JOURNAL OF LIFE SCIENCES AND SOCIETY

EVOLUTION

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EDITORIAL

The first issue of a scientific journal arises very strong emotions. It is like the birth of a child. There is joy and hope for the future and there is concern for a peaceful and harmonious growth. These are the emotions I feel, while presenting the first issue of *"EVOLUTION, Journal of life Sciences and Society"*, the scientific journal of the University "Our Lady of Good Counsel".

We have always thought that in the evolution of Sciences there is a thin "red" thread that transversely links all forms of expression, in all disciplines that have been cataloged, time by time, sometimes even arbitrarily for a certain convenience of storage.

What really matters is the evolution of thought in a global sense. It is the "red thread" that any man of true culture must be aware of. In-depth knowledge of a topic, in the obsessive study of the smallest detail is not enough. To use a term that is fashionable today, one should not lose the global vision. In support of this feeling I like to quote here Antonino Anile (Vigilie di Scienza e di Vita, 1911): "He who closes his life in the short sphere of the scientific specialty he cultivates, also reduces the circle of his soul". It is for these reasons that we thought of the name Evolution: Life Sciences and Society. Any scientific progress has a small or large effect, both on our society and on our way of being. The recent and still ongoing outbreak of COVID-19 is a dramatic example of how everything is deeply intertwined and how the challenge of the coming years will involve all disciplines, with future prospect, towards a better world, more respectful of human dignity. At this first stage of the publication, the journal was designed with four issues per year, each one dedicated to a Faculty. This should not be viewed as a restriction. Original works with a transversal content can be presented in each of the programmed issues.

The aim is to create a sort of scientific "identity card" of our University. It is valuable, for us and for all existing university structures, in Albania and abroad. I take this opportunity, to thank the authors of the articles for the quality of their contributions and all Deans, for the enthusiasm they have shown from the beginning. A special thanks goes to Prof. Vittorio Teotonico, the Dean of the Faculty of Economics, who agreed to accept the challenge of the first issue, to the course coordinators and to Daniela Kostandini and Fredi Dragusha, for the great work done with professionalism and commendable dedication. The publication of this first issue is largely due to their motivation and passion.

Bruno GIARDINA
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EDITORIALE

Il primo numero di una rivista scientifica dà a coloro che l'hanno pensata e costruita un'emozione particolare e molto forte. È come la nascita di un figlio. C'è la gioia per la nuova creatura, ci sono tante speranze per il futuro e c'è la preoccupazione per una crescita serena ed armonica. Sono queste le emozioni che provo nel presentare il primo numero della rivista *"EVOLUTION, Journal of life Sciences and Society"* la rivista scientifica della nostra Università, dell'Università *Nostra Signora del Buon Consiglio.*

Abbiamo sempre pensato che nella evoluzione del pensiero c'è un sottile filo "rosso" che unisce trasversalmente tutte le forme di espressione in tutte le discipline che sono state catalogate, nel tempo, a volte anche in modo arbitrario e solo per una certa comodità di archiviazione. Quello che importa veramente è l'evoluzione del pensiero in senso globale. È il "filo rosso" di cui qualsiasi uomo di vera cultura deve essere consapevole. Non basta la conoscenza approfondita di un argomento, lo studio maniacale del più piccolo dettaglio. Non si deve perdere la visione di insieme, non si deve perdere, per usare un termine oggi di moda, la globalizzazione dell'anima. A supporto della nostra visione mi piace citare qui Antonino Anile (Vigilie di scienza e di Vita, 1911): "Colui che chiude la propria vita nel breve ambito della specialità scientifica che coltiva, riduce anche il cerchio della propria anima".

È per queste motivazioni che abbiamo pensato a questo titolo Evoluzione: Scienze della Vita e Società. Qualsiasi progresso scientifico ha un effetto piccolo o grande sia sulla nostra Società che sul nostro modo di essere uomini. La recente ed ancora in corso pandemia da COVID-19 è un esempio drammatico di come tutto sia profondamente intrecciato e di come la sfida dei prossimi anni coinvolgerà tutte le discipline in uno sforzo comune verso, speriamo, un mondo migliore e più rispettoso della dignità umana.

In questa fase di inizio della pubblicazione la rivista è stata pensata di quattro numeri all'anno, ciascuno dedicato ad una Facoltà. Questo non deve essere visto come un vincolo. Possono essere presentati lavori originali dal contenuto trasversale in ciascuno dei numeri programmati. Lo scopo è quello di avere, di costruire una sorta di "carta di identità" scientifica della nostra Università. Ha un valore importante per noi stessi e per tutte le strutture universitarie esistenti in Albania e all'estero.

Colgo l'occasione per ringraziare gli autori degli articoli per la qualità dei loro contributi e tutti i Presidi per l'entusiasmo che hanno dimostrato fin dall'inizio. Un ringraziamento particolare va al Prof. Vittorio Teotonico, Preside della Facoltà di Economia, che ha accettato di accogliere la sfida del primo numero, ai coordinatori dei corsi di laurea e alla dottoressa Daniela Kostandini e al dottor Fredi Dragusha per il grande lavoro svolto con professionalità ed encomiabile dedizione. La pubblicazione di questo primo numero si deve in gran parte alla loro motivazione e passione.

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REFLECTIONS ON INDIVIDUAL CONSTITUTIONAL COMPLAINT IN ALBANIA
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RIFLESSIONI SUL RICORSO INDIVIDUALE COSTITUZIONALE IN ALBANIA

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Abstract

The Constitutional Law No. 76, dated 22 July 2016, along with the following provisions for its implementation, has significantly redesigned the justice system of the Republic of Albania. One of the most important innovations concerns the extension of the individual complaint cases to the Constitutional Court beyond the foreseen ab origine*, i.e. the violation of the right to a fair trial. Therefore, the direct access of the individual to the constitutional jurisdiction becomes feasible for any public power act (or also omissive behavior) attributable also to powers other than the jurisdictional one (legislator, administrative authorities, and, in some cases, even private subjects), which, in fact prevents, or even endangers, the enjoyment of any legal situation of fundamental advantage. Similarly, as in other European legal systems, now the individual constitutional complaint in Albania seem to arise as a general and irreplaceable instrument of jurisdictional guarantee and, as such, potentially be able to transform in the near future the Constitutional Court of Albania into an authentic Court of Human Rights, and instill greater public trust and confidence into the judiciary, which is still encountering many difficulties of correct functioning.*

La legge costituzionale n. 76 del 22 luglio 2016, unitamente alle successive norme di sua attuazione, ha significativamente ridisegnato il sistema di giustizia della Repubblica d'Albania. Una delle novità di maggior rilievo attiene all'estensione delle ipotesi di ricorso individuale alla Corte costituzionale al di là di quella, ab origine *prevista, della lesione del solo diritto ad un equo processo. L'accesso diretto del singolo al sindacato costituzionale, pertanto, diviene possibile per ogni atto del potere pubblico (o comportamento altresì omissivo), quindi, imputabile anche a poteri diversi da quello giurisdizionale (legislatore, autorità amministrative, ecc.), che, di fatto, impedisca il godimento di situazioni giuridiche di vantaggio fondamentali.*

Alla stessa stregua di quanto già da tempo avviene in altri ordinamenti europei, ora, anche in Albania, il ricorso individuale costituzionale sembra assurgere a strumento generale ed insostituibile di garanzia giurisdizionale e, perciò stesso, potenzialmente capace, già nel prossimo futuro, per un verso, di trasformare la Corte costituzionale di questo Paese in una autentica Corte dei diritti dell'uomo e, per altro verso, di infondere nel suo popolo maggior fiducia in un sistema giudiziario che ancora accusa non poche difficoltà di corretto funzionamento.

Keywords: Albanian Constitution, individual complaint, fair trial, fundamental rights, justice reform.
Costituzione albanese, ricorso individuale, equo processo, diritti fondamentali, riforma della giustizia.

Introduction

With the 2016 reform, the constitutional individual complaint is now enshrined explicitly in two provisions of the Albanian Constitution, stipulated in Article 131, paragraph 1, letter "f", in regards to the powers of the Constitutional Court, as well in Article 134, paragraph 2, with reference to the subjects who can use this remedy. From these combined provisions, it is clear that the constitutional justice, which can be directly accessed today by each natural or legal person, is in itself a general protection instrument against any violation to the enjoyment of fundamental rights, due to acts originating from any public power, that is, no longer limited to judicial decisions only. However, before 2016 the individual could appeal judicial decisions to the Constitutional Court, exclusively for the protection of the right to a fair trial, as provided for by Article 42 of the Constitution.

In fact, the fundamental freedoms are never fully protected by public institutions, therefore the obligation, weighting on the latter, to respect them [1], does not imply an automatic guarantee. For this reason, in Albania, as in other recently democratized countries, the constitutional provision of material and procedural remedies of last resort has acquired special importance, specifically aimed at safeguarding fundamental rights and which can be activated when, ordinary remedies had not produced the desired effect. In fact, normally, the violation of such rights can be claimed in any phase and degree of the trial, because any court (ordinary or special) is required to apply and strictly respect them. Nevertheless, if the damage suffered is not repaired, the only remedy that the individual can use is the extraordinary (i.e. subsidiar) remedy by submitting an individual complaint to the Constitutional Court. The latter, must not only ascertain the actual violation, identifying the responsible body, but also indicate the best way to correct the violation. After its decision, the competent bodies will be obliged to enforce the decision according to the principles and modes established by the Constitutional Court.

It follows that, on one hand, the individual complaint is to be considered now an effective and irreplaceable means of constitutional guarantee, and, on the other hand, the Albanian Constitutional Court is to be compared to a true Human Rights Court. In fact, if we start from the consideration, hardly contestable, that the fundamental freedoms are the core of the Constitution, for a developing democratic reality, both from an economic and civil perspective, the existence of an effective ultimate mechanism to protect them becomes very significat in case of failure of other mechanisms. Thus, then, it is possible to defend, beyond the individual subjective legal situations, the Constitution *tout court*, to ensure the most solid approach (from the consensus point of view) and the correct (under the axiological-democratic profile) evolution of the overall legal-political framework.

The constitutional individual complaint ante the reform

Before the 2016 reform [2], the constitutional individual complaint noted a development, that, for ease of analysis, can be divided into two distinct phases. The first is the one covering the period 1991-1998, which is characterised by the operation of the constitutional law No. 7491/1991, containing "*The main constitutional provisions*" [3]. In those years, the individual had the opportunity to complain to the newly established Court requesting the annulment of illegal public acts [4] (of the legislative, executive, judicial power) influencing the constitutionally sanctioned legal situations. However, this opportunity of constitutional protection has not been highly exploited, probably also due to a lack of awareness, or familiarity, with the innovations introduced by the democratic order, especially with regards to the role and powers of the Constitutional Court.

The second phase was inaugurated in 1998, with the entrance into power of the new Costitution of the Republic of Albania [5], and terminated in 2016 with the entrance into power of the reform referred herein. In this period, the constitutional individual complaint, in the senses of Article 42 [6], has been limited to remedy only against the violation of the right to a fair trial [7], and, therefore, it has as subjects the judicial decisions, and, in very special cases, other public acts [8]. The idea of reducing cases to appeal to the Constitutional Court rested on the (too) confident argument that every fundamental human right is most naturally protected by the ordinary judiciary, consequently, the constitutional complaint should serve exclusively for further and exceptional control of the same judicial power and limited to non-compliance with the principle of fair trial. In fact, the amendment adopted *in extremis* by the Parliament to the text proposed by the guidance body has raised many concerns [9]. If analyzed properly, the right to a fair trial is only one of the fundamental rights of the individual, which specifically concerns the regularity of the ordinary judicial process and cannot be considered as sufficient to ensure the protection of all other fundamental human rights, such as personal freedom, private property, etc. However, the Constitutional Court, with regards to individual complaints, had to limit itself to checking the ordinary judiciary procedures, from the mere accuracy of the procedural tools utilized, as it was unable to deal with other issues, albeit important to a point of view of merit (such as the existence of a law of dubious constitutionality, which, eventually, at that time, would have been examined only incidentally, but not in the context of direct review, not even as a cause connected to it [10].

Despite this, the Constitutional Court, seeking to interpret its role in a more active and balanced way in relation to the needs of the system, considered the right to a fair trial as an irreplaceable principle of legal civilization, inextricably linking its very existence with the notion of the rule of law [11]. Thus, through a logical-extended interpretation of the concept of the process, it has expanded the scope of fundamental rights included in the right to a fair trial [12]. In its Decision No. 41/2005, the Constitutional Court stated that "[...] *in addition to the right to a fair trial (Article 42), some of the other individual constitutional rights provided for in Articles 29, 31, 32, 34,* [13] *etc. of the Constitution, appears at the same time as important aspects of a fair trial. Consequently, the Constitutional Court confirms once again its approach that the allegations of violation of the fundamental principles contained in these individual individual rights, in the sense of Article 131/f of the Constitution, are subject of review in this court*".

And not only that. The Constitutional Court has extended this right, from judicial processes, also to administrative ones and even to the activity of parliamentary investigative commissions [14]. The Court has also submitted to its review, always referring to the individual complaints, the acts that affect the rights of other constitutional bodies, stating that the latter do not evade the obligation to respect the elements of fair trial (this implied in a very broad sense) [15].

In any case, it should be noted that the review of the Constitutional Court has never been related to the merits of the case [16], but rather has focused on the formal aspects of the judicial or administrative process. Otherwise, it would exercise the functions of a fourth-instance court, reviewing lower-level court decisions. In this view, the Constitutional Court has stated that it "*only intervenes in cases where ordinary courts violate the right to a fair trial. [...] The Court does not re-evaluate the facts and circumstances, but conducts a constitutional assessment, different from that of the courts of ordinary jurisdiction*" [17]. Constitutional Court has added that, in addition to evaluating the evidence, "*the interpretation of the law is an attribute of the bodies that enforce it*" and therefore not of the Constitutional Court [18].

With regard to the subjects that can address the Court, pursuant to articles 131, paragraph 1, letter "f", 134, paragraph 1, letter "g", and 134, paragraph 2, of the Constitution [19], they are individuals to whom it is not guaranteed a due process and that, in any case, are able to prove their interest. An individual is considered a natural person, even of a foreign citizenship, or without any citizenship [20], i.e. any person who, as such, is the holder of the fundamental rights and freedoms provided by the Constitution. Moreover, the Court, in its first years of activity, has clarified that the legitimate right to address the violation of the right to a fair trial is not only for "*ordinary citizens, but those who judge citizens, i.e. judges*" against decisions (administrative - jurisdictional) relating to their legal *status* [21]. Even associations, regardless of being non profit organizations, can address to constitutional justice, because as already pointed out, this possibility depends on the fact that the applicant carries constitutional rights and freedoms [22].

Regarding legal persons, it is necessary to start the analyses by reading Article 16, paragraph 2 of the Constitution, which provides that human rights and fundamental freedoms may be exercised even by these entities. Therefore, if the Court has not proven the minimal doubt on the recognition of the active legitimacy of private legal entities (which are treated equally to the associations as holders of human rights and freedoms, including the right to a fair trial) [23], and it has not hesitated to open the doors of the constitutional review to public legal entities. In fact, the Court has constantly stated that the legimicay of the complainant is not conditioned by its character, i.e. public or private nature of the legal person, but by the nature of the violations which he claims and which must relate to the violation of the right to a fair trial, as provided by art. 42 of the Constitution [24]. In any case, it should be noted that public legal entities, when exercising state functions, as they usually do, must be considered as bodies expressing their will, so that they cannot be the holders of fundamental rights and freedoms of a substantial nature, but, at most, can claim, always in the name and on behalf of the State itself, the right to a fair trial. On the other hand, public legal entities that have their mission directly related to the subject of fundamental human rights and pursue it independently of the State, or at least, in a particular or autonomous way from it, must be valued differently, such as, for example, public universities, public radios and televisions, etc. These are bodies (components of the so-called State - community) that enjoy a regulatory sphere of their own and partly different from the so-called State - person, precisely because their main purpose is the protection or, at least, the realization of human personality in specific areas, such as education, information, etc., where the need for public intervention is more important [25].

Ultimately, it can be argued that the Court in its jurisprudence, through a series of assessable hermeneutical endeavors, has always sought to expand the list of subjects capable of being parties to a constitutional process in respect of the (not) observance of the right to a fair trial. As noted above, the Constitutional Charter of 1998 initially provided for the protection of fundamental rights, through individual constitutional complaints, only in respect of court decisions, this informal orientation of the Court, based on a broader interpretation, was welcomed by most experts in the justice sector (magistrates, freelance professionals, lecturers, etc.).

Another issue, which deserves to be mentioned, has to do with the deadline for filing the complaint. Law No. 8577/2000 "*On the organization and functioning of the Constitutional Court of the Republic of Albania*", provided for a period of two years from the date of the final court decision in case of submission of requests for (non) compliance with the right to a fair trial. Many doubts have been raised about the duration of this deadline, especially compared to the current situation in other countries that provide for individual constitutional complaint [26]. Considering, however, that the individual complaint represented an absolute novelty, which was introduced with the establishment of the new democratic regime, at least in the first period of the Court's operation, this two-year period was deemed appropriate, necessary, as well as functional for a greater awareness of public opinion, professionals, as well as any procedural party, public or private, who, needed more time to process a completely new institution and to better define their procedural strategies.

An additional criterion, besides the time limits, is the exhaustion of all legal remedies. This means that the applicant has used all procedural remedies and possibilities offered by the legislation to protect his right. Legal remedies are considered exhausted when, under the circumstances of the case, the procedural rules do not provide for other legal remedies available. Thus, court decisions can be subject to review by the Constitutional Court, when there are no other legal means to protect the rights of the individual. This was the position of the Constitutional Court, which was shared in its first decisions, when the issue of active legitimacy of the applicant [27], was taken into consideration, and which was not changed later on [28]. Moreover, the principle of exhaustion of legal remedies [29] (also called the principle of subsidiarity) necessarily requires that the applicant at any stage of the trial have claimed the violation of the right to a fair trial (certainly according to the degree of trial where the violation occurs) [30].

In conclusion, it can be stated that the right to a fair trial during the period 1998 until 2016, even though limited, as explained above, has generally been a useful tool for the procedural review of the court desisions. Despite this, especially in the case of non-execution of final decisions [31], there have been cases when the Constitutional Court has been considered an ineffective remedy by the European Court of Human Rights, which has repeatedly condemned Albania for this reason.

Individual constitutional complaint post reform

The 2016 constitutional amendments again extended the cases of individual constitutional complaint before the Constitutional Court. The aim was to remove obstacles to the individuals' access to Court, which, as noted in the previous paragraph, were only partially eliminated by the Court itself [32]. Thus, individual constitutional complaint is currently possible to be exercised against any public act and is no longer limited to the right to a fair trial against decisions of courts of ordinary jurisdiction (albeit implied and enforced broadly thanks to constitutional caselaw). This complaint is provided for in Articles 131, paragraph 1, letter "f" and 134, paragraph 1, letter "g" of the Constitution [33], as well as in Articles 71, paragraphs 1 [34], 71 / a and 49, paragraph 3, letter "e" of the Law No. 8577/2000, which has also been amended [35].

In the senses of Article 131, paragraph 1, letter "f" of the Constitution and Article 71, paragraph 1, of the aforementioned Law No. 8577/2000, any individual, natural or legal person, subject to private or public law, when party to a legal process or when he/she is the holder of the fundamental rights and freedoms set forth in the Constitution, may file a complaint to the Constitutional Court. On the other hand, Article 134, paragraph 2, of the Constitution, providing for entities that can file a case in the Constitutional Court, has divided these entities into two groups: entities with unconditioned legitimacy and entities with conditioned legitimacy.

The second group also includes individuals, i.e. natural and legal persons of private and public law, who, in order to set the Court in motion, must justify their interest. In this sense, the new provisions are essentially in line with what has already been stated on this issue by the constitutional caselaw, mentioned in the previous paragraph. The individual constitutional complaint that these subjects may exercise, however, must meet the requirements of the new Article 71/a of Law No. 8577/2000,

as regards to the exhaustion of effective remedies - unless the domestic law provides for other effective remedies– like the deadline for filing a complaint, the negative consequences suffered - which must be direct and real for the applicant - and the possibility of reinstatement instead of the infringed right (which will be analyzed below). Moreover, article 49, paragraph 3, letter "e" of the Law No. 8577/2000, which referrs to the procedure for review by the Constitutional Court of the incompatibility of laws or other normative acts, by stipulating that individuals may also address the Constitutional Court, in addition to the criteria of the above-mentioned Article 71/a, provides for another criterion, that of the act they object is directly applicable and does not provide for a further executive or actual phase to produce its effects [36].

It is worth noting that the constitutional caselaw is still not consolidated at this point, both due to the lack of use of this tool by individuals immediately after the entry into force of the new amendments (November 2016), as well as due to lack of the quorum needed to hear cases in plenary session by the Constitutional Court, as of May 2018 (which, like any other court, underwent a rigorous process of transitional re-evaluation, the so-called vetting, which led the Court to lose the quorum to function) [37].

However, even without a solid concrete response from the Constitutional Court, certain preliminary consideration can be deduced from the regulations of the above provisions, which may represent fixed points of individual constitutional complaint.

The first consideration is that, notwithstanding the various terms used in the above provisions ("act of public power" or "judicial decision", in Article 131, paragraph 1, letter "f" of the Constitution; "act" in Article 71, paragraph 1 of law No. 8577/2000; "law" or "normative act" in Article 71, paragraph 2, of the same law), there does not appear to be any doubt that the subject of the complaint may be any act of public power: the individual may challenge in the Constitutional Court any official expression of the will of the legislative power (including normative acts, but with the exception of *interna corporis acta*, which do not produce effects on third parties), of executive power (administrative acts of a general or individual character - issued in accordance with the law), the judiciary (final court decisions), as well as the President of the Republic, the auxiliary bodies of the government, independent administrative authorities, of territorial subjects or bodies, or of any other public institution provided that the other conditions mentioned above (and which will be better argued below) also exist. It should be underlined that, although there is still no constitutional caselaw on the merits, even an omission of these public entities may be subject to individual complaint, i.e. when there is an obligation to act and this is required by the fundamental right itself in order to be materialized [38].

Secondly, referring to court decisions, it should be noted that those, as mentioned, while previously could have been the subject of constitutional review only if the violation of the right to a fair trial was claimed, currently, the individual can claim also the violation of other rights, which are not adequately guaranteed by ordinary jurisdiction. In other words, the Constitutional Court already has the competence to review not only violations of procedural rights (i.e. the right to a fair trial), but also of material rights. In these cases, the individual may object along with the court decision also the act of public power (normative, administrative, etc.), on which the decision is based, and has the burden to argue that unconstitutionality is a consequence of the content of the law (and/or by sub-legal act) and not of its erroneous enforcement (as such competence continues to belong to the High Court as a court of last instance) [39].

Thirdly, it should be noted that the individual can only object the violation of the rights and freedoms

protected in the constitutional text and not of other rights regulated at the legal level or, worse yet, bylaws. The Constitutional Court - we reiterate - is not a court of fourth instance, or a higher instance than those of ordinary jurisdiction, a reason for which it cannot take into account any violation of the rules of the system, but only of the constitutional ones.

Regarding the legal criteria provided for the exercise of individual constitutional complaint today [40], the first requirement is the exhaustion of effective legal remedies. Constitutional caselaw is consolidated in relation to the criterion of exhaustion of legal remedies given the fact that this criterion was also required for the right to a fair trial (as explained above). Furthermore, in accordance with European caselaw, regarding the efficiency of legal remedies [41], the new Article 71/a, paragraph 1, letter "a", stipulates that remedies are considered exhausted even when national legislation does not provide effective remedies available to the applicant. In fact, since the case of *Qufaj CO Shpk vs. Albania* (adjudication dated 30.03.2005), the Strasbourg Court has emphasized that, although Article 35, paragraph 1 of the Convention provides for the obligation to exhaust domestic remedies, this does not imply the use of unaccessible and inefficient means of appeal. Even the Albanian constitutional caselaw, adapting to this guideline, has emphasized that it is important to determine which means, depending on the case, are available to the individual and whether they offer him/ her a real opportunity to resolve the dispute in a satisfactory way. In this regard, the Constitutional Court has emphasized that the means to be effective must provide clear and secure opportunities for the restoration of the violated right, as well as be appropriate and effective in the concrete case [42]. It is worth mentioning that the individual can address directly the Constitutional Court (i.e. without the need to exhaust legal remedies) not only when domestic legislation does not provide effective means, but also when the negative consequences that can be produced will be irreparable (i.e. by completely preventing the restoration of the violated right), pending the exhaustion of the aforementioned means (the so-called *periculum in mora*) [43].

After these considerations and taking into account the current situation of crisis faced by the Albanian judicial system, which is almost paralyzed and ineffective due to the vetting procedures, the question is whether the criterion of exhaustion of legal remedies should be applied (formally) or not. Currently, in fact, a subject violated in his fundamental rights and, consequently, a potential applicant to address constitutional justice, may find himself in a paradoxical situation of being affected by the fact that a specific request/judicial remedy (for example, recourse to the High Court) cannot be exercised due to the lack of structural quorum of the body to which that request/tool is addressed. The problematic nature of the issue is clearly displayed in its elements. If the formalistic solution were to be accepted (according to which the person interested in putting into motion the Constitutional Court will have to wait for the functioning, except the Constitutional Court, of all other judicial bodies, to which the ordinary instruments of rights protection are addressed), there is also the risk of infringement of another right guaranteed by the Constitution, that of reasonable duration of trial (which is included in the right to a fair trial). On the other hand, if the substantive solution was accepted (which is also the position held by the European Court), according to which the current stalemate of the courts of ordinary jurisdiction does not necessarily oblige the individual to exhaust the means that are not effective, and makes the individual constitutional complaint in the Constitutional Court (and provided that the latter resumes its regular functioning) the only effective means of respecting the rights and freedoms of the individual, the risk may be that of the Constitutional Court overload [44]; as well as, in a midterm, the creation of premises for the submission of abusive initiatives/requests, as well as the creation of "conflicts" between the Constitutional Court and that of Strasbourg on the one hand, and those of ordinary jurisdiction, on the other.

Among the most important innovations is also the deadline to file an individual constitutional complaint. Problems raised over the long two-year deadline for individuals' objections for a violation of their constitutional rights to a fair trial have already been eliminated thanks to the *de qua* reform, which has shortened the time limit to only four months [45]. The redefinition of the new time limit, even though it is in compliance with the principle of legal certainty [46], in any case, it is a considerable reduction of this deadline compared to the past, the reason for which Article 86, paragraph 3, of Law no. 8577/2000, has provided, a later date for its entry into force (March 1, 2017) [47] compared to the entry into force of other changes in the law (November 2016). In this way, a better metabolism of the new instrument has been made possible not only to individuals, but also to the professionals themselves, starting with lawyers [48].

The term *de quo*, in implementation of Article 71/a, paragraph 1, letter "b" of the abovementioned law, starts from the finding of the violation. The applicant has the burden of proof regarding the moment of recognition of the act that causes the violation of his rights.

When a fundamental right has been infringed (or not properly protected) by the judiciary and the applicant is unable to prove the moment of effective knowledge of the (final) judicial decision, the time limit, according to the Court, starts from the date when the decision was taken [49]. It is not superfluous to specify, once again, that on the basis of the ECHR caselaw, the calculation of *dies a quo* is strictly related to the criterion of exhaustion of legal remedies. In this regard, of importance is the situation in which is the defendant *in absentia*, who claims that he has not been informed of the trial against him [50]. So far, there have been no precedents of this nature in constitutional caselaw in the *post-reform* period. However, in accordance with the previous constitutional caselaw, it should be borne in mind that even in this case the applicant has the burden of proof regarding the notification and/or knowledge of the decision he objects.

The calculation of *dies a quo* has not been clearly clarified either, when a fundamental right is violated by a normative source, of a legal or sub-legal nature. First of all, it is necessary to take into account the situation, although very impossible, that the Parliament or the Government (with the complicity of the President of the Republic that has declared it) can inflict with its act a serious and immediate *vulnus* of the legal system through not only the violation of a fundamental right, such as the right to property (which would cause the "simple" unconstitutionality of the act), but also the abrogation of its *tout court* (which, on the contrary, would cause more "serious" pathology of the unconstitutionality of the act). In our opinion, since no other efficient remedy (judicial or not) would be conceivable, but also because in any case *periculum in mora* would be extremely visible, the only way out would be to appeal it directly, without filters, within four months from its entry into force (in fact, in this case even the time limit should not be applied in homage to the principle *salus rei pubblica suprema lex esto*). In addition to these extreme cases, which are extremely difficult to occur, and which not only affect the enjoyment of a person's fundamental right, but also jeopardize the very existence of the established legal order, normally *dies a quo*, must be calculated from the moment in which the individual (the subject) specifically suffers the negative consequences of the action of public authorities. In this regard, it should be reiterated that, usually, laws (and other normative sources), for their full implementation, require the issuance of bylaws (or administrative). In our opinion, this means a shift ahead of time to the possibility of going to court (and for the same reason *dies a quo*). In fact, the applicant must first wait for the administrative act to be published (if it of a general nature) or notified (if it is individual in nature); then exhaust various legal remedies to protect his right; and, finally, if there is a negative result after the exercise of each of them, to set in motion the Constitutional Court. In any case, it will inevitably be the constitutional caselaw that will have to resolve, in the future, hoped to be imminent, the remaining doubts that may still exist at this point.

We need to comment also the provision introduced by the 2016 reform, according to which the individual constitutional complaint is reviewed by the Constitutional Court when this "*could restore the violated right of the individual.*" [51]. Cases in which constitutional judges, through their decisions, are able to restore the violated right, in substance have to do, on the one hand, the repeal of the normative and/or administrative act, and, on the other hand, with the abrogation of the court decision and the return of the case for consideration normally to that ordinary court level in which the violation was committed. The provision constitutes an advancement compared to the past when the Court, in cases when in the examination of the case was limited only to ascertaining the violation of the right, has given decisions without any beneficial effect for the applicant. In this regard, the ECHR has noted that the constitutional judgment itself does not appear to be (or at least not always) an effective remedy, especially with regard to non-enforcement of final decisions and non-compliance with the principle of reasonable duration of the trial [52]. The choice of the legislator, however, is not limitless. In fact, the latter could have chosen to give the Constitutional Court, according to the ECHR model, the possibility of compensating the damage as an alternative to reinstating the violated right. In the context of the facts, it can be imagined that the Constitutional Court, although deprived of this opportunity [53], may continue to make, as in the pre-reform phase, the so-called "warning" decisions, which, although not reinstating the violated right, are not completely *inutiliter data* given that, at the very least, they have a discouraging value to the public authorities for not committing actions in the future that do not respect fundamental human rights and freedoms.

A part of the doctrine assessed this criterion as appropriate, as it will be a factor in reducing the number of unsuccessful requests in the Court, and therefore in facilitating its work, thus making its intervention more effective in examining truly important and worthy constitutional issues [54]. In any case, as long as there will be a clear and consolidated position of the Constitutional Court on this issue, it shall be believed that individuals will not give up the only internal instrument that guarantees their constitutional rights.

Constitutional caselaw will also have to face another problem, completely new and, as such, unprecedented. It is about examining the omissions, for which it will be necessary to adapt (not at all easy) the above criteria (exhaustion of remedies, calculation of *dies a quo*, interest to act, the possibility to reinstate violated right, etc.).

Conclusions

Expanding the possibility of direct access to constitutional justice by individuals, not only in matters related to the right to a fair trial, but in any act (including inaction) attributed to authorities other than the judiciary that restricts or infringes the enjoyment of any fundamental right, if, on the one hand, constitutes an important guarantee for individuals, natural or legal persons, on the other hand, may determine the increase in the volume of cases for review by the Constitutional Court, with the inevitable consequence of slowing down its work (where, on the contrary, the pace of functioning of the constitutional justice, even more than the ordinary jurisdiction, profoundly affects the effectiveness of the Constitutional Charter and, in particular, of the rights enshrined in it).

However, the Albanian Constitution has not recognized the right of individuals to seek abstract control of the normative and/or administrative act. Since the individual belongs to the group of

subjects that can set the Court in motion when he demonstrates that he has a concrete individual interest, he must not only prove this interest and the negative consequences suffered, but must also exhaust in advance all other legal remedies available. Filing an individual constitutional complaint only for the violation of the rights provided for in the Constitution and after fulfilling the well-defined "filters" - which, is the case in other countries, are able to avoid abusive or repeated requests, as well as the risk of overloading the Court - may compensate, to a considerable extent, the *pros* and *cons* mentioned above, as well as comply with the evolution of the Albanian constitutional justice system, further raising the already assessable standards to protect fundamental rights, currently secured by it.

It is natural to wish, first of all, that constitutional caselaw achieves, autonomously, a further level of progress, given that - as we have repeatedly emphasized - it has proved to be capable, over time and despite the limitations of the positive law, to evolve, adapt and redefine the rules for access to the Constitutional Court so that this access is aware of the increasingly urgent needs and in change to protect the rights guaranteed by the Constitution.

