, aggressive and violent actions are

cause, but only by the choice made by the individual. In this theory, criminal acts and criminal behavior they are not understood starting from the human nature of anti-social actions but from the natural tendency to use effective means to fulfill one's own goals.<sup>83</sup>

Conclusions of self-control (self-control)<sup>84</sup>, Hirschi and Gottfredson defend the idea according to which the basic essential features or characters of criminal, deviant or careless behavior are consistently explained by;

- Research that highlights the importance of the family as a cause of criminality;
- Research that highlights the importance of opportunity in committing criminal acts;
- Research showing a marked decline, due to age, in all types of criminal behavior. According to Hirschi and Gottfredson, the empirical data showing a decline in crime rates with age are indisputable.<sup>85</sup>

### **Theories of labeling or social reaction (labeling)**

The main focus of the theory of labeling or social reaction, is the study of the process of giving negative definitions, the act of giving, and the origin of the label, the mechanisms of social control that label, stigmatize and exclude criminals. According to Herrero Herrero, "their methodology consists in avoiding the formulation of any criminal etiology, because for them crime is not something ontological but final. It means that criminality has incrimination or blame".<sup>86</sup>

This theory paid attention to the social control bodies that apply norms depending on the relevant stereotypes = that label certain individuals as criminals, and carefully studied the changes that occur when a person is

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explained as actions that immediately satisfy the goals" this opinion is found in the work "Aggression" by Hirschi, & Gottferdson, page 39.

<sup>83</sup>. Hirschi, T. and Gottferdson, M. R, ("Substantive Positivism and the idea of Crime" work cited, page 255.

<sup>85</sup> . Hirschi and Gottfredson, "Age and the Explanation of Crime," op. cit., page 314.

<sup>86</sup> .Herrero Herrero, Delincuencia de menores, op.cited, page, 81. according to Siegel and Welsh, Juvenile delinquency, op.cited, page, 176.

labeled or branded as a criminal. <sup>87</sup>Edwin M. Lemert <sup>88</sup>studied patterns of deviance in the juvenile context;

1. Primary deviance, resulting from school maladjustment and fueled by poor cultural knowledge (absences from school, misbehavior, etc.);
2. Punishment (poor grades, suspensions or teacher warnings or reprimands);
3. Hostile behavior due to the received punishment, (confrontation with the teacher and classmates)
4. Labeling of deviance through formal actions by the community, due to deviant behavior;
5. Reinforcement of deviant behavior in response to labeling and punishment;
6. Accepting the status of the misfit and trying to allow it on the basis of the new role associated with this status (criminal behavior).

Development of criminality sequences according to the Labelling model;

- ✚ The variety of causes of impacts;
- ✚ Initial or partial deviation;
- ✚ Official Deviant/Criminal Labeling;
- ✚ Self-perception as a deviant/criminal;
- ✚ Continued involvement in deviance or criminality.

## **II. The study of the typology, structures and activities of organized crime**

Organized crime scholars have constructed typologies in an attempt to explain the structural and operational characteristics of OCGs. However, these

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<sup>87</sup> .Bandini and Gatti, *Delenquenza giovanile*, cited work, page, 139, Hagana, *Introduction to Criminology*, cited work, page, 192. (blendari, dissertation, page, 82).

<sup>88</sup> . Labeling theory was anticipated in the work of Lemert (1951) and his concept of secondary deviance. According to Lemert, by being stigmatized as 'criminals', offenders were ostracized from mainstream society and left with no alternative but to sink deeper into crime.

typologies have developed largely in isolation from each other and generally in response to organized crime activity occurring in a particular social and cultural environment. In this research we will review the current literature on organized crime and argue that most typologies of organized crime are variations of structures developed by the United Nations Office on Drugs and Crime (UNODC). In this study I will try to coordinate the discussion of the development of typologies in the research of organized crime. First, we will elaborate on the importance of studying the structures of organized crime and the types of models that have been developed to examine the structure of organized crime, the activities and social conditions that facilitate the activity of organized crime. A key issue in conceptualizing organized crime is whether to focus on the organization of a group or the activities of a group (Hagan 2006; Halstead 1994). The importance of structure has been demonstrated in numerous studies that have Keywords: Organized crime models, hierarchies, networks. Organized crime scholars have constructed typologies in an attempt to explain the structural and operational characteristics of OCGs. Studying the structure of an OCG and developing patterns of their behavior is one method to produce a body of knowledge that can assist law enforcement agencies in their investigative efforts to weaken and disrupt organized crime activity (Le and Lauchs 2012).

The development of a comprehensive classification system provides a useful tool for comparing the operational structures and activities of different OCGs (UNODC 2002). The typologies produced by researchers in organized crime research can be categorized into three types: models that focus on the physical structure and functioning of an OCG, models that focus on the activities of OCGs, and models that focus on social, cultural, and historical conditions. that facilitate the activity of organized crime. Similarly, Albanese (2011) proposed three types of organized crime models – models focused on hierarchical structure, models emphasizing local, ethnic or cultural ties, and economic models of organized crime. Hierarchical models and models emphasizing local, ethnic or cultural ties are included in the discussion given the focus on operational structure. Some models include more than one element, for example, models that focus on structure and activity. Typologies that focus on the physical structure and operation of an OCG tend to discuss OCGs as operating under hierarchies, networks, or a hybrid of the two forms. These typologies examine how the structure of an OCG is designed to facilitate their involvement in specific types of crime. A key approach to examining the operational structure is to find points of "weakness" and vulnerability. Having

the knowledge to identify these points in a criminal organization can improve the policing capabilities of law enforcement agencies in disrupting organized crime activity. This paper will focus primarily on models that examine the physical structure and functioning of an OCG because the UN typology is an example of a purely structure-based typology. Models that emphasize the activities of OCGs are likely to be economic or enterprise models. Halstead (1998) distinguished two categories of models: group-focused models and economic or activity-focused models. Group-focused models examine the structure and functioning of an OCG while economic or activity-focused models focus on the profit-oriented activities of OCGs. Maltz (1976) created a typology based on a definition of organized crime that consisted of three main elements: means, political or economic objectives, and manifestations of these objectives. This typology attempted to classify different forms of organized crime activity rather than distinguishing between different types of OCGs. Therefore, this typology was not examined in any significant detail due to its focus on the activities and objectives of an OCG. Economic models describe organized crime as governed by business and economic considerations; the activities of OCGs are determined by market dynamics, entrepreneurship and the pursuit of profit (Albanese 2011; Williams and Godson 2002; Smith 1980). Williams and Godson (2002) argue that criminal organizations will behave and think according to rational business needs. They will consider factors such as new product opportunities, market changes, profit margins, competition and risk management (Williams and Godson 2002). In the study, we will exclude the economic model because it focuses on the economic motives that support the involvement of an OCG in crime, abstracting the way they are structured to commit crime.

Williams and Godson (2002) studied two categories of models: models of conditions and models of how organized crime operates. Condition models include political, economic, and social models, while operating models include strategic or risk management and composite or hybrid models. These models cover environmental factors and individual attributes of criminal actors. In the study I will focus on the UN typology as the most comprehensive typology that examines the physical structure and functioning of OCGs. All other models will be discussed in light of the characteristics proposed in the UN typology.

### **UNODC typology**

In 2002, UNODC published a report entitled Results of a pilot survey of forty selected organized criminal groups in sixteen countries (the “Report”) which identified five patterns of organized crime. These models include standard hierarchy, regional hierarchy, cluster hierarchy, core group and criminal network (UNODC 2002).

### **Models of organized crime according to UNODC:**

#### ***Standard Hierarchy***

The standard hierarchy is the "most common form" of an OCG (UNODC 2002: 34). UNODC describes standard hierarchies as characterized by a single leader, a distinct chain of command and clearly defined roles. The "top-down" nature of hierarchy facilitates strong internal control and discipline over its members through an implicit or explicit code of conduct. Violence is mainly used to maintain the internal and external order of the organization. Standard hierarchies are generally mono-ethnic or composed of members of similar personal backgrounds (UNODC 2002). Members of the group adhere to a strict code of conduct, which includes the use of violence and corruption when necessary.

#### ***Regional Hierarchies***

Regional hierarchies have similar characteristics to standard hierarchies in that they have a chain of command, internal discipline, strong social or ethnic identity, and distinct roles within the group (UNODC 2002). The main difference between a regional and standard hierarchy is the decentralization of power; the process of allowing local organizations and group leaders to have considerable independence and autonomy over a specific geographic region (UNODC 2002; Lyman and Potter 2007). A regional hierarchy allows OCGs to expand their membership and participate in multiple organized crime activities over a wide geographic reach, making it particularly conducive to transnational criminal activity.

#### ***Group hierarchy***

A clustered hierarchy consists of smaller OCGs that function under a central coordinating body. Although hierarchically grouped OCGs maintain a degree of association, they are autonomous and independent in their activities and identity (UNODC 2002). The extent of their union is related to the coordination of criminal activities and enterprises. UNODC recognizes that

clustered hierarchies are rare and are often the product of unique social environments such as those found in the prison system.

### ***Bertham groups***

These groups are unstructured groups of organized criminals surrounded by a larger network of associated members. The "core" of the group is relatively small (20 individuals or less) which makes it easier to maintain internal discipline (UNODC 2002). The main groups are characterized by a "flat" organizational structure, which means that power is shared among all members. It is difficult for law enforcement agencies to identify and track core groups because most core groups do not have a strong social or ethnic identity and may operate behind the facade of a legitimate business run by a small group of individuals (UNODC 2002; Lyman and Potter 2007).

### ***Criminal networks***

Criminal networks are highly adaptable and fluid networks composed of individuals with different skills and characteristics, who are recruited for the purposes of specific jobs (UNODC 2002; Edwards and Gill 2002; Lyman and Potter 2007). "Pooling of resources", including individual skills, contacts and knowledge, is a significant advantage when undertaking trafficking activities within a criminal network (Morselli 2009). Members of networks are organized around an ongoing criminal enterprise and may not necessarily be linked by social or ethnic ties (Lyman and Potter 2007; UNODC 2002). UNODC (2002) suggests that the maintenance of criminal networks is highly dependent on personal connections and loyalties between participants and to the criminal enterprise. The dynamic nature of networks allows them to reform after the departure of key individuals.

### ***The Bureaucratic Model***

Cressey's (1969) bureaucratic model and Albanese's (2011) hierarchical model of organized crime are two models that have been developed independently from the UN study. Both of these models have characteristics that are reflected in the UN typology. Hierarchical models were the traditional representation of OCGs. Bureaucratic or hierarchical models generally characterize OCGs that operate under a broad division of labor, with a supreme leader at the top of the hierarchy and various levels of subordinates, each with a defined role in the hierarchy (Roth 2010; Abadinsky 2007).

Albanese (2011) describes this model of organized crime as similar to a governmental structure; Illegal activities are carried out with the approval of superiors and are controlled by "higher ups". Furthermore, bureaucratic groups are usually governed by a code of conduct which is strictly adhered to by group members (Roth 2010). The bureaucratic model is a rationalized, hierarchical system that is impersonal and rigid in form (Abadinsky 2007). Criminal organizations such as the Italian mafia are "strictly structured in a hierarchical manner, resembling the bureaucracy found in the legitimate economy" (Pih, Hirose, and Mao 2010). Albanese (2011) described the hierarchical model as consisting of three main components:

- a.) The "family" structure with degrees of authority from the chief to the soldiers;
- b.) bosses supervise the activities of family members;
- c.) a "commission" of chiefs deals with inter-family relations and disputes.

The characteristics of the bureaucratic model are dominated by a hierarchical national criminal group, as previously suggested in the early organized crime literature (Reuter 1983). Therefore, hierarchical organizations are more likely to be "the exception rather than the rule" (Finckenauer 2005:65). Criminal associations are less hierarchical, less stable and significantly more "fluid" than the bureaucratic model suggests (Kleemans and van de Bunt 1999). identical with a number of characteristics according to the UN.

### **Patrimonial models (OWNER-CLIENT).**

Criminal organizations may restrict membership based on criteria such as ethnicity, kinship, race and criminal background (Finckenauer 2005). Abadinsky's (2007) patrimonial model is a network model that focuses on relationships between families, friends, and clients. The patrimonial model assumed that OCGs are monoethnic because of its emphasis on recruiting members from family and friends (Halstead 1998). This pattern is characteristic of traditional societies that place great emphasis on trust relationships and emotional bonds (Abadinsky 2007). An example of a patrimonial system is the Sicilian mafia which has traditionally recruited new members from family, relatives and friends (Balsamo 2006). Similarly, Williams and Godson (2002) describe a "cultural model" of organized crime,

one of three models developed under the broader category of “social models”. Organized crime activity is facilitated by patron-client relationships, family and kinship ties, and informal networks of exchange.

### Hybrid Typology

Hybrid typologies of organized crime include hierarchical and network models. The UN typology includes hierarchical and network models because it attempts to cover a wider spectrum of organized crime structures. Similarly, Xia (2008) developed a typology of contemporary Chinese OCGs that included hierarchies and networks. From an alternative perspective, Lo (2010) suggests that traditional structural (hierarchical) or social network theories of control over Chinese OCGs cannot adequately reflect the state of modern, triad organized crime in China and Hong Kong. Lo does not propose another "model" of organized crime, but argues that the concept of "social capital" provides a more accurate explanation of the connections between organized crime, social networks, and political dynamics. The hierarchical structure is typically characterized by a society name, a chief, induction rituals, and secret languages. Hierarchical groups often have a code of conduct or "handbook" of rules and regulations which help to maintain the tightly organized structure of the group. Hierarchical groups were created in three ways: 1) the influence of traditional secret societies, cults and banditry on current crime patterns; 2) OCGs inspired by triad movies and TV dramas and 3) the return of triads to mainland China as a result of China's "open door" policies and strong police efforts against crime in neighboring countries (Xia 2008:13 ).

### Bibliography:

1. Albanese, Jay. 2011. *Organized Crime in Our Times*, 6th ed. and *Social Change* 37: 51-97.
2. Antonopolous, Georgios and John Winterdyk. 2006. "Migrant Smuggling in Greece: An Examination of Its Social Organization." *European Journal of Criminology*, 3(4): 439-461.
3. Albin, Joseph L. 1971. *The American Mafia: Genesis of a Legend*. New York: Appleton-Century-Crofts.
4. Balsamo, Antonio. 2006. "Organized Crime Today: The Evolution of the Sicilian Mafia." *Journal of Money Laundering Control* 9(4): 373-378. <http://dx.doi.org>.

5. Bruinsma, Gerben. and Wim Bernasco. 2004. "Criminal Groups and Transnational Illegal Markets." *Crime, Law and Social Change* 41: 79-94. <http://dx.doi.org/10.1023/>
6. Edwards, Adam. and Peter Gill. 2002. "Crime as Enterprise? The case of "transnational organized crime". *Crime, Law and Social Change* 37: 202-223 <http://dx.doi.org/10.1023/A:1015025509582>.
7. Kleemans, Edward R and Henk van de Bunt. 1999. "The Social Embedding of Organized Crime." *Transnational Organized Crime* 5(1):
8. Paoli, Letizia. 2002. "Paradoxes of organized crime". *Crime, Law and Social Change* 37: 51-97.
9. Von Lampe, Klaus. 2003. *The Use of Models in the Study of Organized Crime: Proceedings of the 2003 European Consortium for Policy Research (ECPR) Conference,*
10. Williams, Phil. and Roy Godson. 2002. "Forecasting Organized and Transnational Crime."
11. *Crime, Law and Social Change* 37(4): 311-355. <http://dx.doi.org/10.1023/>.

# DIGITALIZATION REFORMS IN THE EDUCATION SYSTEM

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## Abstract

Higher education and university education reform has been and remains one of the most important public topics in any country in the world.

Education is one of the most important areas of any society and any system. Through education, societies and nations transmit to their members knowledge, culture, cultural heritage, values through which society moves forward. It is also one of the areas that not only affects society, but is also strongly influenced by it and social changes. The fact that education systems are in constant change does not indicate instability, on the contrary, they serve to adapt as best as possible to changing society. Education is a process that paves the way for the country's tomorrow and guarantees a better today. As such, education must take into account two basic principles: Education first, and education second. Both concepts are and should be well defined: education as a process of personality development, and education as a process of mental development of the subject.

The administration reform in the education sector aims to consider scientific research as one of the important instruments of system management at the level of governing bodies and schools themselves.

Today's technology creates thousands of opportunities to read, to choose and above all to shorten the reading time.

In the global era, digitization has developed rapidly, and along with this development, there is a need to deepen the thinking about basic reforms in the field of education as well.

The purpose of carrying out this study is to research the reforms of digitalism in education.

In this paper, the mixed method was used, where from the obtained results it appears that digitization is one of the best ways towards the future and one of the best opportunities for scientific and educational achievements.

*Key words: education, education, digitalization, reform.*

## **Introduction**

Higher education and university education reform has been and remains one of the most important public topics in any country in the world.

Education is one of the most important areas of any society and any system. Through education, societies and nations transmit to their members knowledge, culture, cultural heritage, values through which society moves forward. It is also one of the areas that not only affects society, but is also strongly influenced by it and social changes. The fact that education systems are in constant change does not indicate instability, on the contrary, they serve to adapt as best as possible to changing society. Education is a process that paves the way for the country's tomorrow and guarantees a better today. As such, education must take into account two basic principles: Education first, and education second. Both concepts are and should be well defined: education as a process of personality development, and education as a process of mental development of the subject.

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In the global era, digitization has developed rapidly, and along with this development, there is a need to deepen the thinking about basic reforms in the field of education as well.

Information and communication technologies (ICTs) are changing the world by improving connections between people, increasing innovation and productivity, and raising living standards globally. Their effective use requires a variety of knowledge and skills, both in private life and in business. (Montenegro, 2022)

According to (Oliver Ahel, Katharina Lingenu, 2019) both the implementation of sustainable development and the integration of digitalization in higher education are globally discussed topics. Combining these, digitalization could be the key to enlarge the scale of students getting access to Education for Sustainable Development (ESD).

“Digitalization of education is a powerful trend in terms of reformation and modernization of global education environment. Digitalization means transformation of all information types (texts, sounds, visuals, video and other data from various sources) into the digital language.

Discussing the phenomenon of digitalization it should be noted that various analysts and forecast experts (mostly British, including Tim Berners-Lee - one of the inventors of the World Wide Web (Stuart, 2014)) consider transition of education process into digital stage as the turning point in the history of education. The United Kingdom is assumed to be the first in the world to introduce compulsory software engineering and IT education in the program for schoolchildren aged 5 - 16 years in 2015” (MACHEKHINA, 2017).

One of the challenges of the digitalized society is the teacher’s readiness for the digital transformation of the educational process, the design of an individual learning trajectory and the organization of a modern process of partnership pedagogy between a pupil and a teacher, a student and a teacher, a teacher and parents. Nowadays, information flows are growing at a tremendous speed, technologies for its processing and storage are developing, and real life is becoming more and more “digitized”. So a modern person can

listen to the most interesting lectures at universities, communicate with colleagues from an other part of the planet, take part in seminars, forums, conferences. Such changes affect all aspects of social life, create new opportunities for development, and the education system is not an exception. So digitalization is the key to a secure future, this passage from the author makes us understand that a path to digitalization is the path to fast and secure information machines. (Н. О. Федчишин, А.-М. А. Шульгай, Т. I. Крицкий, 2022) (Carlsson, 2019) says digitalization of schools and education is viewed as an integral part of educational governance, situated in and related to the larger society. In this context, it can be shown that educational (digital) technology per se does not provide the solution to educational problems, nor does it have the potential to transform education culture and make teaching and learning more effective and innovative. Political decisions, together with the teacher's educational mission, are more important in the structuring of education. This is also considered in relation to the fact that digitalization is an expanding area of education policy situated within the larger political/economic changes in societies in Western countries that have led to a fundamental reshaping of public education systems toward markets and economic competitiveness. As a consequence, educational policy, at least when it comes to digitalization, is driven by business ideas rather than broader ideas about what we want education to be for the individual and for society as a whole.

Digital learning is more than the latest addition to education reformers' to-do lists, filed along with teacher evaluations, charter schools, tenure reform, academic standards, and the like. It's fundamentally different: For digital learning to fulfill its enormous potential, a wholesale reshaping of the reform agenda itself is required, particularly in the realms of school finance and governance. But just as online education needs those reforms if it is to flourish, so does deep education reform need digital learning, which can provide valuable solutions to some of education's greatest challenges—beginning with the basic obsolescence of its familiar delivery system. Based on what the authors say, even digitalization must be subject to reforms because only then can it be successful and can we have ever-better results. (Chester E. Finn, Jr. and Daniela R. Fairchild, 2012)

(Shehaj, 2022) says Education reform has emerged as the main policy priority during the global pandemic. Given the effect of education on individual well-being and macrolevel socioeconomic growth, countries have undertaken a variety of policy measures to offset the negative ramifications of the health outbreak on learning processes. Each country has its own methods and strategies for reforming digitalization, especially this need for new reforms emerged during the pandemic that engulfed the entire world. While ( Tremblay, Minea-Pic, Boeskens, & Meyer, 2023) writes that Digital education technologies have the potential to enhance student outcomes by enabling education systems – at all levels – to better meet their students’ needs, enhance educators’ ability to provide high-quality instruction, and improve the effectiveness of learning. Technological advancements have revolutionized every aspect of our lives, and education is no exception (Insights, 2024). According to (Abid Haleema, Mohd Javaid, Mohd Asim Qadri, Rajiv Sumanc, 2022) Information technology has emerged to spread shared knowledge and is a primary driving force behind education reforms.

A strategy for the digitalisation of a higher education system is, in fact, a strategy for the transformation of a higher education system (OECD, 2021).

## **Materials and methods**

### *Purpose of the Study*

The purpose of this study is to assess stakeholders' perceptions and experiences regarding digitalization reforms in the education system.

### *Research Questions*

- What are the main challenges encountered in using technology for teaching?
- How effective do educators perceive digitalization reforms to be in enhancing teaching practices?
- What suggestions do stakeholders have for improving the integration of technology in education?

### *Hypotheses*

- H1: There is a positive correlation between the level of technological infrastructure and educators' satisfaction with digital tools.
- H2: Educators with more extensive training in educational technology report higher levels of satisfaction with digitalization reforms.

### **Research methodology**

- Design: Mixed-methods approach combining quantitative surveys and qualitative interviews.
- Participants: Purposive sampling of 100 educators and administrators.
- Data Collection Instrument: Google Forms for quantitative surveys, designed with Likert-scale and multiple-choice questions, and open-ended responses for qualitative insights.
- Qualitative Phase: Semi-structured interviews with a subset of participants for in-depth exploration.

### **Sampling**

Purposive sampling was used to select participants who have direct experience with digitalization reforms in education.

### **Data Collection**

- Google Forms were distributed electronically to participants, ensuring ease of access and anonymity.
- Interviews were conducted via video calls or in-person sessions, recorded with consent, and transcribed for analysis.

### **Data Analysis**

- Quantitative Analysis: Descriptive statistics (frequencies, percentages) and inferential statistics (correlation, regression) using SPSS.

- Qualitative Analysis: Thematic analysis to identify recurring themes and patterns from interview transcripts.

### **Instrument**

Google Forms was chosen as the data collection instrument due to its user friendly interface, ability to handle large-scale surveys, and automatic data aggregation.

### **Results**

The results highlight important insights into the role and perception of digitalization in the education system. The gender balance among participants (45% male, 55% female) ensures diverse perspectives. The majority of respondents are young adults, with 50% aged between 18 and 34, reflecting a demographic more likely to adapt to technological advancements. Furthermore, 70% of participants hold at least a bachelor's degree, indicating a well-educated sample capable of engaging meaningfully with digitalization reforms.

Participants' experience in the education system is varied, with 35% having 11–20 years of tenure. This diversity in experience enriches the discussion on digitalization, as it incorporates viewpoints from both seasoned and newer educators. Technology use in teaching shows a mixed pattern, with 30% using it often and 15% every day, while others use it less frequently. Despite the varied usage, 65% of respondents view technology as effective or very effective in teaching, indicating a generally positive perception of its impact.

Awareness of digitalization reforms is relatively high, with 60% informed about recent initiatives. Additionally, 70% of participants believe such reforms are necessary for improving education quality, showcasing strong support for integrating technology in teaching practices. However, challenges persist, with 30% citing inadequate training and 25% pointing to insufficient infrastructure as significant barriers. Suggestions for improvement include upgrading infrastructure (30%) and increasing training opportunities (25%), emphasizing the need for systemic support to enhance the effective use of technology.

The findings underscore the importance of addressing challenges and leveraging digitalization to create a more dynamic and inclusive education system.

### **Discussion and conclusions**

Over time, the education system around the world has undergone dramatic changes. The traditional education system no longer meets today's complex needs, where everything is dynamic and evolving at a very rapid pace. In today's world, a huge number of transformations take place in every nanosecond. Therefore, a new, modern way of learning is needed to systematically cope with such transformations arising from the creation of vast amounts of information. Thus, to address the shortcomings of the traditional education system, the world is moving towards digital education, which solves all the problems and challenges of traditional education. The authors present a comprehensive analysis of the processes of digitalization of education, most actively proceeding in the modern world. The formation of the knowledge society and the digital stage of modern civilizational culture is still a continuous process, which itself is experiencing serious internal contradictions and problems, especially in our country. One of the serious obstacles to the modernization of education is the mismatch between the speed of educational resources and the rate at which the digitalization of the educational process itself is taking place, which is still very low.

Educational reforms have brought great changes in education where in most countries of the world they have been welcomed and they have been very necessary, especially at a time when the whole world faced a pandemic and it was necessary to digitize the educational system. Many countries in the world are taking the necessary measures to enable the digitization of schools and the population. Therefore, this is characterized as one of the most important turning points in the digitalization system in education.

### **Bibliography**

1. Tremblay, K., Minea-Pic, A., Boeskens, L., & Meyer, K. (2023). Policies for the Digital Transformation of School Education: Proposed analytical. Paris, France: OECD Conference Centre.
2. Abid Haleema, Mohd Javaid, Mohd Asim Qadri, Rajiv Sumanc. (2022). Understanding the role of digital technologies in education: A review. Chinese roots global impact.
3. Carlsson, U. (2019). Understanding Media and Information Literacy (MIL) in the Digital Age. UNESCO, 129.
4. Chester E. Finn, Jr. and Daniela R. Fairchild. (2012). Education Reform for the Digital Era. In J. a. Chester E. Finn, Education Reform for the Digital Era (p. 6). Washington, D.C.: Thomas B. Fordham Institute.
5. Insights, G. (2024, January 17). Gray group international. Retrieved from Gray group international: <https://www.graygroupintl.com/blog/education-system-reform>
6. МАЧЕКХИНА, О. N. (2017). Digitalization of education as a trend of its modernization and reforming. ESPACIOS, 2.
7. Montenegro, M. o. (2022). EDUCATION SYSTEM DIGITALIZATION STRATEGY . Podgorica: UNICEF.
8. OECD. (2021). POLICIES TO SUPPORT THE DIGITALISATION OF HIGHER EDUCATION IN HUNGARY. OECD.
9. Oliver Ahel, Katharina Lingenu. (2019). Opportunities and Challenges of Digitalization to Improve Access to Education for Sustainable Development in Higher Education. In K. L. Oliver Ahel, World Sustainability Series . Germany: Springer, Cham.
10. Shehaj, A. (2022). Revolutionized learning: Education policy and digital reform in the eurozone.
11. Н. О. Федчишин, А.-М. А. Шульгай, Т. І. Крицький. (2022, 11 02). ДІДЖИТАЛІЗАЦІЯ В ОСВІТІ: СЬОГОДЕННЯ ТА ПЕРСПЕКТИВИ. p

# TAKTIKAT MBROJTËSE TË TË DYSHUARIT GJATË PROCESIT TË MARRJES NË PYETJE

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## **Abstrakt**

Marrja në pyetje e të dyshuarit për nga natyra e saj është marrëdhënie konfliktuale, nga arsyeja se në brendinë e saj ndodhet konflikti midis interesave të zyretarit te policisë, i cili tenton të zbulojë veprën penale dhe të sigurojë prova të domosdoshme për procesim të suksesshëm të saj, dhe interesave të të dyshuarit, i cili përpiqet t'i shmanget përgjegjësisë për veprën penale të kryer. Duke tentuar që të arrijë deri te pranimit, por edhe deri te provat tjera të cilat do të vërtetonin fajësinë e të dyshuarit, pjesëtarët e policisë do të shërbehen me metoda dhe veprime të ndryshme taktike dhe psikologjik. Megjithatë, edhe kryerësit e veprës penale gjatë këtij procesi përdorin metodat taktike të tyre, me të cilat tentojnë që të pengojnë zbulimin dhe argumentimin e fajësisë së tyre.

Në kuptim të përgjithshëm me taktika mbrojtëse të të dyshuarit që gjejnë aplikim gjatë procesit të marrjes në pyetje nënkuptohet çdo veprim me anë të të cilit kryerësi i veprës penale tenton që të pamundësojë që pyetësi të vërtetojë fajësinë e tij, gjegjësisht, nëse kjo nuk do të jetë e mundur plotësisht, atëherë kjo fajësi të mbulohet dhe të ulet në masë sa më të vogël. Arsyeja themelore (motivi) pse i dyshuari gjatë procesit të marrjes në pyetje nuk vendos të thotë të vërtetën, dhe aplikon këto metoda mbrojtëse, është tentimi i tij që t'i shmanget pasojave që burojnë nga vepra penale. Kur themi pasoja nga vepra penale, nuk mendojmë vetëm për sanksionin eventual të një vepre të caktuar, por edhe për pasojat tjera që burojnë nga ky sanksion ( për

shembull, dënimi me burgim mundet të i dyshuari të prodhojë frikën për humbjen e vendit të punës dhe me këtë rrezikimin e burimit financiar të familjes së tij, frika për humbjen e famës, humbjen e besimit të miqtë etj ). Si kanë lindur teknikat mbrojtëse të kryerësit të veprës penale, të cilat aplikohen gjatë procesit të marrjes në pyetje?

**Fjalë kyçe:** *taktikë, marrja në pyetje, i dyshuar.*

## Hyrje

Njëri prej burimeve të konsiderueshme të këtyre taktikave, është përvoja personale apo e të tjerëve. Domethënë, kriminelët, veçanërisht ata me “stazh të gjatë” në karrierën e tyre profesionale kriminale nga marrja në pyetje e tyre, ndoshta disa herë nga ana e policisë. Gjatë atyre marrjesve në pyetje ata pa dyshim kanë arritur përvojë të caktuar, duke analizuar sjelljet e pyetësit dhe duke konstatuar gabimet e veta në dëgjimet e më hershme ato fitojnë një lloj përvojë në këtë drejtim. Në të njëjtën kohë ato shohin edhe përvojën e kolegëve të tyre nga sfera e kriminalitetit. Praktika ka treguar se vendi ku kriminelët fitojnë dije të reja është burgu. Qëndrimi në burg shpeshherë shndërrohet në “seminar të vogël për kriminalitet” përmes të cilit kryerësit e veprave të ndryshme penale gjejnë mundësinë, për të shkëmbyer midis tyre përvojat e fituara.

Sot, zhvillimi i shkencës dhe teknikës ka krijuar mundësinë, që kriminelët mënyrat se si duhet të sillen gjatë procesit të marrjes në pyetje mundet t’i gjejnë edhe në internet. Këto metoda janë të formuluar në formë të librit, edhe atë:

- ▪ Pas burgosjes ata tentojnë nga ju të marrin deklaratë në veturën e policisë, në stacionin policor, apo kudo;
- ▪ Informata që ke në kokën tënde nuk guxon në asnjë mënyrë të lëshohet;
- ▪ Marrja në pyetje nuk është vetëm lojë pyetjesh dhe përgjigjesh, por situatë që përfundimi i të cilës është me pasojë;
- ▪ Polici në të njëjtën kohë ka dëshirën për sukses dhe frikën për lindjen e një konfrontim me ju, aspak ju nuk jeni të dobët;
- ▪ Polici aplikon taktika për të thyer rezistimin tuaj dhe një ndër ata është “ma mirë është për ty”; ▪ Polici në një moment do ta heq “veshjen

zyrtare” dhe do të tentojë të luajë rolin e avokatit. Mos i beso atij, kur ai diçka të këshillon, sepse këshillat mund t’i marrësh vetëm nga mbrojtësi yt. etj<sup>1</sup>.

Teknikat mbrojtëse që i përdor i dyshuari gjatë procesit të marrjes në pyetje mundet të jenë të ndryshme. Në vazhdim do të prezantojmë vetëm disa nga ata që më së shumti gjejnë aplikim:

- Mohimi apo kundërshtimi;
- Heshtja apo mos dhënia e informacioneve lidhur me ngjarjen;
- Ndryshimi i deklaratës;
- Prezantimi i deklaratës paraprakisht të përgatitur<sup>2</sup>.

### **Mohimi i veprës si taktikë mbrojtëse e të dyshuarit**

Mohimi është lloj i veprimeve mbrojtëse të të dyshuarit, me të cilën ai pjesërisht apo plotësisht mohon ekzistimin e fakteve të cilat e akuzojnë. Ekzistojnë lloje të ndryshme të mohimit:

Varësisht nga ajo se provat e akuzës mohohen plotësisht apo vetëm në segmente të veçanta dallojmë:

- mohim të plotë,
- pohim të pjesshëm<sup>3</sup>.

Varësisht nga mënyra se si aplikohet dallojmë:

- mohim të sigurt dhe konsekuent,
- mohim jo të sigurt dhe jo konsekuent<sup>4</sup>.

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<sup>1</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e thene sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 234.

<sup>2</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e thene sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 235.

<sup>3</sup> Shih: Siminovic, B.; Pribavljanje i ocean iskaza pred policijom i na sudom, Praven fakultet u Kragujevac, Kragujevac, 2007, fq. 225.

<sup>4</sup> Shih: Po aty.

### 3. Përveç kësaj, mohimi mundet të jetë dhe:

a) mohim i argumentuar, dhe

b) mohim jo i argumentuar ( i dyshuari mohon provat e akuzës kurse më pas nuk ofron asnjë fakt ose provë, me të cilat do të vërtetohet mohim e tij )<sup>5</sup>.

Literatura jonë procedurale penale, por edhe ajo e huaj, deklaronit të dyshuarit i kushton vëmendje vetëm kur ajo paraqitet në formë të pranimit. Nëse kihet parasysh se edhe pranimi edhe mohimi i argumentuar kanë vlerë provuese të njëjtë, praktika që t'i jepet rëndësi vetëm pranim, llogaritet si e gabuar. Mohimi mundet të jetë teknikë mbrojtëse shumë efikase e të dyshuarit. Domethënë, i dyshuari, duke u nisur nga supozimi se vetëm ai ka dijeni lidhur me ngjarjen kriminale, vendos ta aplikojë këtë metodë. Gjithashtu, ai nuk është i obliguar me barrën e provave.

Nëse nuk do të disponohet me material provues adekuat, mohimi do të jetë një pengesë e pakalueshme në rrugën e gjetjes dhe vërtetimit të së vërtetës lidhur me një vepër penale të caktuar. Nuk duhet të hamendemi dhe të besojmë se mohimi i fajësisë gjithmonë paraqet taktikë mbrojtëse e të dyshuarit dhe si e tillë është e rrejshme. Mohimi ndonjëherë mundet të jetë edhe si karakteristikë e të dyshuarit të pafajshëm dhe si e tillë të jetë e drejtë dhe e sinqertë. Burim i rëndësishëm i informacionit lidhur me atë se mohimi, a është i vërtetë apo i rremë, është fotografia simptomatike e të dyshuarit<sup>6</sup>. Megjithatë, në numrin më të madh të rasteve vetëm ajo nuk do të jetë e mjaftueshme, për të na ofruar përgjigje në pyetjen se i dyshuari që mohon a flet të vërtetën. Dhe mu për këtë, indicjet që na ofrohen nga fotografia simptomatike duhet gjithmonë të përcillen edhe me informacionet dhe materialet tjera provuese.

Kur flitet për vlerësimin e besueshmërisë së mohimit, veçanërisht e rëndësishme është se a është mohimi jo i argumentuar<sup>7</sup> ( i dyshuari mohon akuzën dhe më pas nuk afron fakte dhe prova për të vërtetuar mohimin e vet ), apo i dyshuari prezanton fakte dhe prova me anë të të cilave vërteton mohimin e tij. Për shkak se mohimi i paargumentuar është konstatim i thjeshtë, i cili nuk është i mbështetur në asnjë fakt apo provë, dhe si i tillë nuk llogaritet

<sup>5</sup> Shih: Schwindt, F.; Policisko presllushanje, Prirucnik, MUP RH, 15/2003, fq. 47.

<sup>6</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e thene sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 239.

<sup>7</sup> Shih: Schwindt, F.; Policisko presllushanje, Prirucnik, MUP RH, 15/2003, fq. 47.

si provë në procedurë penale, njëjtë ashtu, që si provë në procedurë penale nuk do të llogaritet as pohimi i akuzuesit, nëse akuza e tij nuk mbështet në fakte dhe prova të mjaftueshme. Mungesa e fakteve dhe provave, me të cilat do të vërtetohet përmbajtja e mohimit, me të drejtë na çon në supozimin se ato nuk ekzistojnë, dhe kështu këto lloje të mohimit në esencë llogariten si indicje lidhur me fajësinë e të dyshuarit. Për këtë shkak i dyshuari duhet në mënyrë të qartë të paraqes fakte dhe prova lidhur me mohimin, nëse është i pafajshëm, sepse me veprime jo të argumentuara mundet vetes së tij t'i sjellë dëm të madh. Duhet gjithashtu të potencohet se nëse dikush si i dyshuar nuk do të prezantojë argumente që shkojnë në interes të mbrojtjes së tij ( mohim jo i argumentuar ), kjo detyrimisht nuk do të thotë se ai është fajtor. Mund të kemi raste kur edhe i dyshuari i pafajshëm jo inteligjent, apo nga ndonjë arsye e tij personale, nuk do të sjellë argumente lidhur me mbrojtjen e tij, nëse dëshiron të fshehë ndonjë sekret të tij, do të mbrohet në këtë mënyrë.

Për dallim nga mohimi jo i argumentuar, mohimi i argumentuar posedon vlerë të madhe, për shkak se i dyshuari do të prezantojë fakte me të cilat do të mohojë akuzën.

Kjo do të jetë e mundur në situatat vijuese:

1. Prezantimi i të vërtetës në mënyrë të argumentuar– mënyra më e mirë për të vërtetuar të vërtetën është, kur i dyshuari do të mohojë fajësinë duke argumentuar të vërtetën. Kjo sjellje është karakteristike e të dyshuarve të pafajshëm.

2. Prezantimi i të pavërtetës në mënyrë të argumentuar– mbrojtja e të dyshuarit duke prezantuar të pavërteta është një mënyrë legjitime që e përdorin ato. Megjithatë, nëse i dyshuari do të zbulohet se mashtron, mashtrimi i tij do të forconte fuqinë provuese të indicjes lidhur me fajësinë e tij, e cila veç më ekziston.

3. Ekzistimi i disa fakteve në mënyrë mashtruese do të mohohet, ndërsa disa do të prezantohen në mënyrë të vërtetë – për vërtetimin e të vërtetës gjithsesi se situata do të jetë shumë e rrezikshme, kur i dyshuari pranon si të vërteta ekzistimin e disa fakteve, ndërsa ekzistimin e disave e mohon në mënyrë të rrejshme. Domethënë, shpeshherë ndodh që gjithë deklarata të

humbasë vlerën e saj vetëm për shkak të asaj se është argumentuar se një pjesë e saj është e pavërtetë<sup>8</sup>.

### **Heshtja si taktikë mbrojtëse e të dyshuarit**

Shikuar në aspekt gjeneral, gjatë procesit të marrjes në pyetje të mundura janë dy strategji mbrojtjeje të të dyshuarit:

- deklarimi i të dyshuarit gjatë procesit të marrjes në pyetje, pa marrë parasysh se ai do të jetë i vërtetë, pjesërisht apo plotësisht i rrejshëm, dhe
- heshtja e të dyshuarit<sup>9</sup>.

E drejta për heshtje është e drejtë e garantuar me ligj, ku i dyshuari nuk është i obliguar të prezantojë mbrojtjen e vet, si dhe as të përgjigjet në pyetjet e parashtruara.

Para çdo marrjeje në pyetje, i pandehuri informohet për: e drejta për të heshtur dhe të mos përgjigjet në asnjë pyetje, përveç se të japë informacion në lidhje me identitetin e tij / të saj ( neni 153 paragrafi 3.3 )<sup>10</sup>.

Mundemi të dallojmë këto lloje të heshtjes:

- heshtje e plotë,
- heshtje deri në përfundim të procedurës provuese,
- heshtje duke mos deklaruar për gjendjen faktike personale, me qëllim që më vonë provat e akuzës të vihen në pikëpyetje<sup>11</sup>.

Heshtja në praktikë si taktikë mbrojtëse e të dyshuarit manifestohet ashtu që i dyshuari, pas parashtrimit të pyetjes së parë, e drejton pyetësin që përgjigjen e tij ta kërkojë nga mbrojtësi i tij, si dhe në çdo pyetje tjetër të parashtruar do të përgjigjet me heshtje të plotë. Heshtja e kombinuar me mohim paraqet taktikë mbrojtëse shumë efikase.

Domethënë, i dyshuari mohon citatat e padisë, dhe njëkohësisht shmanget nga analizimi logjik i tyre. Për këtë shkak heshtja e kombinuar me

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<sup>8</sup> Shih: Siminovic, B.; Pribavljanje i ocean iskaza pred policijom i na sudom, Praven fakultet u Kragujevac, Kragujevac, 2007, fq. 229.

<sup>9</sup> Shih: Vodinelic, V. Dokazana vrednost poricanja y kriticnom postupy, JRKK, 1997, fq. 77.

<sup>10</sup> Shih: Gazeta zyrtare e Republikës së Kosovës, / Nr. 37 / 28 Dhjetor 2012, Prishtinë Kodi Nr. 04/L-123 i Procedurës Penale.

<sup>11</sup> Shih: Po aty.

mohim është situatë e vështirë, për të nxjerrë informacione lidhur me veprën penale. Për përparësitë e heshtjes të kombinuar me mohim na shpjegon autori A. Babrs kur thotë: “nëse i dyshuari do të lëshohet në komunikim atëherë do të japë përgjigje në pyetjet e parashtruara, do të ofrojë faktet dhe të kundërshtojë me argumente padinë, por nëse i dyshuari do të jetë jo i sinqertë, pashmangshmërisht do të futet në kundërthënie, të cilat nuk do të ketë mundësi t’i sqarojë<sup>12</sup>.

Vlera provuese e heshtjes shpeshherë ka qenë objekt diskutimi i autorëve të ndryshëm. Ajo që është e pakontestueshme është se heshtja nuk është, as nuk mundet të jetë provë fajësie. Të gjitha përgjigjet e kësaj pyetje mundet të ndahen në tre grupe:

- Heshtja nuk mundet të llogaritet si indicje për fajësinë<sup>13</sup>, për shkak se heshtja mundet të jetë karakteristikë edhe e të dyshuarit të pafajshëm. Arsyet që i dyshuari i pafajshëm të mbrohet me heshtje munden të jenë të ndryshme: çrregullimet e ndryshme shpirtërore, përjetimi i shokut emocional etj. Edhe pse këto raste në praktikë janë të rralla, prapëseprapë mundet të ndodhin.

- Heshtja mundet të llogaritet si indicje për fajësinë nga shkakun se i dyshuari nga frika për të mos u ngatërruar në mashtrimin e vet, mundet të zgjedhë të mbrohet me heshtje<sup>14</sup>.

Praktika na tregon se në rastet kur i dyshuari kupton se policia nuk disponon me prova të mjaftueshme për të mbështetur fajësinë e tij, ai do të vendos që të mbrohet me heshtje. Megjithatë, përcaktimi i të dyshuarit që mbrojtjen e tij që në fillim ta mbështesë në heshtje në praktikë nuk është shumë e shpeshtë, sepse edhe kryerësi i vërtetë në të shumtën e rasteve sillet në mënyrë të ngjashme si i dyshuari i pafajshëm, analizon faktet akuzuese ndaj tij dhe tenton që t’i mohojë.

- Heshtja si e tillë nuk mundet të vlerësohet as si indicje e fajësisë, as si indicje e pafajësisë<sup>15</sup>. Përgjigja më e pranuar lidhur me heshtjes është ajo se nuk është i pranueshëm qëndrimi se heshtja nuk flet asgjë lidhur me fajësinë e të dyshuarit. Heshtja fletë, mirëpo domethënia e saj është me shumë kuptime,

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<sup>12</sup> Shih: Babrs, A.: Die Vulgarluge in der gerichtlichen Praxis, Germany, 2003, fq. 212.

<sup>13</sup> Shih: Rogall, K.: Der Beschuldigte gegen sich selbst, Doicland, 2005, fq. 157.

<sup>14</sup> Shih: Po aty.

<sup>15</sup> Shih: Po aty.

për shkak se mund të mbrohet me heshtje edhe i dyshuari i pafajshëm edhe kryerësi i vërtetë.

Për dallim nga heshtja e plotë, heshtja e pjesshme mund të trajtohet si indicje lidhur me fajësinë për arsye se i dyshuari në pyetjet që i konvenojnë jep përgjigje, kurse në ato që nuk i konvenojnë hesht. Në fund duhet të theksojmë se heshtja e të dyshuarit, edhe pse është një mënyrë legale dhe legjitime për mbrojtjen e tij, dëmton procesin e vërtetimit të të vërtetës. Domethënë, i dyshuari ( nën supozimin se është kryerës i vërtetë ) më mirë se çdo kush tjetër di se si ka ndodhu një ngjarje e caktuar.

Përcaktimi i tij për t'u mbrojtur me heshtje do të llogaritet si humbje e një burimi të rëndësishëm të informacionit. Për këtë shkak pjesëtarët e policisë që realizojnë procesin e marrjes në pyetje duhet të tentojnë që të dyshuarin ta tërheqin në bisedim, por në asnjë mënyrë duke aplikuar metoda që do të na çonin në deklaram të detyrueshëm.

### **Simulimi ( shtirja) disimilimi ( fshehja ) dhe agravimi ( përkeqësimi ) si taktika mbrojtëse e të dyshuarit**

Simulimi definohet si tentim i vetëdijshëm i personave të shëndoshë dhe normal, që gjendjen e tyre ta paraqesin tjetër fare nga ajo që është realisht. Domethënë, duke aplikuar simulimin si njëri nga teknikat mbrojtëse gjatë procesit të dëgjimit, i dyshuari me qëllim dhe vetëdije shtiret si sëmurë fizikisht, apo si i sëmurë shpirtërisht<sup>16</sup>. Shpeshherë kur i dyshuari ndodhet në situatë të zbulimit të mbrojtjes së rrejshme, simulimi përdoret si metodë nga i dyshuari, me qëllim që të fitojë në kohë, për të konsoliduar mbrojtjen e vet. Shpeshherë simulohen këto gjendje dhe sëmundje: humbja e vetëdijes, shurdhmemecja, amnezia, epilepsia etj. Simulimi mundet të jetë i përgatitur dhe planifikuar me kujdes, por mundet të jetë edhe vendim i çastit.

Disimilimi është fshehje me vetëdije e simptomave të sëmundje organike, apo të çrregullimeve shpirtërore<sup>17</sup>.

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<sup>16</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e thene sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 241.

<sup>17</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e thene sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 241.

Agravimi paraqet zmadhim me vetëdije apo pavetëdije të gjendjes së vet minimalisht të çrregulluar fizike apo mentale<sup>18</sup>. Në numrin më të madh të rasteve punonjësi operativ me përvojë këto sjellje mundet lehtësisht t'i kuptojë.

### **Ndryshimi i deklaratës si taktikë mbrojtëse e të dyshuarit**

Deri te ndryshimi i deklaratës më së shumti vjen gjatë kohës, kur provat e reja nuk do të kenë mundësi apo me shumë vështirësi në mënyrë të sigurt të verifikohen. Ndryshimi i deklaratës do të jetë aktuale në të gjitha fazat e zbulimit, zbardhjes dhe argumentimit të veprës penale, që nga procedura parapenale dhe deri te seanca kryesore. I dyshuari deklarimin e vet gjithmonë do të përpiqet ta përshtatë me situatat e reja, duke u munduar që të ballafaqohet me provat e reja, por në të njëjtën kohë duke mos u larguar nga versioni i tij mbrojtës i rrejshëm<sup>19</sup>.

Në raste kur provat do të shkojnë në favor të interesit të tij, do të tentojë që deklaratën e tij ta përshtat me këtë situatë, duke u munduar që diçka të deklaruar me herët ta ndryshojë. Kjo situatë në mënyrë më të mirë do të shfrytëzohet nga të dyshuarit me përvojë dhe inteligjent. Shkaqet për shkak të të cilëve i dyshuari do të vendos të ndryshojë deklaratën mundet të jenë të ndryshëm. Disa nga ato mundet të jenë të sinqerta, dhe disa jo<sup>20</sup>.

Për shembull, është e mundur që deklarimi i parë të jetë dhënë në gjendje shoku menjëherë pas kryerjes së veprës penale, dhe më pas kur ai mendon se disa të dhëna të veçanta nuk shkojnë në interes të mbrojtjes së atij, ai vendos t'i tërheqë duke i ndryshuar ato. Gjithashtu, mund të ndodhin raste kur policia në mënyrë brutale ka vepruar dhe ka marrë deklaratën nga i dyshuari, dhe pas fillimit të procedurës penale, i dyshuari në të shumtën e rasteve nga këshillat e mbrojtësit të vetë, bënë ndryshimin e deklaratës së tij, me arsyetimi se kjo deklaratë është dhënë nën presion.

Ndryshimi i deklaratës të të dyshuarit gjatë procesit të marrjes në pyetje mundet të variojë nga ndryshimi i plotë ( ashtu që deklarata e re do të jetë kontradiktore me atë të dhënë paraprakisht ), deri te ndryshimi i pjesshëm,

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<sup>18</sup> Shih: Po aty.

<sup>19</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 173.

<sup>20</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e thene sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 243.

kështu që deklarata e re paraqet plotësim, precizim, gjegjësisht mohimi i pjesëve të caktuara të deklaratës të dhënë më herët.

Që ndryshimi i deklaratës të jetë i pranueshëm dhe i besueshëm, ajo duhet të përcillet me dhënien e arsyes së përshtatshme e cili do ta justifikojë këtë ndryshim. Më së shumti në praktikë përdoren këto pretekste: “Nuk më kujtohet të kem thënë një gjë të atillë...”, “Gabimisht më keni kuptuar kur kam thënë...”, “Ka mundësi që atë t’ua kem thënë juve. Megjithatë, atë ditë shikueshmëria ka qenë e dobët...” etj. Kur flitet lidhur me ndryshimin e deklaratës, duhet të theksohet se deri te ndryshimi vjen gjatë procesit të hetimit dhe sa më shumë që të zgjasë hetimi, aq më e madhe do të jetë tendenca për ndryshim të saj, me qëllim të minimizimit të fajësisë së të dyshuarit<sup>21</sup>.

Ndryshimet e shpeshta dhe të paargumentuara të deklaratës paraqesin indicje të fuqishme lidhur me fajësinë e të dyshuarit. Kjo është një taktikë e mirë që e përdorin kryerësit e veprave penale gjatë procesit të marrjes në pyetje. Kjo taktikë e të dyshuarit duhet të pritët nga ana e punonjësit operativ i përgatitur. Që mundësinë e ndryshimit të deklaratës ta zbresim në një nivel sa më të vogël, në rastet kur për këtë ka edhe kushtet, deklarata duhet të incizohet me anë të teknikës audio-vizuale.

### **Prezantimi i deklaratës paraprakisht të përgatitur ( mbrojtje e paramenduar e të dyshuarit )**

Në rastet kur nuk do të jetë e mundur t’i iket përgjegjësisë penale lidhur me veprën e kryer penale, kryerësi i veprës penale do të orvatet që këtë përgjegjësi ta ulë në masë mundësisht sa më të vogël. Domethënë, duke llogaritur paraprakisht se një ditë, për shkak të veprimtarisë së vet kriminale mundet të dënohet nga ana e shtetit, kryerësit e veprave penale qysh përpara parapërgatitjes deklaratën që do të prezantonin, nëse do të ndodhte eventualisht dëgjim nga policia ndaj tyre, si dhe provat që do ta mbështesin këtë deklaratë. Në praktikë ndodhin shpesh situata që shitësit e lëndëve narkotike të mbajnë gjithmonë sasi të vogël të drogës anash, ashtu që në rast se do të zbulohen, të kenë mundësi që vëmendjen e policisë ta orientojnë në ato vende me sasi të vogël, kështu që pjesa kryesore e drogës gjithë kohën të jetë e sigurt. Të

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<sup>21</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 173-174.

shtypur nga provat gjatë procesit të marrjes në pyetje, i dyshuari mundet të vijë në situatë që ta lë versionin e tij të rrejshëm dhe të pranojë fajësinë<sup>22</sup>.

Megjithatë, në vend që të deklarojë të vërtetën plotësisht, ato deklarojnë vetëm një pjesë të vogël të saj. Në këtë kuptim, ata do të “zbulojnë” vendin se ku e kanë fshehur “mallin”, por në atë vend policia do të gjejë vetëm një pjesë të vogël të tij<sup>23</sup>. Gjersa policia do të jetë e kënaqur, duke menduar se rasti plotësisht është zgjidhur, në këto raste edhe kryerësi i veprës penale do të jetë i kënaqur se sasia kryesore e “mallit” do të ruhet dhe do të mbetet e pazbuluar. Në të njëjtën kohë ata do të mbajnë përgjegjësi më të vogël penale sesa t’u zbulohet e gjithë sasia e tij ( për shembull. përgjegjësia nuk është e njëjtë, nëse në pyetje do të jetë 1 kilogram apo 10 gram ). Edhe pse kjo taktikë është karakteristikë e shitësve të drogës, ajo me sukses mundet të aplikohet edhe në veprat tjera penale.

Kështu, kryerësi i veprave penale të vrasjeve, vjedhje dhe të ngjashme mundet të vendosi në një anë një pistoletë, e cila nuk ka qenë e përdorur për vrasjen. Gjithashtu, në harmoni me këto teknika mbrojtëse shpeshherë kryerësit paraprakisht përgatisin edhe alibinë, kështu që kryerësit e veprave penale që më parë merren vesh për deklaratën me “dëshmitarët” potencial, si dhe përgatisin prova që këtë alibi ta vërtetojnë<sup>24</sup>.

Nga kjo që u tha, mundemi të konstatojmë se në pamundësi për t’i ikur përgjegjësisë penale, kryerësit e veprave penale përpiqen që sa më shumë të jetë e mundur t’i orientojnë hetimet në drejtim ku atyre më së shumti u konvenon. Deklarata paraprakisht e përgatitur dhe provat që e mbështesin atë, si qëllim kanë që organin për zbulim ta bindin se është në rrugë të drejtë. Punonjësi operativ me përvojë të pamjaftueshme lehtësisht do të tërhiqet në atë version, dhe me këtë do të devijojë nga rruga, e cila çon në vërtetimin e plotë të së vërtetës lidhur me një vepër të caktuar penale.

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<sup>22</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 176.

<sup>23</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 176.

<sup>24</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e the ne sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 245.

## Teknikat tjera mbrojtëse të të dyshuarve

Taktikat mbrojtëse që i përdorin të dyshuarit janë në numër më të madh. Përveç atyre që u potencuan, në shprehje mund të vinë edhe këto:

Të menduarit mirë që i paraprin përgjigjes në pyetjen e parashtruar<sup>25</sup> – për dallim nga i dyshuari i pafajshëm, i cili nuk ka çka të fshehë dhe në pyetjet e parashtruara nuk ka nevojë të mendohet si të përgjigjet, te kryerësit e vërtetë kjo nuk ndodh. Ata para së të përgjigjen në pyetjen e punonjësit operativ, bëjnë një pauzë të shkurtër për t'u menduar se çfarë përgjigjeje të japin. Ndonjëherë, pauza që i paraprin përgjigjes së pyetjes të punonjësit operativ, mundet të jetë karakteristikë edhe e të dyshuarve të pafajshëm. Kjo, para se gjithash do të ndodhë si rast, nëse situata për të cilin ka të bëjë pyetja ka ndodhur në të kaluarën, dhe për këtë i dyshuari ka nevojë për kohë për t'u kujtuar lidhur me disa detaje, që janë në lidhshmëri me ngjarjen. Gjithashtu, ndonjëherë ndërlikueshmëria e pyetjes së parashtruar ka nevojë që i dyshuari pak të mendohet para se të përgjigjet dhe, kjo mund të jetë si pasojë e aftësive intelektuale të ulëta, stresi që është prezent tek ai dhe të ngjashme. Ashtu si të menduarit e të dyshuarit përpara se të përgjigjet në pyetjet e punonjësit operativ mundet të jetë si indicje për fajësinë e tij, gjithashtu njëjtë me këtë edhe përgjigjet e shpejta e të dyshuarit, të cilat kanë nevojë pak për t'u menduar, gjithashtu mundet të paraqesin indicje për fajësinë e tij<sup>26</sup>. Domethënë, nëse në ndonjë pyetje të ndërlikuar, e cila vërtetë kërkon pak kohë nga i dyshuari për t'u menduar para se të përgjigjet ( për shembull, të kujtohet lidhur me disa detaje lidhur me ngjarjen ), nëse i dyshuari përgjigjet menjëherë, kjo mundet të na tregojë se përgjigja e tij ka qenë që më herët e parapërgatitur dhe si e tillë paraqet indicje për fajësinë e tij. Në fund mundemi të themi se ashtu si që është përgjigja e të dyshuarit në ndonjë pyetje të ndërlikuar, dhe për të cilën paraprakisht nuk ka nevojë të mendohet, indicje për fajësinë e tij, njëjtë indicje për fajësinë e tij është edhe nevoja e të dyshuarit për t'u menduar, para se të përgjigjet në ndonjë pyetje të thjeshtë.

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<sup>25</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 176-177.

<sup>26</sup> Shih: Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, fq 76. e the ne sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992, fq. 248.

Përsëritja e pyetjes së parashtruar<sup>27</sup> – mënyrë shumë e shpeshtë që e përdor i dyshuari për të fituar në kohë dhe për t’u menduar lidhur me përgjigjen është edhe përsëritja e pyetjes së parashtruar. Për shembull: Punonjësi operativ: “A ke qenë edhe ti prezent atëherë kur ndodhi kjo gjë...?” I dyshuari: ( në mënyrë të ngadalësuar përsërit pyetjen ) “A kam qenë unë prezent atëherë kur ndodhi kjo gjë...?” ( dhe pas kësaj pason një pauzë e shkurtër dhe përgjigja ), “Jo, u thash se nuk kam qenë”.

3. Deklarime dhe sqarime të pakërkuara dhe shumë të hershme lidhur me ngjarjen<sup>28</sup> – shpeshherë kryerësi i vërtetë do të dëshirojë që të deklarojë versionin e vet, përpara se punonjësi operativ një gjë të këtillë të ketë kërkuar nga ai. Ata janë të padurueshëm për të dhënë sqarimet e tyre, duke theksuar ato që shkojnë në interes të pafajësisë së tij. Nëse punonjësi operativ do ta pyesë atë: “A e ke kryer ti këtë...?”. Ai në këtë pyetje do të përgjigjet me mohim të veprës dhe menjëherë pas kësaj do të japë sqarime që shkojnë në interes të pafajësisë së tij. Për dallim nga kryerësi i vërtetë, i dyshuari i pafajshëm do të thotë: “Jo, unë atë nuk e kam kryer”, dhe më pas nuk do të jap sqarime, por do të presë pyetjen pasuese të punonjësit operativ.

4. Orientimi në ato burime të cilat janë të pamundura të verifikohen<sup>29</sup> – i dyshuari i pafajshëm, nëse e orienton punonjësin operativ do ta orientojë në ato burime që kanë mundësi për t’u verifikuar. Kurse, kryerësi i vërtetë për të mbrojtur versionin e vet të rrejshëm, shpeshherë do të thirret në ato burime të cilat punonjësi operativ nuk do të ketë mundësi t’i verifikojë. Për shembull: “Të ishte babai im gjallë, ai juve me siguri këtë që u them do t’ua vërtetonte...” apo “Për këtë që u them mundet të pyetni shefin tim ( shokun, vëllanë...), ai juve do t’u thoshte...” Punonjësi operativ deri te këto burime ose nuk ka mundësi që të vijë, ose nëse do të vij deri te ato, nga ato nuk do të fitonte të dhëna që fajësojnë të dyshuarin.

5. Tentimi për të diskredituar punonjësin operativ, viktimën, dëshmitarin<sup>30</sup> – shumë shpesh kryerësi i vërtetë do të përpiqet që të diskreditojë punonjësin operativ, të dëmtuarin, dëshmitarët. Duke i diskredituar ata, ai në të njëjtën kohë diskrediton edhe akuzën e tyre. Për

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<sup>27</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 176-177.

<sup>28</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 176-177.

<sup>29</sup> Shih: Po aty.

<sup>30</sup> Shih: Po aty.

shembull, kur objekt i diskreditimit është punonjësi operativ, i dyshuari mundet të deklarojë për tentim të sajimit të provave lidhur me fajësinë e tij nga ana e punonjësit operativ. Ai deklaron se gjatë kohës së privimit të lirisë janë shkelur të drejtat e tij. Gjithashtu, ai do të tentojë të diskreditojë edhe viktimën, duke u munduar ta paraqesë si person gënjeshtar, se kjo për të nuk është hera e parë, që akuzon në mënyrë të rrejshme dikë.

6. Mirësjellje e tepruar, respektim dhe dëshirë që të “ndihmohet” punonjësi operativ<sup>31</sup> – si indicje e shpeshtë e fajësisë së të dyshuarit mundet të jetë edhe mirësjellja e tepruar ndaj punonjësit operativ, respektimi ndaj tij dhe dëshira që t’i “ndihmohet” atij për të zbardhur rastin. Më këtë mënyrë, i dyshuari tenton që punonjësi operativ të fitojë mendim pozitiv, gjegjësisht, te ai të formojë bindjen se i dyshuari nuk është person i cili do të kryente vepër penale. Nëse i dyshuari në këtë do të ketë sukses, mundësia do të jetë e madhe që punonjësi operativ të bindet në pafajësinë e tij.

7. “Nënvizimi” i sinqeritetit të tij<sup>32</sup> – njëra nga mënyrat që kryerësi i vërtetë shpeshherë e përdor për të “bindur” punonjësin operativ në sinqeritetin e tij. Fraza që më së shumti përdoret në këtë drejtim “Betohem se unë...”, “Në çka doni të betohem që të më besoni?”, “Mos dalsh i gjallë nga këtu nëse ju mashtroni...”, si dhe shumë të tjera të ngjashme me këto.

### Perfundimi

Nga kjo që u prezantua më lartë, mundemi të konstatojmë se mohimi i fajësisë është njëra nga taktikat mbrojtëse më të shpeshta të kryerësve të veprave penale. Megjithatë, në të njëjtën kohë ajo mundet të jetë si mënyra e vetme e mbrojtjes së personave të pafajshëm. Për këtë shkak, pjesëtarët e policisë detyrimisht duhet të jenë shumë të kujdesshëm, kur gjatë veprimeve të tyre do të kenë përpara një të dyshuar që mohon fajësinë. Kjo është edhe obligim ligjor për pjesëtarët e policisë: Gjykata, prokurori i shtetit dhe policia të cilët marrin pjesë në procedurën penale detyrohen që saktësisht dhe tërësisht t’i vërtetojnë faktet të cilat janë të rëndësishme për marrjen e vendimit të ligjshëm ( neni 7 paragrafi 1 )<sup>33</sup>.

<sup>31</sup> Shih: Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996, fq. 178-179.

<sup>32</sup>

<sup>33</sup> Shih: Gazeta zyrtare e Republikës së Kosovës, / Nr. 37 / 28 Dhjetor 2012, Prishtinë Kodi Nr. 04/L-123 i Procedurës Penale.

Legjislacioni procedural penal ka për detyrë të sigurojë një procedim të drejtë, të barabartë e të rregullt ligjor, të mbrojtë liritë personale dhe të drejtat e interesat e ligjshme të shtetasve, të ndihmojë për forcimin e rendit juridik dhe zbatimin e Kushtetutës e të ligjeve të shtetit ( neni 1 )<sup>34</sup>.

Mohimi, padyshim posedon një vlerë të madhe orientuese. Dhe sa i takon vlerës së tij provuese, ai ka të njëjtën vlerë provuese si pranimi, por vetëm atëherë kur ajo do të verifikohet me të gjitha provat e grumbulluara, si ato materiale, ashtu edhe ato personale.

### Literatura

1. Maver, D.; Defence strategies and techniques of interrogation. V: Policing in central eastern Europe, College of police and security studies, Ljubljana, 1996.
2. Zullavski, D., Wicklander, D., Practical aspects of interview and interrogation, second edition, CRC Press, 2002, e the ne sipas: Gudjonsson, G. The psychology of interrogations, confessions and testimony, John Wiley & Sons, London, 1992.
3. Rogall, K.: Der Beschuldigte gegen sich selbst, Doicland, 2005.
4. Siminovic, B.; Pribavljanje i ocean iskaza pred policijom i na sudom, Praven fakultet u Kragujevac, Kragujevac, 2007.
5. Vodinelic, V. Dokazana vrednost poricanja y kriticnom postupy, JRKK, 1997.
6. Gazeta zyrtare e Republikës së Kosovës, / Nr. 37 / 28 Dhjetot 2012, Prishtinë Kodi Nr. 04/L-123 i Procedurës Penale.
7. Babrs, A.: Die Vulgarluge in der gerichtlichen Praxis, Germany, 2003.
8. Schwindt, F.; Policisko presllushanje, Prirucnik, MUP RH, 15/2003.
9. Babrs, A.: Die Vulgarluge in der gerichtlichen Praxis, Germany, 2003.

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<sup>34</sup> Shih: Kodi i Procedurës Penale i Republikës së Shqipërisë, Botimi i Qendrës së Publikimeve Zyrëtare, Tetor. 2010.

# FIGURAT E REJA TË DËMIT MODERN. KALIMI NGA KONCEPTI I PËRGJEGJËSISË CIVILE NË ATË TË DREJTËSISË SË DËMEVE

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## **Abstrakt**

Civil liability is the legal responsibility that requires the responsible party to compensate for the harm caused to third parties. To establish civil liability, both in contractual and non- contractual obligations, the existence of damage must be proven. In a society where scientific and technological development and progress are part of everyday life, an urgent need arises to prevent and compensate for all modern forms of damage. Today, legal trends are shifting, placing compensation and restitution of damages at the forefront. This shift has led to the abandonment of the adage that there is no civil liability without fault, and the acceptance of the new concept that, in fact, there is no civil liability without a tort. At a time when the concept of tort law has been strengthened, many new forms of torts have emerged, such as torts for defective products, nuclear torts, IT torts, genetic torts, aesthetic torts, environmental damage, and various types of personal torts.

**Keywords:** *civil liability, tort law, new torts, damage compensation, modern damages.*

## HYRJE

Përgjegjësia civile njihet si një institut që përbëhet nga tërësia e rregullave që detyrojnë përgjegjësin e dëmit të dëmshpërblejë dëmet që u ka shkaktuar të tretëve<sup>1</sup>. Ky përkufizim është në fakt shumë i ngjashëm me atë të autorit francez Doyer René Savatier që e përkufizon përgjegjësinë civile si: “*detyrimi që bie mbi një person për të riparuar dëmin e shkaktuar një tjetri nga veprimi/mosveprimi i tij ose nga veprimi i një personi tjetër a sendeve të varura prej tij*”<sup>2</sup>. Pra, përgjegjësia civile lind në rastin e mospërmbushjes së detyrimit të debitorit në detyrimet që lindin nga kontrata ose lind në momentin e shkaktimit të dëmit në rastet e një detyrimi jashtëkontraktor.<sup>3</sup>

Sikurse në detyrimet kontraktore, ashtu dhe në ato jashtëkontraktore që të flitet për përgjegjësi civile kërkohet si kusht kryesor ekzistenca e dëmit. Në kuptimin juridik, me fjalën dëm kuptojmë humbjen e të mirave juridikisht të mbrojtura<sup>4</sup>. Dëmi mund të jetë një lëndim, dëmtim apo përkeqësim, material ose moral që një person përjeton në jetën, integritetin fizik, shëndetin, asetet, pasurinë dhe të drejtat e tij<sup>5</sup>. Në të vërtetë, ai është një shkëlqje e të drejtave subjektive ose e interesave të një subjekti të shkaktuara me veprim të dëmshëm,<sup>6</sup> që mund të paraqitet në formën e dëmit kontraktor<sup>7</sup> dhe dëmit jashtëkontraktor<sup>8</sup>. Autori gjerman Karl Larenz, e përkufizon dëmin si një alterim të pafavorshëm të rrethanave që vjen si rezultat i një ngjarjeje specifike

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<sup>1</sup> Për më shumë shiko “Definition de la responsabilité civile”, i aksesueshëm në: <https://cours-de-droit.net/definition-de-la-responsabilite-civile-a121605924/>

<sup>2</sup> Përkufizim i marrë nga Savatier, René; “Traité de la responsabilité civile en droit français civil, administrative, professional, procédural”, Revue international de droit comparé, 1950.

<sup>3</sup> Mamuti, Afet; “Përgjegjësia juridike civile për shpërblimin e dëmit në Maqedoni”, Disertacion për marrjen e gradës shkencore ‘Doktor’, Tiranë 2013, fq.65.

<sup>4</sup> Dauti, Nerxhivane; “E drejta e Detyrimeve, Pjesa e përgjithshme”, Prishtinë, 2016, fq.151.

<sup>5</sup> Contreras Strauch, Osvaldo; “Civil liability and insurance (An analysis of civil liability and its insurance, under the legal viewpoint of the ‘common law and ‘civil or continental law’ systems)”, AIDA International Insurance Law Association, fq.22.

<sup>6</sup> Morina, Sevdai; “Kriteret dhe kushtet që duhet të plotësohen për caktimin e përgjegjësisë civile për dëmin jashtëkontraktor në Republikën e Shqipërisë dhe Republikën e Kosovës”, Disertacion për marrjen e gradës shkencore ‘Doktor’, Tiranë 2017, fq.63.

<sup>7</sup> Dëmi kontraktor është dëmi pasuror që vjen si rezultat i mospërmbushjes së detyrimeve që burojnë nga një kontratë të lidhura me cilësinë, afatin, kohën ose të lidhura me humbjen e interesit për të vazhduar marrëdhënien juridike në të ardhmen apo me dëmin e pësuar, për shkak të pamundësisë së përmbushjes së detyrimit për faj të debitorit.

<sup>8</sup> Dëmi jashtëkontraktor është dëmi pasuror apo jopasuror që i shkaktohet individit, në kushtet kur nuk ekziston asnjë marrëdhënie juridike e deriatëçastshme mes shkaktuesit të dëmit dhe palës së dëmtuar.

kundër vullnetit të personit dhe që ndikon në të drejtat ligjore që i takojnë atij, qofshin këtu ato të lidhura me personalitetin, integritetin, nderin, pasurinë e tij e jo vetëm<sup>9</sup>.

Sot jetojmë në një botë gjithnjë e më të ndërlidhur, gjithnjë e më të zënë dhe që ndryshon me shpejtësi, në të cilën e drejta civile ka një rol të vazhdueshëm e të rëndësishëm për të siguruar standarde minimale të ndërveprimit midis individëve që kompensojnë dëmshpërblimin e veprimeve të gabuara<sup>10</sup>. Në epokën ku jetojmë, sistemet e përgjegjësisë civile po përballen me sfidën e madhe të parandalimit dhe kompensimit të të gjitha dëmeve që na shkaktohen për shkak të jetesës në një shoqëri ku zhvillimi dhe përparimi shkencor dhe teknologjik janë rregull i çdo dite<sup>11</sup>. Si pasojë, tendencat moderne të ligjit po ndryshojnë aksin e vëmendjes ligjore, duke vendosur në qendër të saj kompensimin e dëmit. Kjo gjë ka bërë që të fitojnë përparësi faktorët objektivë që i atribuohen përgjegjësisë, duke lënë mënjanë aforizmin e vjetër se nuk ka përgjegjësi civile pa faj. Sot ajo çka ka rëndësi vërtet është se nuk ka përgjegjësi civile pa dëm<sup>12</sup>.

Evolucioni në fushën e përgjegjësisë civile duket që nga fakti se sot nuk thuhet më se nuk ka përgjegjësi pa faj, por se nuk ka përgjegjësi pa dëm, dhe këto dëme nuk janë vetëm ato që kanë ekskluzivisht karakter individual ose grupor, por dhe ato që ndikojnë në kolektivitetin ose mirëqënien e shoqërisë në tërësi<sup>13</sup>. Kjo përjasje e fundit i ka hapur rrugën një epoke të re, të ashtuquajtur si “drejtësia e dëmeve”, ku qendra kryesore e vëmendjes është viktimi e dëmit dhe ku mbi të gjitha interesi më i madh është fokusuar në mbrojtjen e qenies njerëzore, më shumë se sa në kërkimin e personit civilisht përgjegjës<sup>14</sup>.

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<sup>9</sup> Larenz, Karl & Canaris, Claus-Wilhelm; “*Methodenlehre der Rechtswissenschaft*”, Springer-Lehrbuch, New York, 1995.

<sup>10</sup> Witting, Christian & Goh, Yihan; “*Evolving personal torts*”, Singapore Academy of Law Journal, 2015, fq.607.

<sup>11</sup> Taboada, Lizardo; “*Los nuevos daños jurídicamente indemnizables y la responsabilidad civil moderna*”, 2012, i disponueshëm në: <http://blog.pucp.edu.pe/blog/seminariotallerdpc/2012/10/17/los-nuevos-danos-juridicamente-indemnizables-y-la-responsabilidad-civil-moderna/>

<sup>12</sup> Contreras Strauch, Osvaldo; “Civil liability and insurance (An analysis of civil liability and its insurance, under the legal viewpoint of the ‘common law’ and ‘civil or continental law’ systems)”, AIDA International Insurance Law Association, fq.26.

<sup>13</sup> Córdoba, Jorge & Sanchez Torres, Julio; “El derecho de daños en el nuevo milenio”, Alveroni Ediciones, Córdoba, Argjentinë 2014, fq.43.

<sup>14</sup> Përshtatur nga Gonzales Agurto, Antonio Carlos; “*El nuevo derecho de daños. Daño a la persona y daño al proyecto de vida*”, Editorial Temis S.A, Bogota, Kolumbi, 2019, fq.18.

Megjithëse tashmë është gjerësisht i pranuar fakti se koncepti i drejtësisë së dëmeve ka një përmbajtje më të gjerë sesa ai i përgjegjësisë civile<sup>15</sup>, ajo që ka revolucionarizuar dhe vazhdon të revolucionarizojë vërtet fushën e përgjegjësisë civile dhe për rrjedhojë ka sjellë inovacionin më të madh në konceptin e përgjegjësisë civile që njohim sot, është ekzistenca, konfigurimi dhe kategorizimi i dëmeve të reja të kompensueshme, që po njohin kompensim gjithnjë e më të madh juridik si nga doktrina, dhe jurisprudenca vendase dhe e huaj<sup>16</sup>. Në këtë prizëm, në një kohë kur fusha e dëmshpërblimeve po bëhet më dinamike se kurrë, disa nga temat që dalin si të rëndësishme janë përgjegjësia për dëmet e shkaktuara ndaj konsumatorëve nga produktet difektoze; dëmet bërthamore; dëmi informatik; dëmi gjenetik, dëmet e pësuar në trazira ose sulme, dëmi mjedisor<sup>17</sup> dhe një sërë dëmsh të inkuadruara si dëme personale për gjithësa të cilat do bëjmë një analizë përmbledhëse më poshtë.

### Figurat e reja të dëmit modern

Përparimi gjeometrik i arritjeve njerëzore që nga revolucioni industrial deri në epokën teknologjike aktuale ka shkaktuar ndryshime strukturore në sistemet e riparimit të dëmeve dhe përgjegjësisë civile<sup>18</sup>. Përveç dëmeve ‘tradicionalë’, prej disa vitesh doktrina dhe jurisprudenca kanë elaboruar figura të reja të dëmit të tilla si<sup>19</sup>: dëmi indirekt/ dëmi jopasuror i reflektuar, dëmet kolektive;<sup>20</sup> dëmet ekologjike; dëmet e shkaktuar konsumatorit; dëmet psikosomatike ose të njohura ndryshe dëme-event<sup>21</sup>; dëmi mbi projektin e jetës; dëme estetike; dëmet bërthamore; dëmet e shkaktuara nga zhurmat;

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<sup>15</sup> Cordobera Garrido, Lidia; “La percepción y configuración de los nuevos daños. Reflexiones sobre su inserción en la enseñanza jurídica”, Academia Revista sobre enseñanza del Derecho, No.9, Argjentinë 2007, fq. 55.

<sup>16</sup> Për më shumë shih Taboada, Lizardo; “*Los nuevos daños jurídicamente indemnizables y la responsabilidad civil moderna*”, 2012.

<sup>17</sup> Shih: Córdoba, Jorge & Sanchez Torres, Julio; “El derecho de daños en el nuevo milenio”, Alveroni Ediciones, Cordoba, Argjentinë 2014, fq.36.

<sup>18</sup> Taboada, Lizardo; “*Los nuevos daños jurídicamente indemnizables y la responsabilidad civil moderna*”, 2012.

<sup>19</sup> Për më shumë shiko: Serrano, Gazquez, Laura; “*El daño en el ordenamiento jurídico español: Nuevos daños? Analisis Jurisprudencial*”, Congreso Iberoamericano de Derecho Privado, 2017, fq.4.

<sup>20</sup> Dëmet kolektive janë një modalitet i ri dëmi dhe konceptohet në vetve si një dëm që prek në të njëjtën kohë, disa të drejta të personalitetit të një grupi njerëzish, për më shumë shiko: Junior, Da Silva, Rodrigues, Enivaldo; “*Do dano na responsabilidade civil extracontratual*”, 2018.

<sup>21</sup> Dëmi psikosomatik merr parasysh natyrën komplekse dhe dy dimensionale të qënies njerëzore. Shkaktimi i tij konceptohet i lidhur nga njëra anë me aspektin fizik, funksionet fiziologjike dhe shëndetin mendor të njeriut, e nga ana tjetër prek dhe qënien njerëzore në lirinë dhe dimensionet e veta shpirtërore. Sipas disa autorëve, ky lloj dëmi është bashkim i dëmit biologjik dhe atij ekzistencial.

dëmet informatike e të tjera. Këto lloje/kategori të reja dëmshme të kompensueshme janë pasojë e zhvillimit të doktrinës së përgjegjësisë civile, në varësi të ndryshimeve të shoqërisë moderne, jo vetëm në fushën shkencore dhe teknologjike, por gjithashtu në interesat e reja të individëve të cilat aktualisht konsiderohen se meritojnë mbrojtjen e rendit juridik për shkak të aktiviteteve profesionale, industriale dhe inovatore<sup>22</sup>.

### Dëmi informatik

Dëmi informatik i njohur gjerësisht dhe si sabotazh informatik — *cyberpunking*, vandalizëm informatik, vandalizëm elektronik, *cracking* ose, *hacking*—i referohet, në përgjithësi, gjithë grupit të sjelljeve me natyrë informatike që dëmtojnë ose pengojnë funksionimin e duhur të teknologjive dixhitale, duke përjashtuar nga ky koncept, natyrisht, veprimet që përdoren në sistemin për të futur të dhëna, për të drejtuar sjellje ose për të shpërndarë informacion<sup>23</sup>. Brenda përkufizimit të atij që quhet ‘dëm informatik’ përfshihet si shkatërrimi i sistemeve informatike të plota, ashtu edhe i komponenteve të tyre të veçanta, qofshin ato pajisje, të dhëna, dokumente apo dhe programe<sup>24</sup>.

Dëmet që lidhen me marrëdhëniet kontraktuale për blerjen e hardware-it dhe software-it, si dhe ato që rrjedhin nga manipulimi i të dhënave personale të rezervuara, janë të rëndësishme për shkak të ndikimit të tyre social dhe ekonomik<sup>25</sup>. Ndryshe nga veprat e dëmshme që ndodhin në botën materiale, veprat e dëmshme informatike zakonisht përqendrohen tek "*humbjet financiare, dëmtimi i reputacionit ose dëmtimi emocional, më shumë sesa dëmtimi personal ose dëmtimi fizik i pronës*."<sup>26</sup> Në përgjithësi, veprat e dëmshme në informacion shkaktojnë dëme që janë shumë më të vështira për

<sup>22</sup> Dëmi psikosomatik merr parasysh natyrën komplekse dhe dy dimensionale të qënies njerëzore. Shkaktimi i tij konceptohet i lidhur nga njëra anë me aspektin fizik, funksionet fiziologjike dhe shëndetin mendor të njeriut, e nga ana tjetër prek dhe qënien njerëzore në lirinë dhe dimensionet e veta shpirtërore. Sipas disa autorëve, ky lloj dëmi është bashkim i dëmit biologjik dhe atij ekzistencial.

<sup>23</sup> Taboada, Lizardo; "*Los nuevos daños jurídicamente indemnizables y la responsabilidad civil moderna*", 2012.

<sup>24</sup> Barranco de la Marta Javier, Norberto & Diaz Hernández, Leyre; "*El delito de daños informáticos, una tipificación defectuosa*", Estudios penales y criminológicos, No.29, 2009, fq. 316.

<sup>25</sup> Córdoba, Jorge & Sanchez Torres, Julio; "*El derecho de daños en el nuevo milenio*", Alveroni Ediciones, Córdoba, Argjentinë 2014, fq.39.

<sup>26</sup> Mullen, Mary; "*The Internet and Public Policy: Cybertorts and Online Property Rights*", Research Department, Minnesota House of Representatives, 2018, fq.2.

t'u vlerësuar sesa veprat tradicionale të dëmshme që përfshijnë lëndime fizike, gabime profesionale apo dëme materiale dhe ekonomike<sup>2727</sup>.

### Dëmi gjenetik

Dëmi gjenetik në kontekstin e ri tekniko-shkencor të dekadës së fundit formohet si një kategori dëmi me rëndësi të veçantë për sistemin juridik në përgjithësi dhe për drejtësinë e dëmeve në veçanti<sup>2828</sup>. Ky dëm përkufizohet nga doktrina si çdo dëm, ndryshim dhe modifikim, i kryer nga teknikat gjenetike, i aftë të ndikojë në biologjinë, autonominë, dinjitetin dhe integritetin e individit, për shkak të ndërhyrjes në substancës e tij gjenetike me qëllim paracaktimin ose përcaktimin në mënyrë artificiale të ekzistencës e tij<sup>29</sup>. Forma të "dëmit gjenetik" që shkaktohen lidhen me "shkakun" e prodhimit të tij, duke bërë që të dallohen lloje të qëllimshme të dëmit gjenetik të ndara kryesisht në forma të fajshme dhe të veçanta.

Për shumë autorë ky dëm njihet si një kategori e re e dëmit të integruar në fushën e dëmit jomaterial në shëndet<sup>30</sup>, që klasifikohet si dëm i përsëritur përsa kohë që dëmi nuk shkel vetëm të drejtën e të dëmtuarit për intimitet dhe integritetin e hartës së tij gjenetike, por përkundrazi, shtrihet ndër vite dhe tek pasardhësit e tij<sup>31</sup>. Ky dëm mund të jetë pasojë e riprodhimit natyror ose e riprodhimit të asistuar, duke sjellë lindjen e përgjegjësive civile për transmetimin natyror të jetës dhe përgjegjësive civile për transmetimin e jetës njerëzore përmes përdorimit të teknikave të riprodhimit të asistuar<sup>31</sup>.

### Dëmi i ardhur nga IA

Inteligjenca Artificiale ofron përfitime të mëdha, por gjithashtu mund të shkaktojë dëme, gjë që na shtyn të reflektojmë etikisht dhe juridikisht. Megjithëse në parim, IA nuk duhet të shkaktojë dëme, nëse shkaktohen të tilla,

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<sup>27</sup> *Ibid.*

<sup>28</sup> Prieto- Gutiérrez, Hernando; "El daño genético. Bases para su conceptualización jurídica", *Vniversitas* no.135, Kolumbi, 2017, fq. 197.

<sup>29</sup> Valdés, Erick & Puentes, Victoria Laura; "Daño genético. Definición y doctrina a la luz del bioderecho", *Revista de Derecho Publico* no.32, 2014.

<sup>30</sup> *Ibid.*, fq.2

<sup>31</sup> Ali Hussein, Riyadh; "Guarantee the genetic damage resulted from the peaceful use of atomic energy: (Comparative analytical study)", *PalArch's Journal of Archaeology of Egypt* no.17, 2020, fq.5-6.

Taboada, Lizardo; "Los nuevos daños jurídicamente indemnizables y la responsabilidad civil moderna", 2012, i disponueshëm në: <http://blog.pucp.edu.pe/blog/seminariotallerdpc/2012/10/17/los-nuevos-danos-juridicamente-indemnizables-y-la-responsabilidad-civil-moderna/>

do të duhet të jetë dikush përgjegjës për të shpërblyer pasojat e ardhura<sup>32</sup>. Nisur nga kjo, Bashkimi Evropian ka propozuar një regjim të projektuar në Rezolutën e Parlamentit Evropian të 20 tetorit 2020 me rekomandime drejtuar Komisionit<sup>33</sup>, për regjimin e përgjegjësisë civile në çështjet e inteligjencës artificiale, në thelb të së cilave mbetet lindja e përgjegjësisë civile objektive për dëmet e shkaktuara nga sistemet me rrezik të lartë,<sup>34</sup> (përveç në rastet e forcës madhore, fajit ekskluziv të viktimës apo mbulimit të saj nga një sigurim i detyrueshëm) dhe një regjimi të përgjegjësisë civile subjektive, për dëmet e shkaktuara nga sistemet e tjera që nuk janë të klasifikuara me rrezik të lartë. Kjo lloj përgjegjësie subjektive është e lidhur me përdorimin e mundshëm të IA për qëllime të paautorizuara ose të dëmshme.

Propozimi aktual i Zyrës së IA në BE mbi përgjegjësinë në fushën e inteligjencës artificiale është shumë i gjerë, pasi nuk kufizohet në një lloj të caktuar dëmi, si dëmet ndaj personave ose sendeve, por mbulon të gjitha dëmet e shkaktuara nga shkelje civile që mund të sjellin përgjegjësi sipas legjislacionit të zbatueshëm kombëtar<sup>35</sup>. Kështu, për shembull, këto rregulla do të lehtësojnë kompensimin e dëmeve të shkaktuara nga ndërhyrja në të drejtat e personalitetit, si në rastin e ndërhyrjes në intimitet dhe privatësi, ose të të drejtave themelore, siç është, për shembull, diskriminimi që mund të ndodhë gjatë një procesi rekrutimi që përdor sisteme IA për të bërë përzgjedhjen<sup>36</sup>. Struktura e këtij propozimi u ruajt dhe niveli i mbrojtjes u rrit përfundimisht dhe në të famshmin Akt të Inteligjencës Artificiale, që hyri në fuqi në vendet e BE vetëm në gusht të vitit 2024<sup>37</sup>.

Nga ana tjetër, krahas këtij akti, regjimi aktual i përgjegjësisë për produktet difektoze, i përcaktuar nga Direktiva 85/374/CEE, kompenson dëmet fizike, përfshirë vdekjen, dhe në disa kushte, dëmet materiale ose të sendeve<sup>38</sup>. Megjithatë, ndryshe nga Akti i IA, ai nuk kompenson dëmet që

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<sup>32</sup> Mendizábal Navarro, Iñigo; “Quién paga los daños que causa la IA? De la ética a la responsabilidad por productos defectuosos”, Revista Iberoamericana de Bioética no.25, 2024, fq. 14

<sup>33</sup> Për të aksesuar Rezolutën e plotë shih: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020IP0275>

<sup>34</sup> Për të parë faktorët që ndikojnë në kategorizimin e riskut shih: <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>

<sup>35</sup> Casals, Martín Miquel; “Las propuestas de la Unión Europea para regular la responsabilidad civil por los daños causados por sistemas de inteligencia artificial”, InDret no.3, 2023, fq. 16.

<sup>36</sup> Ibid.

<sup>37</sup> Për të parë versionin e plotë të Artificial Intelligence Act shih: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024R1689>

<sup>38</sup> Shiko nenin 9 të Direktivës për përgjegjësinë e produkteve difektuoze, e aksesueshme në: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31985L0374>

rrjedhin nga ndërhyrja në të drejtat e personalitetit, dëmin pasuror (humbjen ekonomike të pastër), dhe as dëmin psikologjik apo moral të pastër<sup>3940</sup>.

### **Mobbing**

Mobbing-u i referohet situatave të konflikteve në punë që lindin nga bullizimi i një punonjësi nga një tjetër, disa të tjerë, ose madje dhe nga punëdhënësi ose stafi i tij mbikëqyrës në vendin e punës<sup>41</sup>. Aktualisht, mobbingu kuptohet si një seri sjelljesh shfrytëzuese, shqetësimesh ose situatash negative që kanë në qendër ambientin e punës, përmes veprimeve denigruese të një ose më shumë subjekteve (përfshirë këtu punëdhënësit, kolegët, etj) ndaj një subjekti tjetër (viktima e mobbingut)<sup>42</sup>. Mobbingu mund të konceptohet si *“terror psikologjik në vendin e punës”*, çka nënkupton një gamë të gjërë sjelljesh agresive dhe shfrytëzuese të përsëritura, nga kolegët dhe/ose shefat<sup>43</sup>.

Konkretisht mobbing-u përfshin vërejtje ose kritika të vazhdueshme negative, izolon një person nga kontaktet sociale dhe përhap thashetheme ose informacione të rreme në emër të tij<sup>44</sup>. Si pasojë, këto sjellje rrezikojnë të dëmtojnë moralin e personit të ngacmuar, duke e bërë atë të humbasë vetëvlerësimin dhe duke e nënshtruar atë në një proces izolimi që degradon konsideratën personale dhe shoqërore ndaj tij<sup>45</sup>. Sot mbrojtja e viktimës së mobbingut arrihet, brenda skemave të përgjegjësisë civile, përmes gamës së

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<sup>39</sup> Ky dëm përfshin dëmtimin e ndjenjave që nuk lidhet as me një dëmtim trupor, as me shkeljen e një të drejte të personalitetit, as me dëmin ndaj sendeve, në kuptimin e tij më të gjerë.

<sup>40</sup>Casals, Martín Miquel; “Las propuestas de la Unión Europea para regular la responsabilidad civil por los daños causados por sistemas de inteligencia artificial”, InDret no.3, 2023, fq. 31.

<sup>41</sup> Në gjuhën angleze, koncepti i "mob-it" nënkupton përballje nga një grup i tërë, por në mjedisin e punës evropian, ‘mobbing’ mund ti pergjigjet dhe vetëm një përballje tek e tek, për më shume shiko: Rasic, Daugherty Carol; “Not just in Sicily: “Mobbing”-The European Workplace Tort”, North Atlantic Regional Business Law Association, 2003, fq.1.

<sup>42</sup> Gonzales Agurto, Antonio Carlos; “El nuevo derecho de daños. Daño a la persona y daño al proyecto de vida”, Editorial Temis S.A, Bogota, Kolumbi, 2019, fq.113.

<sup>43</sup> Ibid.

<sup>44</sup> Për më shumë shih punën kërkimore të Divizionit të përgjithshëm të kërkimit në Parlamentin Evropian me temë: “Bullying at work”, 2001, fq.6, të disponueshëm në: [https://www.europarl.europa.eu/workingpapers/soci/pdf/108\\_en.pdf](https://www.europarl.europa.eu/workingpapers/soci/pdf/108_en.pdf)

<sup>45</sup> Gonzales Agurto, Antonio Carlos; “El nuevo derecho de daños. Daño a la persona y daño al proyecto de vida”, Editorial Temis S.A, Bogota, Kolumbi, 2019, fq.114.

dëmeve që mund të riparohen, të cilat mund të jenë sipas rastit: dëme pasurore, dëme morale, dëme biologjike dhe dëme eksistenciale<sup>46</sup>.