It is also hoped that the Court will understand its mission as a guarantor (of the last instance) of fundamental rights and freedoms, not only as the exclusive prerogative of a high judicial body, but above all, on the one hand as a moment of dialogue and fruitful cooperation with ordinary jurisdiction and, on the other hand, as a moment of synthesis and harmonization with international caselaw. In this view, it must continue to follow the path taken, which has led to the interpretation of its roles in a balanced way within the system, without reverential fear of other republican institutions and, at the same time, without exaggeration or ambition of protagonism. Following this path, the Court will be able to impose a "constitutional political direction", inspired not by pursuing contingent, partisan, or general objectives, but arising from the need to pursue a socio- institutional renewal program dictated by *patres conditores*, who placed strong expectations in the activity of control-implementation, at the constitutional level, of this institution.

Notes

* The opinions expressed are personal to the authors and do not bind the institutions to which they belong.

[1] Article 15, paragraph 2 of the Constitution provides: "*The public bodies in fulfilling their duties, shall respect the fundamental rights and freedoms, as well as contribute to their realization*".

[2] The Constitutional Law No. 76/2016 titled "*On some additions and amendments to the law no. 8417, dated 21.10.1998 adopted by "Constitution of the Republic of Albania", as amended*".

[3] After the great epochal turning points following the fall of the Berlin wall and the development of new political-economic-social structures throughout Eastern Europe, the old Albanian Constitution, which could no longer be applied in the new regime, was replaced by the Constitutional Law No. 7491/1991, subsequently modified several times. The Law No. 7692/1993, substantially of a constitutional nature, containing "*Some additions to the Law No. 7491, dated 29.4.1991 "On the main constitutional provisions"*", introduced the "*due process of the law*" clause. Article 38 of this law stipulated that: "*The freedom, property or rights provided for by the law cannot be violated without a due process of law fair trial remedy*". This clause, in the 1998 Constitution, was replaced by the expression "*the right to a fair trial*", as if to underline, also from the terminological and symbolic point of view, the complete and unconditional adherence of the new Albanian order to the

principles of the ECHR, in which this exact wording is used.

[4] Article 24, point 9, of the Law No. 7561/1992 titled "*Some amendments and additions to the Law No. 7491, dated 29.4.1991 "On the main constitutional provisions"*".

0[6] Article 42 of the Constitution provides that: "*1. The liberty, property, and rights recognized in the Constitution and by law may not be infringed without due process. 2. Everyone, to protect his constitutional and legal rights, freedoms, and interests, or in the case of charges against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law*". The attribution of an exact meaning to this right is somewhat complicated in view of the fact that the Constitution, while sanctioning it, does not offer the slightest definition. However, this gap has been filled by the Albanian Constitutional Court itself, which not only made use of an analogical-systematic reading taken from other fundamental principles, but pushed itself to borrow some concepts elaborated by the supranational jurisprudence (European Court of Human Rights) and the constitutional jurisprudence of other States.

[7] *Debati Kushtetues - Diskutimet në Komisionin Parlamentar për Hartimin e Projekt-Kushtetutës së vitit 1998*, Vëllimi i Dytë, P.S.H., Tiranë, 2006, 26 and onward.

[8] Zaganjori, Xh., Anastasi, A., Cani, A., *Shteti i së drejtës në Kushtetutën e RSH*, Aldeprint, Tiranë, 2011, 88 ss.

[8] The text originally proposed in the Constituent Assembly reproduced the existing model up to that moment, even if poorly experienced, of the individual complaint, of a general nature, that is to say against all public acts. See: Traja, K., *Drejtësia Kushtetuese*, Luarasi, Tiranë, 2000, 263.

[10] *Ibid.*

[11] Also at the ECHR Preamble, the right to a fair trial, in civil and criminal cases, is an important element of the rule of law and part of the contracting parties heritage (see: Ovey, C., White, C.A., *The European Convention on Human Rights*, Fourth edition, Oxford University Press, New York, 2006, 158).

[12] With the passing of time, it became one of the most important competencies of the Court, which, by clarifying, and in the same time extending, the concept of the right to a fair trial (see: Sadushi, S., *Kontrolli kushtetues*, Botimpex, Tiranë, 2004, 182), has tried, within its limits, to expand the types of cases falling in its protection, as well providing other posibilities of complaints (see: Traja, K., *Konventa Evropiane për të Drejtat e Njeriut dhe procesi i rregullt ligjor sipas Kushtetutës shqiptare*, in *10-vjet Gjykatë Kushtetuese*, Buletin i Posaçëm, Botim i Gjykatës Kushtetuese, Klean, Tiranë, 2003, 65).

[13] Article 29 establishes the *nulla poena sine lege* principle and the retroactive effectiveness of the most favorable criminal law; Article 31 lists the rights of the accused during the criminal trial; Article 32 places the prohibition of self-incrimination and Article 34 consecrates the ne bis in idem principle.

[14] The term used by articles 42 dhe 131, paragraph 1, letter "f" of the Constitution is "*legal*" process, which is more broader that "*judicial*". In the decision no. 76/2002, the Court stated that "*while the* (European) *Convention provides for the right of the individual to a fair criminal or civil trial, in the Article 42/1 of the Constitution and the already consolidated jurisprudence of the Constitutional Court, the right of the individual to a due process is not only limited to the*

judicial process, but also to the one with an administrative disciplinary character". This has been one of the decisions that has marked a significant progress of the said institute, expanding the cases of individual constitutional complaint. Also, with decision no. 21/2008, the Court consolidated its position, definitively clarifying that the right to a fair trial includes not only judicial decisions, but also those of an administrative and/or disciplinary nature.

[15] See decision no. 38/2003 of the Constitutional Court. The case concerns the complaint of a prosecutor, who asked the court to annul the decree of the President of the Republic for his transfer from the position of the prosecutor of the Prosecutor General to the posotion of the prosecutor at the Pogradec District Court Prosecutor's Office. The need to address the constitutional process was based on the fact that the Joint Panels of the Supreme Court had adjourned the trial, arguing that the decrees of the President of the Republic, including those of the removal or transfer of prosecutors, could not be challenged in court as they are of a legal-constitutional nature and not administrative acts.

[16] Bala (Pajo), V., *Rrugëtim Kushtetues, Sfidat, arritjet dhe perspektiva e Gjykatës Kushtetuese,* ARTIC, Tiranë, *2018, 344* and onward.

[17] Decision no. 14/2009.

[18] Decision no. 19/2004.

[19] Article 131, paragraph 1, letter f, of the Constitution provided that "*The final adjudication of the individuals complaints for the violation of their constitutional rights to a fair hearing, after all legal means for the protection of those rights have been exhausted*". Article 134, paragraph 1, letter "g", stipulates that "*The Constitutional Court initiates a proceeding on the recourse of the individual",* and the following paragraph of Article 134 provides that the subjects contemplated in letter "g" of paragraph 1 of this Article may make a recourse only for issues related to their interests.

[20] Regarding foreign citizens, Article 16, paragraph 1, of the Constitution provides that "*the fundamental rights and freedoms and the duties contemplated in this Constitution for Albanian citizens are also valid for foreigners and stateless persons in the territory of the Republic of Albania, except for cases when the Constitution specifically attaches the exercise of particular rights and freedoms with Albanian citizenship*". Considering that the Constitution has not set any specific limitation to the exersice of the right to a fair trial, non-Albanian are legitimated to address the Constitutional Court. The current caselaw has registered only one case when a foreign citizen (who was not even a resident in Albania) has requested the violation of the right to a fair trial: see decision no. 12/2011, in which does not formulate any assessment or declaration on the applicant's citizenship, or his/her place of residence, which makes one think that there is no other obstacle or criterion for the legitimacy of foreigners (or persons without citizenship) to address constitutional justice.

[21] Decision no. 8/1994, concerning the violation of the right to a fair trial in the case of a judge transfer by High Council of Justice (selfgoverning body for the judicial power) without his/her consent.

[22] The associations in recent years have often invoked the intervention of the Constitutional Court both by pleading the unconstitutionallity of normative acts, and complaining of the violation of the right to a fair trial. In constitutional caselaw, however, their participation was admitted, in the first case, on condition that they showed that they had a direct interest. On the other hand, when these subjects complained of the violation of the right to a fair trial, the Court always recognized its legitimacy, linking them, in this respect, to individuals.

[23] Decisons no. 28/2015 and no. 73/2015 of the Constitutional Courts.

[24] Decision no. 14/2009. Also in the decision no. 22/2006, the Constitutional Court legitimized the General Directorate of Customs, emphasizing that "*a distinction must be made between the legitimacy of public legal entities claiming violations of fundamental substantive rights and the legitimacy of public law entities claiming violations of fundamental procedural rights. The State or its constituent bodies, with a few exceptions, cannot be considered beneficiary subjects of fundamental substantive rights and freedoms and are therefore not legitimized to set in motion the Constitutional Court. In the case under consideration, the applicant is a public legal entity, sued, and claims to have violated the constitutional procedural principles of appeal and access to court. These principles cannot be violated because they are elements of the law as a whole that derive from the essence of the rule of law and guarantee the equality of the parties in a judicial process. Therefore, the complaint to the Constitutional Court for their violation can be filed by any subject, including public legal entities."*.

[25] This position of the Court was expressed, in particular, in the decision no. 39/2003, further confirmed in the decision no. 36/2010, where it was emphasized that "*public legal entities are legitimized to initiate a constitutional process when they participate in civil circulation and are violated in the same way as if they were ordinary citizens, as well as in cases when they are directly charged with the protection of a certain field.of fundamental rights that directly serve to strengthen their autonomy. In this regard, public legal entities will be treated as individuals, within the meaning of Article 134/1, letter "g" in relation to Article 16/2 of the Constitution.*".

[26] A comparative analyses shows a period varying from 3 to 12 months from the final decision.

[27] See decisions no. 29/1999 and no. 30/1999.

[28] Decisions no. 17/2005, no. 15/2007, no. 27/2007, no. 23/2008, no. 1/2009, no.32/2009, no. 1/2010, no. 6/2010, no. 36/2010, no. 17/2011 of the Constitutional Court.

[29] There have also been some specific cases reviewed by the Constitutional Court regarding the criteria for exhaustion of remedies. Although the applicant objected the violation of the right to a fair trial in relation to the review decision, the Court stated that "[...] *when the review is an extraordinary remedy and the decision of the High Court is final, the applicants have no another tool to object the decision that has accepted the request for review. In these circumstances, the applicants have exhausted all legal remedies for the protection of their rights, therefore the claims raised in the application must be subject to constitutional review*" (see decision no. 17/2005 of the Constitutional Court). The same position was maintained in the decisions no. 5/2007 and no. 6/2007. It is in line with the position held by the ECHR in the case of *Akdivar vs. Turkey*, 16.09.1996, which emphasized that the applicant should use those means that are effective and sufficient to guarantee the alleged violation. ECHR also stressed that the tools must be effective not only in the abstract, but also in the concrete. Regarding the decisions on security measures, the Court noted that since the applicant has exhausted the means of appeal regarding the decision not to accept the request for replacement of the "*measure of arrest in prison*" and the applicant does not have other means of appeals, although the merits process has not been completed, *the character of this interim (Supreme Court) decision requires, as an exception, that it be considered final for the purposes of Article 131 / f of the Constitution* ". (see decision no. 28/2011 of the Constitutional Court). The influence of the

European Court is evident in this decision (see the decision *Wiot vs. France*, 15.03.2001; *APIS a.s. vs. Slovakia*, 13.01.2002; *Libert vs. Belgium*, 08.07.2004), which, although normally not considered final, according to Article 6 of the ECHR, the preliminary proceedings or decisions during the trial, in exceptional cases, has deemed to apply Article 6 of the Convention in relation to the latter if they can be considered final for the interests of the applicant.

[30] The complainant shall object to the Constitutional Court the decisions delivered at different level courts adjudication, depending where the violation took place.

[31] See: *Berhani vs. Albania*, dated 27.05.2010, *Gjonbocari and others vs. Albania*, dated 23.10.2007, *Marini vs. Albania,* dated 18.12.2007.

[32] Regarding the functioning of the Constitutional Court, the Analytical Document of the justice system in Albania, drafted by the Group of Experts of the High Level, appointed by the Parliamentary Commission for Justice Reform, highlights the problems and the need for its reform. For more information see: *http://www.reformanedrejtesi.al/sites/default/files/dokumenti_shqip.pdf.*

[33] Article 131, pragraph 1, letter "f" of the Constitution provides that "*the Constitutional Court decides on:* [...] *the final adjudication of the complaints of individuals for the violation of their constitutional rights to due process of law, after all legal remedies for the protection of those rights have been exhausted*". *While article* 134, paragraph 1, letter "i" cites that "*Recourse to the Constitutional Court shall be sought upon the request of:* [...] *individuals*".

[34] Article 71, paragraph 1 of law no. 8577/2000 cites: "*Every individual, natural or legal person, being the subject of private and public law, whenbeing a party in a legal process or the holder of fundamental rights and freedoms provided forin the Constitution, is entitled to lodge a complaint before theConstitutional Court against anyact that violates his rights and freedoms provided for in the Constitution, under the criteriaprovided in Article 71/a of this Law*".

[35] Law no. 99/2016 "*On some addend and amendments to the Law no. 8577, dated 10 02 2000"On organization and functioning of the Constitutional Court in the Republic of Albania""*. In Chapter VII of law no. 8577/2000 "Special Procedures", for the first time is added "Procedures for the adjudication of the constitutional individual complaint", regulated by artciles 71 and onwards of the law.

[36] Even this provision regulates the direct and violation of the individual rights and fundamental freedoms provided for by the Constitution, as well as the axhaustion of the legal remedies for this purpose.

[37] By law no. 84/2016 "*On the transitional re-evaluation of judges and prosecutors in the Republic of Albania*", known as the vetting law, the constitutional judges are also subject to the vetting process. Precisely for this fact the Constitutional Court lost the quorum of 6 judges required by Article 32, paragraph 1, of the law no. 8577/2000 on the examination of the case in the plenary session. Other judicial institutions are going through the same critical situation, starting with the Supreme Court.

[38] Vorpsi, A., Bergmann, J., *Ankimi kushtetues individual. Përvoja gjermane dhe perspektiva shqiptare,* Maluka 2017, 65.

[39] Vorpsi, A., Bergmann, J., *ibid,* 95 and onward.

[40] Criteria provided by article71/a of the above mentioned law no. 8577/2000.

[41] See, *supra* note no. 29

[42] See: decisions no. 43/2016, no. 9/2013 of the Constitutional Court.

[43] Vorpsi, A., Bergmann, J., *ibid*, 99 and onward.

[44] There is baclog of about 35.000 cases at the High Court pending adjudication, the majority of which, theoriticaly, may gerenrate a workload at the Constitutional Court.

[45] The provision of this timeline is in copliance with 4-months deadline provided for by article 35, paragraph 1 of ECHR (modified with Protocol no. 15) does address the ECtHR.

[46] See: the inadmissibilty decisions no. 12/2020 and no. 13/2020 of the College of Judges of the Constituional Court. It shall be highlighted that the College is composed of 3 judges and is mandated to decide the inadminisiblity of the case for further review at the plenary session.

[47] See: decisions no. 56/2017 and no. 84/2017 of the Constitutional Court, inadmissibility decisions no. 49/2017, no. 62/2017, no. 71/2017 of the Constitutional Court College.

[48] This is the position of the Constitutional Court College. (see: the inadmissibility decision no. 52/2020).

[49] See: inadmissibility decisions no. 11/2019 and no. 11/2020 Constitutional Court College (it is worthy undelining that the preliminary review of cases by the College is the only function that actually the Court may exercise, due to the current composition of only 4 judges ourt of 9).

[50] This situation is by no means simply marginal in Albania, given that a very high number of Albanian citizens live and are resident abroad.

[51] Artcile 71/a, paragraph 1, letter ç of law no. 8577/2000.

[52] See *supra*, note no. 29. With the 2016 reform, some amendment have been added to the Code of Civil Procedure, which in relation to the violation of the principle of duration of the process, provide a special tool in the competence of the courts of ordinary jurisdiction, namely the requirements for just satisfaction of the person who has suffered pecunary or non-pecunary damage, due to the unreasonable duration of the case, which therefore have to do not only with the ascertainment of the violation or the acceleration of the procedures, but also with the compensation of the damage (Article 399-1 to the Article 399-12 of the Code of Civil Procedure).

[53] See: decision no 40/2012. In this case, the Constituional Court has assessed to examine the claims of the applicant even though the personal security measure, which he objected to, was extinguished during the merits process, with the purpose of respecting and protecting fundamental human rights and freedoms and to prevent their violation in the future.

[54] Vorpsi, A., Bergmann, J., *ibid*, 113 and onward.

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Decision no. 17/2005;
Decision no. 22/2006;
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Decisions no. 1, 14, & 32/2009;
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Decision on inadmissibility no. 11/2019;
Decisions on inadmissibility no. 11, 12, 13 & 52/2020

SHORT NOTES ON TAX BREAKS, COMPETITION AND DEVELOPMENT POLICIES

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BREVI NOTE SU AGEVOLAZIONI FISCALI, CONCORRENZA E POLITICHE DI SVILUPPO

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Abstract

This short paper outlines the essential elements of the relationship between tax measures and competition, highlighting, in particular, the rules of EU competition law applicable to states. In addition, some of the building blocks of the notion of state aid which "help" the Commission in the examination of the measures are highlighted.

L'obiettivo dell'articolo in questione è di tracciare gli elementi essenziali del rapporto tra le misure fiscali e concorrenza, evidenziando, in particolare, le norme del diritto della concorrenza nell'UE applicabile negli Stati. Inoltre, vengono evidenziati alcuni elementi costitutivi della nozione di aiuti di Stato che possono "aiutare" la Commissione nell'esaminare le misure evidenziate.

Keywords: Tax Breaks, Competition and Development Policies.
Misure fiscali, Concorrenza, Politiche di Sviluppo.

Introduction

Tax breaks are often discussed both on their impact on the public budget and in terms of supporting businesses because its use is considered to be pervasive and growing. The OECD qualifies this incentive tool as a set of laws, regulations and practices that reduce or defer the payment of taxes to a small group of taxpayers with reference to a certain benchmark (parametric comparison method) [1].

The World Bank, in a report published in 2004, defines tax expenditure as "hidden" spending, which lacks transparency and can encourage tax warfare between states [2].

The International Monetary Fund simply considers tax breaks as revenue that the State renounces to favour a predetermined group of beneficiaries: IMF encourages States to support a process of rationalization of tax expenditures, especially ineffective ones [3].

In European Union law, the tax relief is neither more nor less than a form of State aid: the wide notion of aid has allowed the Commission to widen its range of action more and more not only to control subsidy measures but also in sectors (apparently) unrelated to the competition rules applicable to States.

In any case, any tax relief must be able to be "measured" as far as its effects are concerned. In some countries there is a legislation that obliges the political decision-maker to quantitatively evaluate its consistency; others, although this obligation is not required, prefer to draw up an information report to guarantee the awareness of the favour tools adopted.

On the other hand, tax relief cannot be considered absolutely as a negative tool of incentive.

There are other purposes pursued by the State that can be achieved through tax relief as a substitute for public funding attributable by "curving" the tax law in an extra-fiscal function [4], as advocated, for example, by the functional finance.

Paying fewer taxes to the State also means easing the tax burden and, therefore, encouraging investments, for example in innovation and research. The tax authorities can also promote development by making the financial effort qualitatively more valuable to contribute to the economic and social growth of the country.

The tax breaks under article 107, §1, TFEU

Tax breaks are forms of aid referred to the State (*subjective profile*) and financed, directly or indirectly, through State resources, has to produce a selective economic advantage to the beneficiary, distorts or threatens to distort competition and, ultimately, hinders intra-Community trade (*criterion of the sensitive effect*) attributable to the State or granted through State resources, which are selective in nature and distort or threaten to distort competition and trade within the EU (art.107, §1, TFEU) [5].

This is a broad notion of aid that today finds a definite structure in the Communication on the notion of state aid (2016) [6]. The *Notice* provides information to Member States on the consolidated practice of the European Commission and the Court of Justice on the matter [7]. It is a fragment of the modernization policy adopted by the Commission in order to contribute to a more transparent and more consistent application of the notion of State aid across the Union. This *document* specifies that the Commission is self-bound in applying the *Notice* especially when complex economic assessments are concerned. The *Notice*, however, considers the notion of State aid as «an objective and legal concept defined directly by the Treaty» and clarifies the interpretations of Article 107 (1) TFEU by the Commission, as interpreted by the Court of justice and the General Court [8].
The *Notice* can be considered as a true *summa* of the variety of cases examined in an almost sixty years of practice by both the Commission and the Court of Justice [9]. In other words, it is

a sort of catalogue of all possible situations that may occur with reference to State aid. It is also worth mentioning that the *Communication* «is considered to be the definitive expression of the Commission's position on what constitutes State aid» [10].

It must also be pointed out that the *Notice* formally replaces former Communications [11] concerning aids to public undertakings in the manufacturing sector [12], State aid elements in sales of land and buildings by public authorities [13], the application of the State aid rules to measures relating to direct business taxation [14] and «any opposing statements relating to the notion of State aid included in any existing Commission Communications and Frameworks, save for statements pertaining to specific sectors and justified by their particular features» [15].

Among the constituent elements of the aid, the selectivity criterion [16] ("favouring certain companies and certain productions") is the one that, more than the others, allows the Commission to recognize a tax advantage incompatible with competition; in some cases, the Commission's control may go far beyond its substantial discretion, now extended to include areas and sectors previously considered by themselves to be outside its control (such as, for example, in the case of infrastructure [17]).

Partial exemption from the payment of certain social security contributions for undertakings in a given industrial sector is considered as *aid* because the referred measure allows beneficiaries to derogate from a general rule.

In this sense, the measure can be qualified as selective because it is aimed at favouring a given economic sector. Ultimately, it is the derogation from a general rule that integrates the selectivity of the aid, which is precisely because it is abnormally granted by the public authority.

The Commission has, moreover, mitigated the narrow scope of application of this rule by specifying how such derogation could possibly be admitted, particularly in tax matters, if it is justified by *economic rationality* so as to make it necessary or functional with respect to the effectiveness of the system [18].

As already made clear by the Court of Justice [19], however, the contribution must have a horizontal nature and be based on objective elements, such as, for example, the unlimited duration and the wide scope of implementation. This conclusion also appears to be consistent with the principle of equality, according to which measures derogating from the formal equality criterion may be admitted, proving that the derogation is justified by the general objectives of the legal system and does not conflict with the system where it is applied (for example, tax ruling).

An additional indicative criterion of the presence of public aid in contrast with the internal market rules is then identified in the impact of the measure «on trade between Member States» [20]. In order to be able to ascertain the impact on trade it is necessary to verify whether the incentives have, first of all, national relevance (thus being able to exclude incompatibility) and, subsequently, if there are undertakings in the aided "sector" already operating under competition. Both the conditions mentioned above must be satisfied: the effects provoked by the aid on a community basis and the existence of a competitive market in the sector in which the aided enterprise is located. The Court of Justice, in fact, considers *aid* to be a financial intervention granted by the State to the undertaking which strengthens its position in the market at the expense of other competitors of the latter in intra-Community trade [21]. It is not, however, excluded that a measure to encourage exports to third countries could concretely threaten competition in the internal market [22].

Moreover, the substantial criterion of the advantage of the measure indicates both the deviation from the rules of the economy, with the correlative renunciation of public revenues, and the regulatory provision with which the State, intervening in favour of certain companies, determines discrimination borne by the others. To appreciate the economic advantage, the Commission applies the well-known criterion of a *private investor in a market economy*, adopted as a parameter to determine whether the State's behaviour complies with the "assessments" that a private entity would have made [23].

The concept of advantage indicates the behaviour of a public authority that adopts a regulatory act or an administrative provision whose effects, even independently of the will of the State, can favour an enterprise. This is a benefit that a company would not have received under normal market conditions, that is, in the absence of public intervention. If the financial situation of the enterprise improved thanks to the action of the State, even in terms of easing the burdens on the company's balance sheet, an advantage would arise. Its existence must be noted on a case by case basis, country by country, by examining the place where the company carries out its business and the origin of the advantage.

In the case of tax aid, therefore the advantage would be the way a country changes the characteristics of its tax system by favouring certain enterprises or certain products in such a way as to cause damage to competition, even if only potentially.

The detection of the measure assigned to a limited group of beneficiaries that receive the aid, therefore, is carried out mainly through the selectivity criterion, through which the Commission easily clears out a suspect measure (with a focus on its discriminatory nature). The cited *Notice* makes a clear distinction between material selectivity and regional selectivity.

The material selectivity can be established through the *de jure* or the *de facto* criterion. The former may result directly when certain legal criteria are formally reserved to certain undertakings: for instance, those having a certain size, active in certain sectors or having a certain legal form (companies incorporated or newly listed on a regulated market during a given period; companies belonging to a group having certain characteristics or entrusted with certain functions within a group; ailing companies; or export undertakings or undertakings performing export-related activities). The latter, instead, deals with the deduction of the effect determined by the structure of the measure, even if it is formally correct in terms of general and objective details [24] (a tax credit or a measure granting advantages even for a short period of time).

The work of the Commission, in its long years of control activities, has made the notion of selectivity quite elastic, especially in the field of tax breaks. The Court of Justice, for its part, clarified the forms and limits of application of the state aid criteria, including those relating to tax selectivity.

It should be added that, precisely in tax matters, the risk of the progressive expansion of the notion of selectivity can jeopardize the fiscal autonomy of the States: unable to counter tax evasion and tax avoidance, because the TFEU has not attributed the competence, the Commission uses the legal lever of the prohibition on granting state aid to overcome the boundaries of fiscal sovereignty and occupy areas of manoeuvre that are precluded to it. An interference that can be traced in the afore mentioned communication on direct business taxation. This is an operation that may appear out of context, but it can sometimes be useful to "help" the less virtuous countries as regards the fight against tax evasion.

Above all, when tax aid has generated lost revenue, the State should be driven by the general interest in the recovery of sums not received if, all the more so, the aid is declared incompatible.

In these cases, in truth, the State does not act, so to speak, as a diligent party because it falls into the error of both giving an illegitimate concession and failing to comply with the recovery injunction.

Sometimes, in fact, due to the guilty inaction of the public administrations, the budget can "suffer" from the loss of revenue deriving from a tax exemption declared illegitimate by the judge of both the European Union and the State.

See, for example, the paradigmatic case of tax breaks in favour of parity schools of a confessional nature, which saw a long dispute taking place ending with the judgment of the Court of Justice of 6 November 2018 [25]. The EU Court, in the circumstance, ruled that Italy must endeavour to recover what has not yet been received under EU law, which obliges the country to comply with it. The Luxembourg judges are not inclined to tolerate the abuse of the absolute impossibility which they interpret in a restrictive way [26]: the state must cooperate in the implementation of EU law and, in the event of application difficulties; it must always propose alternative enforcement measures.

The role of tax breaks in promotion of innovation and development

The effect of a measure that provides an advantage deemed economically justifiable is that of supporting investment for the development and technological innovation.

In this case, the European Union itself promotes innovation initiatives, as in the case of the COSME program which allows, *inter alia*, the interrelation between national resources and Community funds [27].

A solicitation to invest in innovation also emerged during the 2019 European semester aiming to increase productivity in the South and supporting the structural weaknesses of smaller companies. The Commission complains that Italy has limited progress in implementing the recommendations made in 2018 in the area of innovation investment. Germany, Hungary, and Slovakia, on the other hand, are more sensitive to the implementation of these policies for which they use these forms of tax breaks.

It is one of the few cases in which the EU tries to recover years of retreat in the field of the common industrial policy. The perspective of the ban on state aid is still a national and not a "community" one, so, also thanks to the *de minimis* system, the States have cultivated national micro-policies, essentially leaving the field free for multinationals. Public policies encouraging R&D have always been one of the sectors in which the European Union's direct promotional action has been particularly distinguished since the 1980s [28].

The "Innovation Union" [29]. Aims to achieve four fundamental points whose implementation is the responsibility of national governments: implementation of R&D programs, also aimed at promoting cooperation between businesses and research institutes and universities; promoting cooperation with third countries and international organizations; dissemination and exploitation of the results achieved; boost of training and mobility of researchers. This objective is reflected in the promotion of competitiveness in the European economic area (art. 179, §2, TFEU), to achieve the integration of state policies with Community ones, mostly through a multi-year framework program which contains the purposes to be pursued and the amount of the share of loans.

The "Horizon 2020" program aim sat creating the conditions to achieve scientific excellence levels, building European industrial leadership and experiencing every solution to face the new "challenges for the society" [30].

The facilities in this sector must be structured in terms of general tax measures in the form of tax exemptions or reductions or other mandatory contributions. As with any aid, the measure must have an incentive effect in terms of encouraging companies to increase research and development costs based on evaluation studies provided by the Member States so that the planned methodologies for *ex-post* evaluations are complemented by the design of such measures.

These forms of financing are transversal. They are among the measures for which prior notification to the Commission is not required, based on the provisions of the General block exemptions regulation [31] concerning State aid exempted from prior notification, provisions which, at least in terms of intentions, could give back "power" to the State as an economic actor. Reg. n. 651/2014 has a very broad scope: regional aid, SMEs [32], environmental protection aids, research, innovation and development promotion, employment, territorial social assistance to communities affected by natural disasters, support for local, sporting and broadband infrastructures, culture and heritage preservation.

Within the GBER disciplinary framework, the aid has an incentive effect if the following information is contained in the funding request: the beneficiary must have submitted the application for the granting of the aid before starting work on the project or activity, the rules and dimensions of the company must be entered, the project described, including the start and end dates, the location and the list of costs, the type of aid (grant, loans, guarantee or other).

As regards tax breaks, the incentive effect will occur if certain conditions are met, i.e. if the measure introduces a right to aid based on objective criteria and without the use of discretionary powers of the State (this could imply discrimination, with the consequence of a probable incompatibility decision).

In general, for a series of categories of aid, the measure must contribute to carrying out projects of common interest and produce an incentive effect which consists in contributing to the modification of a certain behaviour by the beneficiary company aimed at stimulating the development of further entrepreneurial activities which, in the absence of the aid, it would not have carried out or would have carried out in a limited way (conditions envisaged in more than one Commission Communication, such as those relating to research and innovation[33] and airport management services [33]).

The common interest and the incentive effect of the measure, therefore, constitute a determining factor for the tolerability of State aid in the European context. Indeed, it should be borne in mind that the measure is still considered to be an aid and that every "justifying" element that allows it to be considered compatible with EU law must be sought.

On the contrary, precisely in the matter of State aid, it becomes increasingly necessary to have internal legislation that prevents the State from incurring "misunderstandings" making the disciplinary framework certain and predictable.

In reality, through the use of apparently neutral criteria, the Commission ends up directing internal policies and legislative action, carrying out a real subsidiary programming activity with which, ultimately, it also establishes how States are required to apply domestic law and, as in the case of tax incentives, impairing the fiscal sovereignty of States.

The exemption from prior notification, however, does not solve the problem of any declaration of incompatibility. It is a way in which the Commission reduces its workload in relation to control. The measures exempted from the ordinary prior notification obligation are numerous (over forty) and their selection is the result of years of administrative experience of the Commission which has allowed the formation of a catalogue of aid to enterprises that potentially do not hinder competition.

Here the principle of collaboration plays a role which should lead to enhanced coordination of aid procedures. Prior internal verification, implementation of transparent procedures, the establishment of the national aid register are the main tasks of the Member State.

A subsequent check on the effects of the measure, which can also be "solicited" by third parties, is the most powerful tool available to the Commission which reserves itself a wide margin of appreciation. Anyway, the exemption from prior notification does not mean that the aid is "saved" forever. Responsible conduct must be maintained, including in the adoption of favourable measures such as aid for research, development and innovation.

However, the Commission is benevolent towards these aids, especially those granted to small and medium-sized enterprises because they can contribute to sustainable economic growth, strengthen competitiveness and promote employment [34].

Conclusions

In this essay we presented the role of tax breaks in economic development and in promotion of innovation.

Taking into account the fundamental role of the SMEs in European economy, in research and development projects, incentive activities are facilitated by simplified procedures. That's why incentives (above all tax breaks) in favour of SMEs addressed to research infrastructures are particularly favoured as a means to promote development.

For these reasons, the building of new research infrastructures becomes a basic element to give life to an overall development project of European companies in an internal and global perspective. Access to research infrastructures must follow homogeneous criteria and funding must be assigned transparently.

In order not to run into future incompatibility problems, the State (in the broad sense provided for by art. 107, §1, TFEU) must verify, for the purposes of exemption from prior notification, the maximum threshold and intensity of the aid only for the part relating to economic activity.

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TEMPORARY DEFENCE AGAINST THE CALL FOR A MEETING
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LA TUTELA CAUTELARE AVVERSO LA CONVOCAZIONE DI ASSEMBLEA

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Abstract

This paper aims to investigate the possibility of obtaining a preliminary stay of the call for a meeting of a company. According to the Italian case law, the preliminary temporary protection provided by article 700 of the Italian Civil Procedure code is not admissible; that is why the resolution passed by the meeting is the only deed which can harm the rights of the shareholders.

The methodology of the research focuses on existing law in order to investigate how it functions, which interpretative issues are hidden, and which are the interests to be protected.

The first ruling on the topic of this article is very old and it dates back to 1942, when the court held that a shareholder deprived of shares and of voting rights had access to interim measures. The subject has not been amended by the reforming Decree No. 6 of 17 January 2003 and there is still a heated debate about it. The rift has found an echo among scholars too, where the opinion of those who denied the possibility of interim measures was opposed by those who admitted it.

Lo scopo del presente lavoro è quello di valutare la possibilità di ottenere un provvedimento di sospensione cautelare della convocazione di un'assemblea. La giurisprudenza italiana ha in più occasioni affermato che è inammissibile la tutela cautelare preventiva a mezzo dello strumento previsto dall'art. 700 c.p.c., giacché la delibera assunta in assemblea è l'unico atto idoneo ad incidere sui diritti del socio.

La metodologia di ricerca si basa sulla legislazione vigente al fine di indagarne il funzionamento, le questioni interpretative ad essa sottintese e gli interessi protetti.

La prima pronuncia sul punto è datata nel tempo e risale al 1942, ove fu concessa la tutela cautelare ad un socio spogliato del possesso delle proprie azioni e privato del voto. La materia non è stata toccata dalla riforma societaria del 2003 e sul punto si registra ancora un acceso dibattito. La frattura esistente trovava eco anche in dottrina laddove a chi negava un rimedio di questo tipo si contrapponeva chi lo ammetteva.

Keywords: Meeting, call, stay, information, harm
Assemblea, convocazione, sospensione, informazione, danno

Introduction

This paper is driven by the recognition that over the years many have discussed the possibility to request a stay of the resolution of a company, but only a few have tried to establish whether shareholders can be protected even before the decision is taken.

This paper deals with the topic of the emergency stay of the call for a meeting of a company. According to Italian case law, the preliminary temporary protection provided by article 700 of the Italian Civil Procedure code is a controversial issue; that is why the resolution passed by the meeting is the only deed which can harm the rights of the shareholders.

In the previous Italian legal system the call for a meeting was deemed to be a legal act which organised the life of the company; it represented the starting point of a complex procedure made up of four different parts (the others were the meeting, the passing of a motion by the majority and the declaration of results) which ended with a resolution. The main purpose of the call itself is to allow the shareholders to take part in the meeting and to inform them about the matters which will be discussed [1].

In this view, the agenda, which contains a list of the matters to be examined, is fundamental and is set by whoever convenes the meeting. It is not possible to discuss or to adopt a resolution regarding a subject which is not included in the agenda; however, the meeting can carry on a resolution concerning matters which are linked to those in the agenda, such as the issue of shares in the event of an increase of capital. The agenda must not be too detailed nor vague [2]; on the contrary, it has to be succinct, plain, and unambiguous so that shareholders may be sufficiently informed [3]. With regard to meetings convened in order to amend the articles of association, it has been said that it is necessary to specify the provisions to be modified, so that shareholders can fully comprehend the object of the meeting [4].

Materials and methods

A juridical research project like this needs to focus on laws and rules to investigate how they function, which interpretative issues they hide, and which interests are to be protected. This work aims to discover how a decision taken by a court can prevent a company from harming the interest of its members and potentially of third parties too.

The paper will explore the possibility of an urgent stay of the call for a meeting of a company, examining the standpoints of jurisprudence and of scholars. The choice of this field is not accidental; it derives largely from the fact that the case law regarding this specific subject is far from extensive, even though it requires attention.

Furthermore, the example of Italian legislation and jurisprudence in this sector may be an interesting landmark for other European countries where different juridical solutions might have been adopted.

The originality of the methodology I propose in researching the temporary defence against the call for a meeting lies not just in a transposition of the case law, but instead in considering the interests at stake and in evaluating how they could be protected.

Findings

As will be shown it the next paragraph, it is possible to obtain the preliminary stay of the call for a meeting of a company. This may happen only if the rights of the members can be infringed by the notice of meeting. Indeed, the provision under article 2378 of the Italian civil code may not grant the shareholders adequate protection, especially from resolutions which have immediate effect. These findings, which deal both with private and public companies, take into specific consideration the right to information.

Discussion

The first ruling on the topic of this article is very old and dates back to 1942, when the court held that a shareholder deprived of shares and of voting rights had access to *interim* measures [5]. On the other hand, the subsequent case law before 2003 excluded the possibility of such measures against the call for a meeting. Those decisions held that the call itself could not harm the rights of the shareholders [6] and that *interim* measures are always subsidiary to the merits [7]; furthermore, it was said that meetings must always take place [8]. Nevertheless, according to other judgements a preliminary stay was possible where there was a clear infringement of rights [9].

The subject has not been amended by the reforming Decree No. 6 of 17 January 2003 and there is still a huge debate about it. As a matter of fact, even though the case law is still not conspicuous, the vast majority of jurisprudence has supported the negative solution to the problem, stating that only the resolution is able to affect the rights of the members [10]. According to this point of view, article 2378 of the Italian civil code is the only available remedy [11].

Nevertheless, some decisions, most of which unpublished, have admitted the possibility of temporary defence against the call for a meeting [12]. As a consequence, this solution may be adopted where the notice of meeting shows clearly that the resolution to be taken will be challengeable [13].

The rift has found an echo among scholars too, where the opinion of those who denied the possibility of *interim* measures [14] was opposed by those who admitted it, if it was clear that the resolution would have irremediably damaged the rights of the shareholders [15]. According to these authors, if there seems to be a danger before the meeting, the meeting itself is the *condicio sine qua non* for the damage to occur. Furthermore, it has been said that even though the call is just a preliminary deed, it is undoubtedly the prerequisite of a damaging event which makes the temporary defence necessary [16]. However, it was common opinion that the judge had to consider carefully the likelihood of success on the merits of the case (*fumus boni iuris*) and the threat of irreparable injury (*periculum in mora*) before adopting an *interim* measure.

Since 2003, scholars have not added very much to the point and they are still divided in two opposed groups. As a matter of fact, some admit the possibility of *interim* measures against the call for a meeting [17], while others do not [18].

A different point of view takes into consideration the possibility of obtaining *interim* measures after the resolution is passed, but before it is challenged; the problem is whether an *ante causam interim* stay of the resolution is possible or not. It must be borne in mind that the legislator has not taken a view on the point.

According to some scholars, such a remedy is not possible until the resolution is challenged [19].

Others say that even though article 2378 of the Italian civil code does not contain a denial nor an authorisation to *interim* measures, a request of stay would not allow the court to do what is necessary during the merits [20].

The problem of *interim* measures against the call for a meeting is still current and has become more important after the reforming Decree No. 6 of 17 January 2003, which now provides a separate system of rules for SRLs which is substantially different from that relating to SPAs. As a matter of fact, the Italian legislator has bestowed on private companies a pre-eminent role among the different types of business. It has been said that the role of the shareholder is enhanced especially regarding the management of the company [21]. The leading role of the member is seen to be important especially in participating in the formation of the decisions of the company, given that article 2479 of the Italian civil code states that the resolution of a general meeting is just one of the methods according to which the decisions of the shareholders may be adopted.

Referring to the call, article 2479 *bis* stipulates that the deed of incorporation determines the mode of convening the general meeting, which must be such as to provide for the timely provision of information on the matters to be dealt with. The provision enhances the right to correct information, which reflects in the meeting itself. It could be argued that this is an autonomous right to be protected before the resolution is passed.

In the absence of any rule governing the method of calling the general meeting, this is done by sending a registered letter to the members at least eight days before the meeting is to take place; however, it seems that the meeting may be convened by means of fax, email and telegram [22].

The duty to inform the members of the subjects to be discussed at the meeting is very important because it aims to protect their rights [23]; indeed, the right to information cannot be undermined by a deadline which is too short or by the form of call chosen [24].

This right is taken into consideration by article 2479 of the Italian civil code too, which governs the annulment of members' decisions. The rule contained in this provision is different from that pertaining to public companies, because the legislator takes account of decisions made in the absolute absence of information only. This invalidity has been introduced in order to enclose the written consultation and the consent expressed in writing where the protection of the right to information is fundamental [25]; however, it must be underlined that the rule is rather generic and it is not clear if it contemplates both the lack of call and the lack of minutes [26].

Having said that, a doubt arises as to whether the right to information is so important that it is possible to request an *interim* measure against the call for a meeting. As previously said, it could be argued that only the resolution may be able to harm the rights of the members; before it is passed, no temporary defence might be possible. This solution has its grounds in the fact that the provision of article 2378 of the Italian civil code may be applicable both to public and to private companies [27]. By contrast, the theory according to which such a remedy is possible claims that the call for a meeting might be harmful or it may already be possible to notice that the resolution will be.

The negative solution to the problem does not appear to be endorsed. The possibility to request an *interim* measure before the resolution is carried on is preferable because it may happen that the call for the meeting has legal consequences. It is certain that whenever the harm to the rights of the shareholders derives from the resolution, an *interim* measure cannot be requested; that is why before the resolution itself is passed there is no damage and the restraining order would be about something

which does not exist yet. By contrast, if the notice of meeting shows one or more flaws which may affect the resolution to be taken, the remedy of an *interim* measure will be possible. As a matter of fact, so relevant is the right to information, that it could not be protected by the remedy set out by article 2378 of the Italian civil code; the latter may be invoked only after a decision is passed.

Therefore, should the resolution to be taken seem to be illegal, the members have an interest in starting legal proceedings to prevent the meeting taking place. In fact, the autonomy of the right to information seems to prevail over other rights or powers. As a result, this right is of primary rank and is a prerogative enjoyed by the shareholders. The right to information is the tool which allows the members to be aware of their position in the company and to exercise their rights during the meeting.

One of the reasons some deny the possibility of a temporary defence is that it is not possible to identify the trial which should be commenced in the aftermath of the measure [28]. On this point, it has to be said that members are not allowed to challenge a resolution which has not been taken yet, nor the notice of meeting. However, it could be argued that after the *interim* proceedings, the trial on the merits may deal with the inspection of the existence of a legal situation linked to the meeting and its procedure.

Furthermore, one more reason which allows the admissibility of the stay of the call for a meeting is that the provision of article 2378 of the Italian civil code might not be sufficient under some circumstances. This may happen with a regard to the so-called *"self-executing resolutions"*, which cannot be suspended because of their immediate effectiveness. Should the possibility of an *interim* measure against the call for the meeting not be considered admissible, the rights of the shareholders would not be protected.

The above general considerations are suitable both for public and private companies. Regarding SPAs, *interim* measures against the call for the meeting are possible, in particular because the right to challenge a resolution depends on the possession of at least 5% of the shares; so, this remedy might be the only one which minority shareholders are entitled to. As for SRLs, *interim* measures can be considered admissible, because the notice of meeting can be harmful to the rights of the members. This may happen if the meeting is convened by someone who does not have the power to do it or no longer has it; in both of these situations, it is clear that the resolution to be taken will be void.

However, it must be considered that if the notice of meeting is generic, it might not be harmful to the rights of the shareholders. It would therefore not be possible to ask the court for an *interim* measure.

Conclusions

In conclusion this research aims to contribute to the existing debate, proposing a perspective which takes into consideration the right to information of the members of a company.

Starting from a recognition of the current state of things both before and after 2003, I have shown that *interim* measures against the call for a meeting of a company are admissible. Whether or not such a request is made, the court must consider carefully the likelihood of success on the merits of the case (*fumus boni iuris*) and the threat of irreparable injury (*periculum in mora*).

These findings may be applicable to other EU countries. However, each state has different laws and a different process of implementation of European legislation within national boundaries, therefore a specific case (the Italian one) is provided as an applied model in the field of companies.

What is universally applicable in EU countries is the right to information and the protection of the rights of the shareholders, especially if they do not represent the majority of the capital.

Statement

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ECO-INNOVATION AND CIRCULAR ECONOMY: A REVIEW

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ECO-INNOVAZIONE ED ECONOMIA CIRCOLARE: UNA REVIEW

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Abstract

Most production systems are mainly based on the linear economic model, unsustainable from an environmental point of view. Therefore, a transition to the circular economy is necessary as an economic model capable of paying attention to negative environmental externalities, where eco-innovation plays a crucial role in the development of concrete models.

Considering the literature in the fields of Eco-innovation (EI) and Circular economy (CE), this paper seeks to clarify findings at the intersection of these two fields.

The aim is threefold: a) examine literature-based working definitions of CE and Eco-innovation; b) review the role of EI and CE's at meso, micro and macro levels; c) characterize CE-inducing EI in terms of targets, mechanisms, and impacts.

La maggior parte dei sistemi di produzione si basa principalmente sul modello economico lineare, insostenibile da un punto di vista ambientale. Pertanto, risulta necessaria una transizione verso l'economia circolare come modello economico in grado di prestare attenzione alle esternalità ambientali negative, dove l'ecoinnovazione assume un ruolo determinante per lo sviluppo di modelli concreti.

Dopo aver analizzato la letteratura nei settori dell'Eco-innovazione (EI) e dell'Economia Circolare (CE), questo articolo cerca di individuare quali siano le sovrapposizioni tra questi due campi.

L'obiettivo è triplice: a) analizzare le definizioni di CE ed eco-innovazione; b) revisionare il ruolo di EI e CE a livello macro meso e micro; c) caratterizzare come l'eco-innovazione influenzi la CE in termini di obiettivi, meccanismi e impatti.

Keywords: Circular economy, Eco-innovation, literature review, closing loop approach, recycling.
Economia Circolare, Eco-innovazione, review, chiusura dei cicli produttivi, riciclo.

Introduction

In the last decades, the economic sector has gone more and more in the direction of reducing energy and material consumption or recycling waste, water or material for increasing the competitiveness of the firm and offset environmental pollution [1].

In recent years, Eco-innovation and Circular Economy (CE) are becoming key concepts of the new economic models that have gained more and more attention from governments, businesses, and citizens [2].

The CE is a relatively new concept, although the idea behind the CE has existed for a long time in other concepts- as '70s ecological debate, industrial ecology during '90s- and, according to the definition of Ellen MacArthur Foundation [3] it aims at "saving resources by minimizing the use of material and energy over the entire life-cycle of products, including repair, reuse, and recycling".

The idea of CE is decoupling economic activity from the consumption of finite resources maintaining as long as possible their value. In this way, it becomes possible to overcome the linear economic model, defined as "take-make-dispose", characterized by massive use of resources. The CE focuses on the design and redesign of processes to reduce the use of non-renewable resources, increasing the life of the products, in addition to maximizing the reuse of recycled products and materials [4] as figure 1 highlights.

It is evident that adoption of a CE approach represents, from a business point of view, a highly profitable choice which requires the implementation of new managerial and technological process positioning the company strategically at the forefront [5].

Figure 1: The closed-loop production system:

Broadly speaking, the decreasing of the business costs is the main aspect influencing the CE implementation, and, at the same time, both the increase of competitiveness and the improvement of the corporate image in front of the consumers [7], could be achieved. Eco-innovation in the last years is one strategic factor and driver in supporting CE approach, as it makes easier to quit the traditional "end-of-cycle practices" in favor of the closed cycle practices [8]. Eco-innovation can develop disruptive technologies that allow the recovery of valuable materials or implement new processes aimed at reducing the amount of inputs or replacing them with eco-friendly alternatives. In other words, eco-innovation is a technology change and it also covers organizational and taxonomic innovations.

This means that issues of CE and eco-innovation are linked, and in literature, the intersection of CE and eco-innovation solutions should be established.

The scientific research, in recent years, has shown interest in the issues of eco-innovation and circular economy. From a methodological point of view, through the most important worldwide research databases like Scopus, Web of Science, and Science direct, scientific publications, articles, reviews and book chapters were identified and filtered with the following keywords: eco-innovation; eco-innovation and waste; eco-innovation and energy; eco-innovation and biomass; eco-innovation and circular economy; circular economy and waste; circular economy and energy; circular economy and biomass.

It is interesting to observe that papers with the key term with "eco-innovation" only have been growing since 2008 passing from 2 up to 28 whereas since 2011 papers with the key term "circular economy" only have been growing passing from 5 up to 75. Furthermore, for both eco-innovation and circular economy, a comparison between the number of Italian and international researches was made. The assessment underlined how Italian researches are equal to international research and, however, the number of publications concerning the circular economy is significantly higher than those on eco-innovation.

In literature, as well, different studies have analyzed the concept related to eco-innovation and circular economy. The majority of the researches has outlined the relationship between eco-innovation and environmental performance, the positive impact of environmental strategy on performance [9, 10], or the influence of eco-innovation management on the firm's results [11]. Differently, few research studies have analyzed the relationship between eco-innovation and CE.

In particular, the research question of this paper is whether eco-innovations can enable the transition to circular economy model changing the dominant business models (linear economy) highlighting examples of new models for addressing CE. This paper is a review of the intersection of these two fields.

The aim is threefold: a) examine literature-based working definitions of CE and Eco-innovation; b) review the role of Eco-innovation at CE's macro, meso, and micro levels; c) characterize CE-inducing Eco-innovation in terms of targets, mechanisms, and impacts.

A systematic review in the current literature was carried out to realize the objective of the paper and to analyze the CE and eco-innovation definitions. The main research finding highlights how the two definitions are evolving within the same concept, trying at the same time to outline the results deriving from the intersection of the two fields.

Discussion

As above cited, a literature review was carried out to identify the definitions of CE and Eco-innovation in order to assess the possible role Eco-innovation at CE's at different levels.

The variety of definitions makes difficult to measure circularity even if it is possible to find some convergence by definitions which allow us to highlight some macro concepts focusing on: *reduce* (minimum use of raw materials); *reuse* (maximum reuse of products and components); *recycle* (high-quality reuse of raw material); or emphasizing three main elements: *closed cycles*, *renewable energy*, *systems thinking*. In other words, the shift towards the CE requires technological, organizational, and system innovation.

Numerous definitions of eco-innovations related to both technological and managerial innovations have been also reported. However, it is more complicated to frame the definitions into a uniform concept. It is possible to observe that thoughts like eco-innovation, sustainable innovation, and green innovation are used by different researchers to describe very similar ideas and, from another point of view, it is almost impossible to find an accurate definition of "sustainable innovation", "green innovation" or "environmental innovation" so that some confusion could have occurred.

Table 1 summarizes the main definitions of Eco innovation and relatively literature sources.

Table I: Definitions of Eco-innovation

Definition
'Eco-innovation is the process of developing new products, processes or services which provides customer and business value but significantly decrease environmental impact' [12].
"Sustainability-driven" innovation is "the creation of new market space, products, and services or processes driven by social, environmental or sustainability issues" [13].
'Sustainable innovation as a process where sustainability considerations (environmental, social, financial) are integrated into company systems from idea generation through to research and development (R&D) and commercialization. This applies to products, services, and technologies, as well as new business and organization models' [14].
'Eco-innovation is the production, assimilation or exploitation of a product, production process, service or management or business method that is novel to the organization (developing or adopting it) and which results, throughout its life cycle, in a reduction of environmental risk, pollution and other negative impacts of resources use (including energy use) compared to relevant alternatives' [15].
'Eco-innovation is the development of products (goods and services), processes, marketing methods, organizational structure, and new or improved institutional arrangements, which, intentionally or not, contribute to a reduction of environmental impact in comparison with alternative practices' [6].
'Innovations that consist of new or modified processes, practices, systems, and products which benefit the environment and so contribute to environmental sustainability [16].

Personal elaboration of the authors.

The analyzes of these definitions allows authors to categorize different types of eco-innovations interconnected with distinctive phases of the circular economy, such as:

- *eco-innovation process*: the development of new green processes (*cleaner production)* with low use of resources and a reduction of environmental impacts; it stimulates the creation of new products, which have better sustainability throughout the life cycle of the commodity;

- *eco-innovation product*: the design and development of new eco-friendly products (*eco-design*) throughout their life cycle. In this case, there could be a radical technological discontinuity of the entire life cycle of the commodity, right from the design stage of the product itself;

- *cross-cutting eco-innovation*: the identification of new technologies, such as biotechnology, whose

effects must be constantly assessed and it can create new products;

- *macro-organizational eco-innovation*: this involves organizational and productive revolutions both in the supply chain and in the consumer sector.

Finally, it is possible to classify eco-innovation based on its role within the market distinguishing eco-innovations as follows:

1) *Add-on*: usually environmental industry makes them; they refer both to commodities and services and to extraction and supply chain phases;

2) *Integrate*: it aims to create cleaner processes and products with the goal of better eco-efficiency;

3) *Alternative products*, the substitution activity of dangerous substances and materials which have a high environmental stress;

4) *Macro-organizational*: new organizational solutions making companies more eco-efficient, such as industrial symbiosis and/or urban ecology;

5) *General eco-innovations actions*, such as biotechnology and nanotechnology.

Summarizing, considering the different definitions of eco innovation, the same multidimensional features of the CE have been highlighted. The objective of eco-innovation is to integrate environmental objectives with the business practices of companies. So eco-innovation is a process by which to create new models improving green technologies, providing support for new processes and services that answer to economic and environmental challenges to climate protection and resource scarcity.

Results

We underline an evident convergence between the CE and Eco-innovation. Eco-innovations, like CE, refer to products and production processes and they include services, business, and organizational models. In this perspective, the eco-innovation emerges as a sustainability-driven innovation, to generate value through the pursuit of sustainability goals [13].

For some circular economy objectives, the best processes must be identified thanks to the implementation of strategies such as eco-design and cleaner production (Pollution Prevention, Toxic Use Reduction, and Design For Environment) to reduce risks for the environment (e.g waste streams) while increasing overall economic efficiency.

The reduction of waste streams is a strategic objective for the Eco-design, as for CE, and, through the cleaner production strategies, the use of non-renewable and toxic resources is reduced, guaranteeing high product quality and performance standards.

Eco-innovation concerns the development of products and processes and it also includes the implementation of new business models, based on new organizational forms and new marketing schemes, paying attention at micro, meso and macro level [17]. The development of eco-industrial parks and districts with industrial symbiosis networks, in which companies engage in interactions to exchange resources, represents the development of eco-innovation at the meso level, always to obtain environmental benefits [18,19].

It has been underlined that eco-districts and industrial symbiosis networks allow companies to contribute in interactions to exchange resources and wastes and to improve their environmental

performances. The achievement of this result needs the implementation of different organizational models, as companies have to analyze their production chains and material basis for exchanging wastes that become (secondary) raw materials for another plant. It emerges eco-districts have to involve business companies belonging to different industrial sectors and capable of integrating their production chains, considering that this model allows better environmental performances reducing wastes generation and new primary resource withdrawal. Eco-innovations could stimulate production process integrations through technological changes making easier the wastes' process as secondary raw materials.

Consequently, an important question arises: has the Eco-innovation a role in influencing the CE model at meso, micro and macro level? Does eco-innovation a role in leading a systemic change to CE model at meso and macro level?

Below are reported some projects of eco-innovations with a strong correlation with the concept of CE.

Table II: Example of eco-innovations

Project	Description	Typology
EMO-FRITE	It is a Slovenian project operating in the material recycling sector that aims to recover the lime, normally lost during the ceramic processing phases. The project consists of a filtering and separation machine which allows recovering 75% of the material that would normally be lost, thus becoming a new raw material.	Micro-level Eco-innovation process
NUMIX	It is an Italian project that experiments with the use of recycled plastic in construction, where once worked it could make up the mortar or replace the clay in the concrete.	Meso-level Product Eco-innovation
FICOB	Carlsberg business company carried out a project aimed at recovering and purifying the CO_2 produced during the fermentation phase of beer. This innovation saves the company 4 million liters of water per year in a medium-sized system with a 15% reduction in costs.	Meso/Macro-level Eco-innovation process

PALM SPA	It is a Mantuan company that produces pallets with low environmental impact thanks to the use of raw materials from controlled forests and strong research on materials, involving all the phases of its production chain.	Micro-level Product Eco-innovation
NOVAMONT	It is a company from Novara that has patented a shopping bag in Mater-Bi, a type of biodegradable and compostable plastic.	Micro-level Product Eco-innovation
ENEA - Eco-innovation project in Sicily	This project analyzed the RAEE waste setting up a pilot plant for recovering raw materials with idro-metallurgic technology. This innovative technology allows the recovery of metals with higher degree purity with low cost and almost zero-emission into the atmosphere. Thanks to this technique were filed a patent as well (No. RM2013A000549, 2013)	Macro-level Macro-organizational Eco-innovation
ULSAB (Ultra-Light Steel Auto Body)	The ULSAB (Ultra-Light Steel Auto Body) initiative aims to develop stronger and lighter steel bodies. By optimizing the bodywork with AHSS (high-strength advanced steel) at low additional costs compared to conventional steel, the overall weight savings could reach almost 9% of the total weight of a typical five-passenger family car. For each 10% reduction in vehicle weight, fuel consumption is estimated to have improved by 1.9-8.2%. This initiative, therefore, combines economic and environmental benefits.	Meso-level Eco-innovation process
Econo-Pilot	Yokogawa Electric, a Japanese manufacturer, that has created a simple, economic and low-risk control mechanism to eliminate the waste of energy resulting from the use of domestic air conditioners. The resulting product, Econo-Pilot, controls the air conditioning pumping pressure reducing consumption by up to 90%. This new technology can be easily and economically installed excluding the need to purchase new cooling equipment.	Micro-level Product Eco-innovation

Source: [20,21]

From these examples it emerges that the contribution of eco-innovation is in line with the main goal of CE and it is becoming essential to strengthen and sustain the competitiveness of industries. At any level, eco-innovation acts as an engine for the transition to new economic models in order to close cycles, to improve resource efficiency and to protect natural environment as source of ecosystem services. The benefits deriving from the introduction of eco-innovation, because of a circular economy, are manifold: reduction of the pressure on the environment, sustainable and programmable supply of resources, increasing competitiveness and innovation, and creating new jobs [22].

The influence of eco-innovation within CE applied is mainly attributable to two different fields:

1) closure of production cycles, based on the concept of waste prevention, replacement with renewable and/or non-renewable resources eco-friendlier, reuse of products with a consequent increase in the life of products. This field includes product and process eco-innovations. Regarding the first, it has a fundamental role in the eco-design, that is to imagine already in the design phase the fate of the products during the end of life phase. In support of this, it is significant to design in such a way as to facilitate the disassembly of the product, facilitating the replacement or repair of the products. Product eco-innovations also include sustainability assessment tools, eco labeling, and other systems and eco-innovations include evaluation, design, and implementation of management methodologies, where methodologies for impact assessment such as LCA, or similar, can be applied.
2) Creation of a new business model with a holistic approach towards the way of doing business. From the eco-innovation perspective, a business must have embedded ecological and social value to change both producer and consumer practices taking into account the extension of the shelf-life of the product. Considering one of the main ambitions of the circular economy is to reconcile productivity and the inclusion of externalities arising from production and consumption processes a company, it is urgent to organize differently its managerial process addressing these four categories: cost reduction, product differentiation, specific market and social acceptability to the stakeholders [23].

Conclusions

Eco innovation is a technological change aimed at implementing eco-friendly innovations and it has the potential to enable the transition to circular economy model changing dominant business models (as stimulating the design of new products and services capable of reducing environmental burden sand new supply chains for more efficient materials recovering), converting the way citizens interact with products and services (for instance: repairing, reducing, remanufacturing instead of a massive disposal pattern). The eco-innovations imply more energy and material-efficient system with an extended life, reusable and easily repairable due to improved design and it has also top-down approach that allows achieving global sustainable development, the construction of ecological civilization and the harmonious coexistence between man and nature. In conclusion, eco-innovations share the same goal of the circular economy model, which is 'decouple' growth from resource use, thereby protecting the environment, reducing pollution, reducing business costs, and developing our economies [24]. Nevertheless, Circular economy idea gives a powerful contribution to the comprehension of the needs to change economic system model towards, as already mentioned, the congruent cohabitation between man and nature because it discusses the basic summary description of economic system which has to be organized according to a *circular approach* and "to dispose of" the linear approach *take-make-dispose*. This is the significant challenge to be accomplished shortly at all level (micro-meso-macro). Furthermore, research studies have to be intensely oriented towards the industry 4.0 application. Industry 4.0 is a production and managerial model characterized by the connection between physical and digital systems through the integration of tools related to the Internet of Things (IoT), Big Data, data analytics, and cyber-physical systems (CPS). Through these

new production dynamics, a great push should be given to the use of innovations in ecological terms that will allow companies to be more competitive and technologically disruptive [25]. Therefore, the examination of informatics protocol and the digitization/implementation of intelligent technologies shortly will represent another important factor that can stimulate the integration between eco-innovation in the circular economy transition [26].

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Figure 1:

Source [6]

SYSTEMATIC RISK ASSESSMENT IN NON-LISTED BANKS

~

VALUTAZIONE DEL RISCHIO SISTEMATICO NELLE BANCHE NON QUOTATE
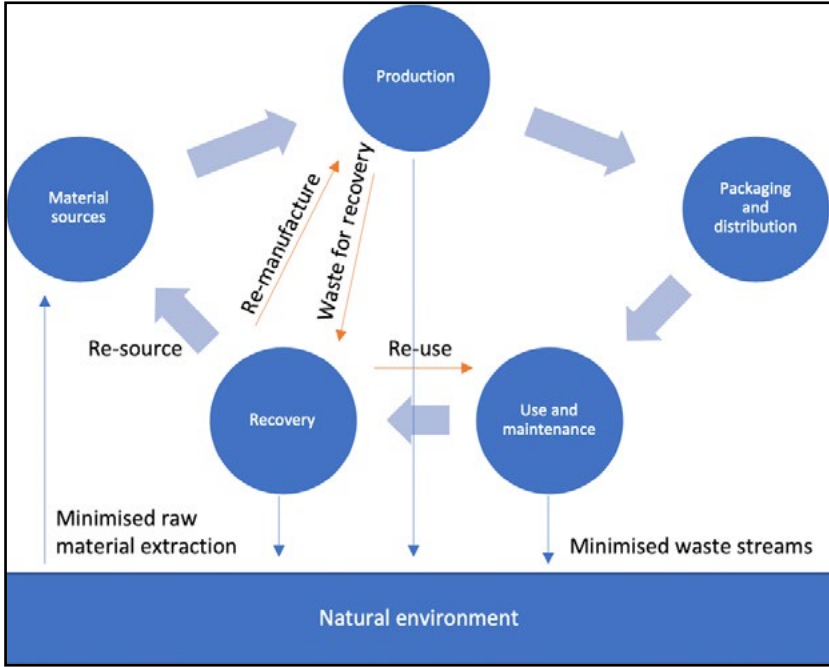
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Abstract

The problem to be addressed in this work aims at determining a risk factor indispensable for evaluating the profitability elements of an investment; factor that is not always easily quantifiable. A very significant implication is found, in fact, in the quantification of the cost of the risk capital invested in an unlisted bank; therefore, in this work we want to deal with the rather singular case of cooperative credit banks. The Capital Asset Pricing Model (CAPM) allows us to determine the expected return of a given investment. But the main problem in the application of this model is given by the quantification of one of the factors that compose it, or the Beta, representative of the systematic risk of the activity in question. Therefore, it was decided to start from the annual returns of a sample of cooperative credit banks, in order to identify this Beta coefficient. This coefficient is a measure of a significant risk level not only for the expected return, but also for the evaluation of additional parallel and substitute elements of the latter. Banks that operate in a specific geographical area and whose annual returns are related to a specific time interval. Following two different methodologies, or rather using the Objective Beta and the Regression Beta, two dissimilar coefficients have been determined. The comparison of which, in addition to providing interesting observations, allows to suggest the most suitable path in the assessment of the systematic risk of an unlisted bank, with the consequent quantification of the relative expected return.

Il problema che si vuole affrontare in tale lavoro mira alla determinazione di un fattore di rischio indispensabile alla valutazione di elementi di redditività di un investimento; fattore non sempre facilmente quantificabile. Un'implicazione molto significativa la si riscontra, appunto, nella quantificazione del costo del capitale di rischio investito in una banca non quotata; pertanto, in questo lavoro si desidera affrontare il caso abbastanza singolare delle banche di credito cooperativo. Il modello del Capital Asset Pricing Model (CAPM) consente di pervenire alla determinazione del rendimento atteso di un dato investimento; ma il problema principale nell'applicazione di tale modello è dato dalla quantificazione di uno dei fattori che lo compongono, ovvero del Beta, rappresentativo del rischio sistematico dell'attività in questione. Pertanto, al fine di individuare tale coefficiente Beta, misura di un livello di rischio significativo non solo per il rendimento atteso, ma anche per la valutazione di ulteriori elementi paralleli e sostitutivi di quest'ultimo; si è pensato di partire dai rendimenti annuali di un campione di banche di credito cooperativo. Banche operanti in una determinata area geografica e delle quali i rendimenti annuali sono relativi ad un determinato intervallo temporale. Seguendo due metodologie differenti, ovvero servendosi del Beta Oggettivo e del Regression Beta si sono determinati due diversi coefficienti, il cui confronto, oltre a fornire interessanti osservazioni, consente di poter suggerire il percorso più idoneo nella valutazione del rischio sistematico di una banca non quotata, con la conseguente quantificazione del relativo rendimento atteso.