### Figura të reja të dëmit personal

Tendenca e qendërimit të vëmendjes tek personaliteti i subjektit të së drejtës ka lejuar të perceptohet se në fushën e përgjegjësisë civile, më e rëndësishme nuk është përcaktimi i fajit të shkaktuesit të dëmit, por mbrojtja e të dëmtuarit për t'i siguruar atij një kompensim të përshtatshëm për shkaktimin e një dëmi të padrejtë<sup>47</sup>.

Në fakt, dëmi ndaj personit<sup>48</sup> është qendra e përgjegjësisë civile të re dhe të gjitha modalitetet e tij, si dëmi psikosomatik dhe dëmi ndaj projektit të jetës ose dëmi ndaj lirisë personale, janë gjithashtu pjesë e kësaj përgjegjësie<sup>49</sup>.

### La perte d'une chance

Teoria e humbjes së një shansi (*perte d'une chance*) e ka origjinën e vetë në vitet '60 të shekullit të kaluar, ku qëndrimi i doktrinës franceze mbi humbjen e fitimit që sjell një dëm, filloi të implementonte "humbjen e një shansi" në rastet kur një veprim i paligjshëm privonte viktimën nga mundësia për të qenë financiarisht dhe profesionalisht më mirë në të ardhmen<sup>50</sup>. Humbja e shansit ndodh kur për shkak të një sjelljeje të paligjshme të njerëzve të tjerë, bie ose humb probabiliteti që të ndodhë një ngjarje që do t'i siguronte një përfitim të ardhshëm viktimës në karrierë e jo vetëm. Që ky lloj dëmi të mund

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<sup>46</sup> Ibid, për më tepër duhet thënë se një numër i madh masash të mundshme në nivelin e BE-së mund të mbështesin mbrojtjen nga ngacmimi në vendin e punës. Këto masa mund të mbështeten ligjërisht në Direktivën 89/391/EEC. Ato mund të zbatohen gjithashtu përmes ndryshimeve në Direktivën 2000/78/EC.

<sup>47</sup> Ibid, fq.56.

<sup>48</sup> Dëmi ndaj personit konsiderohet, natyrisht, si e drejta për jetën dhe integritetin psiko-fizik të personit; e pasuar më pas nga e drejta për nderin, emrin, identitetin personal, intimitetin, imazhin, ndër të tjera, për më shumë shih: Koteich Khatib, Milagros; "El daño extrapatrimonial a la persona. Tendencias del nuevo derecho de daños", Ediciones Olejnik, Kili, fq.19.

<sup>49</sup> Gonzales Agurto, Antonio Carlos; "El nuevo derecho de daños. Daño a la persona y daño al proyecto de vida", Editorial Temis S.A, Bogota, Kolumbi, 2019, fq.99.

<sup>50</sup> Junior, Da Silva, Rodrigues, Enivaldo; "Do dano na responsabilidade civil extracontratual", 2018, i aksesueshëm në: <https://enivaldojunior.jusbrasil.com.br/artigos/575605356/do-dano-na-responsabilidade-civil-extracontratual>

të aplikohet do duhet që shansi në rastin konkret të ishte serioz, real<sup>51</sup> dhe ti siguronte personit të dëmtuar kushte personale efektive për të garuar dhe fituar në mundësinë që do i krijohet<sup>52</sup>.

Sipas një grupi autorësh humbja e mundësisë është një humbje e caktuar, por nuk është një humbje eventuale e aq më pak një dëm hipotetik, sepse ajo që kompensohet është mundësia dhe përfitimi i humbur nga ky shans. Sipas tyre hipotetike është ngjarja në të ardhmen, por jo mundësia e humbur, pasi kjo e fundit mbetet një fakt i vërtetë dhe aktual. Si pasojë, është mundësia se ajo që duhet të kompensohet është një fakt juridik dhe jo ngjarja që mund të ndodhte në të ardhmen<sup>53</sup>.

Nga ana tjetër autorë të tjerë nisen fillimisht nga kushtet që do duhet të plotësoheshin për të patur përgjegjësi civile nga humbja e një shansi, të cilat i rendisin si më poshtë: shkelja/mospërmbushja e një detyrimi; prova e një mospërmbushjeje të tillë; ekzistenca e dëmit efektiv që i zvogëlonte shanset e mbrojtjes së palës së dëmtuar; ekzistenca e një lidhjeje shkakësore si dhe fiksimi i një kompensimi ekuivalent ndaj dëmit të pësuar ose një shpërblimi proporcional me humbjen e shansit<sup>54</sup>. Nisur nga këto kushte, ata konkludojnë se dëmi për humbjen e një shansi është hipotetik dhe nuk mund të lejë vend për dëmshpërblim në momentin që ka një dyshim të arsyeshëm mbi pamundësinë e arritjes së atij rezultati<sup>55</sup>. Prandaj, përgjegjësia për humbjen e një shansi kërkon që të provohet se pala e dëmtuar ishte në një situatë faktike ose ligjore të përshtatshme për të realizuar qëllimin financiar ose situatën e pretenduar<sup>56</sup>.

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<sup>51</sup> Në një vendim të 1996, Gjykata e Kasacionit në Francë ripërkufizoi dëmin nga humbja e një shansi si dëm i përbërë nga humbja e një mundësie që është e drejtpërdrejtë dhe e sigurt, pavarësisht se realizimi i shansit nuk ka për të qënë kurrë i sigurt, për më shumë shiko: <https://aurelienbamde.com/2016/09/14/la-perte-de-chance/>

<sup>52</sup> Ibid.

<sup>53</sup> Ibid, fq.94.

<sup>54</sup> Shiko vendimet e Dhomës së Parë të Gjykatës Supreme në Spanjë nr.896 datë 22.04.2013; nr,283 20.05.2014.

<sup>55</sup> Serrano, Gazquez, Laura; "El daño en el ordenamiento jurídico español: Nuevos daños? Analisis Jurisprudencial", Congreso Iberoamericano de Derecho Privado, 2017, fq.19.

<sup>56</sup> Ibid.

## Dëmi rikoshet

Dëmi rikoshet, ose i ashtuquajtur i dëmi indirekt apo dëmi i reflektuar<sup>57</sup> është ai lloj dëmi që i shkaktohet një pale të tretë, në shumicën e rasteve të afërm të viktimës, si rezultat i dëmtimit fillestar që ka pësuar i dëmtuari kryesor (i njohur në literaturën franceze viktimë e menjëhershme) i prekur drejtpërdrejtë nga ngjarja që solli dëmin<sup>58</sup>. Për rrjedhojë, me termin viktimë rikoshet do të kuptojmë personin që pëson një dëmtim, që mund të jetë si pasuror ashtu dhe jopasuror, si pasojë e dëmeve të shkaktuara viktimës direkte të dëmit<sup>59</sup>. Nëse do kthehemi mbrapa në kohë për të gjetur origjinën e këtij lloji dëmi, do na duhet të përmendim se ka qenë fillimisht praktika gjyqësore ajo që përcaktoi se viktimat ‘*par ricochet*’ kishin të drejtë të kompensoheshin nëse dëmi që kishte pësuar viktimë kryesore u kishte shkaktuar lëndime të çfarëdolloji dhe atyre. Kështu Gjykata e Kasacionit në Francë, ka qenë shumë herët e prirur për t’iu njohur dëmshpërblim viktimave rikoshet. Që në 1937 kjo gjykatë imponoi ekzistencën e një lidhje ligjore mes viktimës direkte dhe asaj indirekte, duke legjitimuar të drejtën për dëmshpërblim që ngrihej nga bashkëshorti i viktimës dhe fëmijët e saj. Më pas në 1970, në çështjen e famshme ‘*L’arret Dangereux*’ Gjykata e Kasacionit i dha mundësinë dhe partnerit bashkëjetues të viktimës të njihej si viktimë ‘*par ricochet*’, përsa kohë që bashkëjetesa midis tij dhe viktimës kishte qenë e qëndrueshme dhe jo e dënueshme penalisht.<sup>60</sup>

Qysh prej vitit 1863, Gjykata e Kasacionit nuk ka bërë dallim në dëmshpërblimin e viktimave rikoshet me parimin se *ubi lex non distinguit, nec nos distinguere debemus* (aty ku ligji nuk bën dallim, nuk duhet të bëjmë dallim as ne)<sup>61</sup>. Ky lloj dëmi ka gjetur njohje dhe nga jurisprudenca shqiptare e cila është shprehur se familjarët e afërt të viktimës gëzojnë legjitimitim aktiv për të kërkuar dëmshpërblim, në cilësinë e të dëmtuarit, për çënime të shëndetit

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<sup>57</sup> Koncept i huazuar nga Dollani, Ergan; “Dëmi jashtëkontraktor në vështrim krahasues”, Mikrotezë Masteri, fq. 68.

<sup>58</sup> Lambert-Faivre, Yvonne & Porchy-Simon, Stéphanie; “Droit du dommage corporel. Systèmes d’indemnisation”, Dalloz, 6ième edition, 2009.

<sup>59</sup> Shiko: “Qui sont les victimes par ricochet et peuvent-elles être indemnisées?”, i aksesueshëm në: <https://www.weka.fr/sante/dossier-pratique/responsabilites-des-professionnels-dt109/qui-sont-les-victimes-par-ricochet-et-peuvent-elles-etre-indemniees-8066/>

<sup>60</sup> Për më shumë shikoni: Commentaire de l’arret Dangereux, 27.02.1970, i aksesueshëm në: <https://www.doc-du-juriste.com/droit-prive-et-contrat/droit-civil/dissertation/arret-dangereux-dommages-interets-mort-concubin-472566.html>

<sup>61</sup> Bamdé, Aurélien; “Le prejudice par ricochet”, Le Droit dans tous ses états, Francë 2016, i aksesueshëm në: <https://aurelienbamde.com/2016/09/15/le-prejudice-par-ricochet/>

dhe interesave të tjerë pasurorë e jopasurorë të pësuar si rrjedhojë e vdekjes së njeriut të tyre të afërm nga fakti i paligjshëm i të tretit<sup>62</sup>. Sipas Vendimit Unifikues Nr.12/2007, çdo subjekt i cënuar në të drejta dhe interesa të ligjshme personale e pasurore nga fakti i paligjshëm, edhe nëse nuk është ai vetë subjekti pasiv i atij fakti, ka të drejtën subjektive, legjitimimin aktiv, për të kërkuar (*ius proprius*) dëmshpërblimin e dëmit pasuror e jopasuror të pësuar.<sup>63</sup> Ky legjitimim aktiv, në parim, nuk kushtëzohet me gëzimin e cilësisë së trashëgimitarit të një personi të dëmtuar, por vetëm me cilësinë e vetë paditësit si i dëmtuar nga fakti i paligjshëm.<sup>64</sup>

### Dëmi mbi projektet e jetës

Një nga dëmet më të rënda që mund ti shkaktohet një njeriu, përveç vdekjes, është dëmi mbi projektet e jetës. Shpesh projekti për jetën fillon si një dëshirë dhe vendim i lirë dhe transformohet në një të ardhme të largët ose të afërt, në atë çka personi vendos të jetë dhe të bëjë me jetën e vet. Një dëm që prek projektet e njeriut për jetën, padyshim që shikohet në një prizëm ekzistencial dhe cënon në një mënyrë a në një tjetër aspiratat, qëllimet, projektet dhe planet që gjithësecili bën për ti dhënë kuptim jetës e për të arritur përmbushje dhe satisfaksion personal.<sup>65</sup>

Si një dëm me origjinë amerikano-latine, dëmi për projektet e jetës është interpretuar dhe analizuar disa herë nga Gjykata Interamerikane e të Drejtave të Njeriut, e cila e lidh konceptin e projektit të jetës me nevojën e njeriut për të qenë i lirë dhe i pakushtëzuar në zgjedhjet që bën në jetë, duke insistuar në faktin se çdo person, me vetëdije ose jo, ka të imagjinuar e të dëshiruar një projekt për jetën, qoftë dhe elementar që i përgjigjet një vendimi të tij personal, të lirë dhe të arsyeshëm brenda kornizës së kushteve dhe mundësive që janë të natyrshme për të.<sup>66</sup>

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<sup>62</sup> Vendimi Unifikues i Gjykatës së Lartë, Nr.12, dt.13.09.2007& 14.09.2007, fq.16.

<sup>63</sup> Ky interpretim është bazuar në Kodin Civil, ku neni 643 thotë se: “Kur është shkaktuar vdekja e një personi, dëmi që duhet të shpërblejë përbëhet nga: a. shpenzimet për ushqim e jetesë të fëmijëve të tij, të bashkëshortes dhe prindërve të paafët për punë që kanë qenë në ngarkim të të vdekurit, plotësisht ose pjesërisht si dhe të personave që banonin në familjen e të vdekurit dhe që gëzonin prej tij të drejtën e ushqimit...”

<sup>64</sup> Ibid ref255, fq.7.

<sup>65</sup> Rangel-Sanchez, Diana; “El ‘daño a la persona’ en material de responsabilidad civil extracontractual. Especial referencia a los daños derivados de la responsabilidad civil familiar”, Tesis para optar el título de abogado, Universidad de Piura 2015, fq 51.

<sup>66</sup> Arriaga, Martinez, Sergio Jorge; “Clasificación del daño. La reparación integral y su alcance en el proyecto de vida”, CEDIP 2018, fq.43.

Sipas studiuesve, dëmi ndaj projektit të jetës është një dëm aktual që ka ndikim në të ardhmen duke e bërë atë një dëm të sigurt dhe të vazhdueshëm. Efekti i tij më i rëndë është se mund të shkaktojë, në raste ekstreme, një boshllëk ekzistencial për shkak të humbjes së arsyes për të jetuar të personit që e përjeton.<sup>67</sup>

## PËRFUNDIME

Si përfundim mund të themi se epoka aktuale ku po jetojmë ka ndikuar në krijimin e dëmeve të ndryshme, duke shkaktuar kështu një diskutim të ri dhe të pasur mbi parimet e përgjegjësisë civile në kuptimin e gjerë dhe në rëndësinë që ka marrë e ashtuquajtura drejtësi e dëmeve. Ky diskutim ka nxitur jo vetëm në fuqizimin e ‘të drejtës së dëmeve’, por ka influencuar gjithashtu në zhvillimin e një sërë figurave të reja të dëmit modern që kanë ndryshuar rrënjësisht marrëdhëniet kontraktore/ jashtëkontraktore mes palëve dhe kanë ndihmuar palën e dëmtuar të kompensohet në mënyrë të drejtë e të denjë.

Në vitet e fundit, më shumë sesa gjetjes së personit civilisht përgjegjës, i është kushtuar një rëndësi qendrore dhe primare viktimës së dëmit, duke u siguruar që ajo të marrë kompensimin e duhur si në rast shkaktimi të dëmit pasuror ashtu dhe të atij jopasuror. Kjo përjasje jo vetëm që ka ndryshuar filozofinë e kompensimit të dëmeve, por mbi të gjitha ka siguruar që personat që preken nga një ngjarje që shkakton pasoja të dëmshme të mos mbeten pa ndihmë për shkak të pafuqisë për të identifikuar ose ndëshkuar personin përgjegjës.

## Bibliografia

### *Botime dhe artikuj shkencorë*

1. Ali Hussein, R., “*Guarantee the genetic damage resulted from the peaceful use of atomic energy: (Comparative analytical study)*”, PalArch’s Journal of Archaeology of Egypt no.17, 2020.
2. Arriaga, Martinez, S., J., “*Clasificación del daño. La reparación integral y su alcance en el proyecto de vida*”, CEDIP 2018.
3. Barranco de la Marta Javier, N., & Diaz Hernández, L., “*El delito de daños informáticos, una tipificación defectuosa*”, Estudios penales y criminológicos, No.29, 2009.

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<sup>67</sup> Gonzales Agurto, Antonio Carlos; “El nuevo derecho de daños. Daño a la persona y daño al proyecto de vida”, Editorial Temis S.A, Bogota, Kolumbi, 2019, fq.129.

4. Casals, M., M., “*Las propuestas de la Unión Europea para regular la responsabilidad civil por los daños causados por sistemas de inteligencia artificial*”, InDret no.3, 2023.
5. Contreras Strauch, O., “*Civil liability and insurance (An analysis of civil liability and its insurance, under the legal viewpoint of the ‘common law and ‘civil or continental law‘systems)*”, AIDA International Insurance Law Association.
6. Córdoba, J. & Sanchez Torres, J., “*El derecho de daños en el nuevo milenio*”, Alveroni Ediciones, Cordoba, Argentinë 2014.
7. Cordobera Garrido, L., “*La percepción y configuración de los nuevos daños. Reflexiones sobre su inserción en la enseñanza jurídica*”, Academia Revista sobre enseñanza del Derecho, No.9, Argentinë 2007.
8. Dauti, N., “*E drejta e Detyrimeve, Pjesa e përgjithshme*”, Prishtinë, 2016. Dollani, E., “*Dëmi jashtëkontraktor në vështrim krahasues*”, Mikrotezë Masteri.
9. Gonzales Agurto, A., C., “*El nuevo derecho de daños. Daño a la persona y daño al proyecto de vida*”, Editorial Temis S.A, Bogota, Kolumbi, 2019.
10. Junior, Da Silva, Rodrigues, E., “*Do dano na responsabilidade civil extracontratual*”, 2018.
11. Koteich Khatib, M., “*El daño extrapatrimonial a la persona. Tendencias del nuevo derecho de daños*”, Ediciones Olejnik, Kili.
12. Lambert-Faivre, Y.& Porchy-Simon, S., “*Droit du dommage corporel. Systèmes d’indemnisation*”, Dalloz, 6ieme edition, 2009.
13. Larenz, K.& Canaris,C-W., “*Methodenlehre der Rechtswissenschaft*”, Springer-Lehrbuch, New York, 1995.
14. Mamuti, A., “*Përgjegjësia juridike civile për shpërblimin e dëmit në Maqedoni*”, Disertacion për marrjen e gradës shkencore ‘Doktor’, Tiranë 2013.
15. Mendizábal Navarro, I., “*Quién paga los daños que causa la IA? De la ética a la responsabilidad por productos defectuosos*”, Revista Iberoamericana de Bioética no.25, 2024.
16. Morina, S., “*Kriteret dhe kushtet që duhet të plotësohen për caktimin e përgjegjësive civile për dëmin jashtëkontraktor në Republikën e Shqipërisë dhe Republikën e Kosovës*”, Disertacion për marrjen e gradës shkencore ‘Doktor’, Tiranë 2017.

17. Mullen, M., *“The Internet and Public Policy: Cybertorts and Online Property Rights”*, Research Department, Minnesota House of Representatives, 2018.
18. Prieto- Gutiérrez, H., *“El daño genético. Bases para su conceptualización jurídica”*, Universitas no.135, Kolumbi, 2017.
19. Rangel-Sanchez, D., *“El ‘daño a la persona’ en material de responsabilidad civil extracontractual. Especial referencia a los daños derivados de la responsabilidad civil familiar”*, Tesis para optar el título de abogado, Universidad de Piura 2015.
20. Rasnic, Daugherty C., *“Not just in Sicily: “Mobbing”-The European Workplace Tort”*, North Atlantic Regional Business Law Association, 2003.
21. Savatier, R., *“Traité de la responsabilité civile en droit français civil, administrative, professionnelle, procédurale”*, Revue internationale de droit comparé, 1950.
22. Serrano, Gazquez L., *“El daño en el ordenamiento jurídico español: Nuevos daños? Analisis Jurisprudencial”*, Congreso Iberoamericano de Derecho Privado, 2017.
23. Taboada, L., *“Los nuevos daños jurídicamente indemnizables y la responsabilidad civil moderna”*, 2012.
24. Valdés, E. & Puentes, V., L., *“Daño genético. Definición y doctrina a la luz del bioderecho”*, Revista de Derecho Público no.32, 2014.
25. Witting, Ch.& Goh, Y., *“Evolving personal torts”*, Singapore Academy of Law Journal, 2015.

### *Vendime*

1. Vendim Unifikues i Gjykatës së Lartë, Nr.12, dt.13.09.2007& 14.09.2007. Vendim i Dhomës së Parë të Gjykatës Supreme në Spanjë nr.896 ,datë 22.04.2013.
2. Vendim i Dhomës së Parë të Gjykatës Supreme në Spanjë nr.283 ,datë 20.05.2014.

### *Akte ligjore*

1. Kodi Civil i Republikës së Shqipërisë

2. European Parliament resolution of 20 October 2020 with recommendations to the Commission on a framework of ethical aspects of artificial intelligence, robotics and related technologies Artificial Intelligence Act of EU
3. Directive 85/374/EEC of 25 July 1985 on defective products liability.

*Links*

1. <https://cours-de-droit.net/definition-de-la-responsabilite-civile-a121605924/>
2. <http://blog.pucp.edu.pe/blog/seminariotallerdpc/2012/10/17/los-nuevos-danos-juridicamente-indemnizables-y-la-responsabilidad-civil-moderna/>
3. <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>  
[https://www.europarl.europa.eu/workingpapers/soci/pdf/108\\_en.pdf](https://www.europarl.europa.eu/workingpapers/soci/pdf/108_en.pdf)
4. <https://enivaldojunior.jusbrasil.com.br/artigos/575605356/do-dano-na-responsabilidade-civil-extracontratual>
5. <https://www.weka.fr/sante/dossier-pratique/responsabilites-des-professionnels-dt109/qui-sont-les-victimes-par-ricochet-et-peuvent-elles-etre-indemniees-8066/>
6. <https://aurelienbamde.com/2016/09/14/la-perte-de-chance/>
7. <https://www.doc-du-juriste.com/droit-prive-et-contrat/droit-civil/dissertation/arret-dangereux-dommages-interets-mort-concubin-472566.html>
8. <https://aurelienbamde.com/2016/09/15/le-prejudice-par-ricochet/>

# ROLI I POLITIKËS MONETARE NË STABILIZIMIN EKONOMIK: ANALIZË E VENDEVE TË BALLKANIT PERËNDIMOR

Bora SHahini

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## Abstrakt

Ky raport kërkimor ofron një analizë gjithëpërfshirëse dhe të detajuar mbi efikasitetin e politikave monetare në gjashtë vendet e Ballkanit Perëndimor (BP6: Shqipëria, Bosnja dhe Hercegovina, Kosova, Maqedonia e Veriut, Mali i Zi dhe Serbia) gjatë një periudhe të karakterizuar nga goditje të forta eksterne. Duke u mbështetur në të dhënat më të fundit të Fondit Monetar Ndërkombëtar (FMN), Bankës Botërore dhe raporteve vjetore të bankave qendrore për vitet 2024 dhe 2025, ky studim shqyrton se si regjimet e ndryshme monetare—nga shënjestrimi i inflacionit te euroizimi unilateral dhe bordet monetare—kanë reaguar ndaj presioneve inflacioniste post-pandemike dhe krizës energjetike të shkaktuar nga lufta në Ukrainë. Analiza tregon se pavarësisht divergjencave në instrumente, stabiliteti i çmimeve mbetet spiranca qendrore e makroekonomisë rajonale, megjithëse suksesi i tij është i lidhur ngushtë me nivelin e pavarësisë së bankave qendrore dhe shkallën e euroizimit strukturor. Hulumtimi nxjerr në pah se kanalet e transmetimit monetar në rajon mbeten të kufizuara nga aksesimi i dobët në financë dhe dominimi i bankave me kapital të huaj, gjë që kërkon një koordinim më të mirë midis politikave monetare dhe reformave strukturore të diktuar nga Plani i Rritjes i Bashkimit Evropian. Rezultatet sugjerojnë se vendet me fleksibilitet më të lartë të kursit të këmbimit, si Shqipëria dhe Serbia, kanë pasur hapësirë më të madhe për të amortizuar goditjet eksterne pa sakrifikuar rritjen ekonomike, ndërsa ekonomitë e euroizuara janë mbështetur kryesisht te buffers-at fiskalë dhe disiplina strikte buxhetore.

## Hyrje

Stabiliteti ekonomik i vendeve të Ballkanit Perëndimor përbën një sfidë komplekse që ndërthur nevojën për konvergencë të shpejtë me Bashkimin Evropian dhe mbrojtjen nga volatiliteti i tregjeve globale. Si ekonomi të vogla dhe të hapura, këto vende janë jashtëzakonisht të ndjeshme ndaj lëvizjeve në Eurozonë, e cila mbetet partneri kryesor tregtar dhe burimi kryesor i investimeve të huaja direkte dhe remitancave. Në këtë kontekst, politika monetare nuk është thjesht një mjet teknik për rregullimin e ofertës së parasë, por një shtyllë strategjike që përcakton kushtet e financimit, stabilitetin e kursit të këmbimit dhe besueshmërinë e institucioneve shtetërore përballë investitorëve ndërkombëtarë.

Historikisht, rajoni ka vuajtur nga periudha të gjata paqëndrueshmërie, ku hiperinflacioni i viteve 1990 la gjurmë të pashlyeshme në psikologjinë e kursimtarëve dhe në arkitekturën e sistemeve bankare. Kjo trashëgimi shpjegon arsyen pse shumica e vendeve të rajonit kanë zgjedhur regjime që kufizojnë diskrecionin monetar në këmbim të rritjes së besueshmërisë. Për shembull, Bosnja dhe Hercegovina operon me një bord monetar strikt që nga viti 1997, ndërsa Kosova dhe Mali i Zi kanë adoptuar euron në mënyrë unilaterale, duke hequr dorë plotësisht nga pavarësia monetare për të "importuar" stabilitetin e Bankës Qendrore Evropiane (BQE).

Megjithatë, vitet e fundit kanë treguar se mungesa e instrumenteve monetare mund të jetë një thikë me dy prerje. Gjatë krizës energjetike të vitit 2022, kur çmimet e importit u rritën ndjeshëm, vendet pa monedhë kombëtare nuk mundën të përdornin kursin e këmbimit për të amortizuar goditjen, duke u përballur me nivele inflacioni që tejkalonin ato të vendeve të zhvilluara. Nga ana tjetër, Shqipëria dhe Serbia, përmes regjimit të shënjestrimit të inflacionit, patën mundësinë të rregullonin normat e interesit në mënyrë më autonome, duke arritur një stabilizim më të shpejtë të çmimeve në vitin 2024.

Ky raport do të analizojë rolin e politikës monetare në tre dimensione kryesore. Së pari, do të shqyrtohet arkitektura institucionale dhe diferencimi i regjimeve monetare si faktorë përcaktues të stabilitetit. Së dyti, do të analizohen kanalet e transmetimit dhe pengesat strukturore, me fokus të

veçantë të euroizimi dhe aksesit në financë. Së treti, do të vlerësohen rezultatet konkrete të stabilizimit gjatë periudhës 2024-2025, duke përfshirë ndikimin e Planit të Rritjes të BE-së dhe nevojën për koordinim rajonal. Përmes kësaj analize, synohet të identifikohet nëse modeli aktual i politikës monetare është i mjaftueshëm për të garantuar rritje të qëndrueshme në një ambient global gjithnjë e më të fragmentuar.

### **Arkitektura e regjimeve monetare dhe autonomia institucionale**

Diversiteti i regjimeve monetare në Ballkanin Perëndimor pasqyron qasje të ndryshme ndaj trilemës së pamundur të makroekonomisë (mundësia për të pasur njëkohësisht kurs këmbimi fiks, lëvizje të lirë të kapitalit dhe politikë monetare sovraane). Në rajon bashkëjetojnë modele që variojnë nga dorëzimi total i sovranitetit të pavarësia e lartë institucionale, secila me avantazhet dhe kostot e veta specifike.

#### **Shënjestrimi i inflacionit me kurse fleksibël: Shqipëria dhe Serbia**

Shqipëria dhe Serbia përfaqësojnë grupin e vendeve që kanë zgjedhur rrugën e autonomisë monetare përmes regjimit të shënjestrimit të inflacionit (Inflation Targeting). Në këtë kuadër, bankat qendrore përdorin normën e interesit si instrumentin kryesor për të mbajtur inflacionin brenda një bande të paracaktuar.

Banka e Shqipërisë (BoA) synon një normë inflacioni prej pikë përqindjeje. Gjatë vitit 2024, Shqipëria u dallua si një nga ekonomitë me performancën më të mirë në Evropë, me një rritje ekonomike të mbështetur nga turizmi dhe një inflacion që u stabilizua në rreth . Një element kyç i këtij stabiliteti ka qenë forcimi i lekut shqiptar ndaj euros. Ky forcim, i nxitur nga flukset e larta të valutës nga turizmi dhe investimet e huaja, ka vepruar si një mburojë natyrore kundër inflacionit të importuar, duke lejuar Bankën e Shqipërisë të mos i rrisë normat e interesit në nivele aq agresive sa fqinjët e saj.

Në Serbi, Banka Popullore e Serbisë (NBS) aplikon një objektiv prej pikë përqindjeje. Serbia u përball me presione më të forta në vitin 2022-2023, ku inflacioni arriti kulmin në , por reagimi monetar ishte i shpejtë dhe i

vendosur. NBS rriti normën referencë deri në përpara se të fillonte një normalizim gradual në mesin e vitit 2024. Një karakteristikë unike e Serbisë është politika e "stabilitetit relativ" të kursit të këmbimit, ku NBS ndërhyt në tregun valutor për të parandaluar luhatjet e forta të dinarit, duke kombinuar elementet e shënjestrimit të inflacionit me një menaxhim aktiv të kursit.

Vendi	Regjimi Monetar	Objektivi i Inflacionit	Institucioni
Shqipëria	Shënjestrim Inflacioni	3.0%±1%	Banka e Shqipërisë
Serbia	Shënjestrim Inflacioni	3.0%±1.5%	Banka Popullore e Serbisë
Maqedonia e Veriut	Kurs i fiksuar (de facto)	Stabiliteti i Denarit	Banka Popullore e MV
Bosnja dhe H.	Bord Monetar	Kurs fiks (peg) me Euron	Banka Qendrore e BH
Kosova	Euroizim Unilateral	Importuar nga BQE	Banka Qendrore e Kosovës
Mali i Zi	Euroizim Unilateral	Importuar nga BQE	Banka Qendrore e Malit të Zi

Tabela 1: Krahasimi i regjimeve monetare dhe objektivave kryesore në BP6.

Regjimet e lidhura dhe Bordi Monetar: Maqedonia e Veriut dhe Bosnja-Hercegovina

Për vendet që kanë pasur histori të dhimbshme me monedhën vendase, regjimet e fiksuara kanë shërbyer si një "spirancë besueshmërie". Maqedonia

e Veriut ndjek një strategji të stabilitetit të kursit të këmbimit të denarit ndaj euros, një politikë që ka shërbyer për tre dekada si mbrojtje kundër inflacionit. Megjithatë, kjo kërkon që Banka Popullore e Maqedonisë së Veriut (NBRNM) të ndjekë nga afër vendimet e BQE-së për normat e interesit për të parandaluar presionet mbi rezervat valutore. Gjatë vitit 2024, rezervat valutore të NBRNM arritën një rekord prej mbi 5 miliardë eurosh, duke reflektuar besimin në stabilitetin e denarit pavarësisht goditjeve të çmimeve të energjisë.

Bosnja dhe Hercegovina përfaqëson rastin më strikt të Bordit Monetar. Ligji për Bankën Qendrore e ndalon këtë institucion të kreditojë qeverinë apo të emetojë para pa mbulim të plotë në euro. Kjo arkitekturë e ka mbajtur markën konvertibël (KM) jashtëzakonisht të qëndrueshme, por e ka lënë vendin pa mjete monetare për të stimuluar ekonominë në kohë recesioni. Në vitin 2024, CBBH u fokusua në forcimin e integritetit të bordit monetar në një ambient politik të fragmentuar, duke arritur një nivel mbulimi prej .

Euroizimi unilateral dhe mungesa e huadhënësit të fundit: Kosova dhe Mali i Zi

Kosova dhe Mali i Zi, duke përdorur euron si valutë zyrtare pa qenë pjesë e Eurozonës, kanë eliminuar rrezikun e kursit të këmbimit dhe kostot e transaksionit, por janë përballur me sfida të mëdha në menaxhimin e likuiditetit. Problemi kryesor mbetet mungesa e funksionit të Huadhënësit të Fundit (Lender of Last Resort - LOLR). Bankat qendrore në këto vende nuk mund të krijojnë likuiditet në rast të një paniku bankar, gjë që i detyron ato të mbajnë nivele shumë të larta të rezervave dhe të mbështeten te linjat e kredisë nga bankat mëmë evropiane.

Në Kosovë, Banka Qendrore (CBK) ka punuar për të krijuar një skemë të asistencës emergjente për likuiditet, të financuar bashkërisht nga kapitali i bankës dhe qeveria, si një zëvendësues i limituar për LOLR-në tradicionale. Analizat e FMN-së në vitin 2025 sugjerojnë se në ekonomi të tilla, politika fiskale duhet të jetë "spiranca" kryesore e stabilitetit, duke mbajtur buffers të mjaftueshëm (rreth të PBB-së) për të mbuluar nevojat e mundshme të sistemit bankar.

## Kanalet e transmetimit monetar dhe barrierat strukturore

Efektiviteti i politikës monetare nuk varet vetëm nga vendimet e bankës qendrore, por nga mënyra se si këto vendime transmetohen te firmat dhe familjet. Në Ballkanin Perëndimor, ky proces është shpesh i "thyer" ose i dobët për shkak të tre faktorëve kryesorë: euroizimi i lartë, aksesit i kufizuar në financë dhe dominimi i bankave të huaja.

### Euroizimi si pengesë për sovranitetin monetar

Euroizimi strukturor—përdorimi i euros për depozita dhe kredi në vende që kanë monedhën e tyre—mbetet sfida kryesore. Kur një pjesë e madhe e huamarrjes bëhet në euro, ndryshimi i normës së interesit nga banka qendrore vendase ka ndikim të kufizuar. Ky fenomen krijon rreziqe indirekte të kredisë; nëse monedha vendase zhvlerësohet, familjet që kanë të ardhura në lekë apo dinarë por kredi në euro, e kanë më të vështirë të paguajnë, duke kërcënuar stabilitetin e sistemit.

Në vitet 2018-2024, bankat qendrore në rajon, veçanërisht në Shqipëri, kanë ndjekur strategji aktive të de-euroizimit. Kjo përfshin kërkesa më të larta për rezervën e detyrueshme për depozitat në valutë dhe nxitjen e huadhënies në monedhë vendase. Megjithatë, përvoja tregon se euroizimi është i lidhur me mosbesimin historik ndaj institucioneve, dhe vetëm një stabilitet i gjatë makroekonomik mund ta kthejë këtë trend.

### Kanali i kredisë dhe aksesit në financë për NVM-të

Në teorinë standarde monetare, rënia e normave të interesit duhet të nxisë kërkesën për kredi. Por në Ballkan, ndërmarrjet e vogla dhe të mesme (NVM) shpesh raportojnë "aksesin në financë" si pengesën kryesore për rritje. Bankat tregtare në rajon prirën të jenë konservatore, duke kërkuar kolateral të lartë dhe duke u fokusuar te kredia konsumatore apo blerja e bonove të qeverisë, që konsiderohen më pak të rrezikshme.

Sipas raporteve të BQE-së, ky ngurtësim i kanalit të kredisë bën që politika monetare të jetë më pak efektive në stimulimin e investimeve produktive. Për shembull, rritja e normave të interesit nga BQE në vitet 2022-

2023 u transmetua shumë më shpejt në rajon sesa do të transmetohej një ulje e tyre, një fenomen i njohur si asimetri e transmetimit.

Treguesi i Sistemit Bankar (2024)	Shqipëria	Serbia	Maqedonia e V.	Kosova
Mjaftueshmëria e Kapitalit (%)	19.00%	22.00%	19.00%	18.50%
Kreditë e këqija (NPL) (%)	4.80%	1.80%	3.00%	2.00%
Rritja e kredisë (vjetore)	8.00%	8.20%	7.50%	12.50%
Pjesa e bankave të BE-së (%)	57%	60%	65%	90%

Tabela 2: Qëndrueshmëria e sektorit bankar në rajon në vitin 2024.

Ndikimi i goditjeve eksterne përmes kanaleve tregtare dhe remitançave

Analiza me modelin Global Vector Autoregressive (GVAR) tregon se goditjet reale nga Eurozona kanë një ndikim të menjëhershëm dhe të fortë në aktivitetin ekonomik të Ballkanit. Kanali tregtar është më i rëndësishmi për Maqedoninë e Veriut dhe Serbinë, të cilat janë të integruara thellë në zinxhirët evropianë të vlerës (veçanërisht në industrinë e automobilave). Çdo ngadalësim në Gjermani përkthehet në më pak porosi për fabrikat në Shkup apo Kragujevac, duke detyruar bankat qendrore të adoptojnë një qëndrim më akomodues për të mbështetur prodhimin.

Kanali i remitançave luan një rol stabilizues për konsumin, veçanërisht në Kosovë dhe Bosnjë, ku dërgesat e emigrantëve arrijnë deri në të PBB-së. Këto flukse shërbejnë si një amortizator gjatë krizave, duke mbështetur kërkesën agregate kur të ardhurat vendase bien. Megjithatë, kjo rrit varësinë e politikës monetare nga performanca e tregut të punës në BE; nëse emigrantët humbasin punën në Evropë, flukset valutore në Ballkan thahen, duke krijuar presion mbi kursin e këmbimit dhe çmimet.

## Rezultatet e stabilizimit ekonomik 2024-2025 dhe rruga drejt BE-së

Viti 2024 shënoi një pikë ktheje për shumicën e vendeve të Ballkanit Perëndimor. Pas dy viteve të luftës kundër inflacionit të lartë, politikat monetare kanë filluar të "korrin" rezultatet e shtrengimit të mëparshëm, duke u shoqëruar me një rritje ekonomike solide.

### Procesi i disinflacionit dhe normalizimi i politikës monetare

Në vitin 2024, inflacioni në të gjithë rajonin ra ndjeshëm, duke u afruar me objektivat e bankave qendrore. Në Shqipëri, inflacioni mesatar ra në nga që ishte në vitin 2023, gjë që lejoi Bankën e Shqipërisë të ulte normën bazë të interesit në nëntor 2024. Ky proces u ndihmua nga rënia e çmimeve ndërkombëtare të ushqimeve dhe naftës, por edhe nga politika e kujdesshme e komunikimit që ankoroi pritshmëritë e tregut.

Serbia gjithashtu pa një rënie të inflacionit brenda bandës së tolerancës () në mesin e vitit 2024. NBS filloi lehtësimin e politikës monetare në qershor, duke reflektuar besimin se presionet inflacioniste janë tani kryesisht nën kontroll. Megjithatë, një sfidë mbetet "core inflation" (inflacioni bazë), i cili është treguar më i qëndrueshëm për shkak të rritjes së pagave në sektorin e shërbimeve.

### Plani i Rritjes i BE-së dhe integrimi në SEPA

Një faktor i ri dhe i rëndësishëm në ekuacionin e stabilizimit është Plani i Rritjes i BE-së për Ballkanin Perëndimor, i miratuar në vitin 2024. Ky plan ofron 6 miliardë euro financim, por kërkon në këmbim reforma që lidhen direkt me politikat monetare dhe financiare. Një nga objektivat kryesore është anëtarësimi i vendeve të BP6 në Zonën Unike të Payments në Euro (SEPA).

Anëtarësimi në SEPA pritet të modernizojë sistemet e pagesave në rajon, duke i bërë transaksionet me BE-në po aq të lira dhe të shpejta sa transaksionet brenda vendit. Për bankat qendrore, kjo do të thotë një reduktim i nevojës për ndërmjetësim përmes bankave korrespondente, gjë që rrit efikasitetin e sistemit financiar dhe forcon stabilitetin

ekonomik. Shqipëria, Mali i Zi dhe Maqedonia e Veriut ishin ndër të parat që aplikuan zyrtarisht për SEPA në vitin 2024.

Sfidat e tregut të punës dhe rreziqet afatmesme

Pavarësisht sukseseve në stabilizimin e çmimeve, politika monetare po përballet me presione të reja që vijnë nga tregu i punës. Rajoni po përjeton një "labor market paradox": papunësia mbetet relativisht e lartë (mbi 10%), por firmat raportojnë mungesa akute të fuqisë punëtore për shkak të emigrimit masiv. Kjo mungesë ka detyruar punëdhënësit të rrisin pagat me ritme që shpesh tejkalojnë rritjen e produktivitetit.

Në Shqipëri dhe Serbi, pagat reale u rritën ndjeshëm në vitin 2024, gjë që rrit kërkesën konsumatore por mund të ushqejë presione të reja inflacioniste në vitin 2025. Bankat qendrore janë paralajmëruar nga FMN-ja që të qëndrojnë vigjilente dhe të mos nxitohen me uljen e normave të interesit nëse rritja e pagave mbetet jashtë kontrollit.

Vendi	Rritja e PBB (2024e)	Rritja e PBB (2025f)	Borxhi Publik (% PBB - 2024)
Shqipëria	4.00%	3.70%	54.50%
Serbia	3.90%	3.50%	47.20%
Kosova	4.40%	3.80%	18.00%
Maqedonia e V.	2.80%	3.00%	61.00%
Bosnja dhe H.	3.00%	2.60%	32.00%
Mali i Zi	3.20%	3.30%	61.30%

Tabela 3: Parashikimet e rritjes dhe pozita fiskale.

## Përfundime dhe Rekomandime

Analiza e hollësishme e rolit të politikës monetare në Ballkanin Perëndimor tregon se rajoni ka arritur një maturim të rëndësishëm institucional gjatë dekadës së fundit. Bankat qendrore kanë luajtur një rol kyç në stabilizimin e ekonomive gjatë goditjeve të njëpasnjëshme (COVID-19, kriza energjetike, lufta në Ukrainë), duke parandaluar rrëshqitjen drejt skenarëve të vjetër të paqëndrueshmërisë monetare.

Sidoqoftë, studimi identifikon disa pika kritike që kërkojnë vëmendje në vitet 2025-2027. Së pari, euroizimi mbetet "thembra e Akilit" për sovranitetin monetar. Edhe në vendet me monedhë kombëtare, ndikimi i BQE-së është shpesh më i fortë se ai i bankave qendrore vendase, gjë që kërkon një vazhdimësi të politikave të de-euroizimit. Së dyti, stabiliteti monetar duhet të mbështetet nga një disiplinë strikte fiskale. Për vendet si Kosova dhe Mali i Zi, buffers-at fiskalë janë mjeti i vetëm i mbetur për të mbrojtur sistemin financiar në mungesë të një huadhënësi të fundit.

Për të forcuar rolin e politikës monetare në stabilizimin ekonomik, rekomandohen masat e mëposhtme:

**Forcimi i pavarësisë institucionale:** Bankat qendrore duhet të mbrohen nga presionet politike afatshkurtra, veçanërisht në prag të cikleve zgjedhore (siç u vu re në Bosnjë dhe Maqedoni në 2024), për të ruajtur ancorimin e pritshmërive inflacioniste.

**Modernizimi i sistemeve të pagesave:** Përsheptimi i anëtarësimit në SEPA do të ulnte kostot e tregtisë dhe do të integronte më mirë rajonin në sistemin financiar evropian, duke reduktuar rreziqet e likuiditetit.

**Mbikëqyrja e rreziqeve të reja:** Përtej inflacionit tradicional, bankat qendrore duhet të zhvillojnë kapacitete për të monitoruar rreziqet që vijnë nga ndryshimet klimatike dhe tregu i pasurive të paluajtshme, ku në disa vende (si Mali i Zi) vërehet një rritje e shpejtë e çmimeve që mund të krijojë flluska financiare.

Koordinimi i pagave me produktivitetin: Është e domosdoshme që rritja e pagave të jetë në përputhje me rritjen e efikasitetit ekonomik. Nëse kjo nuk ndodh, bankat qendrore do të detyrohen të mbajnë norma interesi të larta për një kohë më të gjatë, duke dëmtuar investimet afatgjata.

Në përfundim, Ballkani Perëndimor ka treguar reziliencë të admirueshme, por konvergjenca e plotë me BE-në kërkon më shumë sesa thjesht stabilitet çmimesh. Politika monetare duhet të funksionojë në harmoni me reformat strukturore për të krijuar një ambient ku kapitali rrjedh drejt sektorëve produktivë dhe ku rreziqet financiare menaxhohen me transparencë dhe profesionalizëm. Suksesi i vitit 2024 ofron një bazë solide, por sfidat e demografisë dhe integritimit mbeten përcaktuese për dekadën e ardhshme.

#### Referencat dhe Literatura:

- ResearchGate. (2024). *Monetary policy effectiveness in the context of global inflation growth: Evidence from North Macedonia.*
- IMF. (2025). *International shocks and transmission channels in the Western Balkans.*
- ResearchGate. (2024). *Inflation Targets, Bands and Track Records: a Dataset of Inflation Targeting Countries.*
- IMF. (2025). *Reserve adequacy measurement in a unilaterally euroized economy: Kosovo.*
- Ovidius University. (2023). *Viability of currency substitution: Montenegro case study.*
- IMF. (2026). *Kosovo: Staff Concluding Statement for the 2026 Article IV Consultation Mission.*
- IMF. (2025). *Regional Economic Outlook: Europe and Western Balkans integration.*
- IMF. (2025). *Bayesian GVAR model estimations for spillovers in Western Balkans.*
- IMF. (2024). *Republic of Serbia: Third Review Under the Stand-By Arrangement.*
- Marshall Center. (2025). *Geopolitical forces and institutional stability in the Western Balkans.*

- Országhová, L. (2024). *EU Enlargement: Euroisation in the Western Balkans*.
- EBRD. (2024). *Diagnostic North Macedonia: Competitiveness and financial system resilience*.
- Banka e Shqipërisë. (2024). *Raporti i Politikës Monetare: Q4 2024*.
- Banka Qendrore e Kosovës. (2024). *Financial Stability Under Unilateral Euroization*.
- IMF. (2024). *Republic of North Macedonia: Staff Report on Precautionary and Liquidity Line*.
- IMF. (2024). *Montenegro: Article IV Consultation and tourism-driven growth*.
- Horizonti. (2024). *Effectiveness of Inflation Targeting in Serbia and Albania*.
- *performance*.
- World Bank. (2025). *Western Balkans Jobs Challenge: Labor shortages and productivity*.

# IMPORTANCE OF FINANCE IN COMPANIES

MSc Kushtrim Brahimaj

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## Abstract

Company finances refers to planning, developing and controlling the capital structure of a business. Company finances aims to increase organizational value and profit through optimal decisions on investments, finances as well as dividends. Company finances focusses on capital investments aimed at meeting the funding requirements of a business to attain a favorable capital structure. Company finance emphasizes the desire to maximize the financial soundness of a company and its stockholders. Decisions around how much profit to retain or distribute amongst the shareholders are also an important element. Finance impacts decision-making processes within an organization. Companies must carefully manage their finances to ensure that they can cover expenses while still making a profit. To do this effectively, firms need financial data and analysis tools that help them make informed decisions about investments and expenditures. Another crucial aspect of finance is risk management. Businesses face various risks such as market volatility or unexpected costs that can impact profitability if not adequately managed. By analyzing financial data regularly, organizations can prepare for potential risks and take measures to minimize their impact on operations.

**Keywords:** planning, developing, capital, stockholders, controlling

## Role of finance in companies

Finances in companies is a subfield of finance that deals with how companies address funding sources, capital structuring, accounting, and investment decisions. Company finances is often concerned with maximizing shareholder value through long- and short-term financial planning and the implementation of various strategies. Company finances activities range from capital investment to tax considerations. Company finances departments are charged with managing their firms' financial activities and capital investment decisions. Such decisions include whether to pursue a proposed investment and whether to pay for the investment with equity, debt, or both:<sup>1</sup>

- **Capital Investments** - Company finance tasks include making capital investments and deploying a company's long-term capital. The capital investment decision process is primarily concerned with capital budgeting. Through capital budgeting, a company identifies capital expenditures, estimates future cash flows from proposed capital projects, compares planned investments with potential proceeds, and decides which projects to include in its capital budget. Making capital investments is perhaps the most important company finance task and can have serious business implications. Poor capital budgeting (e.g., excessive investing or under-funded investments) can compromise a company's financial position, either because of increased financing costs or inadequate operating capacity.
- **Capital Financing** - Company finance, also, involves sourcing capital in the form of debt or equity. A company may borrow from commercial banks and other financial intermediaries or may issue debt securities in the capital markets through

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<sup>1</sup> Hayes, A., (2023), Corporate Finance Definition and Activities – Investopedia, investopedia.com, <https://www.investopedia.com> ›

investment banks. A company may also choose to sell stocks to equity investors, especially when it needs large amounts of capital for business expansions. Capital financing is a balancing act involving decisions about the necessary amounts of debt and equity. Having too much debt may increase default risk, and relying heavily on equity can dilute earnings and value for early investors. In the end, though, capital financing must provide the capital needed to implement capital investments.

- **Short-Term Liquidity** - A company finance department is also tasked with short-term financial management. The goal is to ensure that there is enough liquidity to carry out continuing operations. Short-term financial management concerns current assets and current liabilities, or working capital and operating cash flows. A company must be able to meet all its current obligations when they are due. This involves that company should be having enough current liquid assets to avoid disrupting a company's operations. Short-term financial management may also involve getting additional credit lines or issuing commercial paper as liquidity backup.

In the modern world, all the activities are concerned with the economic activities and very particular to earning profit through any venture or activities. The entire business activities are directly related with making profit. According to the economics concept of factors of production, rent given to landlord, wage, interest given to capital and profit a business companies needs finance to meet all the requirements. Hence finance may be called as capital, investment, fund etc., but each term is having different meanings and unique characters. Increasing the profit is the main aim of any kind of economic activity:<sup>2</sup>

- Finance may be defined as the art and science of managing money. It includes financial service and financial instruments.

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<sup>2</sup> Introduction definition of finance, (2023), nscpolteksby.ac.id, <https://nscpolteksby.ac.id> › Ebook › Accounting.

Finance also is referred as the provision of money at the time when it is needed. Finance function is the procurement of funds and their effective utilization in business concerns. The concept of finance includes capital, funds, money, and amount. But each word is having unique meaning. Studying and understanding the concept of finance become an important part of the business concern.

- Business finances is that business activity which concerns with the acquisition and conversation of capital funds in meeting financial needs and overall objectives of a business enterprise. Business finance can broadly be defined as the activity concerned with planning, raising, controlling, administering of the funds used in the business. Business finance deals primarily with raising, administering and disbursing funds.
- Company finances is concerned with budgeting, financial forecasting, cash management, credit administration, investment analysis and fund procurement of the business concern and the business concern needs to adopt modern technology and application suitable to the global environment.
- Company finance deals with the financial problems of enterprises. These problems include the financial aspects of the promotion of new enterprises and their administration during early development, the accounting problems connected with the distinction between capital and income, the administrative questions created by growth and expansion, and finally, the financial adjustments required for the bolstering up or rehabilitation of a company which has come into financial difficulties.

### **role of finance in companies**

Finance is the lifeline of every company's it helps in the overall conduct, growth, and expansion of her business. It is next to impossible to conduct a company without finance. Therefore, it is imperative and unavoidable to

thoroughly understand the working of business finance. Business finance is the cornerstone of every company. Business finance is required for purchasing assets, goods, raw materials and for performing all other economic activities. Precisely, business finance is required for running all the business operations:<sup>3</sup>

- To understand what business finance are, company must know that business finance includes activities concerning the acquisition and conservation of capital funds for meeting a company's financial needs and objectives. The importance of business finance is evident from the fact that business finance is required to undertake every business operation successfully.
- The amount of capital that is pooled by a company is often not enough to meet the financial needs of a company. Herein, the importance of business finance and its management rises even more. Consequently, companies along with their teams look out for various other ways to generate funds. A company may require additional funds for anything ranging from buying plant or apparatus, raw materials or further development.

Finance is the backbone of any business, and without it, businesses are bound to fail. From managing day-to-day operations to planning for future investments, finance plays a crucial role in ensuring that businesses thrive in today's competitive world. As companies continue to grow and expand, they need financial resources to support their endeavors. us financial aspects of the company's operations:<sup>4</sup>

- One crucial function that finance plays is managing cash flow. Businesses need adequate cash flow to ensure they can meet their day-to-day operational expenses such as rent, salaries, and other overhead costs. The finance department ensures there are

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<sup>3</sup> Emeritus., (2023), Business Finance Definition and Meaning | Emeritus India, [emeritus.org](https://emeritus.org), <https://emeritus.org> › learn.

<sup>4</sup> What Is The Importance Of Finance In Business? – oboloo, (2023), [oboloo.com](https://oboloo.com), <https://oboloo.com> › blog › what-is-the-importance-of-fi.

enough funds available to cover these expenses by tracking income and expenses accurately.

- Another essential role played by finance in business is investment decision-making. Companies must invest wisely in assets that will generate returns or increase productivity. Through financial analysis techniques, companies can identify opportunities for investments that will benefit them in the long term.
- Finance also plays a substantial role in risk management for businesses. Financial specialists analyze market trends, assess potential risks associated with different investments and provide recommendations on how best to mitigate those risks while still generating revenue.
- The importance of finance in business cannot be overstated; without proper financial management strategies put into place by experts within an organization's internal structure or external consultants like procurement services providers who manage sourcing from suppliers at competitive prices; companies would struggle to survive amidst increasing competition and economic uncertainty.
- How does finance impact businesses - Finance plays a vital role in the success of businesses. It provides companies with the necessary funds to start, operate and expand their operations.

In all business settings finance is important because it allows to plan for the future by enabling informed decisions to be made about how to allocate resources, where to spend, and where to save to reach the short, medium and long term goals of the business. Careful financial management helps

businesses to operate efficiently prepare for unexpected events so they can stay on track and continue to grow and thrive:<sup>5</sup>

- The importance of financing business - It is not a secret that every company needs money to operate. Whether company are running a service-based or a product-based business, she will need capital if want to make a profit. Company may choose to self-fund business, or may need to turn to external funding methods to finance business such as grants, loans and credit.
- What is business finance - Business finance is the money that is available to a business. Whether company are starting a new business, expanding an existing business or developing new products, finance will be at the core of every business function. It isn't just changes within business that will require finance, either. Even just the day to day running of a business requires a constant stream of finance, from the cost of marketing to the cost of employing staff.
- Finance will often be generated through revenue, but at the start of a new business, or if company run into difficulties, she may need to look into other options to finance your business and keep it running.
- How finance business - If company need additional finance for your business, you may be looking into finance options. There are two main options for financing a business: debt and equity.
- ✓ Debt involves borrowing money from another institution, such as a loan or mortgage. This money is then paid back over time, along with interest incurred.

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<sup>5</sup> Nixon, R., (2021), Why is finance important? Here's what you need to know. [realbusiness.co.uk](https://realbusiness.co.uk), <https://realbusiness.co.uk>.

- ✓ Equity involves selling shares of your business to investors. The shareholders will then own portions of business according to the size of their share and may receive dividends according to profits.
- Short-term finance - Short-term finance is a type of finance which covers a short time period, which is usually less than 12 months. This type of finance allows businesses to raise money quickly and attracts a low interest rate. However, the amount of money that can be raised is small and can directly impact the business. Types of short-term finance include:
  - ✓ Invoice,
  - ✓ Trade credit,
  - ✓ Credit cards,
  - ✓ Business overdrafts.
- Medium-term finance - Medium-term finance involves finance methods which typically cover a period of between three and five years. These types of finance involve more risk than short-term financing methods, but less risk than long-term methods. Types of medium-term finance include:
  - ✓ Startup loans,
  - ✓ Preferred shares,
  - ✓ Lease finances,
  - ✓ Business loans.
- Long-term finance - Long-term finance is designed to help a business to grow and expand over time. This type of funding typically has a period of over ten years and is the riskiest type of business finance. However, it is also the type of finance that

will allow a business to raise the most capital. Types of long-term finance include:

- ✓ Commercial mortgages,
- ✓ Equity capital,
- ✓ Retained profits,
- ✓ Shares.

Company finances is the process of managing money. The purpose of company finance is also to ensure that a business has adequate operating funds and that it is spending and investing its money carefully, wisely, and effectively. The importance of finance in company is in the ability to ensure that a company operates without any financial hiccups like running short of cash, and at the same time making sure, that funds are secure and well invested for long-term gains:<sup>6</sup>

- Organizing company business, planning, and presenting financial strategies with the help of some business presentation templates helps company business to become more successful. All businesses run with money, and business finance is there to help make smart and wise financial decisions concerning long-term funding strategies as well as cash flow.
- As people often say, “company need money to make money,” and they are absolutely right, that is why business finance needs to be given the most attention. It is imperative for the profits coming into a business to keep increasing to ensure that the business of company continues to run successfully.
- ✓ Exploring new products and markets - All companies are constantly in pursuit of new products and markets, and this, of

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<sup>6</sup> Nordqvist, C., (2020), The Importance of Finance in Business, marketbusinessnews.com, <https://marketbusinessnews.com>.

course, financial muscle. Therefore, without an effective financial structure in place, exploring new spaces and getting into different markets with fresh solutions or products may be rather difficult. This also includes new tools that can help achieve more with business. Ultimately, all company long-term goal is to improve production by attaining more assets for the business. An organization requires a very skilled financial management team to adequately invest in items such as equipment, land, and machinery that will enhance the production scale.

- ✓ Making sure operational expenses are met - In most companies, the Finance side of things involves operational costs like raw material, interest payments, remunerative packages for employees, inventory, and so on; and meeting these expenses is what usually keeps the organization going. A good financial plan will make sure that there is stability in the management of the profits coming in relative to the operational expenses to be met on a regular basis.
- ✓ Managing inevitable risks - Entrepreneurs, as well as established companies, know very well that running a business is all about taking risks, especially when business scaling up. However, not all risks will result in success, failure will come, and challenges are unavoidable. Therefore, having financial management skills will be very beneficial in developing a contingency plan before that time comes.
- ✓ Managing the cash flow of a business - No matter the size of a company, the larger the amount of cash flowing in and out of business the better. However, not having a good financial system can cause a lot of problems, including some legal issues. Any business requires a solid financial team to deal with the company's cash flow, with financial records as evidence of the different transactions. This is important so that the company

can cover all its business expenses, and thus avoid any future problems.

### Capital budgeting

Capital budgeting involves choosing projects that add value to a company. The capital budgeting process can involve almost anything including acquiring land or purchasing fixed assets like a new truck or machinery. Companies use different metrics to track the performance of a potential project, and there are various methods to capital budgeting. Capital budgeting relies on many of the same fundamental practices as any other form of budgeting. However, there are several unique challenges to capital budgeting.<sup>7</sup>

- ✓ First, capital budgets are often exclusively cost centers; they do not incur revenue during the project and must be funded from an outside source such as revenue from a different department.
- ✓ Second, due to the long-term nature of capital budgets, there are more risks, uncertainty, and things that can go wrong.
- Capital budgeting is often prepared for long-term endeavors, then re-assessed as the project or undertaking is under way. Companies will often periodically reforecast their capital budget as the project moves along. The importance in a capital budget is to proactively plan ahead for large cash outflows that, once they start, should not stop unless the company is willing to face major potential project delay costs or losses.
- Why Do Companies Need Capital Budgeting - Capital budgeting is important because it creates accountability and measurability? Any company that seeks to invest its resources in a project without understanding the risks and returns involved would be held as irresponsible by its owners or

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<sup>7</sup> Pinkasovitch, A., (2023), Capital Budgeting: What It Is and How It Works – Investopedia, <https://www.investopedia.com> ›

shareholders. Furthermore, if a business has no way of measuring the effectiveness of its investment decisions, chances are the business would have little chance of surviving in the competitive marketplace.

- Companies are often in a position where capital is limited and decisions are mutually exclusive. Management usually must make decisions on where to allocate resources, capital, and labor hours. Capital budgeting is important in this process, as it outlines the expectations for a project. These expectations can be compared against other projects to decide which one(s) is most suitable.
- Businesses exist to earn profits. The capital budgeting process is a measurable way for companies to determine the long-term economic and financial profitability of any investment project. Companies need capital budgeting to assess risks, plan ahead, and predict challenges before they occur.

Capital budgeting is a process that companies use to evaluate potential major projects or investments. Building a new plant or taking a large stake in an outside venture are examples of initiatives that typically require capital budgeting before they are approved or rejected by management:<sup>8</sup>

- As part of capital budgeting, a company might assess a prospective project's lifetime cash inflows and outflows to determine whether the potential returns it would generate meet a sufficient target benchmark. The capital budgeting process is also known as investment appraisal.

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<sup>8</sup> Kenton, W., (2023), Capital Budgeting: Definition, Methods, and Examples, investopedia.com, <https://www.investopedia.com> ›

- Ideally, companies could pursue any and all projects and opportunities that might enhance shareholder value and profit. However, because the amount of capital any business has available for new projects is limited, management often uses capital budgeting techniques to determine which projects will yield the best return over an applicable period.

## Capital financing

Capital Financing is the process of raising funds to support a business's operations. There are many ways to raise funds – issuing stocks, bonds, taking loans, investments, or capital from founding partners. Capital financing is the most important part of starting and running a business – all business operations run on money, and without sufficient capital, will come to a complete standstill:<sup>9</sup>

- There are two main types of capital – fixed and working. Fixed capital is used to purchase fixed assets, like machines, land, and property. Working capital is used for day-to-day expenses, like payroll or rent. Both kinds of capital are equally important for businesses, and it is up to the promoter or founders of the business to ensure that there is enough capital for both. Capital Financing is the process of acquiring funds for both working and fixed capital. Depending on the mode of business and the risk appetite of the founder, there are many different ways to raise funds and capital. Capital funding or financing can be overall divided into two major types: debt and stock issuance.
- Debt Issuance - Debt issuance refers to the process of borrowing money by issuing bonds, notes, or other debt instruments to investors. When an organization issues debt, it is essentially borrowing money from investors who purchase the bonds or notes. In exchange for lending their money,

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<sup>9</sup> Kasa, R., (2023), Capital Financing: Meaning, Types & Costs – Razorpay, razorpay.com. <https://razorpay.com> › blog › business-banking › capital-

investors receive regular interest payments from the issuer until the bond or note matures, at which point the issuer must repay the principal amount borrowed.

- ✓ Debt can also be taken on in the form of bank loans or credit lines. These are provided to companies by banks or financial institutions based on the performance of the business, the creditworthiness and more.
- ✓ The benefit of debt issuance is that it does not dilute the ownership of the business. The founder of the business can raise money without having to give up control of his business.
- ✓ Additionally, interest payments made on debt are typically tax-deductible, which can help reduce tax liability.
- Stock Issuance - When a company issues stock, it is essentially selling ownership in the company to investors in exchange for cash. Ownership takes the form of shares, which represent a portion of the company's equity. Companies can issue stocks to public, or to private shareholders. When a company issues shares to the public, it becomes a public company and is subject to the rules and regulations of state.
- ✓ Raising money by issuing stocks allows companies to raise money without incurring debt or paying interest. It is also less risky than taking on debt since investors take on company risk themselves.
- ✓ There are some limitations to stock issuance – ownership gets diluted, which means the value of existing investments also gets diluted. Further, the regulations that SEBI imposes on public companies are quite stringent – like having to disclose their financial statements every quarter.
- Cost of Capital Financing - Before committing to any route of raising capital, companies have to do a thorough analysis of the

various risk factors and the cost of raising the capital. There are also various mathematical analyses that can be done – like the weighted average cost of capital or return on invested capital (ROIC) that can give deeper insight into how much it would cost to raise money. For example, the major cost associated with raising money through debt is interest payments and collateral. With stock issuance, it would be regulations, compliances, underwriting fees and dividend payments. The best ratio of stock to debt capital would be a custom, fine-tuned combination of the two – no business can entirely depend on only one kind of capital financing.

- **Managing Capital Financing** - Planning and handling capital financing or funding for a business is a complex task – it requires deep knowledge of finances, investments, cost analysis, accounting and more.

Capital funding is the money that lenders and equity holders provide to a business for daily and long-term needs. A company's capital funding consists of both debt (bonds) and equity (stock). The business uses this money for operating capital. The bond and equity holders expect to earn a return on their investment in the form of interest, dividends, and stock appreciation. To acquire capital or fixed assets, such as land, buildings, and machinery, businesses usually raise funds through capital funding programs to purchase these assets. There are two primary routes a business can take to access funding: raising capital through stock issuance and raising capital through debt:<sup>10</sup>

- **Stock Issuance** - A company can issue common stock through an initial public offering (IPO) or by issuing additional shares into the capital markets. Either way, the money that is provided

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<sup>10</sup> Twin, A., (2020), Capital Funding: What Is It & How Does It Work? – Investopedia, [investopedia.com,https://www.investopedia.com](https://www.investopedia.com) ›

by investors that purchase the shares is used to fund capital initiatives. In return for providing capital, investors demand a return on their investment (ROI) which is a cost of equity to a business. The return on investment can usually be provided to stock investors by paying dividends or by effectively managing the company's resources so as to increase the value of the shares held by these investors. One drawback for this source of capital funding is that issuing additional funds in the markets dilutes the holdings of existing shareholders as their proportional ownership and voting influence within the company will be reduced.

- ***Debt Issuance*** - Capital funding can also be acquired by issuing corporate bonds to retail and institutional investors. When companies issue bonds, they are in effect, borrowing from investors who are compensated with semi-annual coupon payments until the bond matures. The coupon rate on a bond represents the cost of debt to the issuing company. In addition, bond investors may be able to purchase a bond at a discount, and the face value of the bond will be repaid when it matures. Capital funding through debt can also be raised by taking out loans from banks or other commercial lending institutions. These loans are recorded as long-term liabilities on a company's balance sheet and decrease as the loan is gradually paid off. The cost of borrowing the loan is the interest rate that the bank charges the company. The interest payments that the company makes to its lenders are considered an expense on the income statement, which means pre-tax profits will be lower. While a company is not obligated to make payments to its shareholders, it must fulfill its interest and coupon payment obligations to its bondholders and lenders, making capital funding through debt a more expensive alternative than through equity. However, in the event that a company goes bankrupt and has its assets liquidated, its creditors will be paid off first before shareholders are considered.

- **Cost of Capital Funding** - Companies usually run an extensive analysis of the cost of receiving capital through equity, bonds, bank loans, venture capitalist, the sale of assets, and retained earnings. A business may assess its weighted average cost of capital (WACC), which weights each cost of capital funding, to calculate a company's average cost of capital. The Weighted average cost of capital can be compared to the return on invested capital (ROIC)—that is, the return that a company generates when it converts its capital into capital expenditure.

## Conclusion

Financial helps companies to plan, organize, and govern financial activities to keep company business moving and maintain healthy profits. A key role of financial managers is decision-making, which takes into account the business' short-term and long-term goals. Financial reporting is a crucial element in helping to make those decisions which can include direct investment activities. Financial reports also support and inform the development of strategies and plans and help with more accurate forecasting.

The distinctive roles performed by the two functions help in the compartmentalization of responsibilities and management but with time it has come to light that an integration of these roles can help in a company's holistic growth. Finance helps allocate resources to support an organization's goals, maintaining a balance between costs and revenue. Human resources hires, recruits, and motivates people to advance those same goals.

Financial Management is the process of making financial decisions based on the data collected by accounting. The main job of human resources professionals is hiring, training, maintaining, improving relationships, and terminating employees. All this incurs a cost that the finance department looks into.

## REFERENCE

1. Emeritus., (2023), Business Finance Definition and Meaning | Emeritus India, [emeritus.org](https://emeritus.org), <https://emeritus.org> › learn.
2. Hayes, A., (2023), Corporate Finance Definition and Activities – Investopedia, [investopedia.com](https://www.investopedia.com), <https://www.investopedia.com> ›
3. Introduction definition of finance, (2023), [nscpolteksby.ac.id](https://nscpolteksby.ac.id), <https://nscpolteksby.ac.id> › Ebook › Accounting.
4. Kasa, R., (2023), Capital Financing: Meaning, Types & Costs – Razorpay, [razorpay.com](https://razorpay.com). <https://razorpay.com> › blog › business-banking › capital-
5. Kenton, W., (2023), Capital Budgeting: Definition, Methods, and Examples, [investopedia.com](https://www.investopedia.com), <https://www.investopedia.com> ›
6. Nixon, R., (2021), Why is finance important? Here's what you need to know. [realbusiness.co.uk](https://realbusiness.co.uk), <https://realbusiness.co.uk>.
7. Pinkasovitch, A., (2023), Capital Budgeting: What It Is and How It Works – Investopedia, <https://www.investopedia.com> ›
8. Kasa, R., (2023), Capital Financing: Meaning, Types & Costs – Razorpay, [razorpay.com](https://razorpay.com). <https://razorpay.com> › blog › business-banking › capital-
9. Vaidya, D., (2023), Corporate Finance - Definition, Principles, Examples & Types, [wallstreetmojo.com](https://www.wallstreetmojo.com), <https://www.wallstreetmojo.com> ›
10. What Is The Importance Of Finance In Business? – oboloo, (2023), [oboloo.com](https://oboloo.com), <https://oboloo.com> › blog › what-is-the-importance-of-fi.

# **BASIC ELEMENTS OF THE TAX SYSTEM**

**MSc. Flamur Fethaj**

## **Abstract**

Taxation is the imposition of mandatory duties on individuals or entities by governments. Taxes are levied in almost every country in the world, primarily to raise revenue to cover government expenditures, although they also serve other purposes. In modern economies, taxes are the most important source of state revenue. Taxes differ from other sources of income in that they are mandatory taxes and are non-refundable - ie. they are generally not paid in exchange for a specific job, such as a public service, the sale of public property, or the issuance of public debt. Tax payments are usually mandatory. Taxation is a term for when a taxing authority, usually a government, levies or imposes a financial obligation on its citizens or residents. The term "taxation" applies to all types of involuntary levies, from income to capital gains to estate taxes. Though taxation can be a noun or verb, it is usually referred to as an act; the resulting revenue is usually called taxes.

**Keywords:** *individuals, entities, governments, revenue, exchange, obligation.*

## Subject to taxation

In the past, and again today, governments use taxation for purposes other than fiscal purposes:<sup>1</sup>

- One useful way to look at the purpose of taxation is to distinguish between the goals of resource allocation, income redistribution, and economic stability. (Economic growth or development and international competitiveness are sometimes cited as separate objectives, but they can generally be subordinated to the other three.) In the absence of a strong cause for interference, such as the need to reduce pollution, the first goal, resource allocation, continues if tax policy does not interfere with market-determined distributions.
- The second goal, income redistribution, aims to reduce inequalities in income and wealth redistribution. The goal of stabilization - implemented through tax policy, government expenditure policy, monetary policy and debt management - is to maintain high employment and price stability..
- Subject to taxation are:
  - ✓ income,
  - ✓ turnover and
  - ✓ the property.

Determining the subject (object) of taxation means determining at the same time the types of taxes that will be paid.

In the past, agriculture was the most important activity, and the land the most important property, so the subject of taxation was mainly land and income from the land, and later other types of property such as buildings, capital, income.

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<sup>1</sup> Cox, S.M., (2021) Taxation | Definition, Purpose, Importance, & Types | Britannica, <https://www.britannica.com>

Over time, the role of consumption, ie turnover, has grown significantly. The state specifically introduced and levied a tax on some products on which it had a monopoly, such as salt and tobacco. The state collected customs duties, tolls, tolls and other similar duties in the form of consumption tax.

Elements of the tax include:<sup>2</sup>

***The object of taxation:*** The object of taxation highlights the purpose of the tax and the implementation. The objectives of these taxes are listed accordingly and are made to show equality for all classes. However, some studies may show that the rich are to pay more in taxes as opposed to the poor. This element shows the purpose for the establishment of such a tax law.

***Tax rate:*** This states the rate/per cent each individual is to pay for taxes. These rates are to be clear and certain. It is to show how much should be paid to reduce the possibilities of fraud and corruption within the tax system and improve fairness and clarity. It requires that it is affordable for the taxpayer and the typical tax rate is 5%. This rate enables them to have enough money left over to cater to other needs.

***Procedure for tax payment:*** This element shows how tax payment should be carried out, to whom, what documents are necessary and what period. These procedures create ease in tax payment and individuals to perform their duties as citizens. It also assists tax authorities in proper documentation and processing.

***Tax base:*** This is the total accreditation of an individual's asset to ascertain what should be subject to taxation by the authorities in charge. It covers the economic activity, property, income, and consumption of an individual to give an efficient and neutral tax base. An account of such data gives the authorities a background check on what and who they are handling.

***Tax period:*** There is a certain period that would be prescribed by the government or tax authority for filing. This period is known as the "Tax Period" and it includes documentation of Tax returns or a period when tax is

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<sup>2</sup> Chaman Law Firm, (2023), What Are Elements of Taxation? <https://www.chamanlawfirm.com>

to be paid. It can also be described as a period for tax calculation which involves highlighting the process and procedure for such.

An effective tax system is a platform for advancing a country's economic interests and promoting prosperity for its residents. While there are many recommendations for establishing a good tax system, there are some underlying elements that can help establish a good tax system. The five fundamental characteristics of tax systems are:<sup>3</sup>

- Fairness,
  - Adequacy,
  - Simplicity,
  - Transparency,
  - Ease of administration.
- ❖ **Fairness** - One of the primary characteristics of tax planning by the government is fairness. This means that the authorities must ensure that the tax system is designed to ensure that everyone pays a fair share of taxes. To determine a fair share, must factor in two aspects:
- Horizontal fairness. This means that people with similar financial conditions must pay similar taxes regardless of their geographical location, gender, race, or any other dissimilarity.
  - Vertical fairness. This means that people who are earning better must pay the same proportion of earnings in taxes\* as the ones who are earning lesser. Vertical equity can be of three types:
- ✓ Regressive - A tax system is regressive if people with lesser earnings pay a larger portion of their income in taxes\* opposed to those with more earnings. Any system that taxes\* people

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<sup>3</sup> Tata AIA, (2023), What Are The Characteristics of an Effective Tax System, <https://www.tataaia.com> › w.

from the lesser income group for necessities is considered regressive.

- ✓ Proportional - A proportional tax system is ideal because all taxpayers pay the same share of their earnings in taxes\*. It is not possible to have a truly proportional tax system.
- ✓ Progressive - A tax system is called progressive when people in the more income group pay a larger share of their earnings in taxes\* opposed to those in the lesser income groups. The rationale is simple – people who earn more can afford to bear the costs of public services opposed to those who earn less.
- ❖ **Adequacy** - An efficient tax system must be able to generate enough revenue for the government to meet the fundamental needs of society. Since tax is one of the main sources of income for the government, it relies on it for offering public services, health services, and investing in the development of the nation. The government also needs to ensure that there is adequate economic activity to keep tax\* rates lesser.
- ❖ **Simplicity** - Simplicity is also one of the most important characteristics of a good tax system. Taxpayers must be able to understand the tax slabs and rates and calculate their tax liabilities with ease. The processes for paying taxes and filing returns should be simple and hassle-free. This can ensure maximum compliance with tax laws.
- ❖ **Transparency** - When citizens pay taxes, they expect certain amenities from the administration. They also deserve to know how the government is spending the tax money. Hence, a good tax system offers transparency and allows citizens to know what the government is doing with the taxpayers' money. They can also look at the subsidies and grants given to certain sections of society for their betterment.
- ❖ **Ease of administration** - An efficient tax system should allow taxpayers to pay taxes and file returns with ease and also allow tax collectors to manage records in a hassle-free manner. Tax rules should be simple and communicated regularly to citizens.

Also, the authorities should be able to conduct audits efficiently. Lastly, the cost of tax collection should be very low.

Taxation is imposition of compulsory levies on individuals or entities by governments. Taxes are levied in almost every country of the world, primarily to raise revenue for government expenditures, although they serve other purposes as well. In modern economies taxes are the most important source of governmental revenue.<sup>4</sup>

- ❖ Taxes have been classified in various ways according to who pays for them, who bears the ultimate burden of them, the extent to which the burden can be shifted, and various other criteria. Taxes are most commonly classified as either direct or indirect, an example of the former type being the income tax and of the latter the sales tax. It is usually said that a direct tax is one that cannot be shifted by the taxpayer to someone else, whereas an indirect tax can be.
- **Direct taxes** - Direct taxes are primarily taxes on natural persons (e.g., individuals), and they are typically based on the taxpayer's ability to pay as measured by income, consumption, or net wealth. What follows is a description of the main types of direct taxes.
  - ✓ Individual income taxes are commonly levied on total personal net income of the taxpayer (which may be an individual, a couple, or a family) in excess of some stipulated minimum. They are also commonly adjusted to take into account the circumstances influencing the ability to pay, such as family status, number and age of children, and financial burdens resulting from illness. The taxes are often levied at graduated rates, meaning that the rates rise as income rises. Personal exemptions for the taxpayer and family can create a range of income that is subject to a tax rate of zero.
  - ✓ Taxes on net worth are levied on the total net worth of a person—that is, the value of his assets minus his liabilities. As

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<sup>4</sup> Taxation - Income, Property, Consumption, (2023), Britannica, <https://www.britannica.com>.

with the income tax, the personal circumstances of the taxpayer can be taken into consideration.

- ✓ Personal or direct consumption taxes (also known as expenditure taxes or consumption taxes) are essentially levied on all income that is not channeled into savings. Unlike indirect consumption taxes such as sales tax, direct consumption tax can be adjusted to an individual's ability to pay by allowing for marital status, age, number of dependents, etc.
- ✓ Death taxes take two forms: inheritance tax, where the subject of taxation is the bequest received by the person inheriting, and property tax, where the subject is the total property left by the deceased. Inheritance taxes sometimes take into account the taxpayer's personal circumstances, such as the taxpayer's relationship with the donor and their net worth before receiving the bequest. Estate taxes, however, are generally based on the size of the estate, and in some countries they provide for tax-free transfers to a spouse and make allowances for the number of heirs involved.
- **Indirect taxes** - Indirect taxes are levied on the production or consumption of goods and services or on transactions, including imports and exports. Examples include general and selective sales taxes, value-added taxes (VAT), taxes on any aspect of manufacturing or production, taxes on legal transactions, and customs or import duties:
- ✓ General sales taxes are levies that are applied to a substantial portion of consumer expenditures. The same tax rate can be applied to all taxed items, or different items (such as food or clothing) can be subject to different rates. Single-stage taxes can be collected at the retail level. Multistage taxes are applied at each stage in the production-distribution process. The VAT, or tax paid on purchases from liability on sales. The VAT has largely replaced the turnover tax—a tax on each stage of the production and distribution chain, with no relief for tax paid at previous stages. The cumulative effect of the turnover tax,

commonly known as tax cascading, distorts economic decisions.

- ✓ Although they are generally applied to a wide range of products, sales taxes sometimes exempt necessities to reduce the tax burden of low-income households. By comparison, excises are levied only on particular commodities or services. While some countries impose excises and customs duties on almost everything—from necessities such as bread, meat, and salt, to nonessentials such as cigarettes, wine, liquor, coffee, and tea, to luxuries such as jewels and furs—taxes on a limited group of products—alcoholic beverages, tobacco products, and motor fuel—yield the bulk of excise revenues for most countries. Today a main luxury tax object is the automobile, largely because registration requirements facilitate administration of the tax. Some countries tax gambling, and state-run lotteries have effects similar to excises, with the government’s “take” being, in effect, a tax on gambling. Some countries impose taxes on raw materials, intermediate goods (e.g., mineral oil, alcohol), and machinery.
- ✓ Some excises and customs duties are specific—i.e., they are levied on the basis of number, weight, length, volume, or other specific characteristics of the good or service being taxed. Other excises, like sales taxes, are ad valorem—levied on the value of the goods as measured by the price. Taxes on legal transactions are levied on the issue of shares, on the sale (or transfer) of houses and land, and on stock exchange transactions. For administrative reasons, they frequently take the form of stamp duties; that is, the legal or commercial document is stamped to denote payment of the tax. Many tax analysts regard stamp taxes as nuisance taxes; they are most often found in less-developed countries and frequently bog down the transactions to which they are applied.
- ❖ Proportional, progressive, and regressive taxes. Taxes can be distinguished by the effect they have on the distribution of income and wealth.

- ✓ A proportional tax is one that imposes the same relative burden on all taxpayers—i.e., where tax liability and income grow in equal proportion.
- ✓ A progressive tax is characterized by a more than proportional rise in the tax liability relative to the increase in income, and a regressive tax is characterized by a less than proportional rise in the relative burden. Thus, progressive taxes are seen as reducing inequalities in income distribution.
- ✓ Regressive taxes can have the effect of increasing these inequalities.
- The taxes that are generally considered progressive include individual income taxes and estate taxes. Income taxes that are nominally progressive, however, may become less so in the upper-income categories—especially if a taxpayer is allowed to reduce his tax base by declaring deductions or by excluding certain income components from his taxable income. Proportional tax rates that are applied to lower-income categories will also be more progressive if personal exemptions are declared.
- Income measured over the course of a given year does not necessarily provide the best measure of taxpaying ability. For example, transitory increases in income may be saved, and during temporary declines in income a taxpayer may choose to finance consumption by reducing savings. Thus, if taxation is compared with “permanent income,” it will be less regressive (or more progressive) than if it is compared with annual income.
- Sales taxes and excises (except those on luxuries) tend to be regressive, because the share of personal income consumed or spent on a specific good declines as the level of personal income rises. Poll taxes (also known as head taxes), levied as a fixed amount per capita, obviously are regressive.

## Taxpayer

A taxpayer is a person or organization (such as a company) subject to pay a tax. Modern taxpayers may have an identification number, a reference number issued by a government to citizens or firms. The term "taxpayer" often refers to the workforce of a country which pays for government systems and projects through taxation. The taxpayers' money becomes part of the public funds, which comprise all money spent or invested by government to satisfy individual or collective needs or to generate future benefits. For tax purposes, business entities are also taxpayers, making their revenues and expenditures subject to taxation:<sup>5</sup>

A taxpayer is a person or a corporation who must pay taxes to the government based on their income. In the technical sense, they are liable for, subject to, or obligated to pay tax to the government based on the country's tax laws:<sup>6</sup>

- In taxation, a taxpayer is usually termed as an Assessee, who is liable to pay the tax directly or indirectly to the government based on the nature and quantum of income earned during the previous year.
- The Taxpayer is further required to pay tax to the government in specified routes/methods. I.e., thorough assessment of his income and direct deposit of tax in case of direct tax and during the purchase of a product or service in case of indirect tax.
- Taxpayers are identified based on the identity card issued by tax authorities in their respective countries.
- Types of Taxpayers - Taxpayers are primarily classified into two types that are individuals and corporations:

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<sup>5</sup> Einstein, K., (2021), "Land of the Freeholder: How Property Rights Make Local Voting Rights." *Journal of Historical Political Economy* 1.4

<sup>6</sup> Ashish K.S., (2023), Taxpayers (Definition, Types) | Rights & Responsibilities, WallStreetMojo, <https://www.wallstreetmojo.com> ›

- ✓ Individuals – These taxpayers are people who are liable to pay tax for their income.
  - ✓ Corporations – These taxpayers are liable to pay tax on the profits earned during the previous year from their business activities.
- Rights of Taxpayers:
- ✓ They have a right to be informed about the tax laws and their transactions with the tax department.
  - ✓ The right to question tax authorities in case of breach of their duties and the right to be answered for such queries;
  - ✓ The right to submit their tax returns and other related applications;
  - ✓ The right to appoint an authorized representative to perform their duties related to tax;
  - ✓ Also, they have the right to be redressed for default committed by tax authorities.
- Responsibilities of Taxpayers:
- ✓ They have a responsibility to be cooperative, well-mannered, fair, and honest and further maintain integrity during assessment and payment of tax;
  - ✓ They must provide reasonable facilities and assistance to enable the audit officers to perform their duties.
  - ✓ They should respond aptly to the queries of tax authorities and respect their duties.
  - ✓ They should not falsely declare incorrect income or seek relief while submitting their tax returns.

- ✓ Taxpayers are also required to keep safe their tax records for a certain period based on the regulatory requirement from the end of the assessment year in which the income tax return was filed.

### **Tax base**

The tax base is the total amount of income, property, assets, consumption, transactions or other economic activity that is subject to taxation by the tax authority. The tax base is what is taxed, and the tax rate is part of the base that is collected by taxation. The total tax liability is calculated by multiplying the tax rate by the tax base. The tax authority may tax a narrower basis at a higher rate or a broader basis at a lower rate in order to achieve the same revenue objective. Tax base is the volume and amount of the subject of taxation on which tax is calculated. For example, consumption taxes (indirect taxes) are usually paid on the sale of goods or services, and income tax (direct taxes) is paid on all incomes that the citizen has on all grounds during a year. Tax base is the volume and amount of the subject of taxation on which tax is calculated. For example, consumption taxes (indirect taxes) are usually paid on the sale of goods or services, and income tax (direct taxes) is paid on all incomes that the citizen has on all grounds during a year.<sup>7</sup>

A tax base is the total value of all of the assets, income, and economic activity that can be taxed by a taxing authority, usually a government. It is used to calculate tax liabilities. Tax liabilities come in many forms, including income, property, capital gains, and sales taxes. Tax base is the total value of all assets, properties, individual income, and corporate income in a certain area or jurisdiction. The tax base is the total amount of assets or revenue that a government can charge tax on. For example, the assessed value is the tax base for property taxes and taxable income is the tax base for income tax. It can also be defined as the total of taxable income, taxable assets, and the assessed value of property within the government tax jurisdiction.<sup>8</sup>

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<sup>7</sup> What is a Tax Base? | TaxEDU - Tax Foundation <https://taxfoundation.org> › tax-basics › tax-base.

<sup>8</sup> Anjaneyulu, (2023), Definition, What is Tax Base, and Steps for Filing Tax, ClearTax, <https://cleartax.in> › terms › t.

Tax base refers to the total income (including salary, income from investments, assets, etc.) that can be taxed by a taxing authority and is thus used to calculate tax liabilities owed by the individual or the corporation. It serves as a total base on which the tax can be charged:<sup>9</sup>

- Features of Tax Base:
  - ✓ Simplicity - All one would ever have to do is consider the net total of all the assets or revenues that are subject to tax. This will thus help the government ascertain the total number of taxpayers and then consider the income subject to tax. It would help one understand the total tax that the government will tend to earn through this simple method.
  - ✓ Gauge of Taxable Income - The official statistics collected from numerous sources help the government assess the total revenue it tends to gain, usually from taxable income, by looking at the economy's tax base as a whole. This helps the country's government to ascertain the total income that it can thus generate for the previous assessment year.
  - ✓ Wide Base Increases Revenue - When a government goes to tax various other items on an indirect basis, such as VAT, Central duty, excise duty, imports, tariffs, etc., its base would now widen. The enhanced base is a source of further revenue for the government. The government can now channel this towards productive purposes such as developing infrastructure projects, social and welfare spending, etc. Such activities are further the development of the nation.
  - ✓ Acting as an Accountable Source - When a government goes on to establish its tax base, this serves as an accountable source of revenue. This information can now be fed into statistical data combined by various agencies. Thus this data serves as a reliable source to gauge the amount of taxes a country collects

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<sup>9</sup> Ashish, K. S., (2023), Tax Base - Definition, Formula, Example, Calculation, WallStreetMojo, <https://www.wallstreetmojo.com> ›

to enable it to compare with various other countries to ascertain the total amount collected from taxes.

- Limitations if tax base:
  - ✓ Does not Consider the Shadow Economy - There are many in the illicit business, such as drugs. These are usually unreported, and thus there is no tax on them, yet the mediators tend to make a fortune. It tends to miss out on such income and is not inclusive of the shadow economy
  - ✓ Narrow Base may Impede Growth - If a country tends to stick to taxing only one source, such as income tax, and does not go on to consider the taxation of other indirect sources such as VAT, the base now narrows. This narrowing is a loss of revenue for the government. Because of the loss of such revenue, the income of the government will be reduced, and it may not be able to undertake developmental activities for the welfare of the economy, and this will impede Growth
  - ✓ Excludes Exemptions and Tax Relief - The government may give certain incentives for certain sectors, which relieve the ones relying on such occupations and, exempt from paying any taxes. Furthermore, various incentives and exemptions introduced by the government help the public save or invest in those avenues to take advantage of tax exemptions. However, this seems to be a disadvantage for the government as it will have the tax base reduced to such an extent, which further reduces the revenue to the government.

Tax base can be defined as the total amount of assets or revenue on which the government can levy a tax. For instance, in the case of income tax, the tax base is all the income that is earned by the people of the state. Similarly, in the case of property taxes, the tax base is the total value of the property, which changes hands in a given period of time. Hence, the tax base can be thought of as the number to which a percentage rate is applied to reach the money amount of the tax that needs to be paid. It needs to be understood that there are many different types of taxes in the world that have many different types of tax

bases. This is what makes the behavior of these taxes different. Some of the common types of tax bases are:<sup>10</sup>

- Value-Based: The most commonly used type of tax base is value-based. This is used in taxes, such as income tax and sales tax. Here, if the dollar-denominated value of the tax base increases, the amount of tax collected will also increase. This kind of tax base is also referred to as, ad-valorem, which means value-based.
- Quantity Based: Unlike income taxes, there are certain other taxes, such as excise, where the value of the goods manufactured does not make any difference. In such cases, taxes are levied on per unit of goods produced.
- Market-Based: Even if a tax is value-based, the true value of many goods and services are difficult to determine. For instance, in the case of property taxes, people tend to under invoice and show a lower value to the government as compared to the value at which the transaction has taken place. In order to protect themselves from such under-invoicing, governments all over the world use circle rates, which provide an approximation of the market value. In such cases, the circle rates are used to derive the tax base instead of the market price. This is because the market price is subject to manipulation.
- International Base: Many countries reserve the right to charge taxes even on the foreign income earned by their citizens. There are countries that do not even levy taxes on their residents if they stay out of the country for a long period of time.
- Broad-Based: A broad-based tax is one that applies to a lot of items. For instance, sales tax or excise is applicable to many different categories of goods and services. Hence, computing these tax bases becomes quite complex. A broader tax base also means that the state is looking at all economic activity through

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<sup>10</sup> Management Study Guide, (2023), Understanding Tax Terminology: Tax Base, <https://www.managementstudyguide.com> ›

the same lens. It will not discriminate between different forms of activities.

- **Narrow Based:** Narrow based taxes are one which applies only to a few items such as housing. Since these taxes apply only to fewer items, determining and managing their tax base is relatively easy. Using a narrow tax base is also recommended sometimes. This is particularly true when items such as food are excluded from the tax base in order to make the tax less regressive.

A tax base is the total amount of property, consumption, assets, transactions, income, or other sort of economic activity that is subject to taxation by an authority, such as the government. While a narrow tax base is considered to be non-neutral and inefficient, a broad tax base is known for reducing tax administration costs, allowing for more revenue to be raised at lower rates:<sup>11</sup>

- A tax base is subject to taxation by a tax authority, such as a state or federal government, and is based on the total amount of:
  - ✓ Income,
  - ✓ Assets,
  - ✓ Property,
  - ✓ Transactions,
  - ✓ Other economic activity.
- There are two overarching types of tax bases: narrow and broad. A narrow tax base is seen as non-neutral and inefficient because less is taxed. On the other hand, a broad tax base is viewed more favorably as it taxes more, which reduces tax administration costs and allows for more revenue to be raised at lower tax rates.

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<sup>11</sup> DeMarco, J., (2022), What Is a Tax Base?The Balance, <https://www.thebalancemoney.com>  
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- Broad vs. Narrow Tax Bases:
  - ✓ Broad tax bases reduce tax administration costs and make it possible to raise more revenue at lower tax rates. Narrow tax bases, which are caused by a variety of deductions and exemptions, are viewed as non-neutral and inefficient as they do not raise much revenue.
  - ✓ A tax base may be narrow, rather than broad, due to:
    - Tax expenditures that result in reduced tax revenue, such as credits, exemptions, and deductions
    - Deductions that reduce taxable income when certain conditions are met
    - Exemptions that keep things from being subject to taxation due to category, class, or status
    - Tax expenditures such as the standard deduction against taxable income, child tax credits, and certain sales tax exemptions
    - Services, since taxing services is administratively challenging
    - The exemption of tangible and intangible personal property from the property tax base
    - Exceptions that help avoid tax pyramiding, which can lead to high effective tax rates for certain industries

### **Conclusion**

Taxation is a term for when a taxing authority, usually a government, levies or imposes a financial obligation on its citizens or residents. Paying taxes to governments or officials has been a mainstay of civilization since ancient times. The term taxation applies to all types of mandatory levies, from income to capital gains to estate taxes.