Keywords: Systematic risk; Beta evaluation; Risk capital; Unlisted banks; Expected returns.
Rischio sistematico, Valutazione del beta, Capitale di rischio, Banche non quotate, Rendimenti attesi

Introduction

As for all companies not listed on the stock exchange, or at least for all those activities for which it is not possible to trace in a certain way a historical series of elements, as in the specific case of returns, it becomes complicated to be able to make forecasts and therefore it becomes difficult to establish any future risks and/or returns. Even more so if the study is addressed to the Cooperative Credit Banks, with difficulties in comparing the estimate of the level of risk in choosing this company, rather than accepting a riskless return deriving from Government bonds [01].

If we add to this the mutual and territorial purpose of this type of credit institution, the estimate of the cost of own equity plays an important role in the finance of this company, as it is made available to lenders through the provision of services and benefits, which, when properly quantified, should fully satisfy the unsuccessful expected return on capitals employed [02], [03].

In literature there are several studies and therefore different methodologies; one of the models structured on an analytical-quantitative logic is the *Capital Asset Pricing Model* [04]. This model was developed in 1960s end used in Europe only in the mid 80's, and is based on the risk-return principle, with the risk intended as the dispersion of the effective returns compared to the expected returns, and among the main basic elements are the determination of the risk of the security in relation to the systematic risk it produces in the portfolio, and therefore the Beta evaluation used to reach the expected return in relation to this risk [05].

Some preliminary observations

If we start by observing the Capital Market Line (*CML*) [06] which expresses the relationship between risk and expected return of the market portfolios, or compares each level of risk-return with the market portfolio, as the only efficient portfolio, we immediately realize that in the case of a portfolio consisting of *n* securities, with r_i the yield of the *i-th* security, the portfolio's yield results:

$$r_{ptf} = \sum_{i=1}^{n} x_i r_i \tag{1}$$

The assessment of the volatility of this portfolio is less simple, as it does not appear as a weighted average of the individual volatilities, but also considers the covariance between the securities and the market [07]:

$$Cov(r_i, r_m) = \frac{\sum_{i,t=0\,m,t=0}^{n}\sum^{n} (r_{i,t} - \bar{r}_{i,t})(r_{m,t} - \bar{r}_{m,t})}{n-1}$$

or even better than the correlation between the returns of the security and those of the reference market r_m :

$$Corr(r_i, r_m) = \frac{Cov(r_i, r_m)}{\sigma_i \sigma_m} \in [-1,1]$$

very useful coefficient for its limited set of values and for a further relationship with the Beta expression of systematic risk [08].
If you observe that the Beta of the *i-th* activity is:

$$\beta_i = \frac{Cov(r_i, r_m)}{\sigma_i \sigma_i} = Corr(r_i, r_m)\frac{\sigma_m}{\sigma_i}, \text{ or } Corr(r_i, r_m) = \beta_i \frac{\sqrt{\sum_{t=1}^{n}(r_{i,t} - \bar{r}_i)^2}}{\sqrt{\sum_{t=1}^{n}(r_{m,t} - \bar{r}_m)^2}}$$

and being

$$Corr(r_i, r_m) = \frac{n\sum_{t=1}^{n} r_{i,t} r_{m,t} - \sum_{t=1}^{n} r_{i,t} \sum_{t=1}^{n} r_{m,t}}{\sqrt{n\sum_{t=1}^{n}(r_{i,t})^2 - \left(\sum_{t=1}^{n} r_{i,t}\right)^2} \sqrt{n\sum_{t=1}^{n}(r_{m,t})^2 - \left(\sum_{t=1}^{n} r_{m,t}\right)^2}}$$

we obtain the following very interesting report for any subsequent evaluations and comparisons:

$$\beta_i = \frac{n\sum_{t=1}^{n} r_{i,t} r_{m,t} - \sum_{t=1}^{n} r_{i,t} \sum_{t=1}^{n} r_{m,t}}{\sqrt{n\sum_{t=1}^{n}(r_{i,t})^2 - \left(\sum_{t=1}^{n} r_{i,t}\right)^2} \sqrt{n\sum_{t=1}^{n}(r_{m,t})^2 - \left(\sum_{t=1}^{n} r_{m,t}\right)^2}} \frac{\sqrt{\sum_{t=1}^{n}(r_{m,t} - \bar{r}_m)^2}}{\sqrt{\sum_{t=1}^{n}(r_{i,t} - \bar{r}_i)^2}} \quad (2)$$

If we consider that the variance of a portfolio is [09]:

$\sigma_{ptf}^2 = Cov(r_{ptf}, r_{ptf})$, and in the case of only two securities, we got:

$$\sigma_{ptf}^2 = Cov(x_1 r_1 + x_2 r_2, x_1 r_1 + x_2 r_2)$$

or

$$\sigma_{ptf}^2 = x_1 x_1 Cov(r_1, r_1) + x_1 x_2 Cov(r_1, r_2) + x_2 x_1 Cov(r_2, r_1) + x_2 x_2 Cov(r_2, r_2)$$

then

$$\sigma_{ptf}^2 = x_1^2 \sigma_1^2 + x_2^2 \sigma_2^2 + 2 x_1 x_2 Cov(r_1, r_2)$$

In a portfolio made up of only two securities, one of which is risk-free, the portfolio's return is:

$$r_{ptf} = x r_f + (1-x) r_i \quad (3)$$

with x the risk-free activity within the portfolio, r_i the expected average return on the risky business, and r_f the return on the risk-free securities. The volatility of this portfolio will instead be:

$$\sigma_{ptf} = (1-x) \cdot \sigma_i \quad (4)$$

as the volatility of the risk-free component is precisely zero [10].

If we now consider a portfolio consisting of two sets, one of risky activities and the other of risk-free activities, we can represent the set of combinations of portfolios obtainable from the composition of risky activities with the risk-free one. If we observe the two extreme cases, the first of only risk-free activities and the second of risky activities only, on a standard deviations-returns plan we will have respectively the following two points $A = (0, r_f)$ and $B = (\sigma_i, r_i)$, so all possible combinations of the portfolio will be found along the straight line passing through these points, straight line that satisfies the following equation:

$$\frac{r_i - r_f}{y - r_f} = \frac{\sigma_i - 0}{x - 0} \Leftrightarrow \frac{r_i - r_f}{\sigma_i} = \frac{y - r_f}{x},$$

and with $\frac{r_i - r_f}{\sigma_i}$ which represents the angular coefficient of the straight line, measure of compensation per unit of risk, while r_f represents the intercept with the ordinates, for which the straight line is identified by the following function, with independent variable, the risk expressed through portfolio volatility [11]

$$r_{ptf} = r_f + \frac{r_i - r_f}{\sigma_i} \sigma_{ptf},$$

from which the Capital Market Line (*CML*):

$$r_{ptf} = r_f + \frac{r_m - r_f}{\sigma_m} \sigma_{ptf}$$

which considers the risk and expected return of the market, since efficient portfolios are made up of market portfolios [12].

If we now observe a portfolio divided into quantities of the *i-th* security, and $(1-\alpha)$ quantities in the market, the yield of this portfolio will be an expression of the function

$$f(\alpha) = \alpha r_i + (1-\alpha) r_m$$

while the risk in terms of standard deviation will be given by the function

$$g(\alpha) = \left[\alpha^2 \sigma_i^2 + 2\alpha(1-\alpha)\sigma_{i,m} + (1-\alpha)^2 \sigma_m^2\right]^{\frac{1}{2}}$$

from which the derivatives of the respective functions result

$$f'(\alpha) = r_i - r_m \text{ e } g'(\alpha) = \frac{\alpha \sigma_i^2 + (1-2\alpha)\sigma_{i,m} + (\alpha-1)\sigma_m^2}{\sigma_m}$$

for $\alpha = 0$ the curve of this portfolio is tangent to the curve of the *CML* at the point corresponding to the market portfolio and cannot exceed the *CML*, and if we take into account that the slope of the curve is equal to

$$\frac{f'(0)}{g'(0)} = \left(\frac{\sigma_{i,m} - \sigma_m^2}{\sigma_m}\right)^{-1}(r_i - r_m) = \frac{(r_i - r_m)}{\sigma_{i,m} - \sigma_m^2}\sigma_m$$

at the point of tangency of the market portfolio, the curve drawn has the same slope as the *CML*, therefore

$$\frac{(r_i - r_m)}{\sigma_{i,m} - \sigma_m^2}\sigma_m = \frac{r_m - r_f}{\sigma_m} \Leftrightarrow r_i - r_m = \frac{r_m - r_f}{\sigma_m^2}(\sigma_{i,m} - \sigma_m^2) \Leftrightarrow r_i - r_m = (r_m - r_f)\left(\frac{\sigma_{i,m}}{\sigma_m^2} - 1\right)$$

for which, solving the expected return of the *i-th* security and remembering what the Beta corresponds to, we have [13]:

$$\mu_i = r_f + (r_m - r_f)\beta_i \quad (5)$$

or the equation of *CAPM*.

- Finally, we observe that the model is based on fairly restrictive hypotheses, such as:
- investors are risk averse and maximize their expected utility;
- the mean-variance criterion is adopted in the selection of portfolios;
- it is decided based on uni-periodic horizons;
- investments or indebtedness at the same risk-free rate are possible;
- expectations in terms of expected returns, variances and covariance's are homogeneous for each investor;
- transaction costs and tax liens are not considered.

Evaluation analysis

First part

As mentioned, a sample of banks was examined which in this initial phase of the observation was limited within a Region, and for a form of protection for them, since the results have not yet been tested and could provide unreliable indications, it is preferred to keep the observed sample anonymous, therefore given that the findings on which the analysis was carried out refer to the annual unit yields, the sample under examination is denoted $r_i, \forall i \in \{1,2,...,n\}$ Specifically, it is a sample of 9 CCBs observed over a 13-year interval, from 2006 to 2018, in order to be able to evaluate the Beta of each of them, a measure of certain risk. In an initial evaluation of this indicator, objective correlation was used, that is (2); in order to be able to compare it with the beta obtained using the Regression Beta. Therefore, for the purposes of the examination, the variables considered are:

- the annual return of the r_{nq} *i-th* unlisted bank, as dependent variable;

- the return r_m on the market portfolio, as an independent variable.

The performance of the *i-th* Bank was assessed as the ratio between the profit U_t, achieved in year t on equity, CR_t, since there are no dividends and for now not considering the relative advantages that the shareholders receive in other forms, as they are difficult to quantify:

$$r_{nq} = \frac{U_t}{CR_t} \qquad (06)$$

the time interval examined remains 13 years, from 2006 to 2018.

Using the two methods mentioned, objective, through the (02); and regression, through the least squares method, the Beta Levered of the individual banks were determined [14], which were respectively denoted: $\beta.O.L1$ and $\beta.R.L1$.

Since this beta is estimated, we have corrected this value according to a correction criterion also applied by various financial companies (Merrill Lynch), such as:

$$\beta_{L,2} = \beta_{L,1}\lambda + \kappa \qquad (07)$$

with $\lambda = 0.677$ and $\kappa = 0.343$. Criterion also followed in subsequent working hypotheses.

Therefore, two additional betas were obtained, or $\beta.O.L2$ and $\beta.R.L2$.

Before using the four beta obtained, a further check was carried out. A property of the regression line $y = \beta x + \alpha$ makes it possible to affirm that it passes through the midpoints, of the average yield coordinates of the individual listed banks $\bar{r}_b$ and the average yield of the portfolio $\bar{r}_m$, therefore:

$$\bar{r}_{bq} = \beta_L \bar{r}_m + \alpha_t$$

so, it is possible to deduce the theoretical Alpha coefficient

$$\alpha_t = \bar{r}_{bq} - \beta_L \bar{r}_m$$

and consequently, the theoretical returns of each individual bank $r_{t,b}$, compared to the market return r_m

$$r_{t,b} = \beta_L r_m + \alpha_t \qquad (08)$$

If the calculated Beta perfectly measures the bank's systematic risk respect to the market, Alfa should be zero. An Alfa other than zero could be due to random and unsystematic errors, therefore the T Student test was used to verify the following hypotheses for Beta and Alfa respectively:

$$H_1 : \beta_L = 0 \text{ e } H_2 : \beta_L \neq 0 \text{ ed } H_1 : \alpha = 0 \text{ e } H_2 : \alpha \neq 0$$

The procedure followed will be considered valid if the T test shows that $\beta_L \neq 0$ and $\alpha = 0$

The value of T, respectively for Beta and for Alfa, is thus obtained:

$$T_\beta = \beta/err.std\beta \text{ e } T_\alpha = \alpha/err.std\alpha \qquad (09)$$

For the determination of the standard error it is necessary to calculate the theoretical returns $r_{t,b}$ of the individual banks for the entire time interval taken into consideration, for the purpose of evaluating the sum of the squares of the residuals SS_E, and then calculate the variance with respect to the logarithmic returns, or, the variance σ_E^2 of model errors:

$$\sigma_E^2 = SS_E/n - 2$$

and finally the sum of the squares of the market yield differences, with respect to its average value S_{xx}, so taking into account that the market variance σ_M^2, it results:

$$\sigma_M^2 = S_{xx}/n - 1 \Leftrightarrow S_{xx} = \sigma_M^2(n-1)$$

We can therefore determine the standard error of Beta and Alfa, which are:

$$ErrStd\beta = \sqrt{\frac{\sigma_E^2}{S_{xx}}} \text{ e } ErrStd\alpha = \sqrt{\frac{S_{xx} + n\bar{r}_M^2}{nS_{xx}}}$$

through the (09) is it possible to calculate T_β and T_α, and consequently be able to compare them with the theoretical values of the table of T Student, which for a probability level of 5%, is equal to 1,645, so if T_β is higher than this value, the probability that the Beta calculated is non-zero for random errors, it is only 5%, so we can accept the hypothesis of the non-zero Beta. Similar reasoning is made for T_α, which if it assumes values lower than the level of 1.645, means that the probability that Alfa is equal to zero not due to random errors, is 95%, so we can accept Alfa's hypothesis equal to zero, in line with the *CAPM* hypothesis that links the return of the asset to the market return, by the Beta coefficient only. These comparisons were also made with the T Student for a 10% probability level, which is equal to 1,282.

Table 01 - Comparisons of objective beta in the Test results

Test T Student	β≠0 ; α=0 con B.O.L1			Test T Student	β≠0 ; α=0 con B.O.L1		
Bcc	B.O.L1	T (β)	T (α)	5%	Bcc	B.O.L1	T (β)	T (α)	10%
r.1	0.641151	2.383849	1.189398	1.645	r.1	0.641151	2.383849	1.189398	1.282
r.2	0.480927	1.015611	0.892167	1.645	r.2	0.480927	1.015611	0.892167	1.282
r.3	0.560107	1.709945	1.039052	1.645	r.3	0.560107	1.709945	1.039052	1.282
r.4	0.257712	0.262008	0.478081	1.645	r.4	0.257712	0.262008	0.478081	1.282
r.5	0.106237	0.226861	0.197079	1.645	r.5	0.106237	0.226861	0.197079	1.282
r.6	1.381384	4.553426	2.5626	1.645	r.6	1.381384	4.553426	2.5626	1.282
r.7	1.024802	5.134618	1.901107	1.645	r.7	1.024802	5.134618	1.901107	1.282
r.8	0.073907	0.208558	0.137105	1.645	r.8	0.073907	0.208558	0.137105	1.282
r.9	0.873923	6.046908	1.621211	1.645	r.9	0.873923	6.046908	1.621211	1.282

Test T Student	β≠0 ; α=0 con B.O.L2			Test T Student	β≠0 ; α=0 con B.O.L2		
Bcc	B.O.L2	T (β)	T (α)	5%	Bcc	B.O.L2	T (β)	T (α)	10%
r.1	0.77706	3.098625	1.44152	1.645	r.1	0.77706	3.098625	1.44152	1.282
r.2	0.668588	1.579018	1.240295	1.645	r.2	0.668588	1.579018	1.240295	1.282
r.3	0.722192	2.379907	1.339736	1.645	r.3	0.722192	2.379907	1.339736	1.282
r.4	0.517471	0.564757	0.959959	1.645	r.4	0.517471	0.564757	0.959959	1.282
r.5	0.414922	0.883672	0.769721	1.645	r.5	0.414922	0.883672	0.769721	1.282
r.6	1.278197	4.690099	2.371178	1.645	r.6	1.278197	4.690099	2.371178	1.282
r.7	1.036791	5.129703	1.923348	1.645	r.7	1.036791	5.129703	1.923348	1.282
r.8	0.393035	1.072217	0.729118	1.645	r.8	0.393035	1.072217	0.729118	1.282
r.9	0.934646	6.509805	1.733858	1.645	r.9	0.934646	6.509805	1.733858	1.282

As can be seen, the best results are provided by the objective beta *B.O.L.1*, for the variable T-alpha, in the section of the 5% difference; while a slight improvement of the T-beta variable is found in the objective beta *B.O.L.2*, but in the section with the 10% difference; therefore it follows that the objective beta that responds best to the test is *B.O.L.1*.

Table 02 - Comparisons of beta regressions in the Test results

Test T Student	β≠0 ; α=0 con B.R.L1				Test T Student	β≠0 ; α=0 con B.R.L1			
Bcc	B.R.L1	T(β)	T(α)	5%	Bcc	B.R.L1	T(β)	T(α)	10%
r.1	1.040754	4.416808	1.9307	1.645	r.1	1.040754	4.416808	1.9307	1.282
r.2	1.723345	6.863299	3.196972	1.645	r.2	1.723345	6.863299	3.196972	1.282
r.3	1.098567	3.936989	2.037948	1.645	r.3	1.098567	3.936989	2.037948	1.282
r.4	2.777369	4.914649	5.152287	1.645	r.4	2.777369	4.914649	5.152287	1.282
r.5	0.22892	0.490984	0.424668	1.645	r.5	0.22892	0.490984	0.424668	1.282
r.6	0.498327	4.602799	0.924444	1.645	r.6	0.498327	4.602799	0.924444	1.282
r.7	0.617067	4.059321	1.144718	1.645	r.7	0.617067	4.059321	1.144718	1.282
r.8	0.090217	0.254647	0.16736	1.645	r.8	0.090217	0.254647	0.16736	1.282
r.9	0.929616	6.475798	1.724528	1.645	r.9	0.929616	6.475798	1.724528	1.282
Test T Student	β≠0 ; α=0 con B.R.L2				Test T Student	β≠0 ; α=0 con B.R.L2			
Bcc	B.R.L2	T(β)	T(α)	5%	Bcc	B.R.L2	T(β)	T(α)	10%
r.1	1.047591	4.445757	1.943382	1.645	r.1	1.047591	4.445757	1.943382	1.282
r.2	1.509705	5.794286	2.800648	1.645	r.2	1.509705	5.794286	2.800648	1.282
r.3	1.08673	3.894615	2.015989	1.645	r.3	1.08673	3.894615	2.015989	1.282
r.4	2.223279	3.766027	4.124396	1.645	r.4	2.223279	3.766027	4.124396	1.282
r.5	0.497979	1.051763	0.923798	1.645	r.5	0.497979	1.051763	0.923798	1.282
r.6	0.680367	5.556331	1.262147	1.645	r.6	0.680367	5.556331	1.262147	1.282
r.7	0.760754	3.766027	4.124396	1.645	r.7	0.760754	3.766027	4.124396	1.282
r.8	0.404077	1.051763	0.923798	1.645	r.8	0.404077	1.051763	0.923798	1.282
r.9	0.97235	5.556331	1.621211	1.262147	r.9	0.97235	5.556331	1.621211	1.282

In this second Beta evaluation, there is a strong improvement relative to the T-beta variable, in all four cases observed of the beta regression for both *B.R.L1* and *B.R.L2*, while the T-alpha variable worsens, in all and four comparisons. Of course, we will compare this first observation with subsequent evaluations to determine a good robustness in the risk assessment.

Second Part

A second part of this analysis involves the application of the *CAPM* equation to determine the expected return, using the four Beta previously determined, in order to be able to carry out further checks and comparisons, in order to identify the most functional and robust model for identifying the indicator of that systematic risk index, and consequently being able to use it for the purpose of measuring the riskiness of the company in question, and not only. Therefore, in order to proceed, it is necessary to identify the performance of the reference market and in the specific case, it was decided to use the average yield of the CCBs examined, which turns out to be 0.04401.

While a little more complicated is the evaluation of the risk-free return [15]. For the determination of this parameter, government securities with a life to maturity that cover the entire period of time being analysed are considered and in order not to be tied to a single type, or 3, 5, 7 and 10 year [16], BTP, they have been included also government bonds with lives falling due within this range, such as 6 and 12 month [17]. BOTs. Of each of these, in order not to dwell on a single issue, the average of the returns of the 12 issues made in 2018 was considered, obtaining the following structure of spot rates, on an annual schedule, with $t = 0$

$$i(t, t_k) = \{0.00360, 0.00478, 0.0081, 0.0155, 0.0192, 0.0297\} \Big/ \left\{ \frac{1}{2}, 1, 3, 5, 7, 10 \right\}$$

so, in a perfect market and in the absence of arbitrage, using the implicit price theorem, expressed in terms of rates, we have

$$\frac{[1 + i(t, t_k)]^{t_k - t}}{[1 + i(t, t_{k-1})]^{t_{k-1} - t}} = [1 + i(t, t_{k-1}, t_k)]^{t_k - t_{k-1}}$$

or

$$i(t, t_{k-1}, t_k) = \left(\frac{[1 + i(t, t_k)]^{t_k - t}}{[1 + i(t, t_{k-1})]^{t_{k-1} - t}} \right)^{\frac{1}{t_k - t_{k-1}}} - 1$$

which leads to the following structure of forward rates:

$$i(t, t_{k-1}, t_k) = \{0.00360, 0.00598, 0.00976, 0.02670, 0.02850, 0.05462\} \Big/ \left\{ \frac{1}{2}, 1, 3, 5, 7, 10 \right\}$$

and still taking into account that we are interested in an annual return covering ten years, therefore the spot yield of a fairly representative market, so the risk-free rate is:

$$i(t, t_k) = \left(\prod_{j=1}^{k} [1 + i(t, t_{j-1}, t_j)]^{t_j - t_{j-1}} \right)^{\frac{1}{t_k - t}} - 1$$

thus

$$\Leftrightarrow i(t, t_{10}) = \left(\prod_{j=1}^{t_{10}} [1 + i(t, t_{j-1}, t_j)]^{t_j - t_{j-1}} \right)^{\frac{1}{t_{10} - t}} - 1 = 0.002969$$

Therefore, through the (5) we arrived at the determination of the expected returns of the individual companies considered relating to the four Beta previously determined [18].
The following tables show the expected returns relating to the first two objective betas and those relating to the two betas obtained through the regression, in comparison with the average returns of each of the companies examined, in order to better compare the results, and from which there is a good alignment in the right part of the table.

Table 03 - Expected returns in the four cases of the Beta obtained

| Bcc	B.O.L1	B.O.L2	E(rB.O.L1)	E(rB.O.L2)	rend.medi	Bcc	B.R.L1	B.R.L2	E(rB.R.L1)	E(rB.R.L2)	rend.md
r.1	0.641151	0.77706	0.029216	0.034818	0.053488	r.1	1.040754	1.047591	0.045686	0.045968	0.053488
r.2	0.480927	0.668588	0.022612	0.030347	0.082328	r.2	1.723345	1.509705	0.07382	0.065015	0.082328
r.3	0.560107	0.722192	0.025876	0.032556	0.025987	r.3	1.098567	1.08673	0.048069	0.047581	0.025987
r.4	0.257712	0.517471	0.013412	0.024118	0.040861	r.4	2.777369	2.223279	0.117264	0.094426	0.040861
r.5	0.106237	0.414922	0.007169	0.019892	0.054741	r.5	0.22892	0.497979	0.012225	0.023315	0.054741
r.6	1.381384	1.278197	0.059726	0.055473	0.037588	r.6	0.498327	0.680367	0.023329	0.030832	0.037588
r.7	1.024802	1.036791	0.045029	0.045523	0.049962	r.7	0.617067	0.760754	0.028223	0.034146	0.049962
r.8	0.073907	0.393035	0.005836	0.01899	0.040713	r.8	0.090217	0.404077	0.006508	0.019445	0.040713
r.9	0.873923	0.934646	0.03881	0.041313	0.028503	r.9	0.929616	0.97235	0.041106	0.042867	0.028503

Reading is more immediate in the graphs below. Although some objective beta allow expected returns perfectly corresponding to the average ones, the third and seventh values are observed in the first graph, with small deviations in the sixth and ninth; the better the correspondence that is read in the right part of the graph with slight deviations in the third and seventh, therefore for

those units for which it provided a better result, the objective Beta differs from the result provided by the Beta regression.
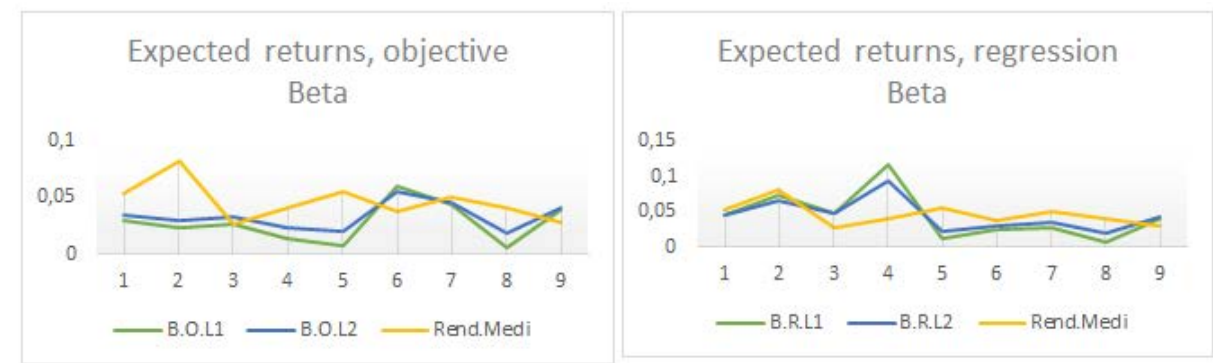
Graph 01 - Expected returns and average returns

The following graph shows the overall comparison of the four expected returns with the average one, which shows the perfect correspondence of the yield obtained from the first objective beta with the third bank unit, and an almost perfect correspondence with the sixth unit, which is not found in other cases. Furthermore, there is a good alignment of the results of the two objective beta, both with each other and with the average return line, what does not happen with the two regression betas.
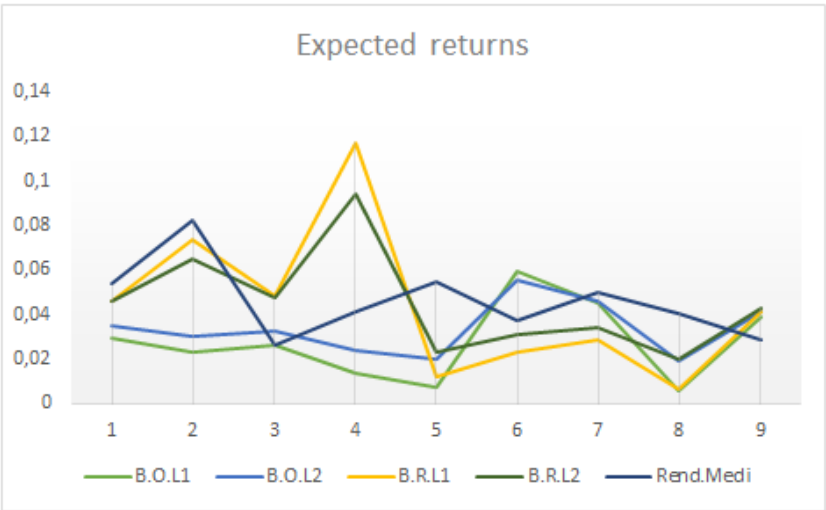
Graph 02 - The four expected returns and the average return

Finally, to complete this first observation, the following table of the four expected returns is reported for the individual units observed for which the relative variance has been calculated with respect to the average of the returns, or with respect to what was considered the market yield [19].

Table 04 - Variances of the four expected returns

Bcc	E(rB.O.L1)	E(rB.O.L2)	E(rB.R.L1)	E(rB.R.L2)	rend.md
r.1	0.029216	0.034818	0.045686	0.045968	0.053488
r.2	0.022612	0.030347	0.07382	0.065015	0.082328
r.3	0.025876	0.032556	0.048069	0.047581	0.025987
r.4	0.013412	0.024118	0.117264	0.094426	0.040861
r.5	0.007169	0.019892	0.012225	0.023315	0.054741
r.6	0.059726	0.055473	0.023329	0.030832	0.037588
r.7	0.045029	0.045523	0.028223	0.034146	0.049962
r.8	0.005836	0.01899	0.006508	0.019445	0.040713
r.9	0.03881	0.041313	0.041106	0.042867	0.028503
Varianze	#DIV/O!	#DIV/O!	#DIV/O!	#DIV/O!	0.000271

There is a good correspondence in the evaluation of variances with what has been seen previously. The absolute best performance is provided by the returns obtained from the second objective beta, followed by the returns obtained with the first objective beta, therefore absolutely better, compared to the returns of the beta valued with the regression method.

Conclusions

The structure of the work addressed provides, in this first phase of elaboration, good results, in particular as regards the objective beta, given its better correspondence in the checks carried out. Obviously, before being able to venture higher assumptions of reliability and robustness, it is considered necessary to carry out tests of the model on larger samples, both on the numerical and territorial profile. In any case, as a first step in evaluating an intrinsic risk index in these types of activities which, as has been said, have different peculiarities, so it becomes complicated to be able to make fairly objective observations; in addition to providing a good study base, it lends itself well enough for a fair indication of elements of profitability or levels of benefits, given the type of banks we are discussing, which are provided in various forms.

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TOURISM IN ALBANIA: A STATISTICAL ANALYSIS
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TURISMO IN ALBANIA: UN'ANALISI STATISTICA

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Abstract

Tourism in Albania has experienced rapid growth in recent years and will soon be able to affirm its presence in world tourism scenarios.

We study the statistics relating to foreign and domestic tourists in Albania in the 2013-2019 period, evaluating the short-term dynamics, the resulting picture and presumable future dynamics. Some results of great interest: in the period observed, the influx of international tourists arriving in Albania was on average more than 5 million people every year.

During this period, the inflows of international tourists tended to grow on average by 12.0% per year until 2017, but in 2018 there was a record increase of over 16% on an annual basis. In the first six months of 2019 alone, over 2.1 million tourists were registered, with an increase of over 11% compared to the same period of 2018.

The trend is clear: the future dynamics of international tourism in Albania should be largely positive.

Il turismo in Albania ha registrato una rapida crescita negli ultimi anni e presto sarà in grado di affermare la sua presenza negli scenari del turismo mondiale.

Lo studio evidenzia le statistiche relative ai turisti stranieri in Albania nel periodo 2013-2019, valutando le dinamiche a breve termine, il quadro risultante e le presunte dinamiche future. Alcuni risultati di grande interesse: nel periodo osservato, l'afflusso di turisti internazionali che arrivavano in Albania è in media più di 5 milioni di persone ogni anno.

Durante questo periodo, l'afflusso di turisti internazionali ha continuato a crescere in media del 12,0% all'anno fino al 2017, ma nel 2018 si è registrato un aumento record di oltre il 16% su base annua. Solo nei primi sei mesi del 2019, sono stati registrati oltre 2,1 milioni di turisti, con un aumento di oltre l'11% rispetto allo stesso periodo del 2018.

La tendenza è chiara: le future dinamiche del turismo internazionale in Albania dovrebbero essere ampiamente positive.

Introduction

Albania is a country located in the south east of the Europe and in the south west of the Balkan peninsula. The favorable position and the two main ports of the country, namely Durres and Vlora, make it the gateway to the Balkan markets. In recent years, the country has recorded constant GDP growth, which has grown progressively from 2.2% in 2014 to 4% in 2017 [1].

The flow of foreign direct investments has been growing in recent years and during 2016 it grew by 14.4% compared to 2015, reaching 936.5 million euros. This is mainly attributable to the electricity and gas sectors which benefited from the construction of an important hydroelectric power plant in the south-east of the country and above all from the works relating to the TAP pipeline.

Public debt, however, remains very high. According to the latest estimates, the debt stands at around 71.5% of GDP. It has been estimated that labor costs in Albania correspond to a third compared to those of the other countries of the Balkan region and it's about a fifth of the cost of labor in Italy.

Table I. Arrivals of international tourists by geographical area.