Taxation is differentiated from other forms of payment, such as market exchanges, in that taxation does not require consent and is not directly tied to

any services rendered. The government compels taxation through an implicit or explicit threat of force. Taxation is legally different than extortion or a protection racket because the imposing institution is a government, not private actors.

In modern economies taxes are the most important source of governmental revenue. Taxes differ from other sources of revenue in that they are compulsory levies and are unrequited—i.e., they are generally not paid in exchange for some specific thing, such as a particular public service, the sale of public property, or the issuance of public debt.

Primarily, the revenue collected is utilized for the welfare of taxpayers; this means that the specific benefit received is independent of the individual payment. However, there are some exceptions, such as payroll taxes, where the taxpayer will directly benefit from medical coverage and retirement benefits.

### Reference

1. Anjaneyulu, (2023), Definition, What is Tax Base, and Steps for Filing Tax, ClearTax, <https://cleartax.in/terms> > t.
2. Ashish, K. S., (2023), Tax Base - Definition, Formula, Example, Calculation, WallStreetMojo, <https://www.wallstreetmojo.com> >
3. Ashish K.S., (2023), Taxpayers (Definition, Types) | Rights & Responsibilities, WallStreetMojo, <https://www.wallstreetmojo.com> >
4. Chaman Law Firm, (2023), What Are Elements of Taxation? <https://www.chamanlawfirm.com> >
5. Cox, S.M., (2021) Taxation | Definition, Purpose, Importance, & Types | Britannica, <https://www.britannica.com>>
6. Management Study Guide, (2023), Understanding Tax Terminology: Tax Base, <https://www.managementstudyguide.com>

7. Einstein, K., (2021), "Land of the Freeholder: How Property Rights Make Local Voting Rights." Journal of Historical Political Economy 1.4
8. Management Study Guide, (2023), Understanding Tax Terminology: Tax Base, <https://www.managementstudyguide.com>
9. Tata AIA, (2023), What Are The Characteristics of an Effective Tax System, <https://www.tataaia.com> › w.
10. Taxation - Income, Property, Consumption, (2023), Britannica, <https://www.britannica.com>.
11. What is a Tax Base? | TaxEDU - Tax Foundation <https://taxfoundation.org> › tax-basics › tax-base.

# **THE HISTORICAL VIEW AND BILATERAL RELATIONS BETWEEN REPUBLIC OF NORTH MACEDONIA AND GREECE BEFORE THE “PRESPA AGREEMENT”**

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## **Abstract**

National identity among the peoples of the Balkans has historically been a value but also a challenge for them, internationally recognized. Balkan history that has produced more war than peace, more poverty than prosperity, more isolation than integration, has filled not only the pages of stories written around the world but remain relevant and problematic to this day.

We must answer the questions:

- What weight does the Macedonian identity have in the eyes of the internationals and especially the Greek people, what state do they want to build in relation to the Albanians?
- What Macedonia and what Macedonian identity are Albanians in Macedonia ready to support?
- What does the Balkans want and what would be Macedonia's position in the region?

By answering these questions and by harmonizing these attitudes, we would have a positive outcome dominated by peace and stability in the Region.

It should be taken into the mind by the international community that the problem of identity, internal and regional stability constitute a whole and should be developed and treated as a project and not as a daily policy. On the path to integration, it will be inevitable for North Macedonia to support the international and regional community by helping it with the exchange of European experiences that will promote its overall development.

**Keywords:** *Balkans, Macedonia, Greece, National identity.*

## **Introduction**

The geopolitical position of the Balkans has had a specific significance as a crossroad between Europe, Asia, and Africa. This region inevitably has the position of being the center of political, geopolitical, and geostrategic developments that include its constituent states and beyond. In general, the most modern definition of the Balkans is seen as synonymous with Southeast Europe, a definition achieved on the basis of geostrategic, political, historical, religious, and economic criteria.

The Balkan region has a diversity of different nations which include: Turkey with 84 million inhabitants, Romania with 19 million inhabitants, Greece with 10.4 million inhabitants, Serbia with 8.7 million inhabitants<sup>1</sup>, Bulgaria with 6.9 million inhabitants, Albania with 2.8 million inhabitants, Croatia with 4.1 million inhabitants, Bosnia and Herzegovina with 3.2 million inhabitants, North Macedonia with 2 million inhabitants, Montenegro with 628 thousand inhabitants, Slovenia with 2 million inhabitants and Kosovo with about 2 million inhabitants.<sup>2</sup>

The era in which the history of the Balkan Peninsula begins is dominated by the famous name of the Greeks<sup>3</sup>. This description mainly covers the history of the Balkans from 1500 to 200 BC. For practical reasons, the story begins with

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<sup>1</sup> The current population of **Turkey** is **84,125,990** as of Tuesday, April 7, 2020, based on Worldometer elaboration of the latest United Nations data-<https://www.worldometers.info/world-population/population-by-country/>

<sup>22</sup><https://ec.europa.eu/eurostat/news/themes-in-the-spotlight/western-balkans-2019>

<sup>3</sup> Schevill, Ferdinand “*Ballkani, historia dhe qytetërimi*”, Tiranë, 2002, pg.12

the Greeks, because the Greeks, although not the first to populate this Peninsula, were the first to leave a testimony of themselves and of neighbors<sup>4</sup>.

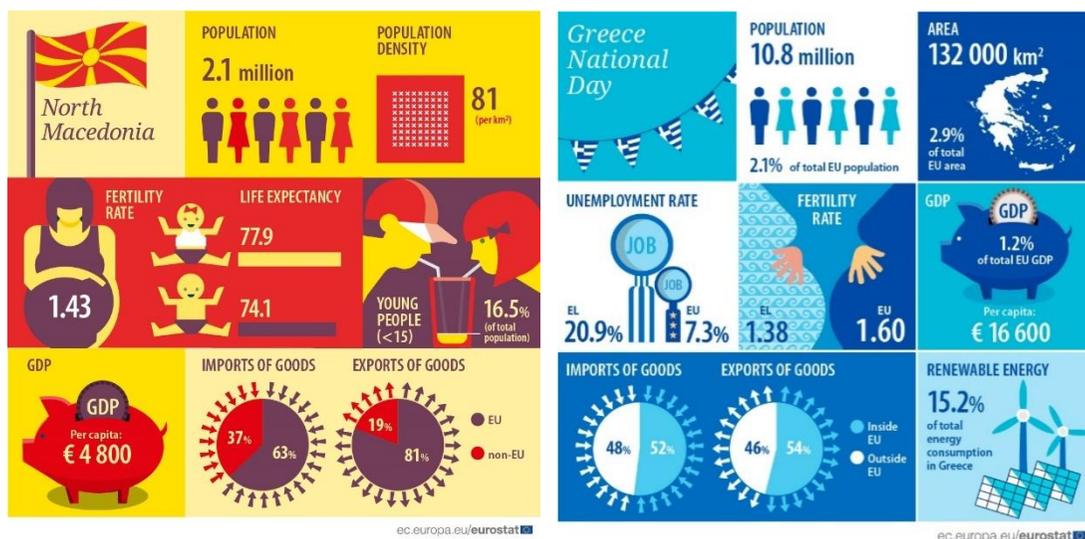


Fig 1. Eurostat, Infographics for Western Balkans 25.03.2019 (North Macedonia and Greece)  
Source: *European Commission e.europa.eu/eurostat*)

### Historical overview of Macedonia-Greece relations, causes of conflicts between two neighboring countries

Their ancestral land, Greece or Hellas, in reality include only the southern extreme of the Peninsula, but the political influence and above all, the civilization of this area, penetrated to the northern part. History changed direction when Persia, located on the eastern horizon of the Greek world, about the 6th century BC, intending to take over the Mediterranean territories, it was an open threat to the Hellenic territory that was forced to form alliances between Greek city-states, but powerless before the Persian Empire. From the 7th century to the 4th century BC, political and social wars broke out, trade

<sup>4</sup> At the same line, pg 11

rivalries sparked colonial movements. At this time, was formed the Kingdom of Macedonia under Philip of Macedonia who, took advantage of the weaknesses of the Greeks, defeated the Greek army, and established Macedonian dominance in the region. After the death of Philip II, his son Alexander, called the Great, successfully extended the Empire southward to Egypt and eastward from Persia to India.

The system of city-states in Ancient Greece was extremely special, that much that each Greek policy was associated with a passion for its political independence. At the same time, the Hellenes were perceived to be "related by blood and tongue, and have temples of gods and common sacrifices, and a similar way of life" (quoted by Herodotus). The term "Hellene" gradually came to define Greece and the common culture without referring to the country or political system. Macedonia remained in a vague connection with the Greek world. Its kings were of Greek descent and aspired to be Greek in the full sense of the word. But, they ruled over a mixed population and their rule was more despotic than democratic. Moreover, the Macedonians had fought against the Greeks in the Persian War. In control of the rich Thracian gold and silver mines, Philip II was able to deceive his opponents and build a professional army with extraordinary strength. In addition to military skills, Philip used his diplomatic talent to encourage divisions between city-states. As they fought against each other, he increased his forces. By uniting the Greek states city through a combination of force and diplomacy, Philip prepared the ground for the conquest of Persia.

His political program of panhellenism had a great attraction based on the fact that Greek cities had the main purpose to solve their endemic, political, social, and economic problems and thus unite to become capable of conquering all or a part of the Persian Empire, to which the Greeks had suffered humiliating losses.

Panhellenism gave Philip a fitting pretext for a vengeful war against Persia. At the same time, Philip was careful to gain the support of the Greeks, emphasizing that he was not their tyrant but their leader (hegemon).

The news of Philip's death caused unrest throughout western and southern Greece. The nature and depth of his successor, Alexander, have been a highly debated issue. His belief in the supremacy of Greek civilization and his passionate love of Greek mythology and poetry are indisputable. He literally

believed in the presence of the real world of the Olympic gods, he considered Heracles and Achilles as his ancestors, and his most precious possession was Homer's Iliad. Mythical symbolism accompanied Alexander's actions. Alexander's Hellenic mind was undoubtedly influenced by Aristotle who was appointed his tutor when Alexander himself was thirteen years old. However, it remains open to controversy whether any trace of Aristotle's political ideas can be found in Alexander's thoughts and actions and whether Aristotle approved Alexander's political program. Aristotle's theory was limited to polises and did not include the idea of Greek unity, he did not defend the Hellenization of the barbarians, and he did not share Isocrates' idea of a Hellenic mission of civilization. In fact, Aristotle advised Alexander *to be a hegemon to the Greeks and a despot to the barbarians*;<sup>5</sup> And when Alexander died in 323 BC, before he was 33 years old, his political structure and the empire he had created disintegrated with tremendous speed.

The empire of Alexander the Great, having an uncertain political foundation, with his death, suffered an immediate decline. Alexander's short-lived epic had considerable consequences because it made Hellenism, over a century and a half, one of the great cultures of mankind, ending the first Greek phase in the history of the Balkans. It was Rome that undertook the mission of the political union of the peoples of the Mediterranean, a union for which the Greeks had pursued without proper result. Rome, spreading east and west, managed to humiliate not only Greece but also Illyria, Macedonia, making them part of the Roman system.

The modern Greek state was created in 1830, a period of constitution of the modern Greek nation-state. Greece, as a state, was institutionalized with the help of its powerful European patrons, who aimed to control the southeastern Mediterranean region.<sup>6</sup> But the process of building the Greek nation just started and ended here. With the London Protocol of 3-rd of February 1830, Greece was declared an independent state, while its independence was guaranteed by the three great powers - England, Russia and

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<sup>5</sup> Christer Jönsson and Martin Hall, "Essence of Diplomacy", First published in 2005 by PALGRAVE MACMILLAN Houndmills, Basingstoke, Hampshire RG21 6XS and 175 Fifth Avenue, New York, N.Y.10010, pg.152

<sup>6</sup> Rodanthi Tzanelli, "Nation-Building and Identity in Europe: The Dialogics of Reciprocity", University of Leeds, UK, 2008, 4.

France. With this agreement, the Greek uprising for independence from the Ottoman Empire ended (1821-1830).<sup>7</sup>

In 1844, the Greek Prime Minister Koteli formulated and officially announced the historic expansionist political program called "Megali Idea" with which the Greek government aimed to revive the Byzantine Empire in order to unite the Orthodox of the Balkans. According to the Bible program for Greek nationalism, Greece, as the successor of Byzantium, was to become a large state with its capital city Istanbul, which would include not only Greek lands but also all other non-Greek populations of the Balkans that had been under The Byzantine Empire and that depended religiously on the Patriarchate of Istanbul<sup>8</sup>. This means the goal of building a Greek state that includes the Balkans and the Mediterranean.

The political program announced in "Megali Idea" has served Greek politics for geopolitical change and the configuration of the Balkan borders in the interest of realizing the dream of a Great Greece and the efforts for its realization have been continuous. In 1913, the Greeks presented a Memorandum as a document which proved the geostrategic intentions of the creation of Great Greece. This memorandum is in fact a territorial program that demolishes what is said that "*Greece does not seek invasions, but only the realization of its national heritage ...*"<sup>9</sup>.

Harilos Trikupis, Prime Minister of Greece (1882-1895) said that "*When the great war begins, Macedonia will become either Greek or Bulgarian, depending on who wins. If taken by the Bulgarians, the population will be Slovenian. If we do that, we will all turn them into Greeks.*"<sup>10</sup>

A fundamental feature of Greek politics for the creation of Great Greece is the special role of religion in the realization of this policy. The Greek

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<sup>7</sup> At the same line, pg. 11

<sup>8</sup> Christer Jönsson and Martin Hall, "*Essence of Diplomacy*", First published in 2005 by PALGRAVE MACMILLAN Houndmills, Basingstoke, Hampshire RG21 6XS and 175 Fifth Avenue, New York, N.Y. 10010, pg. 148

<sup>9</sup> Christer Jönsson and Martin Hall, "*Essence of Diplomacy*", First published in 2005 by PALGRAVE MACMILLAN Houndmills, Basingstoke, Hampshire RG21 6XS and 175 Fifth Avenue, New York, N.Y. 10010, pg. 152

<sup>10</sup> Rodanthi Tzanelli, "*Nation-Building and Identity in Europe: The Dialogics of Reciprocity*", University of Leeds, UK, 2008, 4.

position that identifies the ethnic principle with the religious one is well known. Such an argument has been used and continues to be used.

Spoken language is not taken into account at all for the determination of nationality but only the spiritual and subjective factor that serves as the basis and reasoning on ethnicity.

In 1897, with the support of Russian diplomacy, Serbia gained the right to have its own church in Macedonia, and later Serbian schools. From this period, for Macedonians has begun a tripartite struggle, in the context of the Turkish occupation of the time. The Turks have managed to take advantage of this divisive battle based on the "*Divite Et Impera*" maxim.<sup>11</sup>

"*Macedonia*" represents a skillful attempt to hide two problematic regions that are considered unsuitable for contemporary Greeks: first, the identity of the ancient Macedonians, and second, the relative (re) Hellenization of the bigger part of Aegean Greece.<sup>12</sup> The Macedonian national narrative shakes the unique Greek national narrative, emphasizing the gap between ancient and modern Greece. The Macedonian side does not emphasize that the ancient Macedonians represent the ancestors of the contemporary Macedonians, but at the same time, it supports the thesis that the ancient Macedonians are not identical with the Hellenes.<sup>13</sup> The latest thesis, in fact, has been an impetus for harsh reactions on the part of ancient Greece who in their national narratives nurture the myth of a 300-year-long uninterrupted cultural continuity and have absorbed this attitude into the content of modern Greek identity. Such a myth is one of the elements of national pride where Greece is dogmatically labeled as a "country of civilization".

Regarding the second issue, anthropologist Anastasia Karakasidou<sup>14</sup> notes that "*the efforts of Greek intellectuals and politicians to establish a*

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<sup>11</sup> Далибор Јовановски, „Грција – патот до независноста“, Годишен зборник, Skorje, 2004, 279-296.

<sup>12</sup> A.Buda, "Shkrime Historike", Vellimi II, Tiranë, 1986, pg.30

<sup>13</sup> Puto, Arben, "Çështja shqiptare në aktet ndërkombëtare të periudhës të imperializmit", Vellimi II, Tiranë, 1987, pg.65

<sup>14</sup> When in 1993 she published a part of her research in the Journal of Modern Greek Study (vol.11, 1993), she received several death threats from US-based Greek right-wing organizations. At the same time, the Greek newspaper "Stohos", describing her as an enemy of the state, published its address in Salonika and the registration number of its car. The "Karakasidu case" became known all over the world. Arousing interest even before its publication, the book was finally published in 1997

*tradition of Greek heritage in Macedonia enabled a long-term campaign of denigration and denial of the existence of an ethnic Slavo-Macedonian minority in North Greece.*"<sup>15</sup> Worse than this, keeping alive the myth of its population being the innocent victims of Turks, Bulgarians and "*skopjans*", the Greeks find it very difficult to accept the idea of the North Greek regions of Macedonia and Thrace not being liberated by the Greek army in the years 1912-1913 but, on the contrary, have been acquired against the will of the population, where most of them have been mistreated, tortured or expelled. At the beginning of the twentieth century, Macedonia was a province of the Ottoman Empire in which lived mainly Macedonians but also other populations such as Albanians, Turks, Roms, Vlachs and others. Until the Balkan wars, Macedonia was a compact and coherent geographical, economic and historical whole, but later, Macedonia was divided. Neighboring countries like Greece, Serbia and Bulgaria have turned to the past, wanting to restore the old fame. Powerful European countries such as Russia, Austria, Britain or France, working for their own interests, have often taken a stand against Macedonia. With this, Macedonia has often been robbed by the Turks, turning into an easy bite for other Balkan states. Before the start of the wars, Macedonia was under pressure from Greece, Bulgaria and Serbia, which were preparing for a territorial expansion. All declared that they were invading places inhabited by their population, which, according to Macedonian nationalists, were invented by Greeks, Bulgarians and Serbs in places where they had never existed before. By building churches and schools and by appointed priests and teachers, each state has led a special propaganda in Macedonia in order to form the national consciousness of the Orthodox Macedonians in their interest.

Macedonians participated enthusiastically in the Balkan wars, hoping that the war against the Turks could secure the independence they wanted at all costs since the Ilinden Uprising in 1903. It is important to note that "*their brothers by religion*" from neighboring countries did not provide direct assistance to the Macedonian revolutionaries. An independent Macedonia was not on their daily agenda. Prior to 1912, Turkey had signed a ceasefire agreement with all Balkan allies except Greece, but a peace agreement was

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<sup>15</sup> Chicago University Press. Today Dr. Karakasidou is a Professor at Wellesley College in the USA, and her book "*Fields of Wheat, Hills of Blood*", 1997, is one of the most widely circulated among students of anthropology and Balkan history.

eventually signed between the conflicting parties in May 1913. The Serbs had previously occupied North Macedonia with Skopje as its center and with Bitola. The Bulgarians took Constantinople and Thrace, while the Greeks took Thessaloniki and Preveza, and in 1913 they took Ioannina, completing their control of Epirus. A dispute has arisen between Bulgaria and its allies over Macedonia, and another war has broken out.

Bulgaria has tried to take over the Serbian and Greek parts of Macedonia. The Serbs and the Greeks united to fight against Bulgaria, and won the war they had started. The peace treaty in Bucharest on August 10, 1913 divided Macedonia between Greece, Serbia and Bulgaria. That the Greek presence in Macedonia was considered an occupation is confirmed by the Decree on Occupation by Greek King Georgios the I-st in 1912. The Decree does not mention territories which the Greek army liberated or took again from the Turks, which would mean that Greece has considered that territory as Greek, but clearly speaks of Macedonian territories occupied by the Greek army.

A report by the “*Carnegie*”<sup>16</sup> Foundation for International Peace on the Balkan wars, launched after Bulgarian accusations against the Greek king, states that 161 Macedonian villages and more than 16,000 houses were burned in the Macedonian part of the Aegean<sup>17</sup>.

The first meeting of ASNOM, held on August 2, 1944, in the monastery of St. Prohor Pciniski, sanctioned the previous process of building the Macedonian state and established the founding acts for the construction of the new state. On May 2, 1945, the Second World War ended and a Conference was held in Rotterdam to confirm the territorial changes, while no one discussed the Macedonian issue, so the decisions of the Versailles Agreement in 1919 remained in force. As the Macedonian issue has not been opened for discussion, the efforts of Aegean Macedonia to gain the right to self-determination are expressed through letters sent to the Central Committee of the Greek Anti-Fascist Throne (EAM) and to the Central Headquarters of the

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<sup>16</sup> The foundation was founded by Andrew Carnegie in 1905-1906 with an act of the American Congress under the leadership of the foundation's first president, Henry Pritchett. The foundation deals with the mission to raise the standards of educational policy.

<sup>17</sup> The other Balkans Wars (The Carnegie Endowment for International Peace; reprinted by the Brookings Institute, Washington, 1994).

Army have been useless. National Liberation Front (ELAS) had an unacceptable attitude towards the Macedonian people of Aegean Macedonia.<sup>18</sup>

Macedonia, with Skopje as its capital within Yugoslavia, was established as a separate state administration so that all local units formed within the administration in Skopje were named "Macedonian". In this way, the "Macedonian government", "Macedonian Parliament" and others were formed, in order to include the notion of "Macedonian", with a new political and administrative meaning. Efforts were also made to create a separate language that the Yugoslav constitution recognized as the state language. In fact, the "Macedonian language" according to the Greek attitudes of the time, is a local dialect of the Bulgarian language where an attempt has been made to purify it of most of the Bulgarian words and to present it as a separate language. According to such views, no matter what language the Yugoslav Macedonians spoke, they gradually had to adopt the artificially created Macedonian language.

Also, according to Greek views, the independent Macedonian Church was founded despite the fact that such a religious presence was considered undesirable for a communist regime. However, a church had to be established that would serve Macedonia's aspirations, given the fact that the population in the region was very religious and the church was closely associated with tradition. For this reason, the Macedonian Autocephalous Church was founded in 1968 with the intervention of the party and based in Skopje, although the Serbian Patriarchate reacted to its secession. Although the Serbian Church reacted to such an action, their reaction was ignored by neither the patriarchal nor the political leadership.

Another attitude that has influenced the Greek-Macedonian dispute is the political goal of "*Macedonia of Skopje*" which, according to the Greeks, has made constant efforts to make the local population understand that it belongs to a Macedonian nationality. Efforts were also made to create Macedonian history, and in order to support the existence of this newly created

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<sup>18</sup> Поповска, Билјана, "Државно-правна историја на Македонија"; Правен Факултет "Јустинијан Први", 2010, стр. 329 и 330

nationality, it called on scientists, university professors, and others to build a Macedonian history based on reconstructions and falsifications.

Precisely the establishment of the Republic of Macedonia as an independent state in 1991 and the demand for international recognition under its constitutional name, provoked harsh reactions, considering it a threat to the dual concept mentioned by the Greek state. The use of the term "*Macedonia*" by the Greek government in the official name of the neighboring state in its north, has been interpreted as the appropriation of symbols, traditions, myths, and the whole territory that is historically associated with this name. In this way, the Republic of Macedonia has gained the status of an aggressive claimant against the Greek-Macedonian heritage, which in the perception of contemporary Greeks, essentially hinders the historical continuity and territorial integrity of the Greek people. Such a development of the situation has significantly influenced the growth of Greek nationalism and the redefinition of the national identity of the Hellenic Republic, which made Alexander the Great a fundamental basis of Greeks, while the Macedonian part of the Greek heritage became more and more important for national identity. The national homogeneity of the Greek state was caused simultaneously as a result of the creation of the independent Macedonian state, with the beginning of the activism of the unrecognized Macedonian minorities in the early 90s of the last century, as well as the insistence on recognition of a separate ethnoculture by the Greek state and fundamental human freedoms.<sup>19</sup>

In this way, entering into the debate with neighboring Greece over the historical continuity and cultural heritage of ancient Macedonia, Greek nationalism grew more and more. Following the Declaration of Independence of the Republic of Macedonia and the immediate opposition of its state name by the Greece Republic, the two countries have intensified their global cultural struggle over famous symbols, traditions and ancestors.<sup>20</sup>

Although current scientific knowledge of history, archeology and linguistics has not been able to give a completely clear answer to the relations of the ancient Macedonians with the surrounding populations and more

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<sup>19</sup> X. Л. Штепан, "*Македонски јазол*"; Скопје, 1982 pg. 39

<sup>20</sup> Лоринг М. Денфорт, "*Македонскиот конфликт*", 2008, pg. 275

specifically their position in front of the ancient Hellenes both ethnically and in spoken language, the identity of Ancient Macedonians today continue to be used as a subject of tensions between the Republic of Macedonia and Greece. The historian Eugene N. Borza points out that the spoken language of the ancient Macedonians and the Hellenes was so different that in the communication between these two languages translation was also necessary.

The ethnicity of today's Macedonians (we often encounter the term Slavo-Macedonians) and more precisely their identity, has already become the subject of harsh debates between Skopje and Athens. The term Slavo-Macedonian in itself represents a contradiction among Macedonians. While in the Republic of Macedonia it can be considered an offensive name, in Greece itself it is proudly used by members of the Slavic community in the prefectures of Greek Macedonia, because it makes them feel like a special people from ethnic Greeks living in areas from Florina to Kavala, who also call themselves Macedonians, but in terms of provincial affiliation.

Thus arose the "*Macedonian issue*" evolving and taking a different direction, with which, the change of name and the UN mediation to overcome the dispute were the most vocal and most visible segment of the same. In fact, in the following period, it became more than clear that the contradictory and unclear attitudes in terms of culture, history, and Greek identity but also Macedonian identity is what will determine the direction of the name dispute in the coming years.

### **The 1995 Interim Agreement as the Precedent of the “Prespa Agreement”**

Since Macedonia's emergence as an international entity, Skopje and Athens have conducted a series of internationally mediated negotiations. After tense self-determination of the Republic of Macedonia and secession from the former Yugoslav Federation in 1991, the neighboring state in the south of Macedonia-Greece intensified its campaign for the appropriation of the ancient Macedonian past. For more reasons it will be concluded that this dispute is more a cultural, civilizing, and political phenomenon than a dispute of a legal nature.

To be *de jure* and *de facto* an independent and sovereign state, Macedonia had to join the only universal organization, the UN, to be recognized internationally and to be part of the international scene.

The Hellenic Republic, citing a United Nations Resolution aimed at "*maintaining international peace and security and avoiding the creation of crisis regions in the world*"<sup>21</sup> was successful, because through diplomatic relations, presented the negative attitudes towards Macedonia as a potential threat to peace and tranquility in the region.

In April 1992, the Parliament of the Republic of Macedonia decided to submit an application for membership of the Republic of Macedonia in the United Nations. The then-president Kiro Gligorov was publicly criticized by the then-opposition for being late in applying for membership.<sup>22</sup>

Greece, with its position in the European community, in the same year, more precisely on June 27, 1992, manages to react with the so-called Lisbon Declaration which states that the EU will accept our country but, ... with a name in which the word "Macedonia" will not be mentioned. On April 8, 1993, by a decision of the Security Council within the UN, the Macedonian state was admitted as a member of the Organization but with the reference "*The former Yugoslav Republic of Macedonia*" - the former Yugoslav Republic of Macedonia. The rationale for the reference was to use it only for the needs of the organization as a temporary designation.

This is in fact a reason to advance the bilateral dispute to the level of a procedural obstacle to membership in an international organization, although from a legal point of view, Macedonia has met all the legal criteria for membership certified in the Badinter Committee Report established by the European Union and in various reports of UN missions in Macedonia.<sup>23</sup>

In the formal-legal aspect, it is considered that a procedural violation has been committed by the organization itself, ie Article 4 of the United

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<sup>21</sup> United Nations Resolution; article 1.

<sup>22</sup> This was later confirmed by the then UN Secretary General, Boutros Boutros-Ghali, who at a press conference on January 6, 1993 confirmed that the state of Macedonia has not yet submitted an application for membership. This statement prompted President Gligorov's cabinet to formally submit its membership application on January 8, 1993.

<sup>23</sup> Љ. Д. Фрчковски, В. Тупурковски и В.Ортаковски, "*Меѓународно јавно право*", 1995; стр. 62.

Nations Charter because the name is not considered a condition for the existence of a state but the name is considered an internal matter.<sup>24</sup> On the other hand, the attempt to resolve the name dispute within the European Union, which means, at the regional level, an act previously doomed to failure because, in such an organization, one of the parties involved in the dispute (Greece) possesses a powerful weapon in his own hands — the right of veto.

On February 16, 1994, Greece, at the head of the EU, imposed an *embargo*<sup>25</sup> on the Republic of Macedonia, and in support of this measure, Greece's reasoning was the fact that the neighboring country in its north refuses to change its name, flag and Constitution. The economic blockade against the Republic of Macedonia had a negative effect on the Macedonian economy, in connection with the UN embargo on Serbia. By blocking the exit of the Republic of Macedonia to Thessaloniki, the Greek blockade drastically reduced Macedonia's export benefits and jeopardized the import of food, oil, and other vital products. Greek Prime Minister Papandreou was partly right when he stated that Skopje's existence depends on the port of Thessaloniki and not on its number of ambassadors.<sup>26</sup>

In the summer of 1994, during the campaign for international recognition of the Republic of Macedonia, a number of different names were proposed. The Greek government stubbornly rejected any name containing the word "Macedonia" in any form. The Greek government was trying to completely detach all symbolic ties it had with the Republic of Macedonia and its population. Names proposed by the Greek government were for example Central Balkan Republic, Southern Slavia, Southern Serbia identifying Macedonia with larger geographical and cultural groups such as the Balkans, Slovenes, or Serbs. Greek practice has shown that they often referred to Macedonia with the name of its capital, Skopje, and names such as "*The Republic of Skopje*" or "*Macedonia of Skopje*" were also options.

"*FYROM*" as an accepted provisional name was not the solution to the problem between the two governments because this abbreviation denies the

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<sup>24</sup> A similar example can be taken of Ukraine as a former member of the USSR which informed the Secretary-General of the United Nations about the change of its name to the "Republic of Ukraine" as an example of the formal-legal change of the name of a country.

<sup>25</sup> Unilateral economic blockade imposed in the time of Andreas Papandeuou and the PASOK party, after the fall of Mitsotakis from power.

<sup>26</sup> MIA News, December 17, 1993

existence of current Macedonia, in time and space. According to the provisional reference, the Republic of Macedonia does not have independence at present and is only a former republic. This reference also connects the Republic of Macedonia with the former Yugoslavia as a multinational state in the past, of which Macedonia was a part, but a country that no longer exists.

There was also a proposal from the Greek side for a "dual name" according to which Greece could use any name for the Republic of Macedonia and the international community could use the constitutional name.

On August 13, 1995, under the supervision of the UN Secretary-General in New York, an "*Interim Agreement*"<sup>27</sup> was signed between Greece and Macedonia by which both parties (First Party-Greece and Second Party-Macedonia) Agreed to... *continue negotiations under the auspices of the UN Secretary-General under Security Council Resolution 845 of 1993 with a view to reaching an agreement on the name set out in this Resolution as well as in Resolution 817 of the Security Council (1993)*. This so-called Interim Agreement was signed by the then Minister of Foreign Affairs of the Republic of Macedonia, Mr. Stevo Crvenkovski, and Mr. Karolos Papoulias, Minister of Foreign Affairs of the Hellenic Republic.

The purpose of the agreement was to normalize relations between the two neighboring countries.<sup>28</sup> The agreement, which was ratified by the Macedonian Parliament on October 9, 1995, was challenged before the Constitutional Court of the Republic of Macedonia by the then Macedonian opposition, VMRO-DPMNE, led by its leader, Ljupco Georgievski. Skopje continued to work with teams of experts on the implementation of the Agreement. Following difficult negotiations between the position and the Macedonian opposition, a Memorandum of practical implementation of the Interim Agreement was signed in Skopje, regulating issues related to the movement of people and goods through the Greek-Macedonian border. On October 15, 1995, the Greek embargo against the Republic of Macedonia retreated. The Greek-Macedonian border was eventually open for the movement of goods and people. Other documents were signed in Athens, such

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<sup>27</sup> The names that can be used to name this agreement are: Interim Accord, temporary consent, temporary agreement, etc.

<sup>28</sup> Following this agreement, Greece retreated the embargo on Macedonia and Macedonia, under international pressure, amended its Constitution with a constitutional amendment and later with its official flag.

as Memorandum on the opening of contact offices between Skopje and Athens, Protocol on the mutual regime of visas and taxes, Protocol on transport and communications, Protocol on the practical implementation of custom affairs, Protocol on the Green Card international and vehicle insurance.

The Interim Agreement consists of 23 articles divided into 6 parts, ie goals that established a political framework that would lead to a solution regarding the name dispute:

- A. Measures to build trust and friendly relations;
- B. Human rights and cultural rights;
- C. Regional, International and Multilateral Institutions;
- D. In relation to international agreements;
- E. Economic, commercial, legal relations related to the protection of the human environment;
- F. Final Provisions.

The first party, Greece was represented by the Minister of Foreign Affairs, Karolos Papoulias, while the second party, Macedonia (FYROM), was represented by the then Minister of Foreign Affairs of Macedonia, Stevo Crvenkovski, who, based on the principle of the inviolability of state borders and the territorial integrity of the state, set out in the Final Act of the Conference on Security and Co-operation in Europe, signed in Helsinki, based on the principles of the Charter of the United Nations, the principles of democracy and fundamental rights and freedoms and given the common interest of the parties in maintaining international security and peace, economic cooperation and reaching a long-term agreement, without interfering in each other's internal affairs, agreed on some key issues in the interest of both parties , and that:

Both parties stated that they would have no territorial claims and that the existing boundaries between the signatories were recognized as permanent and indisputable;<sup>29</sup>

- The Parties have ensured that they will refrain from the use of violence or the threat of violence in resolving their differences, thus respecting the principles of the United Nations Charter;
- The two signatories agreed to continue their talks, under the auspices of the Secretary-General of the United Nations, with a view to concluding a final agreement on the name dispute.
- FYROM agreed to remove all symbols from its flag (i.e. the Vergina Star, the White Tower in Thessaloniki) and to declare that it would not interfere in Greek internal affairs.
- Greece agreed not to obstruct second-party Euro-Atlantic integration.

Macedonia fulfilled its obligation to change the state flag and the new flag, on October 22, 1995, was solemnly hoisted at the United Nations Headquarters in New York. The official text of the Interim Agreement on the Normalization of Greek-Macedonian Relations was published in the daily press to be transparent to the public.

The Interim Agreement was working towards stabilizing relations and normalizing them, but the name issue continued to be discussed in New York. In Article 5 of the Interim Agreement this issue is resolved as follows:

1. The Parties agree to continue negotiations under the supervision of the Secretary-General of the United Nations pursuant to Security Council Resolution 845 (1993);

2. Recognizing the differences that exist between the parties regarding the name of the Second Party, each party shall enjoy its rights in accordance with the responsibilities undertaken in connection with this Interim Agreement. The Parties shall cooperate in order to enable the realization of mutual relations even beyond their positions regarding the name of the Second Party. In this context, the Parties shall take practical measures, including the

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<sup>29</sup> Article 2, Interim Agreement

[https://peacemaker.un.org/sites/peacemaker.un.org/files/MK\\_950913\\_Interim%20Accord%20between%20the%20Hellenic%20Republic%20and%20the%20FYROM.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/MK_950913_Interim%20Accord%20between%20the%20Hellenic%20Republic%20and%20the%20FYROM.pdf)

issue of documents, with a view to the normal conduct of trade between them in a manner consistent with their respective positions relating to the name of the Second Party. The Parties shall take practical measures regarding differences relating to the name of the Second Party so as not to prevent or interfere with the normal course of trade between the Second Party and the Third Party.

### **Conclusions**

An interpretation of the articles of the agreement illustrates a number of Greek side concerns related to security and pressure on Macedonia for constitutional changes. Article 1 of the Interim Agreement was aimed primarily at verifying the existing territorial status and content of Slavo-Macedonian irredentism, as Greece had never sought aspirations for enlargement to the north, which is a region of limited strategic importance to the Greek state.

This agreement adequately addressed the main concerns and objections of the Greek side, such as some of the provisions of the Macedonian Constitution, the symbols of the flag of the Republic of Macedonia in the period 1991-1995, the guarantees of territorial integrity, and the prohibition of any kind of propaganda, protection of Greek cultural heritage and others. The mentioned issues have directed the focus of further negotiations between the two states in the central part of the dispute, respectively towards the name of the state and its use. It is noted that, in the period 1996-2002, the Greek negotiators did not give as much importance to the cultural aspects of the disagreement as had been presented in 1991-1995.

The thesis on the Macedonian issue can also be analyzed based on a brief summary of the positions of Greek statesmen, politicians, and diplomats on the substance of the dispute over the constitutional name of the Republic of Macedonia.

### **References**

1. Љ. Д. Фрчковски, В. Тупурковски и В.Ортаковски, “*Меѓународно јавно право*”, 1995
2. United Nations Resolution; article 1.

3. Л. Штепан, „Македонски јазол“; Скопје, 1982
4. Лоринг М. Денфорт, „Македонскиот конфликт“, 2008
5. The other Balkans Wars (The Carnegie Endowment for International Peace; reprinted by the Brookings Institute, Washington, 1994).
6. Поповска, Билјана, „Државно-правна историја на Македонија“; Правен Факултет „Јустинијан Први“, 2010
7. A. Buda, „Shkrime Historike“, Vellimi II, Tiranë, 1986, pg.30
8. Puto, Arben, „Çështja shqiptare në aktet ndërkombëtare të periudhës të imperializmit“, Vellimi II, Tiranë, 1987,
9. Chicago University Press. Today Dr. Karakasidou is a Professor at Wellesley College in the USA, and her book "Fields of Wheat, Hills of Blood", 1997, is one of the most widely circulated among students of anthropology and Balkan history.
10. <https://www.worldometers.info/world-population/population-by-country/><https://ec.europa.eu/eurostat/news/themes-in-the-spotlight/western-balkans-2019>
11. Schevill, Ferdinand „Ballkani, historia dhe qytetërimi“, Tiranë, 2002.
12. Christer Jönsson and Martin Hall, „Essence of Diplomacy“, First published in 2005 by PALGRAVE MACMILLAN Houndmills, Basingstoke, Hampshire RG21 6XS and 175 Fifth Avenue, New York, N.Y.10010,
13. Rodanthi Tzanelli, „Nation-Building and Identity in Europe: The Dialogics of Reciprocity“, University of Leeds, UK, 2008
14. Christer Jönsson and Martin Hall, „Essence of Diplomacy“, First published in 2005 by PALGRAVE MACMILLAN Houndmills, Basingstoke, Hampshire RG21 6XS and 175 Fifth Avenue, New York, N.Y.10010,
15. Rodanthi Tzanelli, „Nation-Building and Identity in Europe: The Dialogics of Reciprocity“, University of Leeds, UK, 2008,
16. Далибор Јовановски, „Грција – патот до независноста“, Годишен зборник, Скопје, 2004,
17. Interim Agreement, 1995,
18. Dimitris Livianos, „The Quest for Hellenism: Religion, Nationalism and Collective Identities in Greece (1453–1913)“, The Historical Review. Vol 3, 2006.
19. John S. Koliopoulos, Thanos M. Veremis, „Greece; The modern sequel from 1831 to the present“, London, 2002.

20. Harilaos Trikoupis, „*History of the Greek People*“, vol. 14 (Athens Publishing);
21. John Shea, „*Macedonia and Greece – The Struggle to Define a New Balkan Nation*“;

**KARAKTERISTIKAT E POLITIKËS  
AFARISTE TË BANKAVE NË  
REPUBLIKËN E MAQEDONISË SË  
VERIUT**

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**Abstrakt**

Ky punim shkencor trajton karakteristikat e politikës afariste të bankave në Republikën e Maqedonisë së Veriut, duke analizuar rolin e bankave në zhvillimin ekonomik dhe stabilitetin financiar të vendit. Përmes shqyrtimit të politikave kredituese, investimeve dhe menaxhimit të rrezikut, ky studim ka për qëllim të ofrojë një pasqyrë të thellë të mënyrës se si bankat komerciale përshtaten me ndryshimet ekonomike dhe rregullatorë në një mjedis të ndryshueshëm. Gjatë periudhës së analizuar, banka qendrore ka luajtur një rol kyç në orientimin e politikës afariste të bankave, duke përcaktuar norma të interesit dhe masa për rregullimin e likuiditetit. Në këtë kuadër, punimi gjithashtu shqyrton ndikimin e politikave monetare dhe fiskale mbi bankat dhe tregun financiar, si dhe sfidat që hasin ato në përpjekjen për të ruajtur konkurrencën dhe stabilitetin. Analiza e politikave afariste të bankave është e rëndësishme për kuptimin e ndikimit të bankave në ekonominë e përgjithshme dhe për identifikimin e mundësive dhe rreziqeve që paraqiten për sektorin bankar në Maqedoninë e Veriut.

**Fjalë kyçe:** *politika afariste, bankat komerciale, menaxhimi i rrezikut, norma interesi, zhvillimi ekonomik, stabilitet financiar.*

**Hyrje**

Politika afariste e bankave luan një rol të rëndësishëm në zhvillimin ekonomik dhe stabilitetin financiar të çdo shteti. Në këtë kontekst, banka qendrore dhe bankat komerciale janë faktorë kyç që ndikojnë në mënyrën se

si funksionon sistemi financiar dhe si mund të kontribuohet në rritjen e ekonomisë. Në Republikën e Maqedonisë së Veriut, sektori bankar ka kaluar nëpër periudha ndryshimesh të rëndësishme, të cilat kanë kërkuar përshtatjen e politikave afariste për të përballuar sfidat ekonomike dhe financiare. Kjo punim ka për qëllim të shqyrtojë karakteristikat kryesore të politikës afariste të bankave në këtë vend, duke u fokusuar në aspekte të ndryshme si politikat kredituese, menaxhimi i likuiditetit dhe rregullat e përcaktuara nga autoritetet rregullatore. Përmes një analize të detajuar, punimi kërkon të theksojë ndikimin e këtyre politikave në zhvillimin e sektorit bankar dhe në stabilitetin e përgjithshëm të ekonomisë së Maqedonisë së Veriut.

### *Struktura dhe ndryshimet e politikës afariste në RMV*

Sipas analizave të bëra nga organi mbikëqyrës kompetent për secilin segment institucional për periudhën 2010 deri 2020, bankat në Republikën e Maqedonisë së Veriut kanë primatin dhe rolin udhëheqës në sistemin financiar. Ekipi i caktuar për të vendosur postulatet themelore të politikës afariste duhet të bëjë një analizë paraprake gjithëpërfshirëse si një proces të përhershëm, dinamik të një mjedisi më të ngushtë, por edhe më të gjerë në mënyrë që të mbledhë informacione që do të jenë baza për marrjen e vendimeve të duhura. Ndjeshmëria dhe rëndësia e sistemit bankar imponon që i njëjti të funksionon brenda rregulloreve ligjore dhe masave të përcaktuara nga shteti në korrelacion me politikën e kujdesshme të BQRMV. Disa nga këto masa kanë karakter ndërkombëtar si përgjigje të fshirjes së kufijve të funksionimit, pra procesit të globalizimit.

Në kushtet e rimëkëmbjes së sektorit privat dhe arritjeve solide ekonomike gjatë vitit 2014, pati një rritje të konsiderueshme të aktivitetit bazë të bankave-ndërmjetësim midis depozituesve dhe huamarrësve. Në kreditë për persona jo-financiar, vërehet rritje dyshifrore prej 9.9%, e cila në krahasim me rritjen e vitit 2013 është 50% më e lartë.

Aktiviteti i intensifikuar i huadhënies është më i dukshëm tek klientët e bankave nga sektori i korporatave, ku rritja ishte dy herë më e lartë në krahasim me vitin 2013. Aktiviteti kreditor nuk mbetet prapa as tek familjet, ku në dy vite radhazi ka pasur rritje të përsheptuar (kontributi i të dy sektorëve

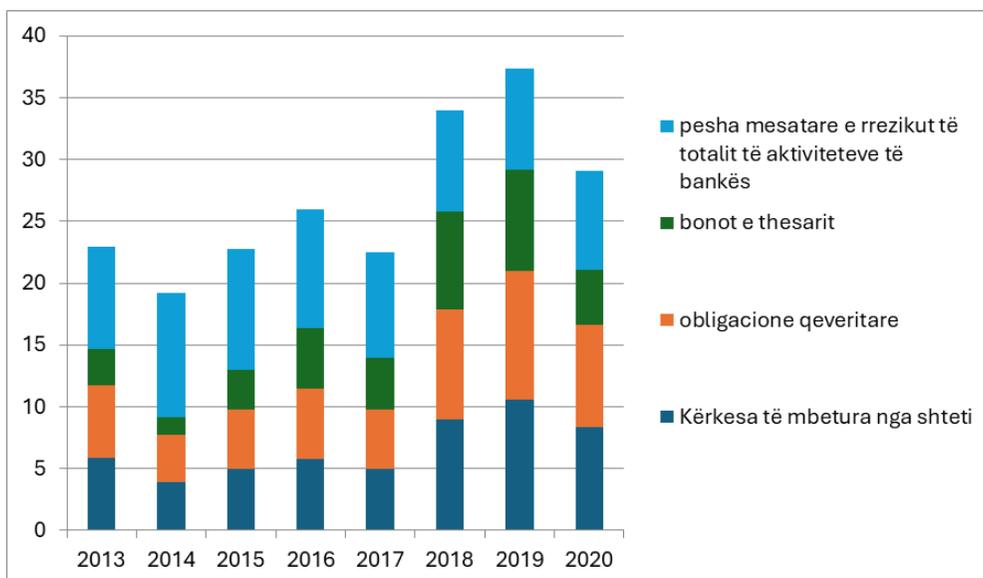
në rritjen vjetore të kredive për subjektet jo-financiare është pothuajse i njëjtë). Lëvizjet e përshtatshme të aktiviteteve për kredi janë rezultat kushteve të përmirësuara bankare, por edhe i lehtësimit monetar dhe masat jo standarde të ndërmarra për të mbështetur zhvillimin e sektorit privat. Rritja e shpejtë e aktivitetit kreditor rriti ndërvartësinë në mes kredive për persona jofinansiar dhe BPB –Bruto prodhimin të Brendshëm, dhe ky raport është pak më i lartë se trendit afatgjatë<sup>1</sup> i llogaritur për këtë raport (48%). Kështu, për herë të parë që nga viti 2009, hendeku midis raportit "kredi për persona jo-financiarë / BPB" dhe trendit të llogaritur afatgjatë për këtë raport është pozitiv. Pas analizave në disa sektorë, edhe pse të reduktuara ndjeshëm, ky hendek është akoma negativ në raportin e "huave të korporatave / BPB", dhe në aktivitetin huadhënës të sektorit "familje", kurse hendeku midis raportit të realizuar ndaj BPB -së me atë të trendit afatshkurtër u shndërrua në pozitiv.