International Tourist	2013	2014	2015	2016	2017	2018	2019
I Africa	919	859	2.973	1.077	2.080	3.457	21.645
II America	73.291	90.084	96.763	103.839	123.729	148.845	153.579
III.East Asia and Pacific	23.628	30.874	33.032	35.894	53.533	68.121	66.757
IV.Middle East	3.944	2.607	3.604	4.324	4.722	7.174	11.005
V. South Asia	961	1.274	1.636	1.699	2.216	3.115	3.167
VI. Europe	2.963.583	3.423.665	3.759.423	4.485.405	4.686.695	5.331.614	5.774.226
- Central /Eastern Europe	112.333	163.006	151.457	182.581	269.261	362.083	371.988
- Northen Europe	119.016	137.308	125513	149.965	204.099	212.246	234.902
- Southern Europe	2.467.195	2.821.920	3169174	3.855.617	3.810.337	4.301.996	4.635.974
- Western Europe	210.845	237.760	246.811	221.492	316.120	357.411	416.983
- East/ Mediterranean Evuope	54.194	63.671	66.468	75.750	86.878	97.878	114.379
VII Other countries not specified	189.662	123.228	233.811	103.273	244.725	364.477	375.659
Total	**3.255.988**	**3.672.591**	**4.131.242**	**4.735.511**	**5.117.700**	**5.926.803**	**6.406.038**

In addition, Albania is very attractive as the majority of the population speaks languages fluently, especially Italian. Overall, the country enjoys a stable macroeconomic situation, supported by a banking market that is able to cope with international crises.

In this work we implemented a brief analysis of the fastest growing economic sector in Albania: the tourism sector.

Initially, a forecast was made for the year 2019 with a simple linear model and exponential model in comparison, on the total annual data of international tourists who entered Albania each year from 2001 to 2018. Subsequently, a projection to 2019 of arrivals of foreign citizens based on the 2013-2018 data for geographical distribution. This projection was implemented through a multiple regression analysis.

Table I shows all the complete arrives data of international tourists by geographical area from 2013 to 2019. The 2019 data served as a target for the calculation of the final forecast error but were not used in predictive models.

Materials and methods

The data were taken from the Instat website [1] and processed with SPSS version 23.

At first we implemented a predictive comparison between a simple linear model and an exponential model as follows:

The data reflect a very short time span to have reliable forecasts with stochastic statistical techniques. Consequently, the results obtained present critical points. The forecast of arrivals for 2019 with both the linear and exponential model presents very high forecast errors as shown in Table II. To deal with the problem of non-independence of the observations, a non-linear experimental model was used which is based on the transposition of the observations [2] [3].

Instead of evaluating the distribution of arrivals over the years in the various territories, the distribution of arrivals in the various territories is assessed for each observed year (which therefore assume the role of statistical variables); since this assumption requires the independence of the observations, the analysis will concern the sub-areas, but not the related aggregates [4].

We have reconstructed the behavior of the arrival variable from abroad "2019" based on the behavior of the variables "2013", "2014", "2015", "2016", "2017" and" 2018 "in the units observed.

The "international arrivals variable" of 2019 was used to calculate the error of the final predictive model compared to the real data.

The multiple regression model is as follows:

Results

The results obtained by a simple linear model and an exponential model are illustrated below:

Figure 1. International arrivals per years, linear trends
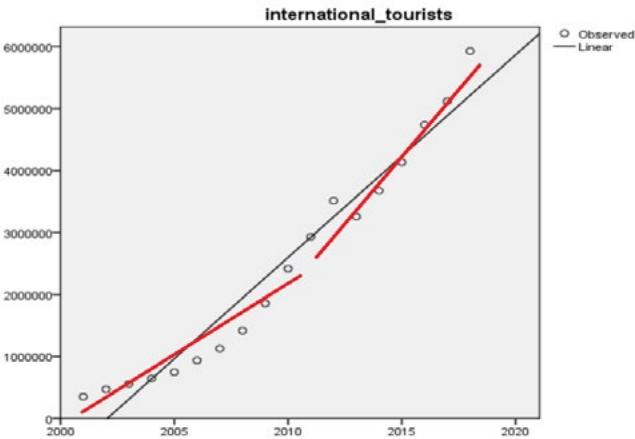
The figure 1 illustrates the linear model supported by two minor linear models which highlight (the two red lines) the growth at different rates between the first period (2001-2009) and a second period (2013-2019).

Figure 2. International arrivals per years, exponential trend
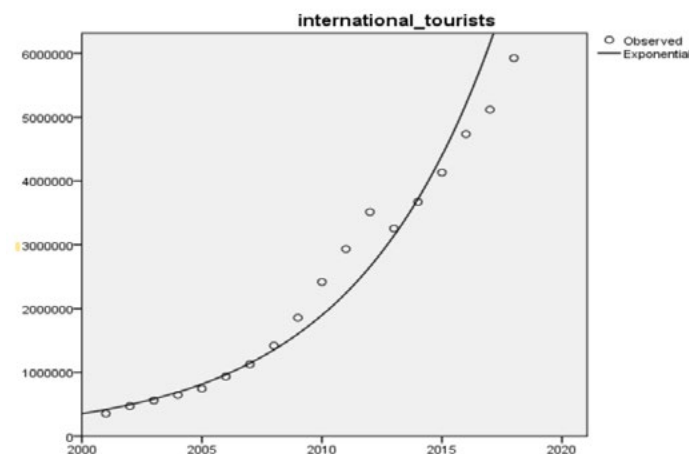
Starting from the model, an estimate of the parameters was carried out using the least squares method, with the stepwise backward elimination procedure [5], obtaining the following multiple regression function with and without intercept:

Table II: Arrivals of international tourists by geographical area.

Year	Observation data international arrivals	Linear trend projection	Error %	Exponential trend projection	Error %
2001	354.000	-421.239	219	428.079	-21
2002	470.574	-807.318	272	504.176	-7
2003	558.057	259.776	53	593.799	-6
2004	645.409	600.284	7	699.355	-8
2005	747.837	940.791	-26	823.674	-10
2006	937.038	1.281.299	-37	970.093	-4
2007	1.126.514	1.621.807	-44	1.142.539	-1
2008	1.419.191	1.962.314	-38	1.345.640	5
2009	1.855.638	2.302.822	-24	1.584.845	15
2010	2.417.337	2.643.330	-9	1.866.572	23
2011	2.932.132	2.983.837	-2	2.198.379	25
2012	3.513.666	3.324.345	5	2.589.169	26
2013	3.255.988	3.664.853	-13	3.049.427	6
2014	3.672.591	4.005.361	-9	3.591.502	2
2015	4.131.242	4.345.868	-5	4.229.938	-2
2016	4.735.511	4.686.376	1	4.981.863	-5
2017	5.117.700	5.026.884	2	5.867.454	-15
2018	5.926.803	5.367.391	9	6.910.469	-17
2019	6.406.038	5.707.899	11	8.138.894	-27
Total	50.223.266	49.496.680	20	51.515.865	-1

Table III. Estimate of international tourist arrivals in Albania in 2019 through the combination of multiple regression functions of data from 2013 to 2018, by geographical area.

Geographical distribution	Territorial distribution data			
	with const. regr.		without const. regr.	
	Projection	Error %	Projection	Error %
I Africa	5.737	73	3.280	85
II America	164.941	-7	163.197	-6
III. East Asia and Pacific	72.642	-9	70.523	-6
IV. Middle East	9.290	16	6.816	38
V. South Asia	5.575	-76	3.110	2
- Central /Eastern Europe	376.716	-1	376.341	-1
- Northen Europe	239.716	-2	238.505	-2
- Southern Europe	4.635.566	0	4.635.678	0
- Western Europe	414.127	1	414.906	0
- East/ Mediterranean Europe	110.487	3	108.410	5
VII Other countries not specified	371.241	1	371.992	1
Total	6.406.038	-0,11	6.392.758	10,62

Discussion

Figure 1 shows the number of international arrivals in function of years between 2001 and 2019. The black line represents the best-fit line with an adjusted R-squared equal to 0.9677.

From the observed data it is clear a growth of tourism at two different rates: in the period 2001-2009 on average we have about 171.349 international tourists per year and in the period 2013-2019 we have 533.751 international tourists about per year (figure 1).

The comparison between the linear model and the exponential model shows that both are very performing (~ 1), underlining their predictive goodness (table II). The exponential model also manages to greatly reduce the predictive error (on average by - 1%).

The estimates of the parameters are all clearly significant (p-value <0.001), excluding, as generally happens, the intercepts.

The explanatory ability of the processed functions is always very good (~ 1).

If we estimate the amount of arrivals to 2019 on the basis of the aforementioned multiple regression functions, results are obtained much closer to the data actually collected (table III).

It's clear that in recent years tourism in Albania has undergone a significant increase with a trend approximate to a straight line with a slope greater than 45°. This dizzying increase in the tourist flow has laid the foundations for a reflection on sustainable tourism. In 2014 the Albanian Ministry of Urban Development and Tourism published a document stating that it wants to present itself as an attractive, authentic and hospitable tourist destination in Europe [6]. The goal is to develop tourism

that is based on the sustainable use of natural, cultural and historical resources.

The tourism development process must be sustainable and the economic objective must be balanced with the protection of the environment, culture and well-being of the community:

- efforts are being made to achieve long-term positive results and not to maximize short-term profit;

- the development of tourism will be based on and support the protection of the environment, including natural resources, ecosystems, landscapes, biodiversity etc. In some areas, the improvement of the existing environment will be supported;

- the development of tourism will ensure the social structures and well-being of the inhabitants of the tourist destinations and of the people who work in the sector;

- the development of tourism will guarantee the protection and conservation of cultural heritage, customs and traditions;

- tourism resources will be inventoried, monitored, protected and improved;

- all new projects for the development of tourism will be screened in advance and, after their implementation, will be monitored to assess their impact with reference to the above criteria.

The signal of how the Albanian government has understood the importance of developing the tourism sector is also to be found in public and private universities. In fact, universities in many cities offer three-year courses in marketing and specializations in the tourism sector; courses in the field of archaeological and cultural marketing are also active. There are also numerous tourism and hotel professional education and training courses.

The tourism sector has experienced significant growth in recent years. In fact, 13% of the country's GDP is generated by this sector. This sector is the one with the greatest growth potential. The current location of the structures is concentrated 67% on the coast, 22% in urban areas, 5% in suburban areas, 3% around lakes and the remaining 3% in mountainous areas, for a total of 16,888 companies operating in the sector.

The tourism sector has attracted great international attention from prestigious international newspapers and magazines such as the New York Times, which has included Albania in the list of the 52 most interesting destinations to visit in 2014.

Today Albania is able to play a dominant role in the South-Western Balkans area. In fact, tourists from neighboring countries choose Albanian beaches, where to spend medium-long periods in individual locations almost exclusively coastal, with minimal mobility and very low per capita daily expenditure. The development of mass tourism has posed an immediate and complex problem for Albania for the sustainability of its new, thriving tourism market. In fact, almost 2 million visitors are concentrated in the months of July and August alone, choosing to stay almost exclusively in a limited number of seaside resorts, which have therefore been forced in recent years to build quickly and without necessary regulatory plans, a large number of accommodation facilities and the most basic infrastructures. In order for Albania to be considered a full-fledged tourist destination by the international market, competitiveness and innovation must come virtuously married. The quality of services is in fact becoming increasingly a key factor of strategic business differentiation.

Conclusions

The tourism sector in Albania is booming. In recent years there has been a sharp increase especially in foreign tourists, as shown in figure 1 and table 1. Currently the tourism sector represents around 13% of the national GDP and the figure can certainly grow in the coming years.

The Albanian government is therefore moving in a coherent and effective way, aware of the importance of tourism for the economic development of the country with a view to sustainability that preserves the historical-cultural and naturalistic heritage. Once data representative of the sustainability of tourism in Albania has been obtained, an appropriate statistical analysis will be launched.

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STATIC AND DYNAMIC ANALYSIS OF POVERTY IN ALBANIA (2007-2016)

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ANALISI STATICA E DINAMICA DELLA POVERTA' IN ALBANIA (2007-2016)

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Abstract

Using data coming from the Household Budget Surveys conducted in 2007-2016 by the Albanian National Statistics Institute (INSTAT), in this paper we set out to investigate the poverty level in Albania. In particular, we employ the static and dynamic approaches to evaluate the effect of growth and inequality in changes in poverty both at national and macro-region level. The results show that: (i) the increase in poor population is due to the lack of growth in consumption and (ii) the improvement in the distribution of consumption has stopped further increases in poverty level.

Utilizzando i dati presenti nelle indagini Household Budget Survey (HBS) condotte nel 2007 e nel 2016 dall'Istituto Nazionale di Statistica Albanese (INSTAT), in questo lavoro intendiamo analizzare il livello di povertà in Albania. In particolare, noi usiamo due approcci: uno statico e uno dinamico per osservare l'effetto della crescita e della disuguaglianza sulla variazione della povertà sia a livello nazionale che a livello di macroregioni. I risultati mostrano che l'aumento della popolazione povera è dovuto alla assenza della crescita della spesa per i consumi, al contrario il miglioramento nella distribuzione della spesa per il consumo ha frenato ulteriori aumenti del livello di povertà.

Keywords: FGT class index, poverty, poverty decomposition, elasticity of poverty, Albania

Introduction

Poverty is a phenomenon that occurs when an individual or family lacks the material or financial resources for a minimum standard of living. Different terms and expressions try to define poverty and this depends on the lack of a unique concept and measure of poverty. Over the years, the issues on poverty reduction have drawn attention both at national and international level; especially, the debate focused on the effect of economic growth on poverty. In the literature there are two points of view on the relationship between economic growth and poverty. According to the 'trickle-down theory' the economic growth reduces poverty when the income distribution remains constant. Those who support this theory state that benefits of a high economic growth trickle down to the poor. Hence, to reduce poverty policy makers should implement policies to stimulate the economic growth [1-7]. Conversely, the 'trickle-up theory' affirms that the economic growth worsens the standard of living of the poor because it is above all the middle classes and the rich who benefit from the growth process [2]. It follows that the economic growth worsens the income distribution, which then leads to an increase in the poverty level. Put differently, the second theory argues that the economic growth alone cannot reduce poverty, it must be accompanied by redistribution policies to bring down the inequality level [8-15]. Thus, the link between growth and poverty depends also on the relationship between growth and inequality [16]. Several theoretical discussions and empirical researches were carried out to examine the relationship between economic growth and inequality, and their effect on poverty level to understand how the income growth linked to economic growth is distributed among the population since changes in the distribution of income could have an impact on the poverty level [17-18]. Therefore, in this paper we investigate poverty change in Albania between 2007 and 2016. In particular, we focus on the growth-inequality-poverty nexus to evaluate the effect of growth and inequality on poverty change both at national and macro-region level. So, we employ two different approaches: static and dynamic. We perform these analyses exploiting the Household Budget Survey (HBS) carried out by the Albanian National Statistical Institute. These are two cross-sectional surveys conducted on a sample of households equal to 5689 in 2007 and 7353 in 2016.

Definitions and poverty measures

In order to evaluate poverty in Albania both at national and macro-region level we use a monetary approach. This is the widely used approach to identify and measure poverty and it considers income or consumption as the best possible proxy of well-being [21] (Ruggeri et al., 2003). Hence, crucial are the information on income or consumption. In developing countries, consumer spending is preferred for these reasons: (i) income is more difficult to measure than consumption, especially when the informal sector is an important source of income [19]; (ii) income can be volatile while households tend to smooth out consumption [20]; and finally (iii) in rural areas, income changes from one season to another since it depends on the crop cycle. So, seasonal adjustments would lead to a distortion in the estimated income. In addition, to calculate net income in rural areas you need to account for both goods production and self-consumption of the population. For the analysis of poverty in the Albanian context, we use consumption as welfare indicator. We exploit the HBS (Household Budget Survey) surveys carried out by the Albanian National Statistical Institute. These surveys are conducted on a sample of households equal to 5689 in 2006 and 7353 in 2016. To divide the poor from the non-poor, we use a relative poverty line equal to 60% of the median (EUR 250). To quantify the poverty level, we follow the prevailing literature [22-24] that employs the FGT indices proposed by Foster-Greer-Thorbecke

[25]. The FGT index class has a different formulation, it depends on whether you consider a continuous or discreet distribution. As regards the first case, its expression is:

$$P_\alpha = \int_0^z \left(\frac{Z-Y}{z}\right)^\alpha f(Y)dy$$

[1]

for a discrete distribution, the general formula is:

$$P_\alpha = \frac{1}{N}\left(\frac{Z-Y_i}{Z}\right)^\alpha$$

[2]

where Z is the poverty line, Y_i is the per capita consumption of the poor population $_{(q)}$, and finally the parameter $\alpha \geq 0$ plays the role of poverty aversion. The greatest α, the greatest the poverty aversion, i.e. the greatest the weight attached to very poor individuals. The most used poverty index is the headcount ratio that is the ratio of the number of poor to the total population. This index identifies what percentage of population is below the cut-off point and it is expressed as follows:

$$P_o = \frac{q}{N}$$

[3]

where q is the number of poor and N represents the total population. This index is a crude measure of poverty that ignores the difference between consumption of poor and poverty line. In fact, the headcount ratio does not provide information on the position of the poor compared to the poverty line [25]. This information is crucial to quantify the financial resources needed to reduce poverty. To obtain further information on poverty level we use the intensity of poverty index, which is equal to the mean value of the poverty gap in proportion to the poverty line [26]. This index is measured as follows:

$$P_1 = \frac{1}{N}\sum_{i=1}^{q}\left(\frac{Z-Y_i}{Z}\right) = P_0\left(\frac{z-\bar{Y}_q}{Z}\right)$$

[4]

where Z is the poverty line and Y_q is the mean consumption of poor. The formula of the intensity index can also be written as follows:

$$P_1 = P_0\left(\frac{z-\bar{Y}_q}{Z}\right) = P_0\text{ALG}$$

[5]

where the average low-income gap (ALG) indicates the average consumption gap of the poor and measures the distance between average consumption of the poor and the poverty line.

Moreover, this indicator is not sensitive to the distribution of consumption among the poor population. Although this indicator is sensitive to changes in the consumption of the poor, it does not satisfy the transfer axiom. Therefore, a transfer of consumption from one poor to another which however remains below the poverty line, should increase the index P_1 but this does not necessarily occur.

Finally, by weighing the consumption gap between those who are extremely poor and the poverty threshold Z, we obtain information on the intensity of poverty among the poorest also known as the severity of poverty index. This measure is calculated as follows:

$$P_2 = \frac{\sum_{i=1}^{q}(Z-Y_i)^2}{NZ^2}$$

[6]

and it can be expressed as [27]:

$$P_2 = P_0\left(ALG^2 + (1-ALG)^2.CV_q^2\right)$$

[7]

where CV_q is the coefficient of variation of consumption expenditure of the poor population.

The severity of poverty index satisfies two very important axioms: (i) the reduction of the poor individual consumption increases the value of the severity of poverty index; and (ii) a transfer of consumption from one poor to another poor leads to an increase of P_2.

Poverty distribution in Albania

Using a relative poverty line, in 2007, almost 17% of Albanian households had a consumption below the poverty line. Between 2007 and 2016, the percentage of poor households increased significantly to 23.22%. On the contrary, other forms of poverty have been slightly reduced. However, we perform further analysis to test if the increase in poverty level is statistically significant. The differences between the national poverty indices for the period 2007-2016 are significantly different from zero since the statistical t-value is higher than 1.96 in absolute value for all three poverty indices. These differences are also statistically significant for all three poverty indices. Moreover, it is important to point out that the increase in poverty rates has not been homogeneous.

Table 1. Poverty Distribution in Albania

Poverty Indices	2007				2016			
	North	Centre	South	National	North	Centre	South	National
Incidence of Poverty	15.77	12.85	22.29	17.16	17.70	21.82	29.15	23.22
Intensity of Poverty	4.28	3.68	6.78	4.99	4.88	5.92	8.61	6.56
Severity of Poverty	1.83	1.51	2.98	2.14	2.15	2.34	3.85	2.80

Source: our calculation based on HBS 2007-2016

Both in 2007 and 2016 the northern prefectures are characterized by the lowest share of population in poverty. On the contrary, the south of Albania has revealed the highest number of households in poverty. Although the southern prefectures have a high number of families below the poverty line, it is up to the prefectures of the center to show a significant increase in the incidence of poverty of around 9%. Table 1 contains information on poverty both at national and macro-region level. Looking at the intensity and severity of poverty, for the years considered, there has been a slight reduction in these indices at national level while at the level of the disaggregation these indicators have experienced a significant increase; in fact, it is always the southern prefectures that are marked by a higher intensity and severity of poverty than the other two regions.

Static analysis of poverty in Albania

The poverty change depends on two factors. The first is the increase in mean consumption if the consumption distribution does not change (growth effect); the second is the improvement in consumption distribution if mean consumption remains constant (inequality effect or effect of redistribution).

Different methodologies quantify the intensity of these effects. Kakwani [28] proposed a static approach to evaluate the effect of these two factors by using the data coming from a single survey. This methodology allows to derive the sensitivity of poverty to mean consumption and to inequality.

On the other hand, in order to employ the dynamic approaches, information from time-repeated surveys (at least two) is required. These approaches divide poverty change into growth and inequality effect. The three methodologies are microeconomic and define poverty as a variable related to economic growth and inequality level. Thus, it supposes that economic growth reflects in an increase in mean consumption which is estimated using the survey data. There is a difference between the economic growth estimated using surveys and the one at macroeconomic level relative to national accounts. Hence, the use of the first presupposes the following hypothesis: GDP growth turns into an increase in mean consumption. The Kakwani's approach [28] quantifies the poverty elasticity in relation to the mean consumption expenditure and inequality. Therefore, poverty change depends on changes in the mean consumption and Gini's index. According to Kakwani, the poverty index is a function of three elements: (i) poverty line (Z), (ii) mean consumption and finally (iii) consumption inequality captured by the Lorenz curve characterized by K parameters m1, m2, ... mk.

$$\theta = f(z, \mu, L_{(p)}) \qquad [8]$$

If the poverty line remains constant, poverty change can be expressed as follows:

$$d\theta = \frac{\delta\theta}{\delta\mu}d\mu + \sum_{i=1}^{k}\frac{\delta\theta}{\delta m_i}dm_i \qquad [9]$$

So, the poverty change is the sum of two components: the first one measures the pure growth effect; the second one represents the inequality effect.
If we consider the FGT poverty index class, where:

$$P_\alpha = \int_0^z \psi(Z,X)f(X)dX \; con \; \psi(Z,X) = max\left(\left|\frac{Z-X}{Z}\right|^\alpha; 0\right) \qquad [10]$$

the function $\psi(Z,X)$ has the following characteristics: it is a homogeneous function of degree zero in Z and X,

$$\frac{\partial\psi(X,Z)}{\partial x} \leq 0$$

$$\frac{\partial^2\psi}{\partial x^2} \geq 0$$

$$\psi(Z,Z) = 0$$

and considering the Lorenz curve characteristics

$$L_{(p)} = \frac{1}{\mu}\int_0^p Q(q)\,dq, L'(p) = \frac{X}{\mu} \; e \; L'(P_0) = \frac{Z}{\mu} \qquad [11]$$

Replacing P_α we obtain

$$\frac{\partial P_\alpha}{\partial\mu} = \frac{\alpha}{\mu}\int_0^z \frac{x}{z}\left(1-\frac{x}{z}\right)^{\alpha-1}\; f(x)dx \qquad [12]$$

Moreover, knowing that $\frac{x}{z} = \left[1-\left(1-\frac{x}{z}\right)\right]$, the elasticity of poverty with respect to the mean consumption is for $\alpha \neq 0$

$$\eta P_\alpha = \frac{\partial P_\alpha}{\partial\mu}\frac{\mu}{P_\alpha} = -\frac{\alpha}{P_\alpha}\left[\int_0^z\left(\frac{z-x}{z}\right)^{\alpha-1}\;f(x)dx - \int_0^z\left(\frac{z-x}{x}\right)^\alpha\;f(x)dx\right] = -\frac{\alpha(P_{\alpha-1}-P_\alpha)}{P_\alpha} \qquad [13]$$

for $\alpha = 0$

$$\eta P_0 = \frac{\partial P_0}{\partial\mu}\frac{\mu}{P_0} = -\frac{zf(z)}{f(z)} < 0 \qquad [14]$$

For the latter case, an increase in mean consumption of 1% allows to identify the percentage of the poor population that could come out of poor status (especially the poor population close to the poverty line).

If $\alpha \geq 0$ the poor population is weighted, it is possible to better evaluate the effect of change in consumption variation in the different groups of the poor. Kakwani [28] showed that changes in the poverty λP_α due to the inequality effect could be evaluated by the ratio of the elasticity of $P_{\Box}$ and the Gini coefficient.

$$\lambda P_\alpha = \frac{1}{P_\alpha}\int_0^z\frac{\partial\psi(x,z)}{\partial x}(x-\mu)f(x)dx = \eta P_\alpha - \frac{\mu}{P_\alpha}\int_0^z\frac{\partial\psi(x,z)}{\partial x}\;f(x)dx = \eta P_\alpha + \frac{\alpha\mu P_{\alpha-1}}{ZP_\alpha} \qquad [15]$$

If the poverty line is lower than the mean consumption, $(z-\mu)$ is negative since $x \in [0,Z]$. Moreover, for $\frac{\partial\psi(x,z)}{\partial x} \leq 0$, the elasticity of P_α with respect to the Gini index will be positive.

To quantify the elasticity of the index P_0 with respect to the Gini index, Kakwani [28] suggested a shift in the Lorenz curve as a function of a parameter β equal to the proportional change of the Gini index. Knowing that a change in inequality leads to a change in poverty level and supposing that the mean consumption remains constant, the shift of the Lorenz curve can be interpreted as a change in poverty line Z to Z^* where $Z^* = \frac{(Z+\beta\mu)}{(1+\beta)}$. Considering this assumption, the elasticity of λP_α can be written as:

$$\lambda P_0 = \frac{P_{0(Z^*)} - P_{0(Z)}}{\beta P_{0(Z)}} \qquad [16]$$

When the poverty is affected by both change in mean consumption and consumption inequality, it is possible to identify a marginal proportional rate of substitution [28].

$$MPRS = \frac{d\mu}{\mu}\frac{G}{dG} = -\frac{\lambda P_\alpha}{\eta P_\alpha} \qquad [17]$$

This ratio gives information on the increase of mean consumption to stop or to offset an increase of Gini coefficient in order to avoid further increase in poverty level.

Table. 2 Elasticity of poverty and Marginal Proportionate Rate of Substitution (MPRS)

Year	Elasticity of Poverty / Mean Consumption expenditure				Poverty Elasticity of Poverty/Gini Index				MPRS			
	North	Centre	South	National	North	Centre	South	National	North	Centre	South	National
Incidence of poverty												
2007	-2.07	-1.74	-2.41	-2.08	2.63	2.34	2.53	2.52	1.27	1.34	1.05	1.21
2016	-1.90	-1.94	-2.52	-2.12	1.98	1.77	1.87	1.89	1.04	0.91	0.74	0.89
Intensity of poverty												
2007	-2.30	-1.84	-3.11	-2.44	5.04	4.22	6.18	5.17	2.19	2.29	1.99	2.12
2016	-1.96	-2.43	-3.13	-2.54	3.64	3.90	4.82	4.15	1.86	1.61	1.54	1.63
Severity of Poverty												
2007	-2.29	-2.03	-3.55	-2.66	7.05	6.02	9.69	7.65	3.08	2.97	2.73	2.88
2016	-1.95	-2.56	-3.39	-2.68	5.34	5.42	7.69	6.16	2.74	2.12	2.27	2.30

Source: our calculation based on HBS 2007-2016

Table 2 shows that between 2007 and 2016, the sensitivity of poverty to economic growth increased in the central and southern region of the country, while it experienced a reduction in absolute terms equal to 0.20 in the northern region. Sensitivity becomes more marked if other poverty dimensions are considered. Moving on to the sensitivity of the severity of poverty, we find that it has also increased in the central region, whereas in the other two macro-areas the reactivity of poverty to economic growth has decreased. In other words, when the inequality of consumption distribution is neutral, the economic growth has a strong impact on the extremely poor, especially in the southern prefectures that have experienced higher values of poverty elasticity than in the other regions. Thus, an increase in mean consumption of 1% will reduce poverty in all its dimensions in the southern prefectures more than in all the others. Therefore, ceteris paribus, a higher economic growth could be reducing poverty in the northern and central prefectures rather than in the south area.

Going back to the sensitivity of poverty with respect to economic growth among the poorest individuals, the elasticity of poverty increases. This means that the economic growth could have a greater impact on the extremely poor population than on the middle classes.

Finally, the last part of the table shows the marginal proportional rate of substitution (MPRS). This ratio reveals how much the growth effect should increase to offset the inequality effect to avoid an increase in poverty level. MPRS records high values when we focus on the extremely poor population. It follows that the compensatory effect of the economic growth is crucial to curb any worsening of the poverty level in terms of intensity and severity attributable to an increase in inequality level. To sum up, these results highlight that the poverty elasticity is strongly sensitive

to the economic growth and how it could control the negative effect due to an increase in inequality level.

Prospects of poverty reduction

The elasticity coefficients between economic growth and poverty shown in the previous section highlight that even a small increase in mean consumption could have a significant effect on poverty change in all its dimensions when the growth does not cause an increase in inequality level. On the contrary, when the economic growth is accompanied by an increase in inequality, there could be an increase in poverty level. Obviously, this result is closely related to the inequality level deriving from the increase in consumption. To investigate this relationship, we perform two simulations that account for two scenarios of economic growth. In the first simulation the assumption is that economic growth is neutral in terms of inequality. Conversely, in the second one the economic growth is not neutral; in fact, it causes an increase of 1% in inequality level, the latter being measured by means of the Gini coefficient.

Each simulation includes three scenarios: a "low scenario" with a growth in the consumption expenditure per capita between 1.0% and 1.5%; a "medium scenario" in which growth varies between 2.0% and 2.5%, and finally, a "high scenario" characterized by a growth variation between 3.0% and 3.5%. This analysis allows to set poverty reduction targets and simulate the impact of different policies on poverty level. Table 3 shows the results of simulations.

Table 3. The effect of economic growth on poverty

	Growth in consumption expenditure (% per year)	Incidence of Poverty	Intensity of Poverty	Severity of Poverty
Hypothesis: neutral redistributive economic growth (G/G=0%)				
Low Growth Scenario	1	-2,12	-2,54	-2,68
	1,5	-3,18	-3,81	-4,02
Intermediate Growth Scenario	2	-4,24	-5,8	-5,36
	2,5	-5,30	-6,35	-6,7
High Growth Scenario	3	-6,36	-7,62	-8,04
	3,5	-7,36	-8,89	-9,38
Hypothesis: no neutral redistributive economic growth (G/G=1%)				
Low Growth Scenario	1	-0,23	1,61	3,48
	1,5	-1,29	0,34	2,14
Intermediate Growth Scenario	2	-2,35	-1,65	0,8
	2,5	-3,41	-2,2	-0,54
High Growth Scenario	3	-4,47	-3,47	-1,88
	3,5	-5,47	-4,74	-3,22

Source: our calculation based on HBS 2007-2016

First of all, an economic growth without an increase in inequality could reduce the poverty in all its dimensions. Looking at the first growth scenario and assuming an economic growth rate of 1%, the poverty rate would be reduced at national level to an annual rate of 2.12%. Compared to the intensity of poverty, this proportion is 2.5%. Finally, even the reduction of the severity of poverty is about 2.70%. The intermediate growth scenario shows (2.5%) a significant reduction in all three poverty dimensions. Those who benefit most from such economic growth are the households that

lie in the left tail of the distribution of consumption. Even the high scenario has very positive values. Indeed, if the annual growth rate of per capita consumption in Albania were 3.5%, the incidence of poverty would be reduced at national level to an annual rate of 7.36%.

When we remove the hypothesis of the first simulation, the prospects of poverty reduction are less encouraging. Indeed, if we consider the low growth scenario (1%) with non-neutral growth, the incidence of poverty would experience a slight reduction of 0.23%. Looking at the other dimension of poverty, the results that the results are by no means encouraging, in fact, an increase in inequality of 1% slows down the positive effects of economic growth on poverty reduction. The inequality has negative effects on poverty reduction when the growth rate is equal to 2.5%. These two simulations show that an increase in the average level of consumption does not necessarily reduce poverty. A weak economic growth could have a positive impact on poverty reduction if the inequality level does not change. On the contrary, if the economic growth is accompanied by an increase in inequality, poverty in all its dimensions can worsen. In Albania, consumption growth per capita could reduce poverty if it had values that were twice those related to inequality.

Dynamic of poverty changes in Albania

The analysis performed in the previous section does not take into account the interactions between poverty, economic growth and inequality. We employ dynamic analysis to examine these interactions. Thanks to the dynamic approach, we neutralize the effect of inflation and we use one poverty line (for the two years) estimated by making reference to 2007 prices. Indeed, to decompose poverty change in Albania, we use a poverty line. The dynamic procedure proposed by Datt and Ravallion [29] allows to evaluate the impact of economic growth and consumption expenditure decomposing the poverty change in relation to two time periods.