Shumica e bankave përqendrohen në huadhënien e individëve-familjeve, ku për shkak të mbizotërimit më të madh të kredive, rreziqet zvogëlohen në krahasim me sektorin e korporatave. Rreth 70% e kredive familjare lidhen me kreditë konsumatore për individët. Dobësimi i rritjes së kredisë dhe rritja e kredive konsumatore afatgjata si dhe e kredisë për shtëpi sinjalizojnë një monitorim më të intensifikuar të procesit të huadhënies.

Grafiku nr.7 Struktura dhe ndryshimi vjetor i ekspozimit të kredisë ndaj familjeve

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<sup>1</sup> Тренд-компонентата на соодносите меѓу износот на кредити и БДП е утврдена со користење на едностраниот Ходрик-Прескотов филтер.



Burimi : BQRMV- Në bazë të të dhënave nga ana e bankave

Në kërkesat e shtetit, ku në vitet e mëparshme kishte një rritje të konsiderueshme në vitin 2014, pati një rënie. Në vitin 2014, investimet në letra me vlerë të qeverisë u ulën me 14.8%. Kjo është kryesisht për shkak të procesit të lehtësimit të borxhit të shtetit ndaj bankave vendase, bazuar në bonot e thesarit. Rënia e investimit në letra me vlerë u shoqërua me ndryshime strukturore në këto vendosje. Gjegjësisht, u regjistrua rritje e vendosjeve në letra me vlerë afatgjata (obligacione qeveritare), si rezultat i ndryshimit të strategjisë së huamarrjes së qeverisë. Këto ndryshime kanë çuar në një rënie të pjesës së llogarive të arkëtueshme të qeverisë në totalin e aktiveve të bankave deri në nivelin 8.4%, që në 3 vitet e kaluara është niveli më i ulët, por dukshëm më i lartë në krahasim me periudhën para krizës dhe krizës.

Për të siguruar procesin e lidhjes së rregulloreve dhe çështjeve mbikëqyrëse që lidhen me aktivitetet e bankave ndërkombëtare të shteteve anëtare individuale, u krijua Komiteti i Bazelit i rishikuar në varësi të dobësive të perceptuara në zbatimin e tij praktik. Raporti i mjaftueshmërisë së kapitalit

është raporti të kapitalit në pronësi të bankës me aktivet në rrezik. Kjo marrëveshje përshkruan zërat që përbëjnë kapitalin dhe mënyrën në të cilën llogariten aktivet sipas rrezikut. Kështu kapitali përbëhet nga niveli 1 ose kapitali bazë, e cila përfshin aksionet e zakonshme dhe të preferuara, fitimet e pashpërndara, etj., niveli 2 ose kapitali shtesë, i cili përfshin kapital të tjerë dhe zëra nga llogaria e kapitalit. Marrëveshja jep rezultate të ndryshme në varësi të përqindjes të rrezikut ndaj të cilit ata janë të ekspozuar. Bankat e vendeve që pranuan këtë marrëveshje ishin të detyruara të ndanin të paktën 8% të kapitalit në lidhje me aktivet e ponderuara me rrezik, gjë që natyrisht u jep të drejtën rregullatorëve kombëtarë të përshkruajnë një përqindje më të lartë.

Mangësitë e marrëveshjes Bazeli I, i cili mori parasysh vetëm rrezikun e kredisë në llogaritjen, solli nevojën për ta plotësuar atë. Duke qenë se lirimi i rrezikut të tregut ishte një nga mangësitë më të mëdha të Marrëveshjes së Bazelit, ai u plotësua në 1996, me aplikim nga viti 1998<sup>2</sup>. Në llogaritjen e kapitalit të kërkuar për të mbuluar rrezikun e tregut, bankat mund të përdorin dy qasje:

*Qasja e modelit të brendshëm dhe Qasja e standardizuar.*

Një sërë ndryshimesh çuan në një rishikim të plotë të Bazeli I dhe një marrëveshje të re Bazeli II e cila u shpall në maj 2004 me qëllim zbatimin e saj të plotë në fund të 2007.

Marrëveshja e re e Bazelit, përveç llogaritjes së kapitalit të kërkuar për mbulimin e rreziqeve, përfshin dy shtylla shtesë - rolin e autoriteteve mbikëqyrëse kombëtare dhe rëndësinë e disiplinës së tregut.

Efektet shkatërruese të krizës financiare globale të 2007-2008 ekspozuan mangësitë e Bazeli II:

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<sup>2</sup> Amendment to the Capital Accord to Incorporate Market Risks, Basel Committee on Banking Supervision, Bank for International Settlements, Basel, January 1996.

- Papërshtatshmëria e raportit minimal të kapitalit prej 4% i cili së bashku me kapitalin shtesë arrin 8% dhe pamjaftueshmëria e tij për të mbuluar humbjet e shkaktuara në periudhën e krizës;
- Transferimi i përgjegjësisë për vlerësimin e rrezikut tek agjencitë e vlerësimit;
- Natyra ciklike e kërkesave për kapital me theks në cikle të caktuara ekonomike, kur bankat në periudhat e recesionit shtrëngojnë kushtet e huadhënies, e cila reflektohet e gjitha në rënien e ekonomisë në vend që të shfaqet si nxitës i rritjes;
- Bazeli II inkurajon bankat që të “titullojnë”, gjë që kontribuon në rritjen e aktiveve jashtë bilancit dhe zvogëlimin e aktiveve të ponderuara me rrezik në lidhje me të cilat llogaritet shuma minimale e kapitalit adekuat për të mbuluar rreziqet.

Të gjitha këto dobësi ishin baza që në Dhjetor 2010 Komiteti i Bazelit të publikonte dy dokumente që përcaktonin bazën e Marrëveshjes së Tretë të Bazelit. Bazel III shtrëngon ndjeshëm standardet për kapitalin e kërkuar të bankave, të dyja në aspektin e madhësisë së kapitalit të kërkuar dhe për sa i përket cilësisë së kapitalit.<sup>3</sup> Kriza e fundit financiare ka treguar se sasia e kapitalit në vetvete nuk është e mjaftueshme për të mbrojtur kundër rreziqeve, por është e nevojshme të rritet cilësia. Një tipar i rëndësishëm i Bazel III është se edhe pse Raporti i mjaftueshmërisë së kapitalit mbetet 8%, norma minimale e kapitalit aksionar rritet nga 4% në 6%, nga të cilat 4.5% duhet të jenë aksione të zakonshme. Për më tepër, bankat janë të detyruara të mbajnë 2.5% kapital shtesë - tampon i ruajtjes së kapitalit si një amortizues rreziku i situatave stresuese. Pagesa e shpërblimeve dhe dividendëve kushtëzohet nga ky kapital. Standardet e kapitalit të Bazel III parashikojnë detyrimin për të ruajtur dhe mbrojtur kontradiksik të kapitalit në shumën 0% - 2.5% si një korrigjim i karakterit proçiklik të Bazel II. Ai parashikon në kohë të mira bankat të rrisin kapitalin e tyre, si mbrojtje në kohë recesioni. parakolpi është 13%. Përveç

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<sup>3</sup> Bassel 3: A global regulatory framework for more resilient banks and banking system, Basel Committee on Banking Supervision, Bank for International Settlements, Basel, December, 2010.

standardeve më të rrepta me Bazel III, futen normat e përshtatshme të likuiditetit dhe të levave. Për sa i përket likuiditetit, ofrohen dy norma:

1. Raporti i mbulimit të likuiditetit (raporti i mbulimit të likuiditetit LCR) - i cili kërkon që bankat të mbajnë fonde të mjaftueshme likuide për mbulim që gjatë situatave stresuese për një periudhë prej 30 ditësh do të shërbejnë për të mbuluar daljet e parasë dhe

2. Raporti neto i qëndrueshëm i financimit (NSFR) - nala bankat të sigurojnë burime të qëndrueshme financimi (depozita, kredi afatgjata dhe kapital). Nga të gjitha sa më sipër mund të konkludohet se tiparet kryesore të standardeve të reja të kapitalit të Bazel III janë<sup>4</sup>:

- Rritje e ndjeshme e cilësisë së kapitalit të bankës;
- Rritja e nivelit të kapitalit rregullator të përcaktuar;
- Zvogëlimi i rrezikut sistemik;
- Mjaft kohë për të kaluar në modalitetin e ri.

Një element i rëndësishëm në futjen e masave të reja rregullatore është futja graduale e tyre e dinamikës, në mënyrë që të merrni një pamje realiste të ndikimit të tyre në bankë dhe treg, dhe kështu do të bëjë vend për rishikimin e tyre në kohë. Ky zbatim gradual siguron një reduktim dhe alokimi i kostove për prezantimin e tyre. E gjithë paketa e reformës u zbatua deri në vitin 2019.

Republika e Maqedonisë së Veriut si pjesë e sistemit financiar botëror pranoi kërkesat rregullatore të Marrëveshjes së fundit të Bazelit dhe në bazë të saj Banka Kombëtare e Republikës së Maqedonisë së Veriut bëri një analizë dhe përgatiti informacion që përshkruan propozimet e Komitetit të Bazelit për Mbikëqyrjen dhe Forcimin Bankar kuadri i kapitalit (rritja në nivelin e kërkuar të kapitalit) dhe futja e një standardi ndërkombëtar të likuiditetit. Ky informacion përmban gjithashtu një vlerësim të përputhshmërisë së

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<sup>4</sup> BIS, Basel 3: stronger bank and a more resilient financial system, BSBS, 2011.

metodologjisë ekzistuese të përdorur për të përcaktuar mjaftueshmërinë e kapitalit të përkthuar nga Banka Kombëtare me kërkesat e BazelIII.

Dinamika e prezantimit, monitorimit dhe zbatimit të plotë të tre standardeve, raporti i mjaftueshmërisë së kapitalit, raporti i borxhit dhe likuiditetit paraqitet si më poshtë:

Shkalla e përmbushjes së kërkesave për kapital nga Bazel III në Republikën e Maqedonisë më 31.3.2012

	Minimumi	Minimumi plus shuma shtesë për të kursyer kapitalin	Shkalla më e ulët dhe më e lartë e sektorit bankar të Republikës së Maqedonisë
Norma e kapitalit aksionar dhe aktivet e ponderuara për rrezik	4.5%	7%	8.4%-83.7%
Raporti i kapitalit fiks dhe aktivet e ponderuara për rrezik	6%	8.5%	8.4%-83.7%
Raporti i mjaftueshmërisë së kapitalit	8%	10.5%	11.1%-83.7%
Norma e borxhit	3%	4.5%	6.1%-43.6%

Analiza tregon se kapitali bazë dhe aktivet e ponderuara me rrezik janë mbi normat minimale (4.5%, 6%, 7% dhe 8.5%).

Në të gjitha bankat, shkalla e kapitalit bazë dhe aktiveve të ponderuara me rrezik është më e lartë se 10% e cila është në përputhje me kërkesat (8%, pra 10.5%), me përjashtim të një banke.

Sa i përket borxhit të bankave në Republikën e Maqedonisë së Veriut, me 31.12.2012, në të gjitha bankat norma është mbi minimumin 3% dhe varion nga 6.1% -43.6%, ndërsa borxhi mesatar i ponderuar i sistemit bankar është 10.3 %.

Këto rezultate janë një tregues i kënaqshëm i sasisë së kostove shtesë që bankat maqedonase duhet të pësojnë për të përmbushur kërkesat e reja për kapital. Kërkesat komplekse të Bazel III do të kenë efekte reale pozitive në sistemin bankar, por gjithashtu do të shkaktojnë implikime të përshtatshme. Për shkak të parashikimit që zërat jashtë bilancit nga faktori aktual i rrezikut prej 20% të ndryshohen në 100%, bankat do të duhet të rrisin kapitalin e tyre për rezervimet jashtë bilancit. Në këto rrethana, bankat do të jenë në gjendje të zgjedhin midis rritjes së kostove për klientët e tyre ose përqëndrimit në aktivitetet tjera më fitimprurëse dhe zvogëlimin të ekspozimit të tyre në kredi.

Masat dhe rekomandimet për rritjen e efikasitetit të politikës afariste të bankave në Republikën e Maqedonisë së Veriut

Krizat financiare që kanë prekur financat botërore, dhe si pjesë e rëndësishme e saj sistemi bankar thekson rëndësinë e një analize të mëparshme gjithëpërfshirëse të mjedisit më të afërt dhe më të gjerë. Në vetë përkufizimin e llojit të politikës për të cilën banka do të përcaktojë nëse do të jetë ofanzive me rritjen e aktivitetit të kredisë dhe investimeve apo të qetë, dmth politikë mbrojtëse me aktivitetet të reduktuara, mjedisi ka një rol vendimtar, në aspektin e mjedisit ekonomik dhe politik në të cilën vepron banka .

Gjendja e mjedisit më të gjerë ka një ndikim të dyfishtë në gjendjen e sektorit bankar vendas:

Suksesi i funksionimit të sektorit të korporatave vendase, dhe kështu kapaciteti i tij për të përmbushur detyrimet ndaj bankave vendase lidhet me funksionimin e qetë të tregtisë së jashtme, duke pasur parasysh rëndësinë e tij për ekonominë e brendshme, e cila kushtëzohet nga funksionimi i lirë i tregjeve ndërkombëtare, për stabilitetin e institucioneve bankare të cilat në bazë të tyre e kanë kapitalin e huaj me rëndësi të madhe është stabiliteti i operacioneve të kompanive vendase, kryesisht nga sistemi financiar evropian.

Me qëllim të monitorimit të vazhdueshëm të performancës dhe reagimeve të bankave në Republikën e Maqedonisë së Veriut në kushte të pafavorshme ,BQRMV kryen teste stresi të sistemit bankar maqedonas për të ekzaminuar rezistencën e tij ndaj lëvizjeve të pafavorshme mjedisore përmes simulimit të skenarëve negativ makroekonomik.

Banka është e detyruar të ketë një nivel të përshtatshëm të fondeve të veta në varësi të natyrës, llojit dhe fushëveprimit të aktiviteteve financiare dhe sasisë së rreziqeve që rrjedhin nga kryerja e atyre aktiviteteve (mjaftueshmëria e kapitalit) si dhe të operojë në një mënyrë që do të lejojë në gjendje të përmbushë të gjitha detyrimet (aftësia paguese). Zbatimi i standardeve për sasinë e kapitalit të Bazel III që u zbatua deri në vitin 2019 rriti imunitetin e sistemit bankar duke rritur cilësinë dhe sasinë e kapitalit si dhe likuiditetin e bankave . Pranimi i Bazel III nga Banka Qendrore në Republikën e Maqedonisë së Veriut duhet të bëjë përpjekje për të rritur kapitalin dhe për të përmirësuar likuiditetin. Bankat më të vogla në masë të madhe i përmbushin standardet e reja, ndryshe nga bankat më të mëdha për të arritur shumën e kërkuar të fondeve të tyre do të kenë nevojë për një periudhë më të gjatë. Me mënjanimin e efekteve negative nga përmbushja e likuiditetit standart janë të nevojshme shumë përgatitje dhe analiza. Në sistemin bankar maqedonas ka një ndryshim me standardet e Bazel III në ato që konsiderohen aktive likuide, duke qenë se shumë instrumente të Bazel III nuk ekzistojnë në Republikën e Maqedonisë së Veriut ose nuk janë relevante. Për këtë qëllim, këto kërkesa duhet të përmbushen për një periudhë më të gjatë kohore me përshtatje graduale.

Krijimi i politikës afariste të bankës duhet të jetë në përputhje me politikën monetare të pranuar në ekonominë kombëtare, domethënë nëse është

një politikë shtrirëse që favorizon huadhënien apo kufizon kur zvogëlohet vëllimi. Ekspertiza e menaxhimit të bankës vjen në shprehje në menaxhimin e aseteve, gjegjësisht krijimi i një përbërjeje të tillë që do të sigurojë funksionim të balancuar.

Theks i veçantë duhet t'i kushtohet marrjes së vendimeve të politikës së kreditit në analizën e mëparshme gjithëpërfshirëse dhe vlerësimin e rreziqeve që janë pjesë përbërëse e tij. Sigurisht, duhet t'i kushtohet vëmendje raportit të aktiveve dhe burimeve në aspektin e maturimit dhe strukturës. Ndryshimet e shpejta që kanë prekur sektorin bankar në periudhën e kaluar ofrojnë shumë mundësi të reja dhe produkte të reja, por edhe rreziqe që kërkojnë përmirësim të vazhdueshëm të modeleve për identifikimin, matjen dhe monitorimin dhe përzgjedhjen e metodave për minimizimin e rrezikut. E gjithë kjo kërkon një organizim të mirë të brendshëm organizativ në bankë dhe rrjedhje të duhur dhe në kohë të informacionit, në mënyrë që të zbatohen me kohë veprimet e nevojshme. Kompleksiteti i menaxhimit të rrezikut kërkon angazhimin e stafit të duhur profesional, që do të thotë një proces i vazhdueshëm profesional arsimimi në fushën e vlerësimit të rrezikut, si dhe monitorimin dhe zbatimin e tendencave aktuale.

Si një faktor kyç në rritjen e efikasitetit të politikës së kredisë, në drejtim të mbledhjes në kohë të llogarive të arkëtueshme dhe lehtësimit të portofolit të huave nga kreditë me probleme, është legjislacioni i vendosur dhe gjyqësori efikas. Vetëm në atë mënyrë, me zgjidhjen në kohë dhe të shpejtë të mosmarrëveshjeve gjyqësore dhe mbledhjen në kohë, kostot për shumën e dëmtimit si dhe për shumën e fshirjes së kërkesave të kontestuara të huasë zvogëlohen.

Duhet të kërkohen vazhdimisht mënyra dhe burime të reja për rritjen e përfitimit në bankë, njëra prej të cilave është praktika e titullizimit. Vetëm pranimi i praktikës së titullizimit nënkupton një burim të ri të ardhurash, sigurisht, me një vlerësim paraprak të detajuar të mundësive reale për zbatimin e tij. Kur sigurojnë kredi, bankat arrijnë disa përparësi: rritjen e likuiditetit duke emetuar bono bazuar në grupimin e huave, rritjen e përfitimit sepse zvogëlon normën e kërkuar të kapitalit në lidhje me kapitalin e huazuar, gjë që krijon një mundësi për të rritur normën e kthimit të kapitalit. Me shitjen e

huave përmes emetimit të bonove transformon rrezikun e normave fikse të interesit të investitorëve përfundimtarë dhe zvogëlon rrezikun e kredisë përmes përmirësimit të cilësisë së huasë. Ai është një mekanizëm i dobishëm në zgjidhjen e problemit të zvogëlimit të aktiveve.

Përveç shqyrtimit të mundësive për praktikimin e titullizimit, menaxhmenti i bankave duhet të fokusohet në risi të tjera në fushën e përdorimit të instrumenteve dhe aranzhimeve financiare (normat e interesit të së ardhmes, normat e interesit të ardhshëm, këmbimet e monedhës, opsionet e normave të interesit) që do të sigurojnë transferimin e rrezikut. Konkretisht, derivatet financiare janë mekanizma shumë të dobishëm, aplikimi i të cilëve synon të zvogëlojë rrezikun. Orientimi i drejtimit drejt përdorimit të inovacionit financiar justifikon qëllimin, dmth. uljen e kostove, e cila nga ana tjetër çon në rritjen e konkurrencës.

Institucionet bankare si organizata fitimprurëse investojnë një pjesë të potencialit të tyre financiar në letra me vlerë, në mënyrë që të maksimizojnë kthimet në një nivel të caktuar të pranueshëm rreziku. Në atë mënyrë, ata optimizojnë potencialin e kredisë dhe një cilësi të caktuar të kënaqshme të aseteve të tyre. Diversifikimi i investimeve kufizon rreziqet që dalin nga bankat. Zhvillimi i dobët i tregut financiar dhe furnizimi i pamjaftueshëm i instrumenteve financiare rezultojnë në një përfaqësim shumë të vogël të letrave me vlerë në asetet e bankave në Republikën e Maqedonisë së Veriut. Menaxhmenti është përqendruar kryesisht në investimin në letra me vlerë me rrezik të ulët, të emetuara kryesisht nga shteti dhe organet e tij. Bonot, bonot e thesarit, janë më të zakonshmet në portofolin e bankave dhe vetëm një pjesë e vogël zënë letrat me vlerë të kapitalit.

Pavarësisht nga strategjia e investimeve që aplikon banka dhe madhësia e vetë bankës, para se të marrë vendime për investime, menaxhmenti përballet me një sfidë të madhe në shqyrtimin dhe analizimin e lëvizjeve në tregun e kapitalit. Sistemi i azhurnuar i informacionit, duke aplikuar metodat dhe treguesit statistikorë ekzistues, arrihet deri te rezultatet në bazë të të cilave bëhet një përzgjedhje e letrave me vlerë në të cilat është më e favorshme të investohet në përputhje me nivelin e pranueshëm të rrezikut.

Në një epokë të përparimit të informacionit dhe komunikimit intensiv, një theks i veçantë në të cilin menaxhimi i bankave duhet të përqëndrojë interesin e tij dhe ku të investojë është sigurisht zhvillimi dhe mirëmbajtja e bankave elektronike si një imperativ i së ardhmes, në përgjithësi i të gjithë sistemit financiar. Për zhvillimin e mëtejshëm të sistemit bankar elektronik dhe aplikimin e tij, duhet gjetur mënyra që do të forcojnë besimin e publikut të gjerë në sigurinë dhe cilësinë e sistemeve bankare elektronike. Prandaj, bankat duhet të investojnë vazhdimisht në përmirësimin dhe pritjen e rrjetit elektronik ekzistues në dispozicion të tyre. Gjithashtu një element shumë i rëndësishëm është investimi i vazhdueshëm në përmirësimin e masave të mbrojtjes dhe sigurisë të këtyre sistemeve, në mënyrë që të shmangen abuzimet e mundshme. Lufta e vazhdueshme me konkurrencën i detyron bankat të gjejnë mënyra të ndryshme për të ruajtur dhe tërhequr klientë të rinj, e cila përfshin ofrimin e formave të sofistikuar të e-banking dhe tendencën për të arritur parësinë në promovimin e produkteve të reja. Për të rritur ndërgjegjësimin e popullatës për përdorimin më masiv të bankave elektronike, bankat duhet të organizojnë aktivitete edukative për të trajnuar popullatën që të përdorë përparësitë që ofrojnë këto kanale alternative të shpërndarjes së produkteve elektronike, si dhe sigurinë e tyre, disponueshmërinë e shpejtë, efikasitetin dhe aplikim i thjeshtë.

Për të vazhduar me trendet financiare globale, theks i veçantë duhet t'i kushtohet financimit dhe mbështetjes së aktiviteteve kërkimore në fushat që janë të rëndësishme për zbatimin e projekteve financiare që ofrojnë kthime të mira dhe zbatimi i të cilave do të çojë në forcimin e mëtejshëm të kapaciteteve institucionale.

Çdo bankë si partner biznesi dhe shërbim financiar i klientëve të saj në konceptimin e politikës së saj afariste si dhe në zbatimin dhe realizimin e saj duhet të ketë një orientim në treg dhe qasje marketingu. Për këtë qëllim, duhet të zhvillohet një sistem i tillë organizativ në të cilin do të ketë sinergji midis shërbimeve të funksionimit, shërbimit, informacionit dhe këshillimit brenda tij që do të zbatojë metodën e transparencës.

## Literatura

1. Zivkovic, A., Stankic, R., Krstic, B., Bankarsko poslovanje i platni promet, Ekonomski fakultet, Beograd, 2010.
2. Петревски ,Г., Управување со банките , Економски факултет ,Скопје ,2011.
3. Витанова Г., Финансиски пазари и институции, Економски факултет, Прилеп, 2003.
4. Витанова, Г., Даночно и банкарско сметководство, Економски факултет, Прилеп 2004.
5. Арсовски, Д., Ризици во банкарското работење, Economy press, Скопје, 1998.
6. Оцаклиеска, Д., Пазарот на капитал во функција на ефикасен портфолио менаџмент, Економски факултет, Прилеп, 2010.
7. Трајкоска, Г., Финансиската структура и профитабилноста на претпријатијата, Економски факултет , Прилеп, 1998.
8. Арсов , С., Финансиски Менаџмент.
9. Dzuric, D., Bankarska industrija i finansiski pazari, SES ,SECG, - Finansiski pazari, 1999.
10. Peter S . Rose, Commercial bank management, Bank management & Finacial servise, 1991.
11. Трајкоски, Б., Деловни финансии со финансиски менаџмент, Економски факултет , Прилеп, 2002.
12. Бишев, Г., Неновски, Т., Паричен поредок и банки, НАМ, Скопје, 1995.
13. Бишев, Г., Реформирање на банкарскиот систем во Македонија, Зборник на трудови, Сојуз на сметководители, финансиери и ревизори на Р. Македонија, 2000.
14. Петковски ,М., Финансиски пазари и институции , Економски факултет – Скопје, 2004.
15. Мишкин ,Ф., Економија на пари, банкарство и финансиски пазари, Скопје, Магор, 2010.
16. Петревски ,Г., Економски раст и развој , Економски факултет-Скопје , 2002.
17. Петковски, М., Финансиски пазари и институции, Економски факултет, Скопје, 2009.

18. Вовед во банкарството / Барбара Касу – Универзитетот на Велс, Бангор  
Клаудија Цирардоне - Универзитетот на Есекс,  
Филип Молину- Универзитетот на Велс, Бангор.
19. Трпевски, Љ., Пари и банкарство, Економу press, Скопје, 2003.

# FROM THREAT TO RESPONSE: CYBERSECURITY EVOLUTION IN ALBANIA

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## Abstract

As Albania's digital landscape expands, its vulnerability to sophisticated cyber threats increases correspondingly. This study explores the evolution of Albania's cybersecurity strategies, tracing the shift from reactive measures to a proactive defence approach. It critically examines significant cyber incidents that have shaped the national cybersecurity landscape, assessing how these have influenced the development of Albania's current cyber defence strategies. The focus is on how Albania has tailored its strategic responses to enhance digital resilience and national security.

In the second part, the paper provides an in-depth review of the threat models prevalent in the Western Balkans and Albania, highlighting key areas where Albania's cyber management requires further development. One key recommendation is the forecasting of cyber-attacks, which could benefit from the application of time-series and machine learning techniques to enhance

predictive capabilities. This approach emphasizes the importance of adapting to emerging threats and fostering international cooperation to bolster Albania's cybersecurity infrastructure.

**Keywords:** *Albania, cybersecurity, threat models, proactive defence, digital resilience, international cooperation, Western Balkans.*

## Introduction

The cybersecurity landscape in the Republic of Albania has been influenced by a series of factors closely related to the country's positioning in the international arena. In recent years, recurring political tensions have extended into the realm of cybersecurity, blurring the lines between politics and cyber operations. The heightened political tensions have led to cyber threats from state-sponsored actors and hacker groups.

The war in Ukraine has been accompanied by sophisticated cyber-attacks from Russian groups. These groups continuously attempt to compromise key sectors, including communications, transport, energy, defence, administrative services, and diplomacy. Such cyber activities reflect broader tactical efforts to destabilize vital infrastructures and extend the conflict's impact beyond physical borders. These cyber operations have targeted multiple international stakeholders, highlighting the interconnected nature of cyber threats in modern conflicts (Duguin & Pavlova, 2023).

In the last 2 years, the Republic of Albania has been targeted by various international actors. In 2013, following an agreement with the USA, Albania agreed to host Iranian Mujahideen (MEK) for humanitarian purposes (Radio Free Europe, 2023). This decision faced criticism from the Iranian state, and in 2022, Iranian state-sponsored actors orchestrated several cyber-attacks (Microsoft, 2022) in response to the Albanian government's support for the Iranian opposition, specifically the MEK community, a threat that remains current.

The risk remains high as Albania is among the leaders in the region regarding digitization and innovation. Currently, the e-Albania portal offers 1,231 electronic services, which account for 95% of all national public services. The utilization of artificial intelligence in proactive public services is one of the objectives of the Albanian government (AKSHI, 2023), thereby increasing the necessity to remain vigilant against all potential threats that the country faces.

In contrast, the conflict in Gaza has led to an increased presence of cyber-attacks on Israeli digital platforms by hacker groups associated with the Middle East, Islamic countries, and Russia. However, there hasn't been any significant impact on Israeli infrastructure, and the attacks have mainly targeted the regional level (Bleih, 2023). The threat from these attacks remains present, given that in February 2023, the Republic of Albania signed a cooperation agreement with the National Cyber Security Authority in Israel (Albanian Post, 2023).

Attacks against businesses also constitute a high-risk factor. Such incidents include the attacks against Credins Bank in Albania (A2News, 2022) or Intesa San Paolo Bank in Italy (Reuters, 2023), both of which operate within our country as critical information infrastructure operators.

The National Cyber Security Authority (NCSA), as the authority responsible for overseeing the implementation of legislation in the field of cyber security, comprises the National Cyber Security Operations Center (SOC), which continuously monitors the networks of critical and important information infrastructures at the national level on a 24/7 basis (National Cyber Security Authority, 2024). However, analysing risk factors is imperative for delineating objectives in formulating policies and awareness-raising initiatives.

### **Cyber security incidents in the Western Balkans region**

Cyber threats in the Western Balkans in 2023 were mainly characterized by attacks from Advanced Persistent Threat (APT) groups associated with Iran and Russia. These groups primarily employed tactics such as ransomware, malware, social engineering, and wipers—software designed

to irreversibly delete system data. State-sponsored trends included exploiting known vulnerabilities, targeting individuals and legitimate apps and devices, and disrupting public services and critical information infrastructures.

Until 2021, Albania was not a significant target for major and known cyberattacks. However, in 2022, one of the most sophisticated cyberattacks against the Albanian government systems occurred, originating from the Islamic State of Iran. The attackers aimed to erase all governmental systems and their data. Following the identification of the ransomware attack, immediate actions were taken to prevent its spread, and thanks to well-implemented backup and disaster recovery policies, governmental services were restored within the first week.

The cybersecurity situation in the Republic of Albania is influenced by a range of factors closely linked to the country's positioning in the international arena. As Albania aligns itself globally, the intersection between politics and cybersecurity becomes increasingly blurred, with political tensions evolving into sophisticated cyber threats from state-sponsored actors, terrorist organizations, and hacker groups.

#### January 2023: Cyberattacks and Geopolitical Tensions

On January 30, 2023, the cybercrime group LockBit, operating from Russian territory and composed of Russian-speaking members, targeted Air Albania with a significant cyber-attack (BIRN, 2023). This event underscored the ongoing risk to Albanian infrastructure, closely tied to international geopolitical tensions.

#### June 2023: MEK Community and Relations with Iran

In June 2023, Albanian authorities conducted raids in ASHRAF 3 camp in Manzë, home to the Mujahedin-e Khalq (MEK), suspecting planned cyber-attacks among other offenses. This reflects Albania's complex relationship with Iran, particularly following the 2013 agreement to host MEK, which led to several cyber-attacks by the Iranian threat actors in 2022 in response to Albania's support for the Iranian opposition (Euronews Albania, 2023).

### August and September 2023: International Cybersecurity Dynamics

In August 2023, a DDoS attack targeted five banks in Italy, including Intesa San Paolo, with the perpetrating hacker group declaring through Telegram their perception of the Italian authorities as Russophobic (Reuters, 2023). This event highlights the broader context of international cyber threats where Albania, due to its alliances, could become a collateral victim.

In September 2023, Albania's stance on the war in Ukraine was reaffirmed during its presidency of the UN Security Council. Prime Minister Edi Rama's statements supported Ukraine's sovereignty and opposed any territorial annexations (Saracini, 2023). This position likely influences the cyber threat landscape, given Russia's historical use of cyber warfare in geopolitical conflicts.

### October 2023: Stance on the Conflict in Gaza

On October 24, 2023, during a high-level UN Security Council meeting, Albanian Foreign Minister Igli Hasani reiterated Albania's support for Israel's right to self-defense in accordance with international law, amidst the ongoing conflict with Hamas (Ministria e Puneve te Jashtme, 2024). This stance, while aiming to maintain balance, also potentially exposes Albania to cyber threats from groups aligned with Palestinian interests or opposing nations.

### November 2023: OSCE Ministerial Council and Russia's Regional Influence

Foreign Minister Igli Hasani, during the OSCE Ministerial Council in North Macedonia, condemned Russian aggression in Ukraine, highlighting the impact of the conflict on regional security (Ministria e Puneve te Jashtme, 2023). He emphasized the need for coordinated efforts among allies to counter threats, including those in cyberspace, advocating for the recognition of Kosovo's independence as a stabilizing factor in the Balkans.

Albania's cybersecurity landscape is profoundly influenced by its geopolitical relationships and regional dynamics. The country's alignment

with Western institutions and its strategic stance on various international issues make it a target for cyber-attacks emanating from both state and non-state actors. As Albania navigates these complex geopolitical waters, the necessity for a robust, proactive cybersecurity strategy becomes increasingly apparent, necessitating continual adaptation and international cooperation to mitigate emerging threats.

### **Cybersecurity Challenges in Albania**

In 2022, a significant cyber incident profoundly impacted Albania, primarily attributed to state-sponsored actors from Iran. This attack was a part of ongoing geopolitical tensions, largely because of Albania's sheltering of Iranian opposition groups, which led to severe disruptions across Albania's governmental digital services. This incident highlighted not only the vulnerabilities within Albania's cybersecurity infrastructure but also brought international attention, resulting in widespread condemnation and support from Albania's allies, including the United States and NATO members (Miller, 2022).

Albania's response to the cyberattacks was firm, with the government taking decisive actions such as severing diplomatic ties with Iran. This move was unprecedented but deemed necessary given the severity of the cyberattacks, which included attempts to wipe sensitive government data. Furthermore, the situation prompted discussions within Albania about the potential invocation of NATO's Article 5, which treats an attack on one member as an attack on all, requiring collective defense. However, Albania ultimately chose not to escalate the situation to this level, highlighting the complex decisions nations must navigate when dealing with cyber aggression from state actors.

The cyberattacks from Iran have underscored the critical need for Albania to strengthen its cyber defenses. This includes enhancing the resilience of critical infrastructure, improving incident response capabilities, and increasing international cooperation to manage cyber threats effectively. Investments in cybersecurity capacity building, such as advanced detection

and response systems, are essential to safeguard against such sophisticated threats (Montgomery, 2022).

The year 2022 marked a pivotal moment in the cyber threat landscape of Albania, characterized by a marked increase in both the frequency and complexity of cyber incidents (Pashaj K., Gjika E., (2024). These developments were largely driven by geopolitical tensions and strategic national decisions. One significant event was the accommodation of the Mujahedin-e Khalq (MEK), which precipitated a series of targeted cyber assaults by Iranian state-backed entities. These operations, which aimed at disrupting governmental and key infrastructural systems, were manifest demonstrations of political dissent and strategic pressure. According to Microsoft (2022), these operations utilized advanced tactics centred on espionage and service disruption, underscoring the critical need for Albania to enhance its cybersecurity counteractions.

During this period, Albania also encountered severe cyber-attacks against essential national frameworks. The Total Information Management System (TIMS), pivotal for border and immigration control, suffered disruptions that adversely affected national security and operational continuity (Lyngaas, 2022).

The financial sector remained a preferred target as well, with major banking institutions like Credins Bank encountering security breaches that prompted a national reevaluation of cybersecurity measures within financial entities (A2News, 2022). These episodes accentuated the susceptibility of critical infrastructures to cyber threats and underscored the imperative for a comprehensive cybersecurity framework capable of countering sophisticated state-backed operations and cybercriminal endeavours.

On December 25<sup>th</sup>, 2023, the National Cyber Security Authority of Albania (NCSA) reported cyber-attacks targeting the ONE telecommunications company and the Parliament of Albania (National Cyber Security Authority, 2023). National Cyber Security Authority quickly mobilized expert teams to support the affected institutions in managing the cyber-attacks and initiating recovery processes. These actions included a

detailed analysis of the attack methods and coordination with international partners to assess the damage and prevent further incidents, highlighting a proactive and collaborative approach to strengthening national cybersecurity resilience.

The incident at the Parliament of Albania also involved a cyber-attack orchestrated by Iranian threat actors, which targeted critical infrastructure in Albania. The attack exploited vulnerabilities in the infrastructure's systems, allowing the perpetrators to gain unauthorized access and disrupt operations. The attack files deployed by Iranian threat actors caused significant damage, impacting various sectors and services vital for the functioning of the country. The incident prompted an urgent response from authorities to contain the attack and mitigate its effects, while also initiating an extensive analysis to understand the attack vectors and enhance cyber resilience measures to prevent similar incidents in the future (National Cyber Security Authority, 2023).

Concurrently, the Albanian Institute of Statistics (INSTAT) was compromised, threatening crucial demographic and economic data, thereby posing substantial risks to data integrity and national planning initiatives (National Cyber Security Authority, 2024).

The extensive cyber threats encountered in 2022 were not isolated events but part of a broader trend of escalated cyber aggression towards nations embroiled in geopolitical disputes or hosting contentious groups. The repercussions of these threats are far-reaching, affecting national security, economic stability, and public confidence in digital platforms. With Albania's continued expansion of its digital infrastructure, such as the e-Albania portal which delivers a wide range of public services online, the associated cyber risks have also escalated, necessitating significant enhancements in national cybersecurity measures.

Throughout 2023, NCSA tracked the frequency and categories of reported cyber incidents across different sectors National Cyber Security Authority (2023a). The banking sector experienced the highest incidence, accounting for 36% of all reported cyber incidents, making it the most affected

sector. It was followed by the digital infrastructure sector with 31%, the energy sector with 12%, the transportation and financial sectors each with 7%, the healthcare sector with 5%, and the telecommunications sector with 2%. This data highlights sector-specific vulnerabilities and the critical need for tailored cybersecurity enhancements in each area.

*Table 1 Reported cyber security incidents, NCSA, 2023*

<b>Sector</b>	<b>No. of incidents</b>
Banking	15
Digital Infrastructure	13
Energy	5
Transport	3
Financial	3
Health	2
Telecommunication	1

Throughout the year, the Albanian government and its cybersecurity divisions were tasked with addressing immediate threats and pre-empting potential future vulnerabilities. This demanded a dynamic and adaptable cybersecurity strategy, capable of keeping pace with the rapidly evolving threat landscape. The response strategies devised during this period played a crucial role in shaping the future trajectory of Albania's cybersecurity policies and initiatives, paving the way for an extensive revision of the nation's cybersecurity frameworks in the following years.

### **Advancements in National Cybersecurity: 2022-2024**

Over the span from 2022 to 2024, Albania has demonstrated significant advances in cybersecurity, marked by strategic, legislative, and technical improvements that align with European Union standards. The commitment to enhancing cybersecurity is evident in the comprehensive updates to the National Cybersecurity Strategy Action Plan. This document now effectively addresses contemporary challenges and delineates clear priorities, establishing a roadmap that is both adaptive and proactive.

The legislative landscape has seen transformative changes, particularly with the enactment of a new law No.25/2024 “On Cyber Security”, that aligns with the EU's NIS 2 Directive. This pivotal legislation underpins Albania's cybersecurity framework, providing a robust legal foundation that supports comprehensive cybersecurity measures across various sectors. The law's implementation is supported by detailed subordinate acts, which guide its application and ensure a cohesive national cybersecurity strategy. Considering that EU member states have a deadline until October 2024 to transpose and implement this directive into their national legislations, Albania has made strides in integrating the provisions of the NIS2 directive into its national legal framework through the adoption of this law. This step is a significant advance towards enhancing the country's cybersecurity infrastructure and aligning with European standards, underscoring Albania's commitment to bolstering its cyber resilience and regulatory compliance.

The 2020-2025 “National Cybersecurity Strategy of Albania” highlights the necessity of revising the Action Plan every two years, reflecting the dynamic development of the cybersecurity sector. NCSA has diligently revised the 2020-2025 Action Plan and formulated the 2024-2025 Action Plan, identifying priorities and needs while coordinating with relevant institutions for its implementation.

The revised Action Plan for 2024-2025 establishes specific measures to address the needs, accelerate progress in cybersecurity, and achieve several objectives set forth by the 2020-2025 National Cybersecurity Strategy (National Cyber Security Authority, 2023a). These objectives include

improving the legal and policy framework by integrating EU cybersecurity policies and standards, strengthening cybersecurity structures and infrastructures through enhanced technical and professional capacities, and improving procedures for handling and managing cybersecurity incidents.

Additional goals of the plan are to increase awareness and education about cybersecurity threats, cybercrime, and illegal online content, as well as to enhance protective measures for children online and to address violent extremism and radicalization in cyberspace. The plan also aims to boost professional capacities in cybersecurity through training and certifications in collaboration with national and international partners.

The 2024-2025 Action Plan further contributes to Albania's European integration process by aligning legal frameworks and policies with EU standards and best practices, and by fostering international cooperation with strategic partners. This comprehensive approach not only aims to fortify Albania's cybersecurity defences but also integrates the country more deeply into the broader European and global cybersecurity frameworks.

Albania's collaboration with international organizations like NATO and the OSCE has significantly enhanced its cybersecurity capabilities. As a member of these organizations, Albania participates in various programs that improve information sharing, experience exchange, and capacity building in cybersecurity both regionally and globally. This international cooperation has been instrumental in enhancing Albania's cybersecurity framework and preparedness.

The National Cyber Security Authority (NACS) has signed Memorandums of Understanding for cybersecurity information exchange with several countries, including the United Arab Emirates, Israel, and Romania, among others. These agreements are pivotal for fostering a collaborative approach to handling cyber threats and enhancing the security protocols within Albania.

Albania's participation in global forums like the International Telecommunication Union, Forum of Incident Response Security Teams, TF-CSIRT, Trusted Introducer, and Counter Ransomware Initiative further

demonstrates its commitment to international cybersecurity cooperation. These engagements allow Albania to align with global cybersecurity standards and practices, which is crucial for managing the challenges in this rapidly evolving field.

The importance of cybersecurity diplomacy is also emphasized through Albania's active role in the United Nations, where it contributes to discussions on securing information and communication technologies. The focus of these international engagements is on building trust, increasing capacity, and establishing responsible state behaviour in cyberspace.

Overall, Albania's strategic partnerships and active participation in international cybersecurity initiatives highlight its proactive approach to enhancing national and regional cyber defences. These efforts are critical in addressing the heightened challenges of cybersecurity and ensuring a secure digital environment for its citizens and allies.

A detailed sector-specific analysis has underscored the critical need for prioritizing cybersecurity, with a special focus on building human and technical capacities. This is crucial for mitigating the risks posed by increasingly sophisticated cyber threats. The banking sector, often a prime target for cyberattacks, has exemplified significant progress by implementing stringent cybersecurity measures, achieving a 94% rate in the adoption of technical security protocols. This sector's proactive stance is a testament to the effectiveness of Albania's strategic cybersecurity initiatives.

Further investments in digital infrastructure have bolstered the country's defensive capabilities. The digital infrastructure sector, essential for national connectivity and security, has also made substantial strides, reflecting a 72% implementation rate of advanced cybersecurity measures. The financial sector follows closely, showcasing an adherence to cybersecurity protocols with a 71% implementation rate, while the energy sector has recorded a 63% compliance rate (National Cyber Security Authority, 2023a).

The government's approach extends beyond reactive measures to include proactive strategies, such as the identification and protection of 'Crown Jewels'—critical assets that are most vulnerable to cyber-attacks. This strategy

is aimed at strengthening defences around crucial components of Albania's infrastructure, thereby enhancing the overall security posture.

International cooperation has significantly enriched Albania's cybersecurity strategy. Engagements with global cybersecurity bodies have facilitated a rich exchange of knowledge and expertise, which has been instrumental in enhancing capacity building and refining incident response strategies. These international partnerships are vital as they enable Albania to combat the sophisticated and evolving cyber threats that transcend national borders.

### **Conclusions**

Despite significant progress, challenges persist, underscoring the need for continued vigilance and enhancement in Albania's cybersecurity efforts. The proactive measures and collaborative foundations established thus far offer a strong basis for future advancements. Albania's strategic focus on governance, international cooperation, and sector-specific improvements exemplifies a solid approach to comprehensive digital defense.

Albania's journey from 2022 to 2024 reveals an evolution in cybersecurity readiness, characterized by robust policy updates, a strengthened legal framework, and focused sectoral enhancements. This integrated approach has not only addressed emerging digital threats but also positioned Albania as a proactive international player. Such ongoing dedication is essential to safeguarding national infrastructure and ensuring resilience against evolving cyber challenges.

Looking forward, Albania aims to strengthen predictive analytics and expand international partnerships to further its cybersecurity goals. By leveraging advanced technologies such as machine learning and time-series analysis, Albania enhances its capability to detect and mitigate potential threats proactively. This commitment to innovation and collaboration places Albania at the forefront of cybersecurity in the region, prepared to adapt to the rapidly changing digital landscape.