Given a fixed poverty line, the poverty level (P), for the two periods, is a function of the mean income μ_t (or mean expenditure consumption) and the Lorenz curve L_t.

$$P = (\mu_t, L_t) \qquad [18]$$

According to this methodology, a change in poverty over the two periods can then be decomposed as follows:

$$P_{1+n}^t - P_1^t = C(t_1, t_{1+n}, r) + D(t_1, t_{1+n}, r) + R(t_1, t_{1+n}, r) \qquad [19]$$

The growth component (C) shows the poverty change achieved if the Lorenz curve remains unchanged; the redistribution component (D) reflects the poverty change resulting from the change of the Lorenz curve if the mean income (or mean consumer spending) does not change; finally, the residual (R) defines the interaction between growth and redistribution effect. The residual term has some drawbacks: (i) it can take on a high value so as to be higher than the value of the distribution effect; (ii) it is not easy to interpret the value that it takes since changes in poverty depend on a change in consumption expenditure and inequality [30] and (iii) it considers the initial and final periods asymmetrically [31]. The axiomatic approach proposed by Kakwani [30] overcomes these limitations, it removes the residual term and considers symmetrically the initial and final periods. This approach is a particular case of Shapley's decomposition [32] then proposed by Shorrocks [33]. According to Shorrocks [33], the change in poverty depends on the impact of growth and

redistribution. This methodology identifies how growth and redistribution contribute to the poverty change (ΔP).

$$\Delta P = P(\mu_2, L_2) - (\mu_1, L_1) = P(\mu_1(1+C), L_1 + R) - P(\mu_1, L_1) = F(C, R) = C_C^S + C_R^S \qquad [20]$$

$$C_C^S = \frac{1}{2}[P(\mu_2, L_2) - P(\mu_1, L_1) - (P(\mu_1, L_2) - P(\mu_1, L_1))] + [P(\mu_2, L_1) - P(\mu_1, L_1)] =$$

$$\frac{1}{2}[P(\mu_2, L_2) - P(\mu_1, L_2) + P(\mu_2, L_1) - P(\mu_1, L_1)] \qquad [21]$$

C_C^S represents the growth factor and it is equal to the average of two components: the poverty change if the inequality is fixed and is equal to that of the initial period, and the poverty variation if the inequality is fixed and is equal to that of the final period.

$$C_R^S = \frac{1}{2}[P(\mu_2, L_2) - P(\mu_1, L_1) - (P(\mu_2, L_1) - P(\mu_1, L_1))] + [P(\mu_1, L_2), P(\mu_1, L_1)] =$$

$$\frac{1}{2}[P(\mu_2, L_2) - P(\mu_2, L_1) + P(\mu_1, L_2), P(\mu_1, L_1)] \qquad [22]$$

C_R^S is the inequality factor, it is the average of two elements: the poverty change if the average income is fixed and equal to that of the initial period and the poverty change if the average income is fixed and equal to that of the final period. Shorrocks' approach doesn't include the residual term, it provides an exact decomposition of the poverty change that is equal to the sum of the contribution of growth and inequality. Table 4 shows the effects of economic growth and inequality on poverty change over the period considered. The results allow to observe the simultaneous interaction of growth and inequality on poverty change.

Table 4. Poverty change decomposition

Region	Poverty Change	Growth Effect		Inequality Effect		Residual	
		Datt & Ravallion	Shorrocks	Datt & Ravallion	Shorrocks	Datt & Ravallion	Shorrocks
		Incidence of Poverty					
North	1,93	5,44	5,52	-3,67	-3,59	0,18	-
		Intensity of Poverty					
North	0,59	1,74	1,57	-0,79	-0,97	-0,35	
		Severity of Poverty					
North	0,32	0,78	0,70	-0,30	-0,38	-0,16	
		Incidence of Poverty					
Centre	10,21	8,10	8,32	1,66	1,88	0,46	
		Intensity of Poverty					
Centre	2,78	2,36	2,55	0.03	0,22	0,38	
		Severity of Poverty					
Centre	1,09	1,06	1,12	-0,08	-0,02	0,11	
		Incidence of Poverty					
South	9,88	9,66	10,84	-2,14	-0,96	2,35	
		Intensity of Poverty					
South	2,93	3,58	3,52	-0,52	-0,59	-0,13	
		Severity of Poverty					
South	1,39	1,79	1,72	-0,26	-0,33	-0,13	
		Incidence of Poverty					

National	6,05	6,61	6,99	-1,32	-0,94	0,77
Intensity of Poverty						
National	1,57	2,25	2,21	-0,62	-0,65	-0,07
Severity of Poverty						
National	0,66	1,08	1,03	-0,33	-0,37	-0,09

Source: our calculation based on HBS data

At the national level, the increase in the incidence of poverty depends mainly on economic growth. In fact, for the period considered, if the Lorenz curve had remained unchanged, poverty would have increased by 6.61% and 6.99%, according to the methodology of Datt and Ravallion and Shorrocks, respectively. Since the observed variation has lower values, this difference is attributable to the other component that stopped the increase in the number of the poor. The findings obtained using the Shorrocks's approach show that 115% increase in poverty is due to a reduction in average consumption and the remaining part is attributable to the improvement in the distribution of wealth. These results are also confirmed when the poor population is weighted. In fact, the proportions are 140% and 156% for the intensity and severity poverty, respectively. These indices show that the increase of poor households is due to the lack of growth in average consumption. On the contrary, the improvement in national distribution has reduced the gap between average consumption and poverty line. Examining the results at the disaggregated level, we find that northern and southern regions have the same trend experienced at national level. In the two prefectures of the Centre, the growth effect and the inequality effect contribute jointly to the increase in the number of poor families. The analysis of the dynamic poverty decomposition shows how economic growth and inequality impact on the poverty level in a given country is also important for policymakers in order to understand the policy decisions to make.

Final remarks

Although Albania has impressive per capita GDP growth rates, it still remains a country with a significant development gap compared to the European Union which it wishes to join and a high level of unemployment and poverty. In fact, between 2007 and 2016, i.e. the years covered by our analysis, there was an increase in all three dimensions of poverty.
The region of the South has the highest portion of households below the poverty line, while the prefectures with the lowest percentage of poor population are those in the North. Between 2007 and 2016, the prefectures: of Elbasan and Tirana were characterized by a strong increase in the number of poor families. In Albania, the increase of poverty is due to the reduction in the average level of consumption. Therefore, the increase of the number of poor households is attributable to the lack of growth in consumer spending and not to an increase in inequality. In other words, the lack of growth in consumer spending has contributed to increase the number of poor households. On the contrary, the improvement in national distribution has caused a reduction in the difference between consumer spending and poverty line. In addition, the results obtained from the two methodologies confirm that the cause of the increase in the level of poverty depends on the reduction in the value of consumption expenditure, and the improvement in the distribution of expenditure consumption among Albanian households has stopped further increases in poverty level.
The results obtained in the prefectures of the Centre deserve attention. In this area, the effects of growth and inequality go in the same direction, in fact these two effects have jointly contributed to the increase in the number of poor families. To conclude, the use of these two methods of poverty decomposition allows to investigate how much the two effects have an influence on the variation in poverty. In other words, they could be the starting point for decision-makers to understand the policy decisions to make.

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APPENDIX

Territorial distribution of Poverty in Albania
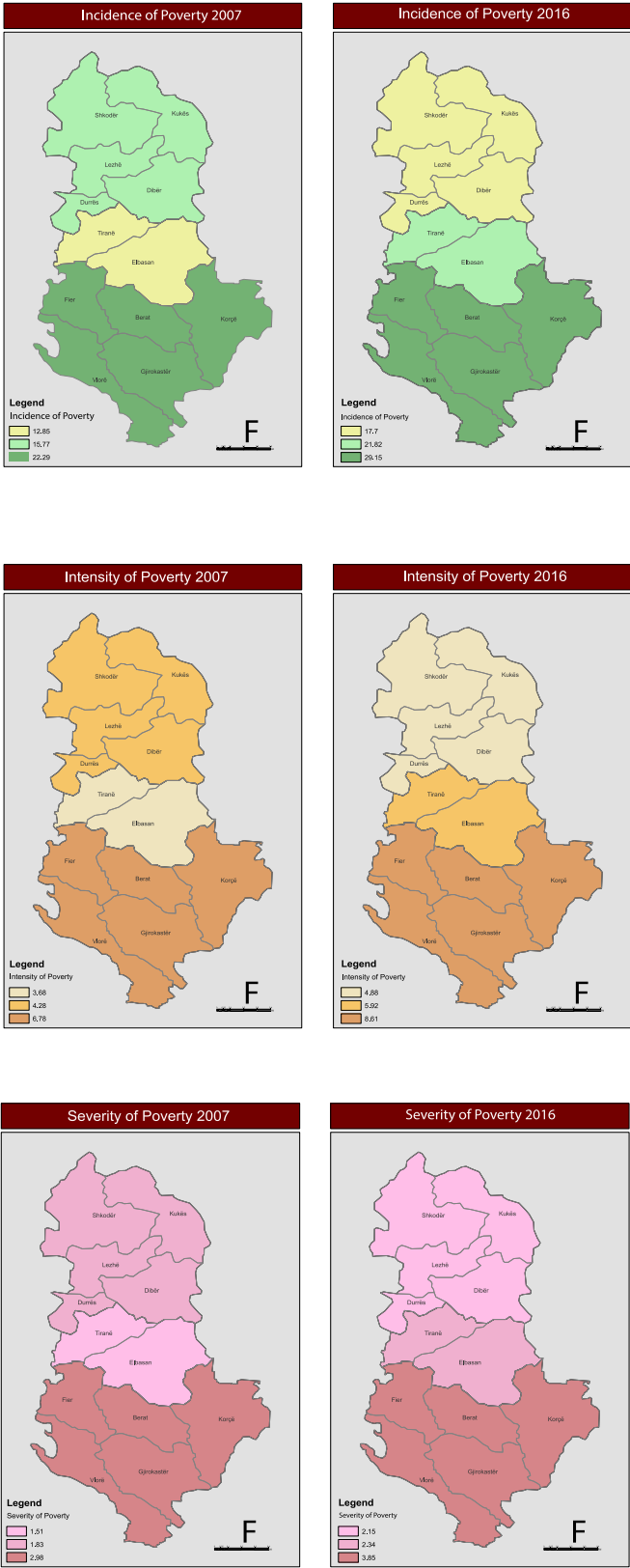
COST ANALYSIS OF MANUFACTURING COMPANIES IN ALBANIA.
CASE STUDY – ALPHA COMPANY
(TRADITIONAL METHOD)
~
ANALISI DEI COSTI DELLE AZIENDE DI PRODUZIONE IN ALBANIA.
CASE STUDY – AZIENDA ALFA
(METODO TRADIZIONALE)

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Abstract

There have been important changes in the manufacturing environment in the recent years, mainly due to the use of technology and automation processes. These changes have led to significant improvement of the accounting cost calculations systems. As a result, it was possible to develop and apply different cost calculation methods, which aim to provide the information required by the management and to respond better to the increasing competitiveness. This study aims to analyse the theoretical framework of traditional and ABC systems and continue with a case study of an Albanian company, whose purpose is to analyse the reality in which they operate and the cost calculation method they use.

Negli ultimi anni, si sono verificati grandi cambiamenti nell'ambiente aziendale, dovuti principalmente all'utilizzo della tecnologia e della automatizzazione delle operazioni. Questi cambiamenti hanno portato modifiche significative ai sistemi contabili del calcolo dei costi di produzione. Di conseguenza, è stato possibile sviluppare e applicare diversi metodi di calcolo dei costi, che mirano a fornire l'informazione richiesto dal management ed a rispondere alla crescita della competitività. Questo lavoro mira ad analizzare non solo il quadro teorico del sistema tradizionale e ABC, ma l'analisi prosegue con due casi concreti di aziende albanese, che hanno come finalità quello di analizzare la realtà in cui operano e i metodi che utilizzano nel calcolo dei costi di produzione.

Keywords: Cost Accounting Methods, Traditional Method, ABC Method, Direct and Indirect Cost.
Metodi di calcolo dei costi, Metodo Tradizionale, Metodo ABC, Costi Diretti e Indiretti di Produzione.

Introduction

The literature, in the accounting field, recognizes a variety of cost allocating and calculation systems. Their purpose is to provide information for decision support and planning for the management. For every company the challenge is to calculate the "true" cost, in order to determine the correct prices of different products produced by the manufacturing companies. Accurate cost calculation helps company to take better decision to produce or not a product, which may result unprofitable for the company. To achieve this goal the companies can use different methods of calculating the cost of their product taking into account the cost – benefit criteria. Nowadays, cost calculation methods have been significantly improved and they seem to be very efficient. Based on different studies was noticed that the most used cost calculation methods are Traditional and ABC methods. According to different surveys conducted for manufacturing companies in different countries, it was found that the percentage of them that use the traditional method is higher than those using ABC method. Although, is observed an increase in the percentage of using ABC method since 1990s in most of developed and developing countries. For example, in the UK this percentage went from 6% to 23% in 2001 [1] and in the USA from 11% to 53% in the 2003 [2]. ABC method has brought innovation in the field of management accounting this last hundred years. There are few studies regarding cost determination in manufacturing companies in Albania. For this reason, we cannot draw significant conclusion about cost allocation and calculation. Companies do not use costing systems based on traditional or ABC method. So, we can say that the main problem of manufacturing companies, mainly small and medium is the lack of product costs determination system. According to a survey conducted for ten manufacturing companies operating in Tirana and Durres it was concluded that the technique used in decision making by managers was that based on financial statements. The results were: only one company use the marginal costing system and six of them the differential costing. The standard and absorption cost and the ABC methods were not used by any of this company [3] From the evidence obtained from some Albanian manufacturing companies, we observed that the managers of these companies do not have enough information in using cost calculation methods. These companies calculate their product costs based on market prices or calculate arbitrary costs. So, naturally we can ask: are Albanian companies updated and familiar with these cost calculation systems?

Purpose of the paper is to estimate the costs of a manufacturing company in Albania which operates in the field of production and printing of flexible polyethylene plastic packing and the largest recycler of polyethylene waste. For confidentiality reason we will refer to this company as Alpha Company.

The object of the research is to analyse cost elements and calculation in this company using traditional method. The application of ABC method turns out to be difficult in these companies, because these companies are not organized in separate departments or in different cost centers. To achieve the main objective, we will begin with the literature review of cost calculation methods focusing on traditional and ABC system and then we will analyse the data of the case study method. Also, we focus on the real possibility that this company has to apply each of these cost methods changing the way they are organized, creating departments or costs centers.

The main research question is: C*an we calculate the "true" unit cost of products of Alpha Company, through traditional (full costing) method?*
Hypothesis: *Traditional method does not provide accurate information for product unit cost of Alpha Company.*
Sub-research question: *Is the Albanian environment problematic in accurately measuring costs?*

Literature review

A cost calculating system can be defined like a system built to allocate costs to products or services. The traditional cost system is a simple method of cost allocation. This is an easy method to apply but has the disadvantage the do not calculate the "true" cost of the product. In allocating costs to products, the traditional cost (accounting) system follows a simple framework. Direct product costs, such as material and labor costs, are traced directly to products. Indirect overhead costs are allocated to products based on a firm-wide overhead rate or multiple departmental overhead rates. Selling, general, and administrative costs are classified as period expenses. While the implementation of the traditional cost system is straightforward, the resulting cost allocation is far from precise. But, the traditional volume-based cost allocation practices in today's manufacturing environment has been strongly criticized by practitioners, accounting academicians, and consultants. This due to the fact that cost allocation practices are unelaborated and subjective, and that allocations do not reflect the pattern of cost causation in firms using advanced manufacturing technologies [4], [5]. The traditional system was very used until the early '80s for cost calculation. In recent years companies have reduced their dependence on traditional systems by developing cost managements systems based on activities. To address the shortcoming of traditional system, the activity-based-cost (ABC) was introduced in the 80-s [6], [7]. The application of ABC involves a two-stage process. In the first-stage allocation, both manufacturing and non-manufacturing overhead costs are assigned to activity cost pools. The ABC system assigns costs to each activity that goes into production, such as workers testing a product. With activity-based costing, you take into consideration both the direct and overhead costs of creating each product. You recognize that different products require different indirect expenses. By assigning both direct and overhead expenses to each product, you can more accurately set prices. And, the activity-based costing process shows you which overhead costs you might be able to cut back on. In this system, it is assumed that resources are consumed by the activities needed to produce the products or services. In a first phase the resources are allocated to the activities, and in a second phase the activities are allocated to the products. This allocation is made in both cases through cost drivers [8]. Each cost allocation system is composed from five basic elements: cost object, direct costs, indirect costs, cost group and allocation basis [9]. These five elements are important as they are used to design an adequate system for cost calculation. Manufacturing companies mostly uses three basic cost systems: Job Order Costing, Process costing, and Activity Based Costing [10]. The costs systems are a function of resources and costs determinants [11]. According to the study the strategic objective of a cost determinant is to cause or produce a change in level of costs. A cost determinant is the factor that generates resource consumption (capacity). Another important concept in cost accounting is the concept of controllable costs which contributes in achieving cost control objective and accounting responsibilities. ICMA (International Card Manufacturers Association) determines the controllable cost as a cost which can be impacted by the action of a certain member of an enterprise. Essentially the controllable cost is a cost over which a manager has direct and full decision – making authority. Making a distinction between direct and indirect costs would increase the meaning of the managerial accounting. The tree term commonly used when describing production costs are direct material costs, direct labor costs, and total overhead [12]. Direct costs are the costs that can be directly, easily, and correctly identified in an object costs. Indirect costs, also known like total overheads cannot be directly and correctly identified in an object costs. This is the reason why indirect costs can be allocated in a way that permits to do the cost object valuation [13]. Different authors have commented extensively on the shortcomings of typical cost accounting systems. Almost, all activities of a company exist to support production and allocation of products and services. Therefore, must be considered all products costs such as: logistic costs, production costs, sales and administrative, distribution, services, technological, financial administrate, information resources, administrative expenses etc [14]. If we compare the two methods, we can say that ABC method is more accurate in calculating cost per unit of the product [15]. Despite the advantages compared to the traditional system, ABC system also, has some disadvantages. The main disadvantage of ABC is that the frequency of errors in estimating the cost of the product increases by increasing the number of cost centers ad modifying the properties of the basic principle of cost price [16]. Another disadvantage is that the implementation of activity – based properties provides benefits only under certain conditions. Many organizations that have adopted the ABC system abandoned the implementation of this system due to some disadvantage. Despite the disadvantage the literature recognizes the ABC system as one of the best cost calculation system [17].

Research methodology

The research methodology used in this paper is an explanatory case study methodology. Advantages of using this methodology include data collection and analysis within the context of phenomenon, integration of qualitative and quantitative data in data analysis. But this methodology has certain disadvantages that may include lack of rigor, challenges associated with data analysis and very little basis for generalizations of findings and conclusions. The work begins with the collection of financial and non financial from unofficial sources. The data were obtained from the company's finance department. We also use the audited financial statements data of Alpha Company. After the data collection we made a selection of the information, taking into considerations only the elements that are used in the cost analysis, such as: direct material, direct labor, total overheads, and the sales and administrative costs. We use these elements to fulfill the cost analysis. The analysis begins with the calculation of total costs then we calculate the production and non production costs for unit per product. The products taken into analysis are three and for each of them we have calculated DM (direct material)/unit, DL (direct labor)/unit, TO (total overheads)/unit ASE (administrative and sale expenses)/unit. It is done a comparison between these three products regarding material, labor and other expenses use. Data processing is done using excel. After the analysis, based on calculation and finds we give some recommendations on how to improve the economic activity of Alpha Company.

Analysis limitation

This paper has some limitation. The first limitation is that we make an analysis only to one company and this makes it difficult to generalize the results. This work has data and document restrictions related to costs systems used by the company. Another limitation is that the company is not organised into separated departments, such as production and non production departments. Also, the data used are only for a fiscal year. In collecting the data, we had limited access to information relating to direct material and labor for specific products. The direct material value is calculated supposing that DL, TO and ASE like fixed costs, meanwhile some of them do not behave as such in reality.

Case study analysis

Company presentation and its operational side.

The company taken into the analysis, Alpha, operate in the fields of stamping and production of various soft plastic packing. Also, the company operates in the field of recycling plastic bag waste. it is established in the beginning of 90s and is a leader company in the field. The production department

is divided into four cost unit: recycling, production, stamping, and conversion. The company has a total of 160 direct workers and 1300 indirect workers in the material collection network for recycling. The row material may be original and first quality with comes from oil refineries (oil derivative), or recycled material of second hand. The company product 5 types of products and for each of them have a lot of by-products. The number of products produced in total is 60 products.

Cost analysis of Alpha Company

During this paper we have analysed theoretically the traditional and the ABC cost system. In cost analysis of company Alpha it is used the traditional method, and more specifically it is used the method of units produced. Below we present the expenses items of DM, DL, TO, ASE. The data used are taken form database and the financial statements of Company. The value belongs to the period 1 January– 31 December of 2018. We will start the analyses very simply by relying on the equation below:

Total Cost = Product Cost + Non Product Cost

The table below shows the way we conduct the analysis to evaluate the components for DM, DL, TO, ASE for three products. The table shows some items used like direct material in the production of products of our company for the 2018.

Table 1 – Direct Material Alpha Company

Direct Material			
Description	Quantity	Cost/unit	Total
Reinforcing Additive 2534	205	447	91,676
Shining Additive Optibright	150	447	67,080
Against Humidity	375	727	272,513
Fragrant	227	1,230	278,673
Reinforcing White Thread (Bobine 30000ml)	351	3,578	1,255,738
Polypropylene Film	215	358	76,883
Home Polyethylene Granules	650	168	109,005
Imported Recycled Granules	46,154	139	6,425,052
Self Produced Granules	73,604	95	7,004,083
KALCIT – Filter Filler	25,200	95	2,394,756
Total Direct Material			**26,894,685**

Source: Alpha Company, Inventory

The three items with the highest value are Self-Produced Granules, Imported Recycled Granules, plastic coloring. Their weight to the total row material is 64.42%. So, we can say that, most of the half of the value of row material is composed by these three elements. This means that a better management of them can significantly reduce direct cost. How can we do this? Getting a cheaper supplier but taking into consideration always the material quality.

The data taken from the financial department shows the expenses for direct labor (wages and staff bonuses) for total product produced in 2018. Total value for the year is 21,600,000 lek. Direct labor may be managed better by hiring more qualified workers or getting a cheaper labor market. Then, in the table are shown some items of total overheads for the year.

Table 2 – Total Overhead

Total Overhead	
Energy Expenses	31,200,000
Object Storage	1,920,000
Social Insurance	1,800,000
Pallets and Large Bags	1,260,000
Factory Maintenance Costs	120,000
Factory Rent	60,000
Costs for Cleaning Material	60,000
Water, Airs, ect, analysis (periodical control)	18,000
Total Overhead	**40,038,000 Lekë**

Source: Alpha Company, Income statement

Regarding to sales and administrative expenses the data are shown in the table below. These expenses are calculated as% sales revenue from direct activity. Based on Income Statement of 2018 the total sales revenue is 298,093,429 Lek.

Table 3 – The weight of sales and administrative expenses

Type	% e Total Revenue
Administrative Expenses	6%
Logistic Expenses	5%
Other Expenses	4%
Sales Expenses	17%

Source: Alpha Company, Income Statement

Table 4 – Sales and administrative expenses

Administrative Expenses	17,885,606 Lekë
Logistic Expenses	14,904,671 Lekë
Other Expenses	11,923,737 Lekë
Sales Expenses	50,675,883 Lekë
Total Sales and administrative expenses	95,389,897 Lekë

Source: Alpha Company, (Income Statement & Payroll)

According to the value above, we can calculate the value of production and non production cost:

Production Cost = 26,894,685 + 21,600,000+ 40,038,000 = 88,532,685 Leek
Non production cost = 95,389,897 Leek
Total cost = 88,532,685 + 95,389,897 = 183,922,583 Lek

Production and non production cost calculated for product unit

The quantities produced for year 2018 are 1,200,000 Kg.
Average total cost ATC = 183,922,583/ 1,200,000 = 153.26 Lek/ Kg
DL/ unit = 21,600,000/ 1,200,000 = 18 Lek/ Kg
TO/ unit = 40,038,000/ 1,200,000 = 33.4 Lek/ Kg
ASE/ unit = 95,389,897/ 1,200,000 = 79.5 Lek/ Kg

The reason why DM it is not calculated is related to the fact that every product cannot have the same quantity of row material used. The products taken into consideration are: recyclable plastic, greenhouse plastic, plastic tape. The data taken from the inventory of the company are as below:

Table 5 – Total Production Cost

Products	Quantity (kg)	ATC/ Kg	Total Value
Recyclable plastic	54,087	178.88 Lekë	9,675,006
Greenhouse plastic	23,780	178.88	4,253,743
Plastic tape	120	503.1	60,372

Source: Alpha Company, calculation of the author

Using the equation: total cost/ Kg = DM/ Kg + DL/ Kg + TO/ Kg + ASE/ Kg, we can find the value of DM/ Kg for each product.

Table 6 – Production and non production cost allocation

Products	DM/Kg	DL/Kg	TO/Kg	ASE/Kg	ATC/Kg
Recyclable plastic	*48.02*	18	33.4	79.5	178.88
Greenhouse plastic	*48.02*	18	33.4	79.5	178.88
Plastic tape	*372.24*	18	33.4	79.5	503.1

Source: Alpha Company, calculation of the author

We can observe that the third product, plastic tape, uses the highest quantity of row material compared to the other two, when the other cost elements are the same. To better understand the importance of direct material for each product, we can find below the weight direct material per unit occupies to total average cost.

Table 7 – the weight of DM to ATC

Products	Weight of DM/Kg to ATC
Recyclable plastic	26.84%
Greenhouse plastic	26.84%
Plastic tape	73.9%

Source: Alpha Company, calculation of the author

Again, we can see that the weight of row material of third product is the highest. So, we can say that for the same level of DL, TO and ASE, the third product requires more direct material, compared to the other product. The analysis helps us to conclude that the application of traditional system in the actual condition when the company operates does not calculate the "true" cost of the products. This is because they are not clearly and proportionally reflected the elements of DM, DL, TO, ASE for each products. It's not appropriate to say that different products need the same quantity of direct material and direct labor to be transformed into output. To complete the framework of the analysis, it's important to see the added and non added value activity of the company in the manner that the manager could use them for taking better decision. Improving its activity, the company can reach higher profit or minimize the costs. The company can eliminate the activity that exploit resources and do not create added value. The data below are taken from the classification that Alpha Company has done for total overheads.

Table 8 – The classification of activities done by the company

Added Value Activities	Non Added Value Activities
Machinery maintenance costs	Electricity Expenses
Factory maintenance cost	Object storage
Weighing costs	Social insurance
Third party services	Pallets and Large Bags
	Duel costs
	Excise
	GPS
	Electronic device maintenance
	Water, Airs, ect, analysis (periodical control)

Source: Alpha Company

Based on the table above, we can observe that the company has three value added activity and twenty non value added activity. What is worth analysing is to reduce the non value added activity and to increase the value added activity. From the value added activity we can review the Third party services. This voice will decrease in value if the company can get a better workforce but maintaining the quality.

Some of the non value - added activity such as excise, social insurance, taxes etc, cannot be impacted by the decision of the company, as they are external and do not depend on different policies applied by the company. Regarding electricity costs that are classified as non value added activities; they can be reduced if the company uses alternative recourses of electricity, such as solar panel. Also, fuel costs can be reduced if the company negotiates with other suppliers, by concluding certain contracts for the company to be treated at preferential prices based on the quantity supplied. These are some voices with which the company can make modifications in order to increase the value of the product for the client, or to reduce its cost.

Conclusions and Recommendations

Accounting information is the main resource of information for the management of every organization, regardless the activity they perform. In this paper we firstly focus on costing systems literature review for traditional and ABC methods, comparing them with each other. Regarding research question raised we can conclude that traditional system does not provide accurate information, especially when company produces a variety of products. So, we can say that the basic hypothesis

is verified. Regarding the research sub - questions, we can say that the ABC method is preferable to use, because it provides more detailed and accurate information for the cost of a product. While the traditional system is less sophisticated and can be easily applied it has the disadvantage to provide lower quality information. If the company produces a variety of products, it is recommended to use ABC system, in contrast when the firm does not have a variety of products, traditional system is more appropriate to be used. ABC system is more complete and also considers non – productive expense, such as administrative and managerial expenses. What it is important to notice is that the application of each system depends on the companies, as it depends on the way and quantity of production and the ability, they have to apply one system or other. What is important in this paper is the adaption of cost calculation system in the Albanian companies with sophisticated and accurate system, such as the ABC system. What we notice is that the importance of information of accounting system for the Albanian company in the decision making process is not yet well understood. The management information system of most of these companies offer only limited information in time, or do not exist at all. Hence the role and scope of management accounting is not yet well developed. It clearly remains dependent on tax reporting and other legal requirements for reforming various government units. Until legislation and tax regulations become less complex, less variable, and more consistent and until there is a greater compliance between national accounting and international accounting standards, this dependency will continue due to the high cost of fulfillment. In order to operate successfully in developing competitive markets, the companies they must necessarily create more effective management accounting system. For the empirical analyses we take an Albanian company that operates in the plastic sector. based on the data offered from the company and the analyses we have done using traditional system we can conclude that was difficult to calculate the true cost of products because there were some limiting the impacted the results. This shows that the traditional system do not presents a clear panorama for unit cost produced for Alpha Company. Based on the information that the company has a variety of products, we can conclude that the traditional system does not calculate the true cost for unit product of Alpha Company.

Some recommendations suggested for the company are:

1. Review of value added and non value added activity per a better management.

2. A better classification of produce indirect cost.

3. Using ABC system, because traditional system is not appropriate taking into consideration the variety of products produced by the company.

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ECONOMIC-FINANCIAL PERFORMANCE AND SOCIO-ENVIRONMENTAL PERFORMANCE OF THE COMPANY: WHAT KIND OF RELATIONSHIP DO THEY HAVE?

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PERFORMANCE ECONOMICO-FINANZIARIE E PERFORMANCE SOCIO-AMBIENTALI DELL'IMPRESA: QUALI RELAZIONI?

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Abstract

Nowadays companies pay more attention to social and environmental issues: although profit-making represents the necessary condition for achieving economic and financial balance, the company must also develop an ethical and environmental responsibility.
The focus on CSR has taken on a significant importance, so much so that it is necessary to rethink business models, measuring the relationship between Corporate Financial Performance and Corporate Social Performance.
The aim of this work is to investigate the relationship between CFP and CSP through a literature review analysis, highlighting the evolution of the Corporate Social Responsibility concept.
Although the main limitation of the work is to carry out a theoretical analysis, it contributes to feed the part of literature that still investigates the relationship between the two types of performance.

Oggigiorno le imprese pongono maggiore attenzione alle problematiche sociali e ambientali: sebbene la realizzazione del profitto rappresenti la condizione necessaria per raggiungere l'equilibrio economico e finanziario, l'impresa deve sviluppare anche una responsabilità etica e ambientale.
L'attenzione alla CSR ha assunto un'importanza rilevante, tanto da ripensare ai modelli di business, misurando la relazione tra Corporate Financial Performance e Corporate Social Performance.
L'obiettivo del presente lavoro consiste nell'indagare sulla relazione tra CFP e CSP, attraverso un'analisi della letteratura, ponendo in evidenza l'evoluzione del concetto di Responsabilità Sociale di Impresa.
Sebbene il principale limite del lavoro consiste nello svolgimento di un'analisi teorica, esso contribuisce ad alimentare quella parte di letteratura che tutt'ora indaga sulla relazione tra le due tipologie di performance.

Keywords: Corporate Social Responsibility, social performance, financial performance, sustainability, social and environmental aims.
Responsabilità sociale dell'impresa, performance sociale, performance finanziaria, sostenibilità, obiettivi sociali e ambientali.

Introduction

In recent years social phenomena, environmental problems, political transformations and changing economic needs have played an important role in the business policies.

A very essential question has been asked: should the company take care exclusively of its economic dimension, leaving out the social and environmental perspectives, or should it take into consideration an integrated vision of all the three dimensions?

Profit-making represents the main objective of any business system.

But that is not all.

The company should realize economic and financial aims, but also social and ethical ones, which are functional to ensure development, growth and long-term survival.

Today it would be appropriate to integrate social and environmental purposes in business strategy. In fact, the exclusive achievement of economic goals does not exhaust the role of a company. Consequently, it is necessary to guarantee and safeguard the economic principle but, at the same time, social and ethic dimensions must be preserved.

This concept differs from the theories of Milton Friedman, who thought that the only responsibility of business was the economic one [1]. His idea has been completely replaced by the new vision of the company: its responsibility is beyond what the law imposes; its responsibility is beyond its aim, which is not only productive but also social and ethical.