## References

1. A2News. (2022, December 22). *Banka Credins: Kemi rënë pre e një sulmi kibernetik, asetet e klientëve janë të sigurta dhe paprekura*. A2news.com. <https://a2news.com/2022/12/23/banka-credins-kemi-rene-pre-e-nje-sulmi-kibernetik-asetet-e-klienteve-jane-te-sigurta-dhe-paprekura/>
2. AKSHI. (2023, October 31). *TechAccelerator në Bruksel, Karçanaj: Shqipëria plotësisht digjitale në 2030 përmes Inteligjencës Artificiale – Agjencia Kombëtare e Shoqërisë së Informacionit*. Akshi.gov.al; AKSHI. <https://akshi.gov.al/techaccelerator-ne-bruksel-karcanaj-shqiperia-plotesisht-digjitale-ne-2030-permes-inteligjences-artificiale/>
3. Albanian Post. (2023, February 2). *Autoritetet shqiptare dhe izraelite nënshkruajnë marrëveshje për sigurinë kibernetike*. Albanian Post. <https://albanianpost.com/autoritetet-shqiptare-dhe-izraelite-nenshkruajne-marreveshje-per-sigurine-kibernetike/>
4. BIRN. (2023, June 23). *Battle for Balkan Cybersecurity: Threats and Implications of Biometrics and Digital Identity*. BIRN. <https://balkaninsight.com/2023/06/30/battle-for-balkan-cybersecurity-threats-and-implications-of-biometrics-and-digital-identity/>
5. Bleih, A. (2023, December 8). *Israel-Hamas vs. Ukraine-Russia War*. Cyberint. <https://cyberint.com/blog/research/israel-hamas-vs-ukraine-russia-war/#Conclusions>
6. Duguin, S., & Pavlova, P. (2023). *The role of cyber in the Russian war against Ukraine: Its impact and the consequences for the future of armed conflict*. European Parliament. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/702594/EXPO\\_BRI\(2023\)702594\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/702594/EXPO_BRI(2023)702594_EN.pdf)
7. Euronews Albania. (2023, June 21). *Zbardhet hetimi i SPAK për banorët e MEK, rreth 150 pajisje të sekuestruara*. Euronews Albania. <https://euronews.al/zbardhet-hetimi-i-spak-per-banoret-e-mek-rreth-150-pajisje-te-sekuestruara/>
8. Lyngaas, S. (2022, September 10). *Albania blames Iran for second cyberattack since July* | CNN Politics. CNN.

- <https://edition.cnn.com/2022/09/10/politics/albania-cyberattack-iran/index.html>
9. Microsoft. (2022, September 8). *Microsoft investigates Iranian attacks against the Albanian government*. Microsoft. <https://www.microsoft.com/en-us/security/blog/2022/09/08/microsoft-investigates-iranian-attacks-against-the-albanian-government/>
  10. Miller, M. (2022, October 5). *Albania weighed invoking NATO's Article 5 over Iranian cyberattack*. POLITICO. <https://www.politico.com/news/2022/10/05/why-albania-chose-not-to-pull-the-nato-trigger-after-cyberattack-00060347>
  11. Ministria e Puneve te Jashtme. (2023, November 30). *Ministeriali i OSBE, Ministri Hasani: Evropa e sigurtë vetëm me njohjen e pavarësisë së Kosovës*. Punetejashtme.gov.al. <https://punetejashtme.gov.al/ministeriali-i-osbe-ministri-hasani-evropa-e-sigurte-vetem-me-njohjen-e-pavaresise-se-kosoves/>
  12. Ministria e Puneve te Jashtme. (2024). *Situata në Lindjen e Mesme, Ministri Hasani: Çështja e Palestinës nuk duhet të vazhdojë të mbetet një punë e papërfunduar*. Punetejashtme.gov.al. <https://punetejashtme.gov.al/situata-ne-lindjen-e-mesme-ministri-hasani-ceshtja-e-palestines-nuk-duhet-te-vazhdoje-te-mbetet-nje-pune-e-paperfunduar/>
  13. Montgomery, R. Adm. (Ret.) M. (2022, September 19). *Iranian-backed attacks on Albania highlights need for Cyber Capacity Building*. The Cipher Brief. [https://www.thecipherbrief.com/column\\_article/iranian-backed-attacks-on-albania-highlights-need-for-cyber-capacity](https://www.thecipherbrief.com/column_article/iranian-backed-attacks-on-albania-highlights-need-for-cyber-capacity)
  14. National Cyber Security Authority. (2023a). *Raport Qeverisja Kibernetike 2023*. AKSK. <https://cesk.gov.al/raport-qeverisja-kibernetike-2023/>
  15. National Cyber Security Authority. (2023b, December 26). *Deklaratë Zyrtare ONE*. NCSA. <https://cesk.gov.al/deklarate-zyrtare-3/>
  16. National Cyber Security Authority. (2023c, December 28). *Analysis of Iranian Threat Actors Attack Files That Impacted Infrastructure in AL – Incident Report Parliament*. AKCESK.

- <https://cesk.gov.al/en/analysis-of-homeland-justice-attack-files-that-impacted-infrastructure-in-al-incident-report-parlament/>
17. National Cyber Security Authority. (2024a). *Ligji Nr.25/2024 “Për sigurinë kibernetike.”* AKCESK. <https://cesk.gov.al/wp-content/uploads/2024/04/ligj-2024-03-21-25-5.pdf>
  18. National Cyber Security Authority. (2024b, February 16). *Raport Incidenti Instati – Analizë MEK-DDMC.* AKSK. <https://cesk.gov.al/raport-incidenti-instati-analize-mek-ddmc/>
  19. Pashaj K., Gjika E., (2024) "The importance of critical information infrastructure protection – Case of Albania", Journal of Natural Sciences, Publication No.35 (2024) <https://jns.edu.al/>
  20. Radio Free Europe. (2023, March 18). *U.S. Calls On MKO Group To Accept Albania Resettlement Offer.* Radio Free Europe. <https://www.rferl.org/a/iran-us-mek-albania/24932367.html>
  21. Reuters. (2023, August 2). Russian hackers crash Italian bank websites, cyber agency says. *Reuters.* <https://www.reuters.com/world/europe/russian-hackers-crash-italian-bank-websites-cyber-agency-2023-08-01/>
  22. Saracini, K. (2023, September 20). *Rama: Shqipëria e ka bërë zgjedhjen e saj, të qëndrojë përkrah dhe me Ukrainën.* Agjencia Telegrafike Shqiptare (ATA). rama: Shqipëria e ka bërë zgjedhjen e saj, të qëndrojë përkrah dhe me Ukrainën

# SISTEMI I PAGESAVE DHE DIGJITALIZIMI I SHËRBIMEVE NË BANKAT NË REPUBLIKËN E KOSOVËS

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## Abstrakt

Ky punim shqyrton zhvillimin dhe ndikimin e sistemit të pagesave dhe digjitalizimit të shërbimeve bankare në Republikën e Kosovës. Në vitet e fundit, sektori bankar në Kosovë ka kaluar në një fazë transformimi të thellë, ku avancimet teknologjike dhe rritja e përdorimit të platformave dixhitale kanë krijuar mundësi të reja për ofrimin e shërbimeve financiare. Përdorimi i sistemit të pagesave elektronikë, si dhe zhvillimi i aplikacioneve dhe shërbimeve online, ka mundësuar lehtësimin e transaksioneve, rritjen e efikasitetit dhe zvogëlimin e kostojeve për individët dhe bizneset. Ky studim analizon aspektet kryesore të këtij zhvillimi, duke u fokusuar në politikat dhe rregullat që mbështesin digjitalizimin, sfidat dhe mundësitë që dalin nga ky proces. Po ashtu, punimi shqyrton ndikimin e këtyre ndryshimeve në përmirësimin e aksesit në shërbimet financiare, si dhe rrezikun e mundshëm të përjashtimit dixhital për grupe të caktuara të popullsisë. Përfundimisht, ky studim thekson rëndësinë e përmirësimit të infrastrukturës dhe arsimit financiar, për të mundësuar një integrim më të gjerë dhe të qëndrueshëm të digjitalizimit në sektorin bankar të Kosovës.

**Fjal kyçe:** *sistemi bankar, digjitalizimi i shërbimeve bankare, sistemi i pagesave, sistemi bankar në Kosovë.*

## Hyrje

Në vitet e para të pasluftës qëllimi ishte themelimi i bankave, shtrirja e tyre dhe krijimi i besimit të klientët. Por, me zhvillimin ekonomik, rritjen e vëllimit të qarkullimit të mallrave dhe të marrëdhënieve ekonomike me botën, rriten edhe kërkesat, për modernizim të shërbimeve dhe për lehtësimin e procedurave të secilit transaksion bankar. Për një kategori të klientëve, madje edhe sportelet e bankave ishin shndërruar në një vend ku humbej shumë kohë, për një transaksion të thjeshtë bankar. Këto u bënë shtytje për investime dhe zhvillim në tregun bankar, sa do që ishin pikërisht bankat komerciale ato që avancuan me kërkesa dhe me ofertë gjithnjë e më të avancuar të shërbimeve. (STRAS, 2016)

Sistemet e pagesave të sigurta dhe efikase janë faktor i rëndësishëm për stabilitetin financiar dhe zhvillimin ekonomik të një vendi. Objektivi parësor i Bankës Qendrore të Republikës së Kosovës është nxitja dhe ruajtja e një sistemi të qëndrueshëm financiar si dhe një sistemi efikas të pagesave. Në këtë kuadër, sigurimi i funksionimit normal të sistemeve të pagesave është një nga objektivat dhe detyrat kryesore të Bankës Qendrore të Republikës së Kosovës.

Zhvillimet e shpejta teknologjike në fushën e sistemeve dhe instrumenteve të pagesave në nivel global kanë ndikuar, që edhe në Kosovë qytetarët të ndryshojnë mënyrat e pagesave duke u larguar nga shprehitë e të paguarit me para të gatshme, drejt mënyrave elektronike të pagesave përmes internetit dhe kartelave për pagesa. Edhe pse nuk ka një matje të saktë për raportin mes pagesave me para të gatshme dhe atyre përmes kanaleve elektronike, nga të dhënat statistikore që BQK-ja mbledh nga bankat komerciale në vend, vërehet një rritje e shpejtë e pagesave përmes mënyrave elektronike të pagesave. Nga zhvillimet e fundit në instrumente dhe terminale të pagesave vlen të theksohet fillimi i përdorimit të kartelave dhe terminaleve për kryerjen e pagesave pa kontakt fizik (contactless) nga ana e disa bankave komerciale në vend. Kartelat dhe terminalet e tilla do të zvogëlojnë kohën e kryerjes së transaksioneve në pika të shitjes, duke i bërë instrumente pagesash më të pranueshme si për qytetarët ashtu edhe për tregtarët. Po ashtu, në kuadër të mënyrave elektronike të pagesave vërehet një trend i qëndrueshëm i rritjes së

pagesave përmes shërbimit e-banking, si dhe pagesave përmes debit dhe kredit kartelave. (BQK, 2018)

### **Digjitalizimi i shërbimeve: historia dhe zhvillimi**

Historia e zhvillimit të e-bankingut, përkatësisht e ueb-shërbimit në Shqipëri ka një histori të shkurtër. Është e kuptueshme se në fillim numri i përdoruesve, si edhe vëllimi i qarkullimit ka qenë i vogël, qoftë për shkak të hezitimit të klientëve që të nisin përdorimin e tij, apo edhe për shkak të rrjetit ende të pazhvilluar në tregun bankar. Mirëpo, zhvillimi i këtij shërbimi, që nënkupton shtrirjen dhe vëllimin e punëve, ka qenë shumë i shpejtë. Ai mund të konsiderohet se vazhdimisht është në proces të avancimit, qoftë duke rritur efikasitetin, apo duke ofruar shërbime më të avancuara dhe më të sofistikuara. Rritja shumë e shpejtë e numrit të përdoruesve, numrit të transaksioneve dhe e vëllimit të qarkullimit është një tregues i mirë për rritjen e besueshmërisë dhe të sigurisë ndaj këtij shërbimi. (STRAS, 2016)

### **Transaksionet me e-banking**

E-banking ka hasë në përkrahje mjaft të madhe dhe shumë të shpejtë. Kjo duket qartë përmes numrit të përdoruesve, numrit të transaksioneve dhe vëllimit të transaksioneve. Rritja vjen si rezultat edhe i rritjes së vazhdueshme të ofertës dhe të llojeve të shërbimeve. Fillimisht klientëve u është ofruar mundësia e shikimit të gjendjeve të llogarive, realizimit të transfereve të thjeshta bankare, si ato brenda bankës, kombëtare dhe ndërkombëtare. Gradualisht janë integruar edhe shërbimet tjera me rëndësi për klientin dhe në ditët e sotme, shumica e bankave ofron një spektër të gjerë të shërbimeve të nevojshme për klientët. Aktualisht përmes e-banking klientët mund të kryejnë këto shërbime:

- Shikimin e gjendjeve të llogarive dhe produkteve bankare si: kartelat, kreditë, depozitat me afat;
- Regjistrimin e pagesave kombëtare dhe ndërkombëtare;
- Prioritizimi i transfereve kombëtare dalëse dhe regjistrimi i tyre në valuta të ndryshme;
- Pagesat për linjat kreditore;

- Më shumë se një autorizim / nënshkrim për transfere për klientët e biznesit;
- Ekzekutimi i pagesave masive;
- Rivendosja e fjalëkalimit;
- Menaxhimi i përfituesve;
- Kontrolla e saktësisë së IBAN;
- Inbox në e-Banking;
- Hapja e llogarisë së depozitave me afat; Pagesat e faturave (taksat, pensionet, taksat doganore, rrymën, ujin e të tjera);
- Shikimi i pasqyrës së transaksioneve të fundit përmes e-banking në çdo kohë. (STRAS, 2016)

### Siguria e transaksioneve

Të gjitha bankat garantojnë siguri maksimale për klientët e vet, si edhe për transaksionet - pagesat dhe transferet që bëhen përmes tyre. Ndërkaq, përgjegjësinë për mbikëqyrje dhe për shkallën e sigurisë së bankave e ka Banka Qendrore të Kosovës. Në promovimin e sigurisë dhe efikasitetit, BQK-ja aplikon tri qasje të ndryshme: ushtron funksionin e operatorit, kryen aktivitetet e mbikëqyrjes dhe vepron si katalizator.

Tabela 1. Përgjegjësitë e BQK-së

Përgjegjësitë e BQK-së		
Të ketë mjete të duhura dhe të mjaftueshme për sigurinë dhe efikasitetin e sistemit	Siguron që sistemet e pagesave janë të sigurta dhe efikase, prandaj bënë mbikëqyrjen e tyre	Vepron si katalizator për të përmirësuar efikasitetin e infrastrukturës së tregut

Burimi: Qendra për hulumtime strategjike dhe sociale

### **Përgjegjësitë e BQK-së**

Të ketë mjete të duhura dhe të mjaftueshme për sigurinë dhe efikasitetin e sistemit Siguron që sistemet e pagesave janë të sigurta dhe efikase, prandaj bënë mbikëqyrjen e tyre Vepron si katalizator për të përmirësuar efikasitetin e infrastrukturës së tregut

Nga ana tjetër për përdorimin e e-bankingut dhe për pagesa e transfere të sigurta përmes tij, secila bankë në faqen e vet të internetit ka një udhëzues - doracak, ku jepen informata për mënyrën e përdorimit, si edhe për pajisjet që duhet të ketë klienti. Po ashtu, në rast nevoje bankat mbajnë trajnime për përdoruesit e-bankingut, ndërkaq për shërbime specifike trajnimi mund të bëhet edhe në zyrat e klientit, pa asnjë kompensim financiar. Bankat shërbimin e-banking e ofrojnë si në platformën ueb-based ashtu edhe si aplikacion që instalohet nëpër smartphone, tabletë, dhe bëjnë përpjekje të aplikojnë teknologjitë më të fundit sa i përket sigurisë. Këto masa të sigurisë kanë të bëjnë me tri parime kryesore të sigurisë së informacionit: Confidentiality (konfidencialiteti), Integrity (integriteti) dhe Availability (disponueshmëria). Kur përmendet konfidencialiteti dhe integriteti bankat aplikojnë protokolet më të sigurta që informacionet të mbesin konfidenciale dhe të pandryshuara. (STRAS, 2016)

Për shumë njerëz, vështirësia më e madhe qëndron në të mësuarit e të paturit besim te shërbimi online. Për këtë, është e nevojshme të dimë se sa i sigurt është ky shërbim apo sa të sigurta janë transaksionet që kryhen nëpërmjet tij.

Me fjalë të tjera, është e nevojshme të analizohet se sa të sigurta do të jenë paratë tona, po të administrohen në këtë formë. Ndonjëherë, përdorimi i shërbimeve bankare me anë të internetit mund të sjellë edhe rrezikun e penetrimit nëpërmjet rrjetit në mënyra të ndryshme, si për shembull duke

përvetësuar kodin sekret të hyrjes, duke ndërmjetësuar komunikimet me email apo duke kryer veprime bankare në emër të të tjerëve. Në mbrojtje të klientit nga kriminaliteti elektronik, bankat që ofrojnë e-banking përdorin sisteme të përparuara sigurie, të cilat kodojnë të gjithë informacionin që qarkullon mes bankës dhe klientit. Në këtë mënyrë, me anë të procedurave të ndryshme të kriptografisë, bankat i garantojnë klientëve të tyre sigurinë, integritetin dhe disponueshmërinë e produkteve dhe shërbimeve bankare që ato ofrojnë. (Banka e Kosovës 2007)

### **Instrumentet e pagesave që përdoren në Kosovë**

#### *Pagesat në para të gatshme*

Një nga detyrat e BQK-së sipas Ligjit të Bankës Qendrore të Republikës së Kosovës, është të bëjë “sigurimin e një furnizimi të duhur të kartëmonedhave dhe monedhave në Kosovë”. BQK-ja iu ofron shërbime depozituese dhe tërheqjeje në para të gatshme klientëve të saj, të cilat janë kryesisht banka komerciale. Ka një kërkesë më të madhe për kartëmonedhat me vlera të vogla, kryesisht për shkak se ato përdoren në ATM-të e bankave komerciale dhe shpejtë dëmtohen fizikisht. Kërkesa për para të gatshme nga ana e sektorit jobankar është rritur nominalisht gjatë viteve të fundit; por efektet sezonale shkaktojnë luhatje të konsiderueshme në përdorimin e parave të gatshme gjatë vitit. Mbajtja e parasë së gatshme nga publiku ndryshon dukshëm brenda muajit (në rritje në ditët që paguhen pensionet, pagat); dhe brenda vitit (qarkullimi i parasë së gatshme rritet shumë gjatë periudhës së verës dhe në fund të vitit, ndërsa zvogëlohet dukshëm në fillim të vitit dhe gjatë stinës së vjeshtës). Luhatjet brenda vitit mund të shpjegohen nga fluksi i emigrantëve që vizitojnë Kosovën gjatë intervaleve të ndryshme të vitit. Edhe pse instrumentet e reja të pagesave janë ofruar nga sektori bankar, sistemi i pagesave në Kosovë karakterizohet me një mbështetje të vazhdueshme të qytetarëve në pagesat me para të gatshme. Me përjashtim të pagesave kos-giro (një pjesë e madhe e të cilave paguhen në para të gatshme), shumica e pagesave ndërbankare përmes SPN-së inician nga institucionet qeveritare apo nga entitetet komerciale. (BQK, 2023)

## **Pagesat pa përdorimin e parasë së gatshme**

### *Transferet e kreditit*

Transferet e kreditit janë forma më dominuese e pagesave pa para të gatshme në Republikën e Kosovës. Këto pagesa bëhen nga konsumatorët në bankat e tyre apo shërbimeve që i ofrohen nga ato, përmes urdhërpagesave elektronike apo atyre në formë letre. Një urdhër pagesë letër e përdorur shumë në Kosovë është kos-giro, e cila u krijua për të rritur efikasitetin e pagesave në formë letër për të gjitha palët e përfshira: bankat, konsumatorët dhe kompanitë (si publike ashtu edhe private). Te këto urdhërpagesa speciale, kompanitë faturuese si për shembull: kompanitë e shërbimeve utilitare përfshijnë një formular të standardizuar të pagesave në fund të çdo fature që iu dërgojnë konsumatorëve të tyre. Këto fatura të standardizuara përmbajnë në vete të dhëna mbi pagesën në barkodin e shtypur, i cili skanohet lehtësisht nga barkod lexuesi i bankave. Pas skenimit të faturës, pagesa procesohet automatikisht nga ana e bankës. Gjatë viteve të fundit, e-bankingu është rritur me shpejtësi. Bankat kanë filluar të inkurajojnë përdorimin e pagesave elektronike nga konsumatorët e tyre dhe të konkurrojnë me njëra-tjetrën në ofrimin e shërbimeve të tilla. (BQK, 2023)

### *Debitimi direkt*

Debitimi direkt është prezantuar për përdorim për publikun në nëntor të vitit 2009. Ky është një instrument i ri i pagesave, prandaj akoma nuk përdoret në atë masë sa instrumentet e tjera të pagesave. Kompanitë më të mëdha utilitare i janë bashkuar skemës së debitimit direkt. Pavarësisht se numri dhe vlera e këtyre pagesave po rritet nga viti në vit, numri i llogarive të lidhura me debitim direkt akoma mbetet i ulët dhe nevojitet angazhim më i madh i të gjithë pjesëmarrësve në sistemin financiar, në mënyrë që të rritet numri i tyre, me qëllim zvogëlimin e pagesave me para të gatshme. (BQK, 2023)

### *Kartelat me funksion pagese*

Gjatë viteve të fundit, numri i kartelave me funksion pagese është rritur dukshëm. Shumica e qytetarëve që kanë një llogari bankare, kanë zakonisht

edhe një kartelë me funksion pagese. Shumica e kartelave të pagesave të lëshuara nga bankat janë të markës Visa apo MasterCard. Rrjeti i ATM-ve dhe POS-ve të bankave në Kosovë po ashtu është në rritje, edhe pse ndërveprimi i rrjeteve të bankave në mes njëra-tjetrës nuk është i kënaqshëm. (BQK, 2023)

### *Kartelat e Debitit*

Kartelat e debitit janë kartelat më të shumta në numër në Kosovë. Kartelat e markës Visa dominojnë tregun. Kartelat e debitit të lëshuara nga bankat komerciale mund të përdoren në ATM dhe POS terminale si brenda Kosovës ashtu edhe jashtë saj. (BQK, 2023)

Tabela 2. Numri i kartelave të debitit

Tipi	2019	2020	2021	2022	2023
VISA	437,304	484,300	496,319	494,077	662,364
MasterCard	135,995	159,959	181,517	180,449	174,604
Kartela Lokale	26,072	789	254	44,191	19,747
Gjithsej	599,371	645,048	678,090	718,717	856,718

Burimi : BQK

### **Kartelat e kreditit**

Numri i kartelave të kreditit është rritur ndjeshëm në vitet e fundit. Bankat komerciale që operojnë në Kosovë i kanë kushtuar vëmendje të shtuar rritjes së numrit të kredit kartelave në vend. Në fund të vitit 2023, numri i kredit kartelave arriti në 156,437 që krahasuar me vitin 2022 paraqet rritje prej rreth 8.74%. Shumica e kartelave janë të markës Visa apo MasterCard. Në

tabelën e mëposhtme janë paraqitur të dhëna për numrin e kartelave të kreditit duke filluar nga viti 2019 deri në vitin 2023. Nga të dhënat e paraqitura në tabelë mund të shihet rritja e numrit të tyre çdo vit. (BQK, 2023)

Tabela 3. Numri i kartelave të kreditit

Tipi	2019	2020	2021	2022	2023
VISA	83,188	96,976	110,611	128,397	136,387
MasterCard	12,754	12,356	11,041	12,993	18,183
Kartela Lokale	0	0	0	2,473	1,237
Gjithsej	95,942	109,332	121,652	143,863	156,437

Burimi: BQK

### Prepaid Kartelat

Deri më sot, vetëm një bankë ka lëshuar kartelë prepaid debiti në Kosovë. Kjo kartelë është nxjerrë në bashkëpunim me një kompani të telekomunikacionit. (BQK, 2023)

### E-banking

Pothuajse të gjitha bankat në Kosovë ofrojnë shërbimin e-Banking për klientët e tyre. Me këtë shërbim, klientët mund t'i qasen llogarisë së tyre dhe të iniciojnë transfere, përmes kompjuterëve personal (PC) të kyçur në internet.

Numri dhe vlera e transfereve E-Banking është në rritje të vazhdueshme. Vlen të theksohet se përdorimi i këtij shërbimi është rritur shpejt kohëve të fundit. Për ta pasur më të qartë rritjen e numrit dhe vlerës së pagesave të realizuara me shërbimin E- Banking, në tabelën në vijim janë paraqitur të dhëna statistikore për këtë shërbim duke filluar nga viti 2019 deri në vitin 2023. Duhet theksuar se në vitet e fundit pagesat me e-banking kanë pasur trend të lartë të rritjes. (BQK, 2023)

Tabela 4. Pagesat e realizuara me E-Banking

Përshkrimi	2019	2020	2021	2022	2023
<b>Numri i transaksioneve</b>	625,762	1,056,655	1,579,838	2,311,564	2,915,082
<b>Vlera e transaksioneve</b>	1,499,093,48	2,671,011,546	4,220,405,696	5,746,325,675.39	6,703,386,853

Burimi: BQK

### Zhvillimet e reja

Kohëve të fundit në tregun e shërbimeve të pagesave ka filluar të rritet interesimi për pagesat përmes telefonit (mobile banking). Këto shërbime i mundësojnë konsumatorit të kryejë pagesa të ndryshme përmes telefonit celular në çdo kohë në tërë territorin e Kosovës. Duke pasur parasysh penetrimin e lartë të telefonave mobilë te qytetarët e Kosovës dhe mbulueshmërinë e pothuajse të gjithë vendit nga operatorët e telekomit, kjo mënyrë e kryerjes së pagesave duket mjaft premtuese në të ardhmen. Paraqitja e ATM terminaleve me barkod lexues do të rritë efikasitetin e shërbimeve të pagesave dhe sidomos të pagesave kos giro. Përmes këtyre terminaleve konsumatori pa pasur nevojë të shkojë në degë të bankave mund të paguajë faturat e kompanive publike e private (si KEDS, PTK, e të tjera.). Përveç komoditetit dhe shpejtësisë, ky zhvillim do të zvogëlojë shpenzimet

administrative të bankave komerciale, si dhe do të nxitë pagesën e këtyre faturave përmes llogarive bankare dhe parave jo të gatshme. (BQK, 2023)

### **Përfundime**

Sistemi i pagesave dhe digjitalizimi i shërbimeve bankare në Republikën e Kosovës ka përjetuar një zhvillim të shpejtë dhe të dukshëm gjatë vitëve të fundit. Implementimi i teknologjive të reja në sektorin bankar ka krijuar mundësi të jashtëzakonshme për përmirësimin e efikasitetit, sigurimin e transaksioneve më të shpejta dhe më të sigurta, dhe përmirësimin e aksesit në shërbimet financiare për individët dhe bizneset. Bankat kanë bërë hapa të rëndësishëm në ofrimin e shërbimeve online, aplikacioneve mobile dhe platformave të pagesave elektronike, të cilat kanë transformuar mënyrën e funksionimit të sektorit bankar.

Megjithatë, sfidat që lidhen me përfshirjen dixhitale të plotë të të gjithë popullsisë, si dhe me nevojën për një infrastrukturë të qëndrueshme dhe të sigurt teknologjike, mbeten të pranishme. Një pjesë e popullsisë, veçanërisht ata pa akses në teknologji ose me aftësi të kufizuara dixhitale, mund të përballen me vështirësi në adaptimin ndaj këtyre ndryshimeve. Për këtë arsye, është e domosdoshme që të vazhdohet me zhvillimin e politikave që mbështesin digjitalizimin dhe edukimin financiar të qytetarëve, duke siguruar që transformimi të jetë i barabartë dhe gjithëpërfshirës.

Në përfundim, digjitalizimi i shërbimeve bankare ka sjellë përfitime të mëdha për sektorin bankar në Kosovë, duke krijuar mundësi për rritje ekonomike dhe zhvillim të mëtejshëm. Sidoqoftë, është e rëndësishme që procesi i digjitalizimit të vazhdojë të mbështetet me rregullore të forta, investime në infrastrukturë dhe përpjekje për të përfshirë të gjithë qytetarët në këtë transformim.

### **Referenca**

- Akter, S., Motamarri, S., Hani, U., Shams, R., Fernando, M., Babu, M. M., et al. (2020). Building dynamic service analytics capabilities for the digital marketplace. *J. Bus. Res.* 118, 177–188. doi: 10.1016/j.jbusres.2020.06.016

- Ahmad, S., Bhatti, S. H., and Hwang, Y. (2019). E-service quality and actual use of e-banking: explanation through the technology acceptance model. *Inf. Dev.* 36, 503–519.
- Davis, F. D., Bagozzi, R. P., and Warshaw, P. R. (1989). User ceptance of computer technology: a comparison of two theoretical models. *Manage. Sci.* 35, 982–1003.
- Electronic Banking Group Initiatives and White Papers”, October 2000, available on the BIS website at <http://www.bis.org>.
- Ind, N., and Coates, N. (2013). The meaning of co-creation. *Eur. Bus. Rev.* 25, 86–95.
- Malaquias, R. F., and Hwang, Y. (2019). Mobile banking use: a comparative study with Brazilian and U.S. participants. *Int. J. Inf. Manag.* 44, 132–140.
- Mostafa, R. B. (2020). Mobile banking service quality: a new avenue for customer value co- creation. *Int. J. Bank Mark.* 38, 1107–1132. doi: 10.1108/IJBM-11-2019-0421
- Natarajan, T., Balasubramanian, S. A., and Kasilingam, D. L. (2018). The moderating role of device type and age of users on the intention to use mobile shopping applications. *Technol. Soc.* 53, 79–90.
- Sikdar, P., Kumar, A., and Makkad, M. (2015). Online banking adoption a factor validation and satisfaction causation study in the context of Indian banking customers. *Int. J. Bank Mark.* 33, 760–785.
- Yoon, H. S., and Steege, L. M. B. (2013). Development of a quantitative model of the impact of customers’ personality and perceptions on internet banking use. *Comput. Hum. Behav.* 29, 1133–1141.
- Zhang, T., Lu, C., and Kizildag, M. (2018). Banking “on-the-go”: examining customers” adoption of mobile banking services. *Int. J. Qual. Serv. Sci.* 10, 279–295. doi: 10.1108/IJQSS- 07-2017-0067
- Banka Qendrore e Kosovës <https://bqk-kos.org/>

# CHALLENGES IN THE IMPLEMENTATION OF CHILD CUSTODY AND CONTACT RIGHTS: AN ANALYSIS OF JUDICIAL PRACTICE IN KOSOVO

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## Abstract

Divorce is a complex and traumatic process that spouses undergo, and it has seen a significant increase in recent years compared to previous years, thus requiring a more serious approach in its handling, as it presents a significant social problem for the development of Kosovar society. Due to the various consequences that divorce leaves on spouses, with particular emphasis on children, Kosovo's family legislation has addressed the issue of marriage dissolution with special care, aiming to combat the causes leading to this phenomenon.

This scientific paper also examines the legal consequences of divorce on children concerning child custody and contact rights within Kosovo's family law and judicial practices. Special emphasis is placed on the right to contact, which is an essential component for maintaining healthy relationships between children and both parents after divorce, as well as respecting the equality of spouses.

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In addition, the paper provides a thorough review of the current legislation and judicial practices, identifying challenges and potential shortcomings in the implementation of children's rights related to custody and contact with parents, as well as suggestions for possible improvements in law and practice.

**Keywords:** *dissolution of marriage, child custody, personal contact, the principle of the best interest of the child, legal consequences.*

## INTRODUCTION

Divorce is the dissolution of a valid marriage, which causes legal consequences between spouses and their children. (Mortelmans 2020, 2). Furthermore, divorce has a negative impact on children, particularly psychologically, by damaging their emotional well-being. As a result, children may feel sad, abandoned, and anxious, experiencing feelings of sadness, anger, or confusion after their parent's divorce, which can contribute to lower self-esteem and changes in their behaviour, such as becoming aggressive, violent, or falling behind in their studies. (Kateu 2024, 1).

In Kosovo, as in many other jurisdictions, family law aims to protect the child's best interests as a guiding principle, especially when it comes to decisions related to child custody and visitation rights after the parents' divorce. Despite the clarity of the legal framework set by the Family Law in Kosovo, the practical implementation of these laws may vary significantly. Judicial practices, influenced by cultural, social, and economic factors, often shape how the law is applied in specific cases, leading to different outcomes for children and parents. (Gashi, Aliu, and Vokshi 2012, 326).

Courts often face complex situations where the benefits of child custody and the possibility of contact with the other parent may be difficult to assess objectively and fairly. Issues such as inaccuracies in judicial decisions, delays in court processes, and different interpretations of legal provisions can complicate the process.

Therefore, this paper aims to critically examine the implementation of child custody and visitation rights following parental divorce, with a particular focus on judicial practices in Kosovo. Moreover, the paper will provide a deeper understanding of the application of family law in Kosovo and analyze the impact of judicial decisions on children's lives, offering recommendations for improving the judicial system and contributing to the further protection of children's rights.

## **DIVORCE AND ITS IMPACT ON CHILDREN**

Divorce is a disturbing phenomenon that has significantly increased globally over the past three decades and represents one of the bitterest experiences in the lives of spouses. Considering that spouses enter marriage with their own free will and mutual desire, they can also leave it through the dissolution of the marriage. (Podvorica 2011, 109).

The disruption of marital relationships leads to divorce. Numerous factors lead to the dissolution of marriage, but the most prominent include incompatibility of the spouses' characters, significant differences in their views, long-distance marriages, marital infidelity, domestic violence, infertility, etc. These factors make married life unbearable and are the cause of the disturbance and disruption of the family relationships that have been established. As a result of the dissolution of the marriage, several consequences arise, which have a direct impact not only on the relationship between the spouses but also on their children, whether they have children born from the marriage or have adopted children together. The consequences are moral, psychological, social, economic, legal, etc. (Brown 2013, 14).

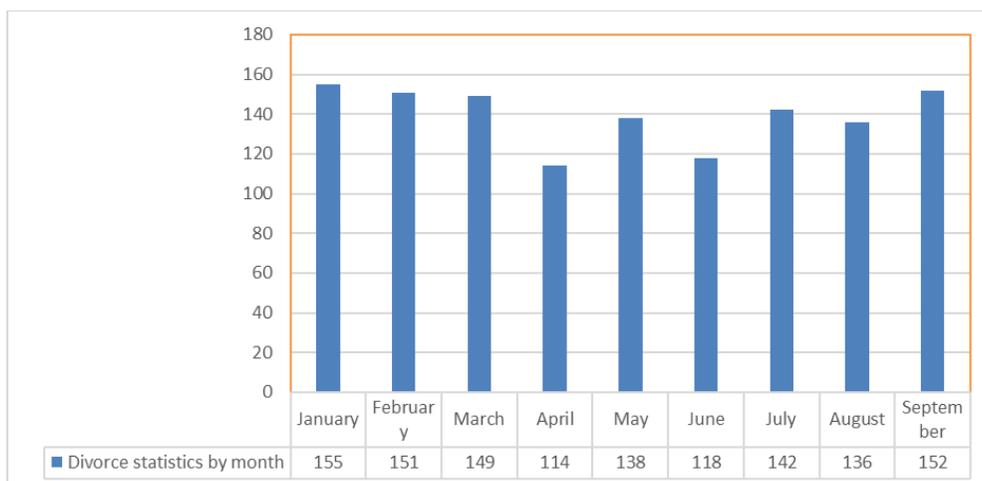
In Kosovo, the divorce procedure is regulated by the legal provisions of Family Law No. 2004/32 (amended and supplemented by Law No. 06/L-077). Article 68 of the Kosovo Family Law (hereinafter referred to as LFK) defines the legal ways of dissolving a marriage: "*Marriage may be dissolved by divorce only upon decision of a court*". (Law No.2004/32 Family Law of Kosovo, article 68.1, 2006). In relation to this provision, the court dissolves the marriage after evaluating the factual circumstances and legal conditions for its dissolution, and when it deems that there is no possibility for the

restoration of their relationship. (Zendeli et al. 2020, 171). The divorce procedure is initiated by filing a lawsuit in the competent court. A divorce request can be submitted by one spouse or by both spouses together in the case of mutual consent for divorce. The request must include the reasons for seeking the divorce, and if it is a mutual agreement divorce, other important information should also be included, such as child custody, visitation rights with the non-custodial parent, and alimony. *‘Together with the proposal for divorce by mutual agreement, spouses are obliged to submit a written agreement of care-taking, educating and feeding their joint children, as well as a written proposal on how personal contacts between the child and both of the parents shall be guaranteed in future’.* (Law No.2004/32 Family Law of Kosovo, article 70.2, 2006).

In the court decision C.nr.781/19, the Basic Court in Mitrovica resolved the marriage according to the joint proposal of the spouses based on Articles 68 and 69 of the Kosovo Family Law. The procedure, in this case, was initially initiated by the wife, the plaintiff A.D., who specified the reasons for the dissolution of the marriage, such as the separation of the factual community for three years from the defendant L.D. and the failure of the continuous efforts of the spouses to resolve these issues. Since, according to the court's decision, the plaintiff's lawsuit was not contested during the hearing by the defendant, the court, in accordance with Article 68 paragraph 4 of the LFK, treated it as a joint proposal for a divorce agreement. (C.nr.781/19 2019).

In another judgment of the same court, in decision C.nr.1009/2019, the court resolved the marriage between the proposers M.G. and J.G. after the proposers, through their authorized representatives, submitted a joint proposal for divorce. According to the court's decision, the couple had three minor children who lived abroad, and the factual community between them had been separated for two years. After the administration of evidence, the Basic Court in Mitrovica resolved the marriage between the proposers based on Articles 68 and 69 of the LFK. Regarding the minor children of the proposers, since they were born in Germany and lived in that country, the court could not decide on their custody, as, according to the court, the competent authority for such matters is the court in the country where the minor children live. (C.nr.1009/2019, 2019).

Regarding the number of divorces, according to the Kosovo Agency of Statistics, 1,255 divorce cases have been registered by September 2024. (Statistics 2024).



These figures are alarming and very concerning, as this enormous increase in the number of divorces reflects a disturbing trend of couples choosing to divorce within the first nine months of 2024 in Kosovo.

### **CHILD CUSTODY AFTER DIVORCE**

In divorce cases, the most affected are the children, as, in addition to the psychological trauma they experience due to the ongoing conflicts between their parents, they also face a range of legal consequences related to the determination of custody and the preservation of contact rights with the non-custodial parent, as well as alimony or financial support for adult children.

During divorce proceedings, the main issue to be resolved is the determination of the parent with whom the child will live, which becomes the primary challenge when the spouses have children together or have adopted children. (Omari 2012, 254). In this regard, the court makes decisions based on the best interests of the children, considering various factors such as emotional well-being, stable living environment, and the relationship with

each parent. In cases of divorce by mutual consent of the spouses, this issue is avoided, as the spouses are legally required to beforehand agree on matters related to their rights and responsibilities concerning the care and upbringing of their minor children, the determination of contact rights with the non-custodial parent, and alimony or financial support for adult children, all of which fall under parental responsibility. (F.Swennen 2015, 16). This agreement must be submitted to the court along with the divorce petition, and the court will approve such an agreement if it determines that it sufficiently ensures the interests of the children.

In this regard, in a judicial decision of the Basic Court in Pristina, C.nr.1910/22, dated January 13, 2023, the court had dissolved the marriage between the petitioners Q.H and B.S, based on their mutual agreement, which they had submitted to the court. The court decided that the minor children should be entrusted to the mother for care, custody, and upbringing. The father, B.S, was ordered to pay monthly alimony of 600 € for each child, totalling 1200 €, to the petitioner Q.H, through bank transfer at the beginning of each month, from the 1st to the 5th, as long as the legal conditions exist for this. Regarding the contact of the father with his minor children, it was decided that these would be free and based on the father's will and assessment. (C.nr.1910/22, 2023).

In relation to Article 144 of the Family Law of Kosovo, which stipulates that: *“The court or the Custodian Body which brings a decision for the entrustment of a child for care and education is obliged to properly investigate all circumstances which are important for proper physical and mental development and education of the child. In case the child is older than ten years, the court shall consider in particular the emotional situation of the child. If deemed necessary, the court shall take into consideration the opinion of experts”*. (Law Nr.2004/32 Family Law of Kosovo, article 144). As a result of this, the practice of the Appeals Court has noted procedural violations in the rulings on appeals of first-instance courts, which in some cases have failed to summon the Custody Body to court sessions when the opinions of minor children were heard. As a consequence, the children were not represented by the competent body as required by the Family Law of Kosovo. (Llulluni, Hysenaj, and Zogaj 2019, 112).

## CHILDREN'S CONTACT RIGHTS WITH THE NON-CUSTODIAL PARENT

Regarding the legal consequences, in cases of divorce by mutual consent, contact with the parent with whom the child no longer lives is generally free, based on the agreement made by both parents. These contacts are approved by the court if it deems that they align with the best interests of the child. Otherwise, the court will determine the time and place for visits between the non-custodial parent and the minor children. This also represents the fundamental right of children to maintain healthy relationships with both parents and to respect the principle of equality between spouses.

In the ruling of the Basic Court in Pristina – Lipjan Branch, C.nr.138/23, dated August 9, 2023, the marriage between the petitioners B.H. and E.H. was dissolved, and the children were entrusted to the mother for care and custody. The contact with the father was determined based on the agreement reached by the former spouses as follows: *"It is arranged that the contact between the minor children E.H. and R.H. and their father E.H. will occur every Tuesday and Thursday (according to the petitioner's work schedule, when working in the morning, the contact will be in the afternoon; when working in the afternoon, the contact will be in the morning), and phone calls will take place every day. Every two weeks, during the weekend, from Friday at 18:00 until Sunday at 18:00, the children will be taken by the father from the petitioner's residence on Friday and by the mother from the petitioner's residence on Sunday. During Christmas, the children will stay with the mother on the first day and with the father on the second day. For New Year's, the children will stay with the father, and every subsequent year, this arrangement will alternate with the father for Christmas and the mother for New Year's".* (C.nr.138/23, 2023).

The court recognised these contact rights as necessary, considering the emotional and spiritual needs of the children with the parent they no longer live with, which would contribute to improving their mood and their will and commitment to life, knowing that they regularly visit their biological father.

According to the Family Law of Kosovo, Article 125, paragraph 2, "*Children have the right to grow up in a family with parents. Children not living together with both parents, have the right to regularly meet the parent they are not living together with*". (Law Nr.2004/32 Family Law of Kosovo, article 125 par.2)

Therefore, maintaining contact between the children and the non-custodial parent is essential for their emotional fulfilment, ensuring that they never feel the absence of the love and dedication of the other parent.

### **CHALLENGES IN ENSURING CONTACT BETWEEN PARENTS AND THEIR CHILDREN**

In Kosovo, the implementation of contact rights for children after divorce plays a crucial role in maintaining healthy relationships between the child and both parents. The challenges in ensuring effective contact between parents and minor children in Kosovo are numerous, including non-compliance with court rulings and the lack of effective mechanisms to ensure these decisions are respected. These barriers prevent the non-custodial parent from having regular contact with their child and may contribute to long-term emotional and psychological issues for the children involved in these processes. Solving these challenges requires strengthening the enforcement of laws, increasing access to services such as mediation, and offering professional counselling with a stronger focus on protecting the welfare of children in these situations.

However, one of the most frequent challenges is the ongoing conflicts between former spouses, which may prevent them from agreeing on contact arrangements. As a result, the parent without custody may be denied this right, and another issue may be the emotional manipulation of the child by the custodial parent. (Idrizi 2018, 108). According to the Family Law of Kosovo, Article 140, paragraph 3: "*If the parent who exercises parental custody hinders personal contacts of the child to the other parent, the court by judgment shall regulate the manner of maintaining personal contacts of the children with the parent who does not exercise parental custody, if the evaluation of all circumstances of the case show that this is necessary for the*

*protection of the child*". (Law No.2004/32 Family Law of Kosovo, article 140.3, 2006).

## CONCLUSIONS

Ensuring that children maintain healthy and meaningful contact with both parents is a complex issue in Kosovo, influenced by legal, social, emotional, and economic factors. Addressing these challenges requires comprehensive reforms in the judicial system. By addressing these problems, better support can be ensured for the well-being of parents and children:

Ensuring that both parents respect court decisions is essential, and strengthening the enforcement mechanisms, including better monitoring of visits and the imposition of sanctions for non-compliance, will help ensure that contact rights are respected.

Effective mediation between parents can assist in resolving conflicts and ensure the welfare of the children. However, in Kosovo, there is often a lack of trained professionals, such as mediators or family counsellors, who can help in these cases. This makes it difficult for parents to reach agreements on visitation without professional assistance.

Social work centres are also lacking in many areas, and there is a shortage of professional staff, such as psychologists, sociologists, jurists, and other trained professionals in the field of child protection and family law.

Improving the judicial system by reducing the burden of cases and speeding up judicial decisions may help resolve problems more quickly. Specialized training for judges and legal professionals in family law matters would improve the quality of the decisions made.

## Bibliography

1. C.nr.781/19 (Basic Court of Mitrovica, 12 17, 2019).
2. C.nr.1009/19 (Basic Court of Mitrovica, 12 17, 2019).
3. C.nr.1910/22 (Basic Court of Pristina, 1 12, 2023).

4. C.nr.138/23 (Basic Court of Pristina, 8 9, 2023).
5. Brown, Grant A. Ideology and dysfunction in family law: How courts disenfranchise fathers. Calgary: Canadian Constitution Foundation and Frontier Center for Public Policy, 2013.
6. Emine Zendeli, Arta Selmani - Bakiu, Dejan Mickovik, Angel Ristov. E drejta familjare. Tetovë, 2020.
7. F.Swennen. Private Ordering in Family Law: A Global Perspective. Edited by Swennen Frederik. Vol. 4. Cham: Springer, 2015.
8. Gëzim Llulluni, Ramë Hysenaj, Albert Zogaj. Praktika e Gjykatës së Apelit e fokusuar në çështjet e kthyerë në rishqyrtim. Prishtinë: Akademia e Drejtësisë dhe Programi i Kombeve të Bashkuara për Zhvillim dhe Bashkëpunim - UNDP, 2019.
9. Haxhi Gashi, Abdulla Aliu, Adem Vokshi. Komentari Ligji Nr.2004/32 për Familjen e Kosovës. Prishtinë: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, 2012.
10. Idrizi, Nehat. Pasojat juridike të shkurorëzimit. Tiranë: Universiteti Europian i Tiranës, 2018.
11. Kateu, Mindadi. The effect of divorce on the children: a case study of butebo sub-country in butebo district. Uganda Cristian University, 2024.
12. Kosovo, Official Gazette of the Republic of. Law No.2004/32 Family Law of Kosovo, article 140.3. Pristina, 9 1, 2006.
13. Mortelmans, Dimitri. Divorce in Europe: New insights in trends, causes and consequences of relation break - ups. Cham: Spring Open, 2020.
14. Omari, Sonila. E drejta familjare. Tiranë: Univeristeti i Tiranës, Fakulteti i Drejtësisë, 2012.
15. Podvorica, Hamdi. E drejta familjare. Prishtinë: Universiteti i Prishtinës "Hasan Prishtina", Fakulteti Juridik, 2011.
16. Statistics, Kosovo Agency of. Statistics on births, deaths, marriages and divorces. Pristina, 2024.

# THE ROLE OF TECHNOLOGY IN EDUCATIONAL REFORM

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## Abstract

This paper investigates the transformative role of technology in educational reform, emphasizing its potential to modernize teaching and learning processes, improve access, and foster student engagement. The integration of digital tools—such as virtual learning platforms, adaptive learning systems, and educational apps—has enabled personalized learning experiences that cater to diverse student needs. Additionally, technology has been instrumental in creating inclusive educational environments, bridging gaps for students with disabilities and those in remote or underserved areas.

The study also explores the challenges associated with adopting technology in education, including the digital divide, lack of infrastructure, and the necessity of upskilling educators to effectively utilize technological innovations. Resistance to change and concerns over privacy and data security are further hurdles that require attention. By analyzing case studies and research data, this paper highlights best practices for implementing technology, including the importance of teacher training programs, collaborative policymaking, and sustainable investment in resources.

The findings underline that technology, when effectively integrated, has the power to revolutionize education, equipping students with critical skills for the 21st century. However, success depends on strategic planning, equitable access, and ongoing support for both students and educators. The study concludes by advocating for a balanced approach that leverages technology while addressing its challenges to maximize its potential in shaping the future of education.

**Key Words:** *Technology, Educational Reform, Digital Tools, Inclusive Education, Personalized Learning*

## **Introduction**

Technology can be a powerful tool for transforming learning. It can help affirm and advance relationships between educators and students, reinvent our approaches to learning and collaboration, shrink long-standing equity and accessibility gaps, and adapt learning experiences to meet the needs of all learners. Our schools, community colleges, adult learning centers and universities should be incubators of exploration and invention. Educators should be collaborators in learning, seeking new knowledge and constantly acquiring new skills alongside their students. Education leaders should set a vision for creating learning experiences that provide the right tools and supports for all learners to thrive. However, to realize fully the benefits of technology in our education system and provide authentic learning experiences, educators need to use technology effectively in their practice. Furthermore, education stakeholders should commit to working together to use technology to improve American education. These stakeholders include leaders; teachers, faculty, and other educators; researchers; policymakers; funders; technology developers; community members and organizations; and learners and their families.

Education reform has emerged as the main policy priority during the global pandemic. Given the effect of education on individual well-being and macrolevel socioeconomic growth, countries have undertaken a variety of policy measures to offset the negative ramifications of the health outbreak on learning processes. This article examines policy conditions that shape disparities in education policy and learning outcomes across eurozone countries. It argues that sustaining robust education systems in the postpandemic era calls for policy initiatives that strengthen digital literacy and ensure equitable learning opportunities for all student demographics. Examining pre-existing education policy and digital literacy, I argue that strengthening partnerships among education stakeholders and making

efficient use of resources effectively sets eurozone countries on a path to education recovery. Policy measures that advance the digitalization of learning infrastructures have the capacity to increase human capital and narrow postpandemic socioeconomic disparities among eurozone countries.

In addition to triggering a public health and economic crisis, the global pandemic has been a stress test for Europe's education ecosystem. The health outbreak, which at its peak saw 94% of the world's students out of school, revealed that learning institutions across Europe's Economic and Monetary Union were vulnerable to exogenous shocks and varied both in their policy capacity and budgetary strengths to counter the impact of the crisis on education infrastructures. Despite resilient leadership by educators and policy-makers to ensure learning continuity and to compensate for learning losses, the adverse impact of the crisis on learning processes was immediate and with varying impacts. By the end of 2021, students across different levels of education lost more than 200 school days, accounting for approximately 18 months of a school year. Laying bare European-level socioeconomic discrepancies, nearly 32% of students from disadvantaged backgrounds lacked the resources and digital skills to participate in learning, missing several more months of education.

Across Europe, student engagement and performance declined rapidly. Within 1 year of the pandemic, students in Belgium and United Kingdom had fallen 3 months behind in learning. In the Netherlands, an assessment of the 2020 national exam results showed that students had learned nothing at all during the spring lockdown of that year. Elsewhere, learning losses due to school closures affected both low- and high-performing students of all levels (Ertmer, P. A., & Ottenbreit-Leftwich, A. T. , 2013). These learning insufficiencies have long-term implications for student development. They contract the accumulation of knowledge and human capital, which, in turn, undermines students' earning potential. Combined, these factors exacerbate learning and existing inequality gaps among students from opposite ends of the socioeconomic spectrum (Clark, R. C., & Mayer, R. E. , 2016). While the health outbreak unveiled structural shortcomings that governments and learning institutions across the euro area must overcome to counter the pandemic's adverse impact on learning outcomes, the crisis has also presented

an unmatched policy opportunity to revamp Europe's educational infrastructures. The lessons learned from the crisis help policy-makers and schools to implement structural reforms that strengthen student performance and build effective and equitable education systems. The stakes are high. Education is the platform for building human capital and economic competitiveness (Koehler, M. J., & Mishra, P. , 2009). It makes it possible for citizens to acquire skills that make them compatible in the labor market and it enables governments to protect the well-being of vulnerable and marginalized groups by reducing poverty and fostering economic growth.

In this article, I evaluate the question of why the pandemic widened the gap in educational and digital policy within and across eurozone countries.<sup>1</sup> I argue that despite the common health threats and budgetary constraints that eurozone countries faced during the crisis, the pandemic's impact on education systems and digital policy varied along three main policy axis:

(1) access to learning and education infrastructures; (2) digital skills and capacity; and (3) selective partnerships with education stakeholders. Building on the theoretical framework that pre-existing policy commitments influence politicians' policy preferences, making them heirs before choosers (Means, 2009), I posit that exogenous shocks such as global health crises provoke a similar policy reaction. Variation in countries' prepandemic policy commitments and infrastructures underlies variation in education policy and digital learning within and across eurozone countries during the pandemic.

In the wake of the global pandemic, Europe's education system faced an unprecedented stress test, revealing vulnerabilities and disparities across the continent's Economic and Monetary Union. As the health crisis unfolded, with a staggering 94% of the world's students out of school at its peak, it became evident that European education institutions varied widely in their policy capacity and financial resources to withstand such exogenous shocks. Despite valiant efforts by educators and policymakers to ensure continuity in learning and mitigate the impact of school closures, the crisis took a toll on educational processes. By the end of 2021, students had lost over 200 school days, equivalent to approximately 18 months of a typical academic year.

Alarmingly, nearly a third of students from disadvantaged backgrounds lacked the necessary resources and digital skills to engage in remote learning, exacerbating existing socioeconomic inequalities (Allen, I. E., & Seaman, J., 2017).

The repercussions of the pandemic on student engagement and performance were profound and swift. Within a year, students in countries like Belgium and the United Kingdom had fallen three months behind in their learning trajectory. In the Netherlands, national exam results revealed that students had made no progress during the spring lockdown of 2020. These setbacks, affecting students across all performance levels, have long-term implications for their development, hindering the accumulation of knowledge and human capital and widening inequality gaps (Skills., 2007).

Amidst these challenges, the crisis has also presented a unique opportunity for policymakers to revamp educational infrastructures across Europe. Lessons learned from the pandemic underscore the need for structural reforms to strengthen student performance and foster more equitable education systems. As education serves as the cornerstone for building human capital and economic competitiveness, governments must prioritize policies that promote access to learning resources, enhance digital skills, and forge strategic partnerships with education stakeholders. However, the varying impact of the pandemic on education systems and digital policies across eurozone countries highlights the importance of pre-existing policy commitments (VanLehn, 2007). Drawing on theoretical frameworks, it is evident that countries' readiness and infrastructural investments before the crisis influenced their ability to respond effectively during the pandemic. Thus, efforts to bridge the gap in educational and digital policy must address underlying disparities and build upon existing foundations to ensure a more resilient and equitable education system for all.

### **Research Methodology**

This chapter outlines the research methodology used to examine the role of technology in educational reform, with a focus on its impact on improving

teaching quality and learning outcomes. The research aims to provide a comprehensive understanding of how technology can support educational reform processes and explore the challenges and opportunities it presents in modern education systems.

### **Research Objective**

The aim of this research is to investigate the use of technology as a tool for supporting educational reform and to analyze its impact on teaching practices, student skills development, and learning experiences. The study seeks to identify how technology can be integrated into classrooms and its effects on improving educational outcomes.

### **Main Research Questions:**

1. **How does the use of technology in the classroom affect student engagement and academic performance?**
2. **What challenges do educators face in integrating technology into their teaching practices?**

### **Hypotheses:**

1. **H1:** The use of technology in the classroom significantly increases student engagement and improves academic performance.
2. **H2:** The main challenges educators face in integrating technology into teaching are lack of training and inadequate technological infrastructure.

These questions and hypotheses are directly linked to the survey content and will help guide the analysis of how technology impacts teaching and learning.

### **Research Approach and Design**

This study utilizes a mixed-methods approach, combining both qualitative and quantitative methods. The qualitative approach focuses on in-depth interviews with teachers and school administrators to gain a deep understanding of their experiences with integrating technology into the classroom. The quantitative approach focuses on analyzing survey data collected from students and parents to measure the impact of technology on student performance and engagement.

### **Data Collection Methods**

Interviews were conducted with 15 teachers and 10 school administrators to explore their experiences and challenges with technology in education. The questions were structured to uncover participants' perceptions of the effectiveness of technology and their experiences with its implementation in the classroom.

#### **Survey**

A survey was distributed to 100 middle school students and 50 parents, containing both closed and open-ended questions to gather information about the use of technology in learning and its impact on student engagement and academic performance. The survey aimed to assess how technology is being utilized and its effects on students' educational experiences.

#### **Document Analysis**

In addition to interviews and surveys, the research includes an analysis of educational policy documents and reports from international organizations on the use of technology in education. This analysis provided a framework for comparing practices in other countries and helped develop the theoretical basis for the study.

#### **Data Analysis Techniques**

**Qualitative Analysis:** Thematic analysis was used to interpret the results from the interviews. The data were coded and grouped into themes that

reflected participants' experiences and perspectives on technology use in education.

**Quantitative Analysis:** Survey data were analyzed using statistical software such as SPSS or Excel to identify correlations between technology use and student performance, as well as the effectiveness of different technological tools in the classroom.

### **Research Limitations**

One limitation of this study is that the sample size may not be sufficient to generalize the findings to the broader educational sector. Additionally, data collection may have been influenced by subjective perceptions of the participants, which could introduce bias.

### **Ethical Considerations**

This study adheres to ethical guidelines for research. Participants were fully informed about the purpose of the study and provided their consent to participate. All data were kept confidential and were used solely for the purposes of the research.

### **Results**

The research undertaken focused on understanding the role of technology in education, specifically how it influences student engagement, academic performance, and the challenges educators face in integrating these technological tools into their teaching practices. The findings of this study highlight both the potential benefits and the obstacles that need to be overcome to make technology a more effective tool in the classroom. Based on the responses from educators, students, and parents, we can draw several key conclusions that offer a comprehensive view of the current state of technology use in education.

### **Impact of Technology on Student Engagement and Academic Performance:**

The study shows a clear **positive impact** of technology on student engagement. Educators who incorporate technology regularly into their lessons report a noticeable increase in student participation, motivation, and interest in learning. Tools such as **interactive whiteboards, educational apps, and online learning platforms** were frequently mentioned as catalysts for making learning more engaging. Students are able to interact with learning materials in dynamic ways, and this interactivity fosters deeper involvement in lessons. Moreover, **personalized learning** opportunities, made possible by technology, allow students to learn at their own pace and according to their individual learning needs.

On academic performance, the study found that technology is indeed a **positive force** in improving student outcomes, especially when it facilitates **active learning**. For example, the use of online platforms for assignments, quizzes, and collaborative activities was associated with a more comprehensive understanding of the subject matter. Students who had access to digital tools outside the classroom also reported feeling more prepared and confident in their studies, indicating that technology extends learning beyond school hours. While the benefits are clear, the study also identified significant barriers that hinder the full integration of technology in education. **Lack of teacher training** emerged as one of the major challenges. Many educators who do not receive sufficient professional development are unable to effectively incorporate technological tools into their teaching strategies. Even when teachers have access to digital tools, without proper training, they may not be able to use them to their full potential, limiting their impact.

**Infrastructure issues** were also highlighted as a major challenge. Inadequate access to reliable internet and modern devices restricts both teachers' and students' ability to use technology effectively. Schools that are underfunded or located in rural areas face the brunt of this issue, where the lack of resources hampers the ability to integrate technology in a meaningful way. This creates a disparity in the quality of education between institutions with access to cutting-edge technology and those without, further widening the achievement gap.

This study reinforces the idea that **technology has the potential to transform education** in profound ways. When used effectively, technology enhances student engagement, supports active learning, and improves academic performance. However, it is crucial to recognize the challenges that still exist, particularly in the areas of teacher training and technology infrastructure. These challenges must be addressed through **continuous professional development for teachers** and **greater investment in technological infrastructure** to ensure that all students, regardless of their socioeconomic background, can benefit equally from the advantages that technology offers.

### Literature

1. Allen, I. E., & Seaman, J. (2017). Digital learning compass: Distance education enrollment report 2017. Babson Survey Research Group.
2. Bisinger, N. (2009). An investigation of teachers' perceptions of school psychologists. Rowan University.
3. Borko, H. (2004). Professional development and teacher learning: Mapping the terrain.
4. Bryk, A. S. (2010). Organizing schools for improvement: Lessons from Chicago.
5. Castells, M. (1996). The rise of the network society. John Wiley & Sons.
6. Clark, R. C., & Mayer, R. E. . (2016). E-learning and the science of instruction: Proven guidelines for consumers and designers of multimedia learning. John Wiley & Sons.
7. Dede, C. (2008). Theoretical perspectives influencing the use of information technology in teaching and learning.
8. Education., I. S. (2017). ISTE standards for educators.
9. Ertmer, P. A., & Ottenbreit-Leftwich, A. T. . (2013). Removing obstacles to the pedagogical changes required by Jonassen's vision of authentic technology-enabled learning. *Computers & Education*, 64, 175-182.
10. Ertmer, P. A., & Ottenbreit-Leftwich, A. T. (2013). Removing obstacles to the pedagogical changes required by Jonassen's vision of

- authentic technology-enabled learning. *Computers & Education*, 64, 175-182.
11. Ertmer, P. A.-L. (2010). Teacher technology change: How knowledge, confidence, beliefs, and culture intersect. *Journal of Research on Technology in Education*, 42(3), 255-284.
  12. Ertmer, P. A.-L. (2012). Teacher beliefs and technology integration practices: A critical relationship. *Computers & Education*, 59(2), 423-435.
  13. Ertmer, P. A.-L. (2013). Removing obstacles to the pedagogical changes required by Jonassen's vision of authentic technology-enabled learning.
  14. Fullan, M., & Pomfret, A. (1977). Research on curriculum and instruction implementation. In *Federal programs supporting educational change, Vol. VIII: Implementing and sustaining innovations*.
  15. Jonassen, D. H. (2000). *Computers as mindtools for schools: Engaging critical thinking*. Prentice Hall.
  16. Koehler, M. J., & Mishra, P. . (2009). What is technological pedagogical content knowledge (TPACK)? *Contemporary Issues in Technology and Teacher Education*, 9(1), 60-70.
  17. Kumar, R. (2014). *Metodologjia e hulumtimit*.
  18. Lim, C. P., & Zhao, Y. (2013). Teaching and learning in the digital world: Possibilities and challenges. *Instructional Science*, 41(2), 403-417.
  19. Maja Ljubetić, Anita Mandarić Vukušić dhe Katarina Pezo. (2018). *Pedagogus and Social Workers-Challenges of Collaboration*. *European Scientific Jurnal* February 2018.
  20. Marzano, R. J. (2012). *Enhancing the art & science of teaching with technology*.
  21. Means, B. e. (2009). *Evaluation of evidence-based practices in online learning: A meta-analysis and review of online learning studies*.
  22. Mishra, P., & Koehler, M. J. (2006). Technological pedagogical content knowledge: A framework for teacher knowledge. *Teachers College Record*, 108(6), 1017-1054.

23. Porter, A. C., & Smithson, J. L. . (2001). Defining, developing, and using curriculum indicators.
24. Roblyer, M. D. (2006). Integrating educational technology into teaching.
25. Skills., P. f. (2007). Framework for 21st century learning.
26. VanLehn, K. e. (2007). The architecture of Why2-Atlas: A coach for qualitative physics essay writing. *Intelligent Tutoring Systems*, 13(2), 44-63.

# ZHVILLI I ARSIMIT NË KOSOVË: SFIDA DHE PERSPEKTIVA

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## Abstrakt

Zhvilli i arsimit në Kosovë është një çështje kyçe për përparimin e shoqërisë dhe ekonomisë së vendit, duke ndikuar drejtpërdrejt në cilësinë e jetës dhe mundësitë për rritjen e mirëqenies për çdo individ. Ky punim trajton sfidat kryesore që sistemi arsimor përballlet në Kosovë, duke përfshirë mungesën e infrastrukturës së duhur, cilësinë e mësimdhënies dhe qasjen e barabartë në arsim, si dhe ndikimin e këtyre faktorëve në performancën e nxënësve dhe zhvillimin e shoqërisë. Një nga aspektet më kritike të këtij studimi është nevoja për reforma të vazhdueshme dhe zbatimi i një kurrikule të përditësuar që përqëndrohet më shumë në zhvillimin e kompetencave dhe aftësive të nxënësve, për t'i përgatitur ata për sfidat e shekullit XXI.

Në të njëjtën kohë, përdormi i teknologjisë në arsim ka potencialin të jetë një katalizator i rëndësishëm për përmirësim, duke ofruar mundësi për krijimin e një mjedisi mësimor më të pasur dhe më të përmirësuar. Ky punim përqendrohet në analizën e politikave arsimore të tanishme dhe praktikave të përdorura në shkolla, me një vëmendje të veçantë ndaj trajnimit të mësimdhënies dhe angazhimit të nxënësve. Metodologjia e përdorur në këtë studim është përmbledhëse dhe përfshin analiza të politikave publike, intervista me mësimdhënës dhe drejtues të arsimit, si dhe studime të rasteve të shkollave që kanë implementuar reforma të suksesshme. Kjo qasje synon të ofrojë një kuptim më të thellë të sfidave dhe mundësive që ekzistojnë në sistemin arsimor në Kosovë dhe të kontribuojë në zgjidhjen e problemeve të identifikikuara.

Rezultatet e studimit sugjerojnë se përmirësimi i cilësisë së arsimit kërkon angazhim të vazhdueshëm dhe investime të qëndrueshme, si dhe bashkëpunim më të ngushtë ndërkombëtar. Përfundimisht, ky punim propozon rekomandime për forcimin e politikave arsimore, përmirësimin e infrastrukturës dhe promovimin e barazisë në qasje dhe cilësi të arsimit për të gjithë qytetarët e Kosovës.

**Fjalë kyçe:** *edukim, sfida, zhvillim, e ardhme, Kosovë*

## Hyrje

Arsimi është themeli mbi të cilin ndërtohet çdo shoqëri e zhvilluar dhe e qëndrueshme. Ai luan një rol të pazëvendësueshëm në formimin e individit, zhvillimin e aftësive dhe kompetencave, si dhe në promovimin e vlerave sociale dhe kulturore. Në Kosovë, roli i arsimit është thelbësor për të përballuar sfidat socio-ekonomike dhe për të ndihmuar në ndërtimin e një të ardhme më të mirë për qytetarët e saj. Megjithatë, sistemi arsimor përballet me një sërë sfidash të cilat kërkojnë një qasje të qëndrueshme dhe reforma të mirëstrukturuara për të garantuar përparim dhe sukses.

Pas periudhës së pasluftës, arsimit në Kosovë ka kaluar nëpër faza të rëndësishme të transformimit, duke përfshirë rindërtimin e infrastrukturës shkollore dhe rishikimin e kurrikulave për të përmbushur nevojat e kohës. Në këtë proces, një sfidë madhore ka qenë sigurimi i një sistemi të barabartë dhe gjithëpërfshirës që i përgjigjet nevojave të të gjithë nxënësve, përfshirë ata nga komunitetet e marginalizuara dhe nxënësit me nevoja të veçanta. Po ashtu, zhvillimi profesional i mësimdhënësve janë identifikuar si prioritet kryesor për të rritur cilësinë e arsimit dhe për të siguruar rezultate më të mira për nxënësit.

Ky punim synon të hedhë dritë mbi afidat aktuale të arsimit në Kosovë për përmirësim dhe zhvillim të mëtejshëm. Analiza do të fokusohet në faktorët kryesorë që ndikojnë në cilësinë e arsimit, përfshirë politikat arsimore, financimin, zhvillimin profesional të mësimdhënësve dhe përfshirjen e teknologjisë.

Gjithashtu, do të diskutohen perspektivat për të ardhmen dhe roli që arsimit mund të luajë në zhvillimin e qëndrueshëm të shoqërisë sonë.

Në këtë kontekst, qëllimi kryesor i punimit është të ofrojë rekomandime konkrete dhe të zbatueshme për përmirësimin e sistemit arsimor, duke u bazuar në praktikat më të mira ndërkombëtare dhe në nevojat specifike të Kosovës.

Arsimi cilësor është një e drejtë themelore dhe një mjet i fuqishëm për ndryshim social dhe ekonomik. Për këtë arsye, përmirësimi i sistemit arsimor nuk është vetëm një detyrë e institucioneve shtetërore, por një përgjegjësi kolektive që kërkon angazhim nga të gjithë akterët e shoqërorë.

### **Historia e Arsimit në Kosovë**

Arsimi në Kosovë ka një histori të gjatë dhe komplekse, e cila pasqyron përpjekjet e vazhdueshme të popullit për ruajtjen e gjuhës, kulturës dhe identitetit kombëtar. Që nga periudha osmane, arsimit në Kosovë ka kaluar nëpër faza të ndryshme zhvillimi, të cilat janë ndikuar nga rrethanat politike dhe shoqërore. Në fillim të shekullit XX, përpjekjet për krijimin e shkollave në gjuhën shqipe u intensifikuan, megjithatë, ato hasën në vështirësi për shkak të politikave represive të regjimeve të kohës .

Pas përfundimit të Luftës së Dytë Botërore, Kosova u bë pjesë e Federatës Jugosllave dhe arsimit u organizua sipas sistemit socialist .

Gjatë kësaj periudhe , hapja e shkollave dhe përdorimi i gjuhës shqipe në procesin mësimor u lejuan në një masë të kufizuar ,por prapëseprapë kishte një kontroll të madh nga autoritetet jugosllave. Në vitin 1969, u themelua Universiteti i Prishtinës, i cili ishte një pikë kthese e rëndësishme për zhvillimin e arsimit të lartë në Kosovë dhe për avancimin e studimeve në gjuhën shqipe . Universiteti shërbeu si një qendër e rëndësishme akademike dhe kulturore për shqiptarët e Kosovës dhe më gjerë.

Periudha pas viteve 1980 shënoi një rritje të tensioneve politike në Jugosllavi, duke kulmuar me shpërbërjen e federatës dhe konfliktet etnike. Gjatë viteve 1990, regjimi serb ndërmoi masa drastike kundër shqiptarëve në

Kosovë, përfshirë mbylljen e shkollave shqipe dhe ndalimin e përdorimit të gjuhës shqipe në arsim. Kjo situatë çoi në krijimin e një sistemi paralel arsimor nga shqiptarët, ku mësimi zhvillohej në kushte të vështira dhe shpesh nëpër shtëpi private. Ky sistem paralel arsimor është një nga shembujt më të rëndësishëm të rezistencës paqësore dhe përpjekjeve të popullit për të ruajtur arsimin dhe kulturën e tyre.

Pas përfundimit të luftës së vitit 1999 dhe ndërhyrjes së NATO-s, Kosova filloi një proces rindërtimi dhe reformimi të sistemit arsimor.

Më mbështetjen e organizatave ndërkombëtare dhe institucioneve vendase, u krijuan struktura të reja arsimore dhe u zhvilluan kurrikula të përditësuara që reflektonin nevojat dhe prioritetet e kohës. Rindërtimi i infrastrukturës shkollore dhe trajnimi i mësimitdhënësve ishin ndër prioritetet kryesore gjatë kësaj periudhe.

Sot, sistemi arsimor në Kosovë përfshin arsimin parashkollor, fillor, të mesëm dhe të lartë, me një fokus të veçantë në promovimin e barazisë dhe gjithëpërfshirjes. Reforma e kurrikulës dhe përdorimi i teknologjisë në mësimdhënie janë pjesë e përpjekjeve për të përmirësuar cilësinë e arsimit dhe për të përgatitur nxënësit për sfidat e tregut global.

Megjithatë, sfidat vazhdojnë të jenë të shumta, përfshirë nevojën për rritjen e investimeve në arsim, përmirësimin e kushteve të mësimitdhënies dhe mësimitnxënies, dhe sigurimin e qasjes së barabartë për të gjithë nxënësit. Përkundër këtyre sfidave, përparimet e bëra gjatë dekadave të fundit tregojnë përkushtimin e Kosovës për të ndërtuar një sistem arsimor të fortë dhe të qëndrueshëm, i cili do të luajë një rol kyç në zhvillimin e shoqërisë dhe ekonomisë së vendit.

## **Sfida Aktuale në Sistemin Arsimor**

### ***Infrastruktura dhe burimet***

Infrastruktura arsimore është një faktor kyç që ndikon drejtpërdrejt në cilësinë e mësimitdhënies dhe të mësimitnxënies. Në Kosovë, pas përfundimit të luftës, rindërtimi i shkollave dhe përmirësimi i kushteve fizike të

institucioneve arsimore ishin ndër prioritetet kryesore. Megjithatë edhe pse janë bërë përpjekje të konsiderueshme, shumë shkolla vazhdojnë të përballen me sfida infrastrukturore. Këto përfshijnë mungesën e hapësirave të mjaftueshme, klasat e mbipopulluara, pajisjet e vjetruara dhe mungesën e sallave të specializuara për laboratorë dhe aktivitete sportive.

Përveç ndërtesave shkollore, një elemnet tjetër i rëndësishëm i infrastrukturës është teknologjia. Ndërsa përdorimi i teknologjisë në arsim është rritur në vitet e fundit, shumë shkolla ende përballen me mungesë të pajisjeve elektronike dhe akses të kufizuar në internet. Kjo situatë e bën të vështirë integrimin e plotë të metodave moderne të mësimdhënies dhe kufizon mundësitë për mësim të personalizuar dhe interaktiv.

Në aspektin e burimeve, sfidat janë të shumta. Biblotekat shkollore shpesh kanë koleksione të kufizuara librash dhe materialesh mësimore të përditësuara. Gjithashtu, financimi i arsimit mbetet një problem i vazhdueshëm, me një përqindje të ulët të buxhetit shtetëror të dedikuar për këtë sektor. Kjo ndikon në mungesën e burimeve didaktike, mjeteve mësimore dhe pajisjeve teknologjike të nevojshme për një mësimdhënie efektive.

Megjithatë, disa projekte dhe programe ndërkombëtare kanë kontribuar në përmirësimin e infrastrukturës dhe furnizimin me burime. Bashkëpunimet me organizata ndërkombëtare dhe partnerët zhvillimorë kanë sjellë investime në ndërtimin e shkollave të reja, pajisjen me kompjuterë dhe përmirësimin e qasjes në teknologji.

Në të ardhmen, investimet strategjike dhe planifikimi i qëndrueshëm janë të domosdoshme për të siguruar që çdo nxënës në Kosovë të ketë akses në një mjedis mësimor cilësor dhe gjithëpërfshirës

### *Cilësia e mësimdhënies*

Pavarësisht përpjekjeve për trajnimin e mësimdhënësve, ka ende nevojë për zhvillim profesional të vazhdueshëm dhe për të përmirësuar metodologjinë e përdorur në klasë.

### ***Qasja dhe barazia në arsim***

Nxënësit nga komunitetet e marginalizuara shpesh përballen me sfida për të arritur qasje të barabartë në arsim. Përfshirja e vajzave dhe fëmijëve me nevoja të veçanta mbetet një prioritet.

### **Politikat dhe Reformat Arsimore**

Qeveria e Kosovës ka miratuar disa reforma arsimore që synojnë modernizimin e sistemit arsimor.

Kurrikula e re kompetencë-bazuar është një hap i rëndësishëm, duke vendosur theksin në zhvillimin e aftësive praktike të nxënësve. Përveç kësaj, janë bërë përpjekje për të përmirësuar standardet e vlerësimit dhe për të fuqizuar shkollat përmes projektve të decentralizimit.

### **Perspektivat e Zhvillimit**

#### ***Përdorimi i teknologjisë në mësimdhënie***

Integrimi i teknologjisë në arsim mund të përmirësojë ndjeshëm cilësinë e mësimdhënies dhe të nxënies. Programt digjitale dhe platformat e mësimi në distancë duhet të zhvillohen edhe më tej.

#### ***Rritja e investimeve në arsim***

Investimet e vazhdueshme në infrastrukturë dhe në trajtimin e mësimdhënësve janë thelbësore për të siguruar një sistem arsimor të qëndrueshëm dhe efikas.

#### ***Bashkëpunimi ndërkombëtar***

Partniritetet me institucionet arsimore ndërkombëtare mund të ndihmojnë në ndarjen e praktikave të mira dhe në zhvillimin e politikave inovative.

## Përfundimi

Zhvillimi i arsimit në Kosovë është një proces i vazhdueshëm që kërkon përkushtim dhe bashkëpunim nga të gjitha palët e përfshira. Duke adresuar sfidat e dhe duke zbatuar politikatat e duhura, Kosova mund të ndërtojë një sistem arsimor që përmbush nevojat e nxënësve dhe të kontribuojë në zhvillimin e përgjithshëm të vendit. Kjo kërkon investime të qëndrueshme dhe angazhim të vazhdueshëm për të siguruar një të ardhme më të mirë për të gjithë nxënësit.

Përfundimisht, krijimi i një sistemi arsimor të fortë dhe gjithëpërfshirës është një detyrë e përbashkët që kërkon angazhimin e të gjithë akterëve - qeverisë, institucioneve arsimore, mësimdhënësve, nxënësve dhe prindërve. Vetëm përmes një angazhimi kolektiv dhe investimeve të qëndrueshme mund të sigurohet që çdo fëmijë në Kosovë të ketë mundësinë për një arsim cilësor dhe të barabartë, duke kontribuar kështu në ndërtimin e një të ardhme më të mirë për vendin.

## Referencat

1. Halili, A. ( 2019 ). “ Përdorimi i teknologjisë në arsim: Sfida dhe mundësi”. Revista Edukimi dhe Zhvillimi, 5 ( 2 ), 45-60
2. Ministria e Arsimit , Shkencës dhe Teknologjisë ( MASHT ). ( 2023 ). Raporti i zhvillimit të arsimit në Kosovë. Prishtinë: MASHT.
3. Shala, B. ( 2020 ). “ Cilësia e mësimdhënies dhe trajnimi i mësimdhënësve në Kosovë”.
4. Revista Pedagogjike Shqiptare, 12( 1 ),78-95
5. UNDP Kosovo. ( 2022 ). Education and Inclusive Development:
6. Kosovo Progress Report. Prishtinë: UNDP Kosovo.
7. Ministria e Arsimit, Shkencës, Teknologjisë dhe Inovacionit (2024). Raporti vjetor mbi arsimin. Kërkime Pedagogjike (2023). Politikatat e arsimit në Kosovë: Sfida dhe mundësi.  
Blease, R. (2024). Trajnimi me bazë në shkollë dhe zhvillimi profesional i mësimdhënësve.

# CITIZENSHIP AND LEGAL IDENTIFY OF CHILDREN BORN THROUGH SURROGACY

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## Abstract

Modern techniques of artificial reproduction in recent years have had a greater development, leaving space for debate on the implications they bring to a number of aspects of human life. One of these techniques is surrogacy, which nowadays faces many legal, philosophical and ethical debates related to the way of establishing parentage, the legal status of the child, the settlement of conflicts arising from the child's right to know the identity his genetic or the regulation of citizenship. Surrogacy represents a process regulated by legal provisions through which parentage is established as well as a process of carrying and giving birth to a child for others, based on a prior agreement between the two parties: the carrying woman, legal parents, ordering couple.

Surrogacy as a process in the service of humanity and the family takes place in artificial conditions with biomedical techniques, enabling many couples to become parents. Depending on this, this study aims to analyze the legal and ethical challenges related to the citizenship and legal identity of children born through surrogacy, emphasizing the importance of harmonizing international laws to protect their rights and interests. The importance of this work is presented in contributing to the legal and ethical debate on the protection of the rights of children born through surrogacy due to the conclusions come down to a result showing that the lack of harmonization of laws creates gaps that endanger the legal identity and citizenship of children.

**Keywords:** *Surrogacy, citizenship and legal identity, rights of the child and surrogate mother.*

## Introduction

Today's period represents a rapid development of science, challenging human progress with innovations in technology, including the method of surrogacy, that is, the birth of a child with donated genetic material.<sup>1</sup>

Knowing who you are and your origins are essential issues of human identity. Its absence or loss creates consequences in self-knowledge. If we refer to the Convention on the Rights of the Child, they specify that the child's right to identity is a right in itself and closely linked to the realization of other rights such as child development, child support, etc. The concept of surrogacy originates in ancient times, in the Code of Hammurabi (18th century BC) which recognized the practice of surrogacy by establishing detailed guidelines on when it would be allowed, in which cases.

In South Africa, surrogacy is seen as an act of generosity, while in European cultures, although surrogacy was practiced in the past, it is not officially or legally recognized. Similarly, in Spain, it was common for kings to take several wives to give birth to "male" children, although this practice was only followed in the birth of biological children, so slaves or maids were used to give birth to a child for them if the woman was barren, and also a woman could have a child from a surrogate mother only if her husband had intimate relations with her. The word "surrogate" derives from the Latin *surrogatus*, which is considered a woman who agrees to be fertilized with the genetic material of an infertile woman by signing a contract to carry the child until birth in return for payment. Surrogacy is used in practice as a method for establishing parentage in the following people:

Women whose pregnancy threatens their health;

Couples who want to prevent the occurrence of serious hereditary diseases in their child;

The woman has an anomaly in the uterus and it cannot be corrected with surgical procedures;

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<sup>1</sup> Mia Dambach and Nigel Cantwell "*Child's right to identity in surrogacy*", Research Handbook on Surrogacy and Law: Edward Elga Publishing (2024): 2

The woman has ovarian failure or damage that cannot be repaired.

What different countries argue against accepting surrogacy is that this method is considered as selling babies, a practice that is totally against a civilized society. Some researchers argue that surrogacy should be banned due to the physical and psychological risks that may arise for a surrogate mother.

### **Literature Review**

This literature review is focused in the core issues, legal frameworks, international conventions, and challenges posed by transnational surrogacy arrangements. Likewise, the review concerns on the legal and ethical framework of surrogacy, with special emphasis on the legal status and citizenship of the child born through this method, including issues arising from the lack of harmonization of international laws, scientific articles and studies on human rights and the rights of the child provide an in-depth perspective on the protection of the child's interests in legal and administrative processes related to surrogacy.

### **Methodology**

The methodology used in this article is based on legal analysis and international comparison of the legal framework. It includes a review of national and international legislation, including conventions and regulations. Also the study incorporates case law by examining decisions from international courts to analyze legal practices concerning the citizenship and parentage of children born through surrogacy. A comparative approach is applied to evaluate differences in legal frameworks across countries. Additionally, a historical method is employed, drawing on academic articles to explore the legal and ethical challenges associated with surrogacy and children's rights.

### **Status of the surrogate mother and the ordering parents**

The surrogate mother, according to the law, does not enjoy parental rights and has no obligation towards the child, namely towards the child to be born. The declaration given for consent to the implementation of the fertilization procedure has the legal significance of the declaration given for renunciation of the acceptance of motherhood after the birth of the child, where based on this provision the surrogate mother does not have the right to

initiate the procedure for confirming motherhood or to request the realization of parental rights towards the child. The spouses at whose request the procedure was initiated are registered as parents after the birth of a child by a surrogate mother in the Birth Register. Information about the surrogate mother and how the child was conceived can be disclosed to the child at a certain age after the child turns 5. Also during pregnancy, the surrogate mother has the legal status of being the custodian of the child, thus becoming responsible for maintaining the child's health and following medical advice to ensure a healthy pregnancy, although after birth, the surrogate mother may need a recovery period and support to ensure her well-being after the emotional bond she creates with the child.<sup>2</sup>

India, as a country that has recognized surrogacy and the contract between the ordering couple and the surrogate mother, has presented recommendations regarding the application of the agreement/contract as follows:

The surrogacy contract will be considered a contract signed between the parties and must contain all conditions such as: the request for the surrogate mother's consent to give birth to a child, the spouses' agreement, reimbursement of expenses during pregnancy for the child's maintenance, the birth certificate of a child from a surrogate mother must contain the names of the ordering parents, the right to privacy of the donor and the surrogate mother must be protected by law, etc. However, there are also countries where the surrogate mother is registered as the mother of the child in cases where the child has been left without parental care, when the parents are unfit to exercise parental rights and in this case the surrogate mother must meet the conditions for adopting the child. The state of Florida allows surrogacy contracts by interpreting them with different laws according to the type of surrogacy (gestational surrogacy-full and traditional surrogacy-partial) where both laws allow compensation for the surrogate mother and the intended parents to have the right to claim parenthood immediately after the birth of the child. In the case of gestational surrogacy, two conditions must be met to enter into a contract, where firstly the intended parents must be married and over 18 years of age and secondly a professional doctor who certifies that the intended

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<sup>2</sup> Lois McLatchie and Jenifer Lea. "Surrogacy, law and human rights". ADF International Report (2022): 8-9

mother is not able to carry the child or has other complications. The ordering parents in the case of gestational surrogacy must file a request within 3 days of the child's birth in court in order to change the birth certificate. In the case of traditional surrogacy, the child is biologically related to the surrogate mother since she is fertilized by her own egg cell. She has the right to terminate the contract within 48 hours of the child's birth in order for the ordering parents to claim paternity.

### **Citizenship and identity of the child<sup>3</sup>**

Citizenship is a public legal relationship between an individual and the state, towards which the person has certain rights and obligations. The broader definition of identity includes the element of family relationships in line with international standards, although fulfilling the child's right to identity presents its own challenges, including discrimination, poverty, costs or a system that is not designed to record all of the child's information. The first opportunity to recognize the child's right to identity in surrogacy occurs at the time the surrogacy agreement is signed, a moment that begins with the granting of the child's legal identity through registration, name, gender, date of birth, etc.<sup>4</sup>

The Convention on the Rights of the Child, in its resolution 44/25 of 20 November 1989, guaranteed in articles 3, 7, and 9 the rights of children as follows:

1. The right to be registered immediately after birth and the right to a name and the right to acquire a nationality (article 7);
2. The right of the child not to be separated from his or her parents and to maintain on a regular basis personal relations and direct contact with both parents except in cases where it is contrary to the best interests of the child (article 9);

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<sup>3</sup> Besa Arifi, Vedije Ratkoceri, Arta Selmani-Bakiu, Albana Metaj-Stojanova dhe Ebru Ibish. “*Të drejtat e fëmijëve, sfidat dhe perspektivat e reja*”, South East European University, Tetovo (2022): 197

<sup>4</sup> United Nations. “*Convention on the Rights of the Child*” adopted November 20, 1989, Article 3, Article 7, Article 9.

3. The best interests of the child shall be a primary consideration (article 3).

However, even though the conventions provide rights for children in countries where laws regulating parental rights are lacking, these children risk being left without parents and without a state. If the child is stateless, it is difficult to obtain documentation that allows them to move, and such worrying cases occur in children who are considered unwanted after birth, such as: Surrogate parents who learn about a problem with the child while the surrogate mother is pregnant may find justification for not taking parental responsibility after the child's birth or for the surrogate mother to be forced to have an abortion. In these cases, the child would lose the right to identity and this happens when the contract does not specify clear.<sup>5</sup> The Universal Declaration of Human Rights in Article 15 specifies that everyone has the right to a nationality and that nationality law should not discriminate on the basis of the circumstances of a child's birth. Regardless of the legal status of surrogacy in a given State, nationality law should avoid 'stateless status' for a child born through such an arrangement. If the parentage of a child born through surrogacy is confirmed, the acquisition of nationality should be carried out in the same way as for any other child born in the territory of the State. If the child is stateless for any reason, the State of the surrogate mother should grant the child nationality. Children born from surrogacy are at risk of numerous human rights violations, in particular, their right to an identity, including a name, nationality, family relations and access to origins; the right to the enjoyment of the highest attainable standard of health; and the right not to be sold. After birth, the child usually must be registered in the civil registry of the country where the birth occurs, which in the child registration procedures may require additional documentation to prove the citizenship of the ordering parents including the birth certificate, surrogacy contract, and any other legal document that proves the ordering parents' relationship with the child.

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<sup>5</sup> United Nations. "Universal Declaration of Human Rights". adopted December 10, 1948, Article 15, U.N. General Assembly resolution 217 A (III)

**Legal regulations of surrogacy in different countries<sup>6</sup>**

Countries where surrogacy is not clearly addressed	Countries where surrogacy is allowed	Countries that ban forms of surrogacy
<p>*The state of Oregon does not have a specific law regarding the treatment of surrogacy, although the state allows surrogacy contracts with certain conditions regarding the procedures that must be followed;</p> <p>-The state of Tennessee has a law that allows surrogacy but does not determine whether it is allowed or prohibited in practice, where as a practical matter the state does not allow surrogacy contracts, agreements that are made before the birth of the child.</p>	<p>* Israel is the main example that can be followed regarding commercial surrogacy where the surrogacy contract is approved by a team - a clinical psychologist, a social worker and a lawyer. This commission clearly defines the clauses that must be included in the contract.</p> <p>* Ukraine which is seen as a destination where commercial surrogacy is explicitly allowed by law;</p> <p>* India as a center of international trade is seen as a country where commercial surrogacy is allowed even though previously there was a weak legislation regarding the treatment of surrogacy.</p>	<p>France is the country that bans surrogacy contracts, although in 2015 the Supreme Court decided to recognize a child born through surrogacy abroad as a French citizen as long as one of the parents was French.</p> <p>*Germany also bans surrogacy contracts on the grounds that it is a violation of the child's human dignity and the contracts are considered sales contracts.</p> <p>Italy also bans surrogacy on the grounds that it can create situations where women are used for commercial purposes, harming and endangering the health and well-being of the surrogate mother.</p>

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In *Re X*, a case which highlighted the need for harmonisation of legal practices to protect the rights of surrogacy parents and children born through surrogacy, it dealt with the issue of two surrogacy parents who sought to

<sup>6</sup> Lois McLatchie and Jenifer Lea. “*Surrogacy, law and human rights*”. ADF International Report (2022): 10-12

<sup>7</sup> *Re X -a Child* (2014): BM13P08884 EWHC: 4-12

register their child in the UK even though the child was born in India, where the UK High Court granted their request to register the child in the UK, referring to the relevant surrogacy legislation and the terms of the contract.<sup>8</sup>

The case of *Johnson v Calvert* (1993) dealt with the problem of a couple who had entered into a contract with a surrogate mother to bear a child. The surrogate mother, Mary Johnson, refused to hand over the child after birth, claiming parental rights, where the California Court of Appeal ruled in favor of the ordering parents, ruling in accordance with the signed contract.

### Conclusions

Legal ambiguities and changes in international legislation on surrogacy often give rise to legal conflicts regarding the citizenship status and legal identity of children. This is particularly the case when the commissioning parents and the surrogate mother are located in different jurisdictions. The citizenship of children born through surrogacy is often unclear, especially when the surrogacy takes place in a country other than the commissioning parents' country of origin. Citizenship-related issues include legal challenges to the registration and recognition of children by different countries. The legal identity of children born through surrogacy can be complicated and unclear, including the status of the parents and the registration of the child. In many cases, children need court decisions to ensure the rights of the commissioning parents and to ensure the legal identity of the child in accordance with the laws of the country where they are registered. It is necessary to develop and implement harmonized international standards for surrogacy, including regulations on the citizenship and legal identity of children. This will help minimize the ambiguities and legal problems that occur when the ordering parents and the surrogate mothers are in different jurisdictions. Surrogacy contracts should be clear and detailed, including provisions on citizenship, registration of the child, and the rights of the ordering parents and the surrogate mother. These contracts should be respected by all parties and be in accordance with the laws of the respective countries.

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<sup>8</sup> *Johnson v. Calvert* (1993): 851 P.2d 776:3-5

## References

1. Mia Dambach and Nigel Cantwell “*Child's right to identity in surrogacy*”, Research Handbook on Surrogacy and Law: Edward Elga Publishing, 2024.
2. Arifi, Besa, Vedije Ratkoceri, Arta Selmani-Bakui, Albana Metaj-Stojanova, and Ebru Ibish. “*Të drejtat e fëmijëve, sfidat dhe perspektivat e reja.*” South East European University, Tetovo, 2022.
3. Lois McLatchie and Jenifer Lea. *Surrogacy, law and human rights*. ADF International Report, 2022.
4. United Nations. *Convention on the Rights of the Child*. adopted November 20, 1989, Article 3, Article 7, Article 9.
5. Alex Filkestein, Sarah Mac Dougall, Angela Kintominas, and Anya Olsen. *Surrogacy Law and Policy in U.S.: A National Conversation Informed by Global Lawmaking*. Report- Columbia Law School Sexuality and Gender Law Clinic, 2016.
6. United Nations. *Universal Declaration of Human Rights*. adopted December 10, 1948, Article 15, U.N. General Assembly resolution 217 A (III).
7. Re X -a Child ,2014: *BM13P08884 EWHC: 4-12*
8. *Johnson v. Calvert, 1993: 851 P.2d 776:3-5*





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