Moreover, the company operates in a new context where there are various categories of subjects, called stakeholders. In fact, the concept of Corporate Social Responsibility derives from the "*Stakeholder theory*": suppliers, customers, the State, employees, community are the main company stakeholders. According to this theory, the achievement of business success depends on the balance between corporate stakeholders' interests. Therefore, it is necessary to combine the economic, environmental and social objectives, ensuring an integrated vision of business results.

Currently, according to globalization, the evolution of ICT, the speed of communication, the reduction in raw materials and resources (such as oil, minerals, timber and water) marks an increasing need to protect environment, energy saving, to reduce waste, emissions, greenhouse effect and pollution, and also the use of alternative and renewable energies.

Moreover, the increasing importance attached to people, human rights, human capital and needs of customers has also contributed to increase the importance of Corporate Social Responsibility in business practices.

The aim of this paper is to investigate the relationship between Corporate Financial Performance and Corporate Social Performance.

To achieve this goal, it has been analyzed the existing literature on the link between CFP and CSP, trying to understand if being socially responsible can or cannot influence (positively or negatively) the economic and financial performance of firms, underlining the principal limits observed and promoting possible food of thought for future empirical analysis.

Methodology

The CSR theme refers to the "*Stakeholder theory*": suppliers, customers, employees are the main stakeholders of a company, but also the entire community, which is interested in the rights and environment protection. According to the Stakeholder theory, the achievement of corporate success depends on the balance of economic, environmental and social objectives, ensuring an integrated vision of business results.

In particular, the research question is the following:

- *Q1: what kind of relationship do economic-financial performance and socio-environmental performance of companies have?*

The research methodology is a qualitative research, which is chosen for its advantage that allows to study in depth the characteristics of a given phenomenon.

It has been chosen the literature review analysis because it helps to appreciate the evolution of a certain phenomenon, allowing identifying areas which have not been investigated yet, putting in evidence possible topics for future research.

The literature review analysis has been developed with reference to a period from 1970 to 2019, using the research database EBSCO. The choice of this period of time is due to the intention of observing the evolution of CSR topic, which has become particularly relevant in the last 5 years. The approach used in this paper makes reference to a systematic literature review, which is objective and replicable, a systematic process analysis, as well as an empirical research [2].

In particular, this kind of research method is characterized by a clear definition of the selection of articles which is not casual, and the clear identification of articles which are relevant to the aim of the research [3].

To carry out this kind of research, papers have been collected making reference to titles, abstracts and keywords such as: *"sustainability"*, *"social performance"*, *"financial performance"*, *"environmental aspect"*, *"ethical aspects"*, *"social responsibility"*, *"economic responsibility"*, *"environmental disclosure"*, *"corporate social responsibility"* and *"CSR strategy"*. Articles which are not relevant to the topic under study have been excluded.

Results

According to the literature review, the CSR topic is certainly not a new topic in management studies. The issue of corporate social responsibility has met a lot of interest from scholars and researchers since the early 1900s. The first major contributions on the CSR topic make reference to 1916, when J.M. Clark published his work *"The Changing Basis of Economic Responsibility"*. The author criticized the economic world of his time, which was characterized by a strong sense of irresponsibility [4].

In the 1950s, Bowen was the first to introduce the concept of CSR, referring to the "*businessman theory*". The author proposed a definition of social responsibility of businessmen [5]: for the first time, the ability of entrepreneurs to influence the entire community through corporate policies and strategic choices was recognized.

In the 70s of last century the economist Milton Friedman supported the only entrepreneurial goal of making profits: "*The only social responsibility of business is to make profits*". The author believed that profit-making was the only aim of businessmen. Consequently, the only corporate responsibility is the economic-financial purpose. In particular, the attention given to CSR theme applied to the performance of a firm that has developed from the 70s onwards: Carroll was the first scholar who introduced the term of corporate social performance (CSP) in his studies. He considered CSP as a voluntary integration of three dimensions [6]: corporate social responsibility, corporate social responsiveness and social issue. This definition was later expanded by Wartik and Cochran, who gave an evolution to the Carroll's model, integrating the three parameters with other three variables: principles, processes and results [7].

In the following years, Wood combined Carroll's dimensions with Wartik and Cochran's model, giving a more advanced CSP definition, which mixes CSR principles, social responsiveness processes and results in terms of policies, programs and practices adopted by management [8]. According to Elkington, to obtain an efficient performance, it is necessary to combine social and environmental aspects with economic aspects, promoting forms of collaboration that would help to carry out entrepreneurial activities in a more efficient way [9].

Moreover, respect for social and environmental elements, in addition to economic ones, leads to the transition from a one-dimensional approach called "one bottom line" to a multidimensional "triple bottom line" approach. The realization of positive economic results (profit), the attention and respect for environmental resources (planet) and attention paid to human and social aspects (people) also known as the "Three P" model (Planet, People, Profit) leads to a continuous search for the conditions of balance between the three dimensions. In this way it is possible to realize a winning strategy, defined by Elkington as "win-win-win" [10].

In the following years, these concepts were confirmed by Porter and Kramer: it is essential to combine the economic and social responsibility of the company with its social and environmental responsibility to reach a competitive advantage [11].

Furthermore, in the study conducted by Porter and Kramer in 2011 *"The Big Idea: Creating Share Value"*, a new concept has been highlighted: i.e. Share Value. According to this approach, companies should generate shared value for the entire community, considering social and environmental variables at a strategic level, since meeting social and environmental needs is seen as an opportunity to generate a long-term competitive advantage [12].

Moreover, the progression of CSP has developed two lines of research: on the one hand socially responsible investments and ethical finance themes, on the other hand the relationship between CSP and CFP about the convenience for individual companies to invest in social responsibility in order to achieve better financial and economic performance.

According to the second viewpoint, an increasing number of companies are paying attention to the adoption of sustainable behaviours, in particular public and private enterprises, whose production has a significant impact on the environment, in order to obtain a competitive advantage.

Therefore, the integration of CSR into company practices allows a reconsideration of the business strategy: for this reason, social responsibility and profitability are linked each other. This phenomenon has been subject to empirical studies; in particular, the main literature contributions refer to the following fields of research:

- environmental disclosure and environmental performance;
- environmental disclosure and company value;

- financial performance and environmental performance [13].

According to this third field, different researchers investigated the relationship between environmental and financial performance.

With reference to the relationship between socio-environmental performance and economic-financial performance, the literature review analysis shows that there are many studies that investigate this relationship, bringing to conflicting results [14]:

- negative relationship: corporate social responsibility produces higher costs than profits, so financial performance will tend to assume low values;
- positive relationship: in this case, there is not a direct relationship between social performance (CSP) and financial performance (CFP), but there is a causal relationship;
- mixed relationship: CSP and CFP relation is not fixed over time and it can assume the "U" form. CSR may initially cause an increase in costs and profits, but this trend can be changed in the long period;
- the lack of relationship: CSP and CFP are variables that are not related to each other and CSR has no impact on financial results [15].

Although the studies on CFP and CSP relation are very numerous, a universal conclusion has never been reached.

Between 1972 and 2002, about 127 studies empirically examined the relationship between the adoption of socially responsible behaviour by companies and their financial performance.

Measuring social performance as an independent variable, most of the results show a positive relation between social and financial performance; 7, a negative relationship, while 28 studies reported an insignificant relation.

Measuring social performance as a dependent variable, approximately 16 (out of 127) studies identify a positive relationship between financial and social performance [16]: the existence of a positive relationship between them means that investing in CSR lead to a higher economic and financial performance [17].

According to some studies [18] the positive relationship between CSP and CFP can be traced back to the stakeholder theory [19]. In fact, the adoption of ethical and socially responsible behaviours allows the company to improve safety levels, reduce business and ecological risks, reduce pollution, and respect the environment. In this way, it is possible to obtain higher profits, producing better economic performance and reducing risks and costs associated to inefficiencies [20].

It may not always be obvious, however, that socially responsible companies obtain better financial performance [21]: some scholars have observed that social performance is inversely proportional to financial performance [22] since environmental activities involve a greater expenditure of capital and resources and lead to higher costs [23]. In fact, according to Bragdon and Marlin (1972) the negative relationship between CSP and CFP could be attributed to increasing costs occurred for improving environmental performance: high environmental responsibility can lead to additional costs that economically translate into a CFP worsening compared to those companies that are less socially responsible.

Another group of research suggests the existence of a neutral relationship between CSP and CFP.

For example, Ullmann (1985) believes that there is no reason to suppose the existence of a direct relationship between socio-environmental performance and economic-financial performance, given the large number of variables to consider.

Other authors find the existence of a neutral relationship due to the use of market index rather than accounting indicators to measure financial performance [24].

According to a modern vision, the relation between CFP and CSP is directly connected to the value creation through the implementation of corporate social responsibility policies by management. It requires the definition and the concrete implementation of a correct CSR policy by the company, notifying their managerial actions to the third parties. Finally, it is important that stakeholders understand these initiatives and use the information to take their investment decisions [25]. In this way it will be possible to implement a virtuous CSR strategy, thanks to which the benefits associated with sustainable management outweigh the costs: the increase of financial resource availability, the improvement of corporate image and reputation, the strengthening of stakeholder confidence, allow growth and development, satisfying the demands of a broader group of stakeholders.

Connected to the relationship between corporate social responsibility and economic-financial performance, the assumption of socio-environmental policies involves costs but also translates into benefits. The costs associated to the adoption of a CSR strategy are generally attributable to the following categories:

- compliance with laws and regulations (costs of adapting old plants, investments in new production systems, ordinary and extraordinary maintenance costs);
- costs for communication and for the disclosure of socio-environmental information;
- costs for staff training;
- costs for design and implement an environmental management system;
- costs related to certifications;
- costs relating to social activities.

The costs which occur for the realization of socio-environmental purposes should be related to the cost of opportunity, which is attributable to those activities which the company gives up for socio-environmental applications. The cost of opportunity refers to incurring the additional costs to purchase environmentally friendly materials, unfortunately at the expense of other business choices.

Then, there are the operating costs which are required for meeting the needs of some stakeholders; for example, some additional services to ensure the well-being of employees, such as kindergarten for their children; or the higher costs for purchasing materials from certain types of suppliers, to support their social purposes. It is necessary to consider costs associated to human resources, or those associated to intangible assets, such as the management remuneration for the greater time dedicated to social activities; or think about the use of intangible resources such as brands and IT knowledge. Another cost that derives from the realization of CSR activities is represented by the strategic limitations for companies: by adopting CSR policies, choices and renunciations are made. For example, the company can give up carrying out more profitable activities (but also polluting), or the company could give up operating in places where human rights are violated, or it could turn down to work with no-socially and ethical partners [26].

Following the adoption of CSR behaviours, there will also be benefits, which in economic terms translate into an increase in incoming cash flows or a decrease in cash outflows.

By adopting socially responsible behaviours, the company will be able to benefit from the reduction of the following costs:

- costs related to the disposal of waste and the use of resources, since less waste will be produced;
- costs related to accidents due to the greater attention paid to health and safety in the workplace;
- costs related to administrative sanctions, since the respect of regulations reduces the non-compliance behaviours of companies.

One of the direct effects of CSR behaviours application is represented by the reconsideration of the business strategy: for example, the adoption of social reports allows management to deal with problems that otherwise would not have given importance.

In addition, many CSR activities are reported: by communicating its sustainability actions, the company achieves a benefit in terms of visibility and reputation.

The importance given to social, ethical and environmental aspects, the interest in staff question, the desire for innovation, brings other benefits: an increase in staff motivation who feel understood and protected, thus achieving the corporate objectives in a more efficient way; as a result, the improvement of production processes and the acquisition of social and environmental certifications. Then there are also indirect benefits, connected to socially responsible behaviours. For example, better relations with stakeholders derive from a good corporate reputation. Adopting sustainable policies also reduces the risk of collaborating with irresponsible companies, which can be the protagonists of commercially disastrous scandals.

Another indirect benefit derives from better relationships with employees, with a consequent production efficiency improvement. This situation will generate better product quality, which facilitate the conquer of new customers, reducing quality costs, such as expenses for rework.

Finally, a socio-environmental policy translates into a risk reduction, such as the risk of accidents at work and the risk of ecologically catastrophic events which would produce irreparable damage for corporate image. Reducing all these risks brings the benefit of reducing company crises, the discontent of workers, the flight of staff, disputes with internal or external subjects, social scandals, consequently reducing insurance costs. In addition to this, some authors claim that environmental investments can bring benefits not only for the company but, in a broader sense, for the entire community [27].

CSP and CFP studies have evolved over time. In particular, some researchers have analysed the relationship between financial and non-financial performance, using both market and accounting indicators to measure CFP [28]; others have studied CSP, using ESG (environmental, social and governance) indicators; other studies analyse the impact of carbon emission on financial performance [29]; in another case, researchers have tested a negative effect of gearing on economic performance [30] [31] and so companies that engage in socially responsible behaviour have a lower level of debt than companies less careful of social issues [32].

In recent years, a greater meaning has been attributed to CSR: it makes reference to the achievement of a competitive advantage, cost savings, improving the firm's ability to respect governmental regulations, a positive brand image [33], minimizing the risk exposure [34], promoting the adoption of green initiatives [35] , green principles and green practices [36]. In recent years the importance of CSR has grown in particular with reference to the firm value: some authors used the value generation as proxy for financial performance, analysing the effects of environmental performance on firm value [37] revisiting the relation between financial and environmental performance [38] [39].

Some authors pay attention to the CSR efficiency in term of contribution to the firm value. Cho and Lee in 2019 have revisited the CFP and CSP relation considering the role of management efficiency: efficient managers choose an economic and strategic CSR policy, creating value. Other authors identify a relation between CSR and core business to realize a competitive advantage: incorporating CSR policy in business strategy brings benefits, such as the value creation improving productivity and firm value. In recent years, some authors have identified a relationship between Corporate Sustainability and Circular Economy; in particular the transition to a Circular Economy is an opportunity to realize sustainable competitive advantages. In fact, the aim of circular economy is to eliminate waste in a systematic way, throughout the life cycles, and promote policies and strategies based on materials and energy reductions, according to sustainability principles [40]. Other scholars demonstrate how the implementation of environmentally responsible practices, according to circular economy principles, brings to opportunities for development and sustainability. In fact, environmentally responsible business practices, integrated with circular economy principles, help to achieve a balance between economic efficiency, social justice and environmental responsibility [41].

Discussion

The different results obtained in the managerial studies connected to the relationship between socio-environmental performance and economic performance can be attributed to the following classification criteria:

- the independent variable adopted: generally, most studies related to this field of research consider the economic variable as an independent variable and the social variable as a dependent variable; other studies consider vice versa hypothesis, in order to estimate its effect on the different relationship obtained;
- the size and nature of companies: some studies consider small samples of 25-50 companies or research that focus on large samples. Another criterion of analysis is the kind of activities of the sample analysed;
- the ethical-social variable adopted: generally, this type of variable is very difficult to define. Some studies have considered the social aspect of the company as a whole; instead, other studies have focused on the analysis of the environmental variable with reference to specific functions of the company;
- the indicators used to measure social aspects: the methods of measuring CSR mainly refer to the use of indicators which immediately highlight the results of the phenomenon analysed. This includes the use of indicators such as the level of reputation and ethical rating. Other authors have tried to measure the ethical behaviour through the analysis of the documents, such as code of ethics, environmental certifications, social report, or use of indicators such as number of emissions, energy consumption, adoption of social policies for promoting equal opportunities, no child labour, attention to health, safety, private life of employees;
- the indicators used to measure economic performance: some authors use the balance sheet indicators, such as profitability, risk, financial structure, level and cost of debt, liquidity; other authors make reference to market indicators such as multiples or market value analysis;
- the period of time: some studies analyse the sample for a short period of time (generally one or two years) due to the availability of data, while other studies analyse the sample for a

longer period of time;

- the data collection: some studies use data collected through existing databases, while other studies collect data through the analysis of annual reports, social balance sheet, through direct observation, through interviews or questionnaires;
- cause-effect relationships: there are different control variables which are used in empirical studies, including sector, level of risk associated with the activity carried out, company size, investments in research and development or the corporate governance system;
- the methods employed: many studies carry out statistical analysis using linear regression models, other studies use the methodology of multivariate analysis, t-test, ANOVA; other scholars use the case study technique.

Studies about the relationship between economic-financial performance and socio-environmental performance often lead to conflicting results. According to Ullmann (1985) this problem could be attributed to different analyses and research methodologies, but also to the use of various measures of economic and financial performance. The study conducted by Margolis and Walsh in 2001 identifies how most of the studies used accounting measurements, followed by market indicators, and only very few studies were based on the joint use of accounting and market indicators. Some authors use market variables to measure financial performance, for example capital asset pricing model [42] and value in trading day [43]; other researchers use accounting variables to measure financial performance such as profit value [44], revenues [45], total debt ratio [46]; other authors used accounting indicators such as ROA, ROE, ROS as proxies of financial performance [47]; other researchers use credit rating as a proxy of financial aspects [48].

Furthermore, the conflicting results between economic-financial performance and socio-environmental performance are attributable not only to the use of accounting indicators, but also to the use of market measures, errors in CSR quantification [49], methodological problems, internal or external factors in each individual company that influence its performance, the different period of time considered, the different variables used to measure social and environmental performance and financial performance, the limited data available [50]. In particular, errors can be attributed to the variety methods of measurement used; for example, Margolis and Walsh found out that economic and financial performances were measured through sixty different ways. Other scholars attribute the contrasting results to sampling errors, especially the few data availability and the poor consistency of the sample analysed [51]. Other problems are represented by the difficulty to measure some effects in the long term [52] [53] or the limitation in the size of the sample considered due to the lack of information [54]. Other scholars have strongly criticized the use of qualitative methods, such as the case study analysis: they believe that qualitative method can generate insignificant results compared to quantitative methodology. In addition, with qualitative method, it is impossible to generalize the achieved results [55]. The literature review shows that quantitative techniques (in particular econometric models) are preferred over qualitative methodologies [56]: CSR studies show how the regression model is used in 71% of cases and only 29% use alternative analysis models. With reference to quantitative studies, some scholars believe that the conflicting results are due to the omission of fundamental control variables in the model [57], which are capable of explaining the relationship between economic-financial performance and ethical-social performance. The inclusion of control variables in an econometric model is warmly suggested for the ability to influence the relationship between performance: through their inclusion it would be possible to solve the multicollinearity problem.

The different results could be a consequence of the omission of some variables, such as "*research and development*", "*advertising*" [58], "*size*", "*industry*".

Further critical issues are represented by the use of social responsibility indicators and financial performance indicators, which are very different from each other: the use of a wide range of indicators to measure the financial or environmental performance can lead to different results. The different socio-environmental performance measurements represent a great obstacle, since it is a matter of evaluating aspects of a company that are not fully measurable: the measurement process would certainly be facilitated by the Governments' interventions, in order to ensure the adoption of common regulations and guidelines [59]. In particular, different researchers have developed social variables, and others use existing CSP indicators: some authors used GRI sustainable indicators [60], others CSR sustainability ratings [61]; other researchers developed new indicators, such as treatment of women as proxy of social performance [62], adoption of environmental certification [63] or number of emissions [64]. Numerous efforts have been made, trying to overcome the obstacles in measuring CFP and CSP relation. Over the years, different additional aspects have been introduced into this debate in order to improve the transparency in this relationship. Some authors introduced different control variables as moderating effects, such as company size [65], leverage, sector [66], CSR motivation and R&D [67] [68]. Other authors identify gaps due to the use of different measurements for financial, social, and environmental performance and different control or moderating variables through a literature review of seventy-nine studies from 2000 to 2019, suggesting possible solutions [69].

Conclusions

The social responsibility is a very topical issue and there are numerous studies in this regard: relationship between environmental disclosure and environmental performance, relationship between financial performance and environmental performance, the study of tools for measuring and reporting on social aspects of company, the analysis of successful case studies, the analysis of how much the market appreciates sustainable investments, the definition of complex models capable of measuring the ethical and social aspects of companies. In this study, attention has been paid to the relationship between CFP and CSP. Although most studies highlight the existence of a relationship between the two types of performance, whether positive or negative, a definitive result has not yet been reached. This is mainly due to the difficulty in measuring economic and financial variables, due to the use of accounting data or market information. Specifically, it is even more difficult to find a variable that accurately and unambiguously measures socio-environmental performance; the existence of different measurements (number of emissions, drafting of the social report, innovation of plants, child exploitation, equal opportunities between men and women, obtaining certifications and respect for the rules) leads to a lack of homogeneity in detecting and analysing univocally the ethical-environmental variable. This is because CSR is still discretionary and is not made mandatory by legal provisions. Many times, these difficulties are weighed down by the unavailability of homogeneous data such as to guarantee observation on a rather large sample. In this way, it has not yet been possible to unequivocally estimate the convenience of companies in investing in social and environmental policies in order to obtain better economic performance. Including ethical, social and environmental choices in business strategy brings certainly different costs due to adaptation of machineries, obtaining of certifications, production of clean energy, efficiency of the production processes, choice to supply relationships based on ethics and environmental respect. But many benefits are also obtained, such as waste and rework reduction, reduction in the number of accidents at work, administrative sanction reduction, improvement of image and reputation, increase in

employee motivation and therefore greater productivity. Nowadays CSR has become an integrated part of business; it is attested by the redaction of sustainability and CSR report, in addition to annual report and financial statement [70] in order to communicate social, ethical, environmental disclosure to stakeholders. Moreover, CSR programs encompass voluntary partnership on the environment, marketing activities to protect the environment, promoting welfare, mitigating industrial effects on environment, improving production method, promote the use of green sourcing [71], ethical activities, waste reduction, human right respect. Moreover, a wide range of social and ethical initiatives is available to promote the integration of CSR policy in business models [72].

This has led to a big change: the transition from a linear economy to a circular economy. Each phase of the life cycle of a product, from procurement to distribution, must take place by minimizing the resources used and the waste produced. This means not only reducing waste, but also re-using this waste in the production of new goods and energy, achieving production efficiency. In short, it means reconsidering business policies and strategy, favouring environmental sustainability, social, ethical and human dimensions, as well as the economic one. In this way, the company creates value through the realization of sustainable development, respecting human right and environmental approach of business over time. Although the present paper is not an empirical one, it offers a careful analysis of the literature focusing on the theme of the relationship between CFP and CSP and suggests a series of ideas about the main difficulties of their estimation and how it would be possible to face future studies. It would be desirable to identify a single indicator which is capable of measuring the social performance, determinate in an objective manner how the comparability of the same company can be encouraged over time, as well as the comparability of the company with other companies, expanding the sample analysed in order to generalize the results. In this regard, an attempt is being made to identify an indicator able to help in overcoming these critical aspects, that is the ethical rating application. It is hoped that companies will increasingly adopt social responsibility policies in their managerial choices, in order to avoid scandals and environmental disasters such as the case of the Haribo company which is recently under investigation for its production processes or the Dieselgate scandal which has stained the reputation of Wolkswagen, one of the largest automakers in the world.

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TRUST-BASED ECONOMY: CROWDFUNDING AS A POSSIBLE ANSWER

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L'ECONOMIA DELLA FIDUCIA: IL CROWDFUNDING COME POSSIBILE RISPOSTA

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Abstract

Crowdfunding is one of the most meaningful contemporary instruments of financing because it makes possible the realisation of any project, even for those who would not have the possibility to access to traditional financing sources, due to a different motivation from the economical one that pushes the funder: an "identification with the project" point of view. This aspect makes Crowdfunding an innovative way of funding, becoming, this way, one of the possible answers for a trust based economy. This assumptions are confirmed by the exponential global growth in harvested volumes until 2015: 34.4 billion dollars; same trend followed by Italy, which marks a doubling of the volume raised from 2017 to 2018, with a preference for donation and reward platforms.

This article deals with the analysis of Crowdfunding starting from its origins: microcredit, fundraising and crowdsourcing; continuing with the different platforms, i.e. the different types of Crowdfunding existing so far, and finally some numbers on the development of the phenomenon at a global level and in particular that in Italy.

Il Crowdfunding è uno degli strumenti di finanziamento contemporanei più significativi in quanto rende possibile la realizzazione di qualsiasi progetto, anche per quei soggetti i quali non avrebbero la possibilità di accedere alle fonti di finanziamento tradizionali. Ciò avviene grazie alla differente motivazione alla base della scelta di finanziare un progetto, non di tipo economico, bensì basando la propria decisione sull'identificazione con il progetto. Questo aspetto rende il Crowdfunding una modalità innovativa di finanziamento, diventando così una delle possibili risposte per un'economia basata sulla fiducia. Questo presupposto è confermato dalla crescita esponenziale globale dei volumi raccolti fino al 2015: 34,4 miliardi di dollari; stesso trend seguito dall'Italia, che segna un raddoppio del volume raccolto dal 2017 al 2018, con una preferenza per le piattaforme di tipo donation e reward.
Suddetto articolo affronta l'analisi del Crowdfunding partendo dalle sue origini: microcredito, fundraising e crowdsourcing; proseguendo con le diverse piattaforme, ovvero le diverse tipologie di Crowdfunding finora esistenti ed infine, alcuni numeri sullo sviluppo del fenomeno a livello globale e in particolare a livello italiano.

Keywords: financing, crowd, platforms, cooperative relationships.
Finanziamento, folla, piattaforme, relazioni cooperative.

Introduction

The following work aims to propose a study of the economy that sees trust as the basis of its relations, analysing the mechanisms that crater it and bringing attention to the role that identity plays in the economy. The importance of identity in the economy has been expressed in a concrete way through the birth and development of Crowdfunding.

Identity, and consequently relations based on trust, has always represented the basis and the driving force of economic relations as claimed by Zamagni [1]: "without trust you don't sign contracts and without contracts you don't do business" and Bruni [2]: "the market is a matter of *fides*, of public faith, a real precondition for economic development", demonstrated by the Maghribi's commercial traffic before the birth of the formal institutions protecting international commercial relations [3]. So we are talking about a return to the importance of trust which, if in the contemporary era had lost its importance and was considered to belong exclusively to the socio-psychological sphere, today it attracts the attention of various studies of economics, including those carried out by Cunningham and Mc Gregor [4] and Butler [5] to define it, and the studies of Ennew and Schekon [6], who have tried to quantify it through the creation of a measure of trust in financial institutions: the trust index;

In addition to the evident return of the role of identity and trust in the economic field demonstrated by the attention of scholars, their return is manifested in a more concrete way through the birth of Crowdfunding, i.e. the financing obtained by the crowd, which bases its work on the identification of the financiers in the projects they decide to support, and secondly, on the trust that makes possible the financial relationships underlying Crowdfunding.

Materials and methods

The methodology of the study and the approach to Crowdfunding has been duly through the collection and analysis of mainly historical statistical data, in order to outline the trends of a still evolving phenomenon, and of forecasting data, in order to indicate the likely future trends of the market. In addition to the analysis based on mathematical data, this work was also based on an extensive bibliographic research, taking advantage of the contribution of authors from different fields, not only authors of economic matrix, as the aim of the study is to understand the Crowdfunding phenomenon as widely as possible.

Results

The analysis proposed by the present study shows how Crowdfunding has succeeded in a few years since its birth in occupying a leading role in alternative financing methods, with exponential growth rates at global level. A type of financing that is increasingly close to different market needs, see the continuous evolution of the models adopted and the continuous growth of this sector, both in global terms and divided by type.

Definition and description of Crowdfunding

Crowdfunding, as anticipated in the theoretical premises, literally means funding from the crowd, it means the financing of a project by individuals (the crowd) and not by accredited professional entities (e.g. banks, venture capitalists) [7]. This term was coined by Michael Sullivan in 2006 with

the launch of Fundavlog, a portal aimed at raising funds to support video blogs, alternatively called *vlog* [8].

The relational structure of Crowdfunding is composed of three actors:

- Investors: they are generally an average group of people, who have the opportunity to make small contributions, ranging from $ 1 to $ 100, in favour of activities they consider promising, thus allowing even those with few economic possibilities to invest. In addition to the possibility of investment at the economic level, Crowdfunding leaves in the hands of simple people, let's call it mass (crowd), the power to decide which ideas are worthy of being transformed into economic activities and which are not. In short, it can be said that thanks to Crowdfunding the crowd has the power, first of all, to evaluate and then to provide economic support for the projects presented.

- Entrepreneurs: these are the people who are looking for funding from the crowd. Investors can be both companies and private individuals who have difficulty in receiving credit from traditional credit institutions such as banks. In addition to the possibility of receiving funds for the proposed project, Crowdfunding for investors can also be seen as a springboard but also as a test run for the proposed project, as if it is massively supported by investors, it will probably have as much support from clients/consumers once the project is completed;

- Intermediaries: they tend to be Crowdfunding platforms, i.e. specialized sites for raising funds from the crowd. The main activity carried out by the platforms is to connect entrepreneurs with investors, as they give the opportunity to present business models on their website and allow investors to make their contribution online [9]. The platforms can in turn be divided into two typologies with respect to how they deal with the funds raised: the first type keeps the funds in an escrow account, so as to return the money paid out to investors if the amount requested by the entrepreneur is not reached; the second type of platform allows entrepreneurs to take the funds paid out even if the target amount has not been reached [10].

To sum up, it can be considered that "on the taxpayers' side, Crowdfunding is seen as a democratic phenomenon as it opens up endless opportunities for philanthropy and investment in entrepreneurial projects to people with minimal financial resources. On the side of project promoters, the possibility of obtaining little from many increases the leverage available for fund raising" [11]. It is essential to consider, in addition to the three fundamental components that take part in the process (investors, intermediaries and entrepreneurs), also the cooperative relationships that bind them. Without such relationships also the actors that take part in them would not make sense and ultimately the Crowdfunding itself would have no way to exist. This is to underline that it is thanks to this cooperative link that the parties involved in the fundraising process are able to realise new investment opportunities and thus to carry out projects that would otherwise not be feasible.

Origins of the phenomenon

Besides the definition and the actors involved in Crowdfunding, it is interesting to be able to identify the origins of such a new and dynamic phenomenon. It has been observed that Crowdfunding shares different aspects with three other types of funding that precede it, which are crowdsourcing, microcredit and fundraising. In contrast to crowdsourcing, it can be seen that the prefix crowd shares them, in fact, it can be argued that Crowdfunding originates from the broader phenomenon of crowdsourcing, which involves the collection of resources, then with a more general perspective, including ideas, feedback and solutions [12], without limiting itself to the exclusive collection of funding.

Starting from the definition of microcredit as "a small amount of credit, intended for the financing of micro-entrepreneurial activities, granted to persons disadvantaged because they are in a state of poverty or excluded from the financial system, not assisted by traditional guarantees and accompanied by technical and assistance services" [13]. The existing link with Crowdfunding is evident: both Crowdfunding and microcredit deal with the collection of credit from subjects who do not have sufficient guarantees to obtain it in the traditional way from credit institutions; moreover, thanks to this peculiarity, they allow new entrepreneurs, or more generally, subjects who otherwise would not have access to credit, to carry out an entrepreneurial project, giving them, in both cases, a possibility of economic/social redemption.

If the prefix of the word Crowdfunding immediately recalls crowdsourcing, one cannot but notice that the suffix, in the same way, recalls fundraising. The link drawn from the etymological side also implies a link at a deeper level, i.e. with regard to the principles underlying both. Both Crowdfunding and fundraising follow as a guiding principle the need to create relationships of trust with one's interlocutors by communicating one's values to the other in a clear and transparent way. In addition to the common points, the two realities differ in that fundraising can be seen more as a strategy, while crowdsourcing more as a means of fundraising, as also confirmed by Young [14], Crowdfunding should not be considered as a substitute for fundraising, but rather as a new method of fundraising, to be considered alongside the other alternatives that you have. This underlines how Crowdfunding is almost a subcategory of fundraising, although it differs on practical aspects of its implementation.

Types / Models

In this paragraph we will analyse the different types of Crowdfunding that are adopted by different online platforms. A first distinction, even if much less recurrent than the one that will be analysed later, can be made with respect to the stage of the submitted project, having therefore two types: the first defined ex post facto Crowdfunding, where the financiers/crowd invests in completed products, examples are the "pay what you want " business models, where consumers offer a price in line with the value they attribute to the product or service presented; and ex ante Crowdfunding, where investors finance an unfinished project [15]. The second type of classification of the various Crowdfunding models, which is also the most widely used, divides the phenomenon according to three types of financing offered to the potential investor. The investment opportunities are donations, passive investments and active investments. These three types of financing are the result of four types of Crowdfunding adopted by the different platforms/sites:

1. donation-based (based on the simple donation model): a campaign that does not provide any kind of financial reward for the funder, who makes a donation for purely altruistic purposes or for particular sensitivity to a cause;
2. reward-based (structured on profit-sharing or other types of tangible rewards): are platforms based on the expectation of a reward from the lender;
3. lending-based (based on the microcredit model): this contract provides, like any debt contract, that the borrower undertakes to repay the amount paid by the lender within a specified period of time, plus an interest rate, usually lower than that offered by the credit institutions;
4. equity-based (functional to rise seed money for innovative companies [16]): the search for venture capital through a Crowdfunding campaign, to start a business, or to financially support the expansion of an existing innovative company in new projects or sectors.

Finally, as a stand-alone model, we find the so-called "Do It Yourself", i.e. Crowdfunding that does not use a platform.

This underlines how, despite the fact that Crowdfunding is in its early stages, as argued by Bechter [17] growth is overwhelming both in the variety of sectors to which it is applied, such as music, games, charity and in the overall value of transactions. The importance and rapid growth of the figures collected through Crowdfunding is also emphasized by Wheat et al. [18] , who claim that in a wide variety of fields/sectors, particularly in the art sector, it has become a typical instrument/ method of fundraising.

Crowdfunding numbers

The data analysis was carried out first at a global level, in order to have an overall view of the phenomenon and to capture its total dimensions, followed by an analysis by geographical areas, with particular emphasis on the major global players such as the US and China, ending with a more in-depth analysis of Italy.

In the world

Starting from the analysis at a global level, the positive trend of Crowdfunding from 2017 to 2020 is confirmed by the data published by Statista [19] and that gathered by Learnbonds [20] between 2020 and 2023, showing that the transaction value worldwide will grow annually at the rate of 12%.

Graph 1: Global Transaction Value from 2017 to 2023 forecasts (in billion USD).

Source:Statista [21]

According to the data reported from 2017, the first year of reference, until 2020 the global transaction value has more than doubled from approximately $4 billion to $8.54 billion (estimate). Furthermore, the data indicate that in 2021, the global crowdfunding transaction value will be $9.96 billion, a growth of about 14% from 2020's estimates. In 2022, the value is set to top at $11.11billion and increasing up to $11.98 billion in 2023, last estimate year.

Major Players:

Table 1: Global comparison on Transaction Value and specific contribution by Major Players in 2020.

Areas	Northern America	Eastern Asia	Central & Western Europe
Transaction value (x1000)	$830.000	$7.082.000	$296.000
Percentage of total amount	10%	86%	4%
Major Players (Countries)	United States	China	United Kingdom
Transaction value (x1000)	$782.000	$7.049.000	$100.000
Percentage of the Area	94,22%	99,53%	33,78%

Source: Statista [22]

The most important figure in the report by Statista [23] is the situation of Asian countries, which has a supremacy with $7.082 billion, followed by North America with $0.83 billion and last by Europe (Central and Western) with $0.296 billion. It is interesting to note that for each proposed Area the major contributor is exclusively one State, China(99,53%), in the case of Asia the US (94,22%) in the case of North America and, less accentuated, the UK (33,78%) in Europe.

In Italy

According to the most recent report published by Starteed [24] on Crowdfunding in Italy, in which the results obtained on all Italian platforms are presented, 2008 is defined as the turning point for Crowdfunding, because it has seen greater use of the tool by Italians and above all because "The sector has changed pace and has been able to demonstrate all its value, creating a tangible impact on the economic fabric".

Graph 2: Total volume collected in Italy

Source: author's reworking

The data collected show that Crowdfunding in Italy almost doubled its volumes in 2018 alone, as it managed to collect from 133 million Euros in 2017 to a further 111 million in 2018. Therefore, a market that almost doubles its volumes in just one year, especially thanks to the consistent growth of the regulated sector, characterized by the Equity and Lending Crowdfunding platforms, which has been able to drive the entire sector also thanks to a better regulatory environment. A year of maturity for Italian Crowdfunding, which comes a little behind other European nations, but which lays the foundations for sustainable and lasting growth. If we consider a longer time horizon, it can be observed that from 2015 to 2019 the sector is characterized by a constant increase in volumes in terms of total harvest, with an initial volume of 65.7 million euros in 2015, reaching 92 million in 2016 and then a surge in the two-year period 2017-2018, years in which, as we said before, it reached 133 million and then almost doubled the following year to around 245 million euros, and finally, in 2019 it maintained the trend of strong growth, albeit more modestly than in the two-year period 2017-2018, with a total value of collected volumes of 408. 683,192, with a percentage increase compared to the previous year of 66.9%.

For a more detailed analysis of the increase in volumes collected over the years, below are the data relating to the different types/platforms used in Crowdfunding.

Graph 3: Growth in Italy of the volume collected by type

Source: author's reworking

It is immediately noticeable that the platform that manages to collect more volumes is the Lending based one, presenting an exponential growth over the years with an increase in the last year of 114%, thus reaching values almost double those of the equity alternative, which had a more contained increase of 28%; while compared to the Donation and Reward platform, it manages to achieve more than three times the values collected by the aforementioned one, which in the last year presented a growth of 49%, confirming the more stable and linear trend followed by the same.

In depth analysis by platform, in addition to the volumes collected, the distribution of the same in terms of growth in the number of platforms by type assumes importance, and also analysing the average amount of the contribution together with the number of campaigns carried out, elements that together form the total volume collected by type.

Starting with the Donation and Reward typology, it is characterized by a high number of available platforms, precisely 51, presenting at the same time a high number of inactive platforms, concentrating

in fact the activity on 29 platforms; typology also characterized by the absence of births of new platforms in 2019. This typology also has the lowest average value of contributions, with values of 150€, managing to carry out about 15000 campaigns.

The equity market is growing strongly, thanks to the birth of new platforms, from 16 in the previous year to 38 in 2019, also characterized by a low number of inactive platforms. In contrast to Donation and Reward, it has the highest average value of contributions, of €2700, while with 408 campaigns it is in last place.

Finally, the Lending type offers 12 platforms, 3 of which are new and 2 inactive or closed. Despite the limited number of platforms, the lending typology is able to carry out the highest number of campaigns compared to the alternatives, with about 37000 campaigns, together with an average amount of 1700€. This binomial allows achieving optimal results, as confirmed by the first hidden position in terms of collected volumes analysed previously.

Conclusions

The analysis carried out with regard to Crowdfunding, starting from its origins, definitions and models, to arrive at a more detailed and economic analysis of the platforms operating in the market, at world level and in particular at the Italian level, at the same time as the transaction value and the volumes collected, aims to contribute to the development of further analysis of a financing method as new as it is varied, such as Crowdfunding.

This financing instrument, which is increasingly flanking and completing the classic financing alternatives, has undergone an evolution and continuous metamorphosis over the years. This can be observed both in the exponential growth of the transaction value, that according to Learnbonds [25] is set to continue growing over the next few years, and in the volumes collected over the years, especially in the two-year period 2017-2019, in which Crowdfunding figures have doubled, and in the development of the different methods, thus creating different platforms, but also in the different evolution of its own types, which follow different trends, despite the continuous growth that they have in common. The presence of different platforms also indicates the need for financing in different sectors, from charity, hence donation; to corporate, hence equity; and finally to real estate, which seems to be absorbed by Lending platforms.

Considering the developments and the sector extension that Crowdfunding has been able to reach, foreseeing a continuous future growth, surely the new financing model introduced thanks to technology will be more and more in line with traditional methods, thus requiring a continuous study in order to exploit it in an optimal way.

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COMUNICAZIONE INTERCULTURALE E INCLUSIONE IN GRUPPI ETEROGENEI
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INTERCULTURAL COMMUNICATION AND INCLUSION IN HETEROGENEOUS GROUPS

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Abstract

The student is the core of the didactic action and everything revolves around student's needs and motivations. All other components must take into consideration it's centrality in the learning process and linguistic education. The degree of the learning process can vary greatly depending on the interests of the individual, while the educational objectives to be achieved are the same for the whole group.

In heterogeneous groups, we take into consideration these factors: the physiognomy of the group, the type of language that they are going to study, contents to be transmitted, methods to be used, the lingua-didactic materials, the character of the language course, the age group of the participants and others. In a multicultural context, intercultural communication becomes a privileged tool for inclusion and socio-linguistic education. The linguistic and cultural hybridization highlights that this encounter leads to the opening and acceptance of other languages, cultures, different identities and other people's differences, of the alterity because it's simply different.

Lo studente è il nucleo dell'azione didattica e tutto ruota intorno ai bisogni e alle motivazioni che egli ha. Tutte le altre componenti devono tener conto della sua centralità nel processo di apprendimento e di educazione linguistica. Il grado di apprendimento può variare di molto a seconda dell'interesse del singolo, mentre gli obiettivi didattici da raggiungere sono gli stessi per tutto il gruppo.

In gruppi eterogenei vanno considerati fattori quali: la fisionomia del gruppo, il tipo di lingua a cui si accingono a studiare, ai contenuti da trasmettere, ai metodi da utilizzare, al materiale didattico-linguistico, al carattere del corso di lingua, alla fascia di età dei partecipanti e altri. In un contesto multiculturale, la comunicazione interculturale diventa uno strumento privilegiato di inclusione e di educazione socio-linguistica. L'ibridazione linguistica e culturale mette in risalto che tale incontro porta all'apertura e all'accoglienza di altre lingue, culture, identità diverse e differenti, dell'altro in quanto altro, dell'alterità semplicemente perché alterità.

Keywords: Intercultural communication, inclusion, socio-linguistic education, teaching, identity. Comunicazione interculturale, inclusione, educazione socio-linguistica, insegnamento, identità.

Introduction

The purpose of this work is the observation and evaluation of different dynamics of teaching the Italian language for study purposes in heterogeneous groups within a multicultural reality such as Catholic University "Our Lady of Good Counsel". Taking into consideration different factors such as the physiognomy of the group, language type into which the students are going to study, the content to be transmitted, the methods to be used, the lingua-didactic materials, the character of the language course, the age group of participants and other elements, lead to a different interpretation of the role of the student within *the space of the didactic process*.

In a multicultural context, intercultural communication, the key concept of the study, will be evaluated as indispensable support of linguistic education, it becomes a privileged tool both for inclusion and socio-linguistic education.

There will be analyzed the influence that the phenomenon of globalization has had and continues to have both in language training and communicative contexts, comparing with the studies already carried out in the field. All of this will be presented referring to the teaching experience in Catholic University "Our Lady of Good Counsel".

Materials and methods

Considering the complexity of the argument – the intercultural communication, the presence of different nationalities within a group, cultural heterogeneity with the same social group, the analysis of the initial linguistic levels and other elements which will be evaluated, it becomes somewhat difficult to use only specific methodologies such as data interpretation. Therefore, different models and methodologies will be adapted for the exposition of the study.

The presentation of the "Our Lady of Good Counsel" case will be based on processed statistical data thanks to the collaboration with the university's statistical office. Herein you will notice the annual growth of students who have attended Italian lectures as a FL, according to a subdivision based on the degree programs. The same method will be used to detect the presence of other students of different nationalities. The statistical processing of data based on the regional origin of the Albanian students will give the opportunity to perform an analysis of socio-cultural background within a group who have the same nationality.

The heterogeneity which is characterized by the diversity of the initial linguistic levels in a group was assessed, thanks to responses, of a considerable number of students, before the start of the degree programs offered by the university. The data is focused on previous periods of study of the Italian language, on the study contexts, on the linguistic certification, the influence that the study of a foreign language could have on the mentality and the culture of the student.

The presentation of the study will be characterize by the interweaving of the theoretical analysis relating to the argument and that of the data collected and provided from the statistics.

Methodology in foreign language teaching (FL)

The methodology of teaching a foreign language, in order to give satisfactory results, should take into consideration some key points to work on. Paolo Balboni defines *a space for didactic action*, where he identifies three factors:

a. *the subject of teaching, the field*

b. *teacher - system*

c. *the student* [1]

For the foreign language, *the object of teaching* is the language itself and the culture of the native people. The linguistic material and cultural elements thus become the "raw material". The intertwining of language characteristics and cultural features is fundamental in the student's linguistic education. There is a lot of discussion about the approach to which foreign language learning should occur. Which one is the most effective? The traditional approach or the one based on linguistic reflection?

Many scholars remain fixed on the traditional teaching of a foreign language, like many others are of the view that starting from the idioms, from the current use of the language, it is possible to have a far more immediate and correct linguistic result. Obviously, there are many factors and inputs to evaluate, such as the primary motivation or the compulsory study of the language.

The *teacher - system* is not exclusively linked to the person who teaches language classes. Herein must be considered all the factors relating to teaching, starting from the physiognomy of the group and the type of language in which they are interested in, the content to be transmitted, the methods to be used, the material in language teaching, the character of the language course (curricular, compulsory, training, sector-based, communication, etc.), the age group of the participants and other essential elements that the teacher must keep in mind during a foreign language lesson.

The *student* is the core of the teaching action space. Everything revolves around the physiognomy, student's needs, and motivation. Also, the other factors, *the subject of the teaching* and the teaching system cannot disregard the centrality of the student in the language learning and linguistic education process. The teacher has to deal with sensitivity, with singular approach of individual students in a group and beyond. The degree of learning can vary greatly depending on the interest of the individual student, while the educational learning objectives to be achieved are the same for the whole group.

Beyond Italian and language culture: "Catholic University Our Lady of Good Counsel" case.

Catholic University "Our Lady of the Good Counsel" (CUOLOGC) was established by the Foundation with the same name and recognized by the Albanian government in 2004. It offers students a joint degree or a double degree recognized in the European Union, thanks to Agreements signed with some Italian public universities. And 98% of the various disciplines are taught in Italian and involve a considerable number of Italian professors. These peculiarities make CUOLOGC an absolute novelty, a unique experience in the Albanian university landscape.

The educational offer, the joint and double qualifications that CUOLOGC issues make it much sought after not only by students of Albanian origin but also by many other nationalities, including Italians, Kosovars, Macedonians, Montenegrins, Romanians, Argentines, Brazilians, Vietnamese, Koreans, etc.

This mosaic of national, linguistic and cultural presences makes the CUOLOGC a privileged place for different encounter and constant exchange

Data and statistics of CUOLOGC

Here is the data of students enrolled at the Catholic University "Our Lady of the Good Counsel", updated in September 2019 with the assistance of the statistics office.

The following table shows all recorded figures divided by Albanian nationality, other nationalities and the total number of students enrolled from the academic year 2004-2005 to 2018-2019

Table I. Students enrolled in CUOLOGC a.y. 2004-2005 / 2018-2019.

Degree program	Students of Albanian nationality	Students of other nationalities	Total number of students
Medicine and surgery	1257	779	2036
Dentistry and Dental Prosthesis	593	438	1031
Farmacia	402	57	459
Physiotherapy	542	259	801
Nursing	823	76	899
Business economics	275	11	286
Architecture	50	4	54
Total	**3942**	**1624**	**5566**

The data given on the table show not only the increased number of enrolled Albanian students but even of other nationalities. The consistent presence of students of different nationalities implies a greater heterogeneity of groups and cultural-linguistic inclusion.

Data collected from the questionnaire of Albanian nationality students

The questionnaire data shown below is based on questions addressed to a sample of 400 students of the CUOLGC. The questions of particular interest for this study concern general elements of the study of a foreign language, in particular the Italian language and culture.

Question 1*: How long have you been studying the Italian language?*

The responses show that 31% of the students enrolled in the university have been studying the Italian language for more than three years, from the moment in which they enrolled in the university. Students who had studied the Italian language for one year represent 24%, while 45% started the study program with a few months of study of the Italian language. The latter group during the first year of attending curricular and extracurricular courses in Italian, by the end of the first academic year reaches the B2 level of linguistic competence, according to the Common European Framework of Reference for Languages.

Question 2: *Where did you study the Italian language?*

Most of the students have studied Italian in a school environment as a foreign language. Another

good part attended private courses in accredited facilities to offer language courses. Other students have studied Italian self-taught through grammar or following television programs in Italian, in individual courses or through other methodologies or in particular circumstances.

Question 3: *Do you have an Italian language certificate?*

Only 67% of those tested do not have an Italian language certificate or certification, 15% have either a certificate issued by a recognized institution in Albania or an Italian language certification according to the Common European Framework of Reference for Languages (CEFR) [2], while 18% did not answer the question

Question 4: *Do you think that learning a foreign language well you have to be "gifted"?*

From the answers, we can see that for 61% of students, it is important to have a valid motivation, for 23% it is not needed a particular attitude since anyone could learn one. Instead, 12% think that it is necessary to "be gifted", while 4% did not answer the question.

Question 5: *Who do you think has more responsibility for learning a foreign language?*

The students answered the question by attributing responsibility 33% to the professor, 27% to the student, 16% to the unfavorable environment, 12% to the tools and methodologies used during the teaching action, while the remaining part, 12 % did not answer the question.

Question 6: *Why do you choose to study a foreign language?*

The choice of a foreign language for study purposes is primary for 57% of students, 30% said because they know another culture and for another 13% to have more opportunities in the labor market.

Question 7: *By studying the Italian language, which are the cultural elements that you appreciate the most?*

More than 87% of the students who answered the questionnaire see the opportunity to appreciate typical Italian elements such as art, painting, sculpture, architecture, literature and to read works in the original language. They enhance the ability to learn more about music, fashion, traditions, but not the least is the culinary art

Question 8: *Do you think that the study of a foreign language can influence or change the person's mentality?*

For 67% of students who have answered the questionnaire the study of a foreign language helps to have more openness towards the international, for 18% it affects relatively, while for 9% it does not influence at all.

Cultural elements of foreign language

One of the fundamental points to have a good command of a foreign language is the knowledge of some elements and cultural values of the native people of that language.

The reality of internationalization and globalization that characterizes communication and exchange between countries inevitably leads to increasingly widespread of interculturality and multilingualism. "International communication is affirmed with modern nationalism, which identifies in the territory the foundation of sovereignty and the existence of a community". [3] A foreign language with its structure, lexicon and phraseological expressions has its roots in the culture of the native people and within a territory.

Starting the study of a foreign language also means going towards a new culture. To have successful communication with a person of another culture, it is not enough to know only the morpho-syntactic structure of the language, but also many other characteristic elements of that specific culture, such as the rules of courtesy, the appropriate use of idioms in different contexts.

The socio-cultural character of the language reflects in the foreign language learner cultural aspects which are different from the initial culture. For this reason, it is useful, alongside the linguistic elements, that there will be and transmitted intercultural elements in order to avoid misunderstandings between people of different languages and cultures, to resolve any conflicts with more ease, and to be more tolerant and go beyond the boundaries of one's own culture.

By studying another language, an individual undergoes a continuous process of acculturation, that is, a process of assimilation or incorporation of cultural elements of other people. In general, globalization which characterizes today's societies, the language-culture duo combination has become almost inseparable. Language and culture influence each other; therefore one cannot be considered without the other.

> Intercultural communication takes place on the ground of shared linguistic communication: hence the need to develop in foreign students a communicative competence, not only linguistic, in Italian, to allow them not only to understand the language but to know how to act with the language appropriately in cultural and social contexts . [4]

For a learner from an atheist country, such as Albania's case which has been for half a century, where there was no religious culture, it is very difficult to make people understand some Italian expressions and sayings of religious roots and with large common use. Let's recall only a few: "last from Christmas to Boxing Day" (Feast of Saint Stephen, last very little because of the days following one another); "Having the patience of Job" (biblical character, symbol, and example of great patience); "As long as Lent" (last long, be very slow and apathetic) and many other ways of saying, linked to the traditions of a region or a nation.

Another important aspect is knowing the non-verbal signs of a language, also part of the culture of people who are different according to the countries. We can group these non-verbal signs into:

a. body language which includes gestures, eyes, posture, movement, etc.

b. language of items that includes signs, clothing, designs, particular habits, etc.;

c. language of the environment including space, architecture, lights, and colors that most characterize the people.

Some elements or intercultural difficulties in teaching Italian as a foreign language can be:

The *gestures* are noticeable elements that accompany a large part of the speeches of Italian. Sometimes some gestures, if they are incomprehensible to a foreigner, can give rise to great misunderstandings.

Punctuality for an Italian can fluctuate in an acceptable quarter of an hour, but for someone who comes from another culture, it can be interpreted as low seriousness.

Thus, even the *smallest physical distance* between a man and a woman can be misinterpreted by an individual from Muslim countries.

Other specific elements of Italian could be the articulated structure of speech and writing, the value of family, sometimes excessive flexibility can annoy those who are accustomed by the culture of being very precise, fussy.

> Teaching Italian to foreigners good or bad, teaching it or not, does not mean doing or not doing one's teaching job, but profoundly affecting the personality of the learner and the structure of tomorrow's society: the language is, in fact, an instrument of social, cultural, ethnic-political identification. [5]

The teaching of a foreign language and, in this case of Italian, can positively or negatively affect the learner. Putting a lot of passion and presenting the Italian language and culture in their most beautiful aspects leads to a positive approach to diversity and acceptance of the other. Linguistic identity is also social, cultural, ethnic - political identity.

> School is entrusted with the task of supporting all pupils in developing communication skills in all the languages included in the school curriculum, albeit with the necessary differences in terms of teaching objectives. This process, which takes the name of "language education", cannot be "exclusive", that is, it cannot be reduced to an elite goal for a few pupils who are often already good and "gifted" at languages. Linguistic education must necessarily be an inclusive process, addressed at everyone. [6]

The teaching of a foreign language becomes a moment of encounter between two languages, two cultures, two peoples, two different identities.

The phenomenon of linguistic globalization

Today more than ever we can speak of a globalized world, of global and globalized communication, even of a globalized communication-production. In many environments, if you don't talk about globalization and you don't refer to this phenomenon, you are considered unfashionable.

Globalization does not only affect the economic, scientific but also extends to all fields of knowledge, production, exchange. We hear people talking a lot about cultural, linguistic globalization and this to reiterate how much international this phenomenon has become.

Like many other phenomena, globalization can also have positive and negative aspects. This depends on the use of the term itself.

Globalization is also the result of the intense and continuous migratory flows of the last decades. Migration comes from the need to find, achieve the best, comes from the desire and the will to get out of a situation of hardship, of poverty. Migration inevitably leads to meeting new realities, new societies, cultures, languages, identities and for this reason, it leads to discussion and reflection on one's own culture, language, and identity.

For Ponzio and Petrilli, global communication has changed space, distances, time and personal relationships. So, there is a need for a semiotic reflection on the new conditions of feeling that builds a critique of global communication.

The effects of globalization are extending not only to the socio-economic level but also to the level of communication, culture, language and national languages. Globalization has affected the rapid growth and development *of new information and communication technologies* [8]. A common example is the development of computer language.

If in some respects globalization could be considered as a positive or somewhat useful phenomenon for man, for society, for others it has completely negative effects.

There is much talk about the globalization of cultures, global village, globalization of languages. But is it possible to speak about cultural and linguistic unification? I would say that this is not possible neither today nor in the distant future.

With a view to a united Europe, an attempt has been made to unify the languages of the countries that are part of it, or rather to choose one that has a central role, a domain, and a vehicular use to be extended to all exchange relationships between EU countries. This "facilitation" perspective inevitably and unconsciously leads to a deculturation and deterritorialization, to a global language. In the general climate of globalization that characterizes each sector, we want to emphasize the preciousness of national languages, considered as "less important" in the face of the hyper-centrality and dominance of the English language. A single language would make every difference disappear, every peculiarity and above all, every otherness. With one language everything would become flattered, communication, translations, the same interpersonal relationships. The linguistic and cultural wealth and heritage that each individual language carries within itself cannot be reduced to a single language

Global communication is leading, although with slow rhythms, to an annihilation of the differences, of the specific life forms of each individual community, society, a reduction to zero of the identities, of the otherness that should characterize the relationships between individuals of different cultures.

Linguistic globalization is leading to the cancellation of cultural and linguistic differences. Multilingualism is not a sign of exclusivity of differences. It is not possible to have a relationship with someone who is different from us, in a wary way, because distrust comes as a result of the lack of knowledge of the other, of his culture, his language, and his identity.

> Each community identity has its own non-community citizen to defend against, and it is the other, different from the others belonging to the community, different not only from each other equal in the community but also from each other different and opposite within the community.

> This also applies to that community identity that belongs each of us, that is the

community of the various selves in which each of us consists, as a set of roles, positions and social bonds, among them who remain, according to circumstances, relationships of coherence, peaceful coexistence, hierarchical relationships, conflicting relationships, etc. In any case, though still relationships concerning the same function of the ego, for which the other presents itself as one of the similar others, others who are only in the relative sense, that is with respect to the ego as his "alter ego".[9]

The positive and negative effects of globalization depend on how an individual faces the various processes and paths that countries have undertaken, want and undergo within this phenomenon. Nobody is superior to the other, nobody is better than the other, we are simply different or sometimes, very different, so one of the key points to work in the education of new generations is precisely the education to respect the difference of others and mutual tolerance. In this perspective, the role of the teacher, especially a foreign language teacher becomes crucial in the process of inclusion and language education.

Discussion of the results

By assessing the linguistic level of CUOLOGC enrolled students in the multilingual and multicultural presence of language courses, the linguistic-cultural inclusion becomes a challenge to heterogeneity. Intercultural communication takes into account several elements such as linguistic differences, linguistic misunderstandings that may arise due to the impact with the culture of origin, prejudices, and judgments, sometimes even anxiety that triggers self-defense attitudes or reactions. Language is a phenomenon that changes, develops and progresses with the growth rhythms of a given society. Usages and idioms change, new terms and borrowings enrich the language. The language is constantly moving.

Since Italian is a vehicular and study language, the student takes advantage of learning the Italian language. Over the years, Italian has become not only a foreign language, a vehicular, study language, but also the language of the bar, of daily communication, of means of transport, of the university environment but also of the family environment.

The duo language-culture combination cannot be separated as far as the language has an influence on culture and the latter on the same language. In the process of teaching a language, one cannot do without transmitting cultural elements at the same time. On the other hand, any impact with another language, another culture, customs, and traditions, affects the mentality of the person. However, the degree of influence differs according to the openness and personal predisposition to change.

Intercultural communication necessarily leads to a continuous and constant process of inclusion in respect of linguistic, cultural and national identities.

The Italian language teacher is considered as a "tutor" and a "guide" in the study of scientific disciplines. They hope and ask for methodological support that acts as a tool and a means of study and profit.

The phenomenon of globalization has also brought with it linguistic globalization which sees compromised not only national identities but also linguistic-cultural ones. At the same time communication and the global market are affected by changes in the economic, political, social and linguistic spheres.

Conclusions

From the analysis carried out, it can be said without a doubt that the "Our Lady of the Good Counsel" case is unique in Europe and in the world both for its particular nature of teaching in Italian in all its degree courses. This peculiarity means that Italian is the language of every day, of all moments, formal and informal, the language of study, profession, and career. It could be said that Italian language at CUOLOGC is at home and not only.

Global communication, although in a hidden and slow pace, to an annihilation of the differences, of the specific life forms of each individual community, society, to the elimination of identities. While, in a multicultural context, intercultural communication becomes a privileged tool for inclusion and socio-linguistic education. The teaching of a foreign language becomes a moment of encounter between two languages, two cultures, two peoples, two different identities.

The linguistic and cultural hybridization highlights that this encounter leads to the opening and acceptance of other languages, cultures, different identities and other people's differences, of the alterity because it's simply different. The *New Speak* of today's societies, of today's world, is not the choice of a single language, but the choice of otherness.

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HUMAN RIGHTS AND CAPABILITY IN DEVELOPING COUNTRIES
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DIRITTI DELL'UOMO E LE CAPACITÀ NEI PAESI IN SVILUPPO

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Abstract

The aim of this paper is to define the factors that influence the poverty and the social well-being in transition countries. It deals with two issues related to the role of human rights in equality and the role of capability in development. In the first case, I come to the conclusion that ensuring human rights means more equality and consequently more human development. The latter would lead to the promotion of democracy, the eradication of poverty at individual, family and the society level leading to greater equality. In the second part of the paper, starting from the analysis of the approach of the capability I arrive at the conclusion that the public policies in different countries which are aimed to combat poverty, must promote the environment for the creation and acquisition of capacity, rather than the provision of resources to passive individuals.

L'obiettivo dell'articolo è di analizzare mediante i due approcci, i fattori che influenzano la povertà e lo sviluppo nei paesi in transizione: i diritti dell'uomo e l'approccio delle capacità. Il documento affronta due questioni riguardanti il ruolo dei diritti umani nell'uguaglianza e il ruolo delle capacità nello sviluppo. Nel primo caso, si arriva alla conclusione che garantire i diritti umani significa più uguaglianza e, di conseguenza, più sviluppo umano. Quest'ultimo porterebbe la promozione della democrazia e lo sradicamento della povertà sia a livello individuale e familiare sia a livello della società. Inoltre, aumenterebbe le capacità umane, la coesione sociale e l'ottimismo. Nel secondo paragrafo, partendo dall'analisi dell'approccio basato sulla capacità, si arriva alla conclusione che le politiche pubbliche in diversi paesi per combattere la povertà, devono promuovere gli ambienti utili alla creazione e l'acquisizione delle capacità anziché l'erogazione di risorse verso individui passivi che non sono intenzionati a trasformare tali risorse in competenze.

Introduction

The declaration of human and citizen rights approved by the National Assembly of France in August 1789 stated that men are born and remain free and equal in rights.

Freedom is to be able to do everything that does no harm to others. This statement has been proclaimed by poor nations. Today, these nations, even if they have limited financial resources and technological means, have not done enough for those tens of millions of people living in extreme poverty. The elimination of the latter is a legal obligation that is in force by international human rights law. Poverty today is not only the lack of the increase in the real income of the economy, but a multidimensional phenomenon, namely the overall improvement of quality of life, the expansion of the choices available to individuals, unique and indispensable prerequisite for being free and living with dignity [1].

Globalization, the removal of barriers to free trade and greater integration between national economies, has been defined as a positive force with all the potential to enrich everyone in the world, especially the poor. This model, so far, has not worked for the poorest countries in most of the times, as the number of poor people is continuously increasing, and unemployment is not slowing down. Today there are no more poor countries, but poor in countries rich in natural resources that are dried up by the rich. The latter directly or indirectly causes the violation not only of human rights but also of civil, economic, political and above all, it imposes on poor people the denial of their dignity and equality. Poor people often find themselves in miserable working conditions, lack of food. The law is not equal for rich and poor. This leads to a vicious circle of impotence, discrimination and material deprivation and obliges some people to choose the only path available, that of migration that even if it rhymes with integration is anything but integration [2]. In reality, poverty is not an unsolvable problem. The solution lies in the promotion of people's capabilities, the ability to convert resources into real and positive freedoms. Individuals can truly enjoy the freedom to choose the way of life that they have good reason to appreciate and promote people's ability to fight poverty. Starting from these facts, in this article we will try to comment on human rights and capabilities with the main objective of giving some indications to make the world more just and to fight human poverty.

The aim of studying this article is to understand and to highlight the role that capabilities play in the growth of developing countries.

The methodology used for the realization of this article is descriptive. It starts from a description of the literature on human rights and on the impact that human development has on the macroeconomic (productivity growth, consumption) and mesoeconomic level. To continue with a descriptive analysis of the role that capabilities have in such development.

The main results show that development is not only the growth of macroeconomic indicators and that human rights and capabilities are very important factors for the economic development of a given society because they contribute to the development of each person.

Human rights and fundamental capabilities generate development

In recent years, the executives of the major listed companies have imposed a single request on their staff, the company's unconditional growth on the stock exchange. The price doesn't really matter, even if it's the cost of their human life.

Economics has often viewed human rights theory with mistrust. According to the human rights approach, each individual has a wealth of rights that he is bound to respect [3]. According to the economic approach, every human being must behave rationally [4].

Economists say that a welfare state is excellent in the Pareto sense if and only if nobody's utility can be grown without reducing someone else's utility. This is a very limited success for Sen and in itself does not guarantee anything. The state may be the same in Pareto optimum but with some people swimming in luxury and others in misery. The poor can't get better without diminishing the luxury of the rich [5].

Human right is based on the concept of (welfare) that every policy must be assessed on the basis of their effects on people's satisfaction; the latter depends on individual preferences and freedoms without any hindrance.

In fact, the welfare model that has been consolidated in recent decades seems to have adopted the characteristics of the social market model, it has resulted in the establishment of "quasi markets" and is focused on the provision of benefits and creation of service structures [6]. This leads to the marginalization and impoverishment of families in terms of relational competence and in economic terms.

For Sen the liberalism and Pareto efficiency do not go in the same direction, sometimes the most efficient solutions do not converge with the liberal choices of some people. It is true that people want to develop both for themselves and for society but sometimes it is impossible that these two choices can converge [7]. According to Sen this is one of the flaws in the theory of Pareto efficiency. For Sen Freedom is linked with well-being. The latter concerns a person's achievements and opportunities in relation to their personal advantage [8].

Human rights must be universal and must be developed in every field and in every nation beyond the boundaries of states and cultures. These rights should not be seen as in economic analysis as purely legal entities but as a possibility of choice [9].

The Human Development Report [10], states that human rights and human development share a common vision. The more the rights are respected the more equality there is consequently more human development. When we talk about equality, we take into consideration not only the economic one but also all the other forms of equality that have an impact on citizens during their life.

Human development would lead to the promotion of democracy and the eradication of poverty both at the individual and family level and at the level of society [11]. It would also increase human capabilities; bring citizens closer to a social life; reduce crime; increase social cohesion; increase optimism for the future and curb emigration.

When we talk about poverty, we must bear in mind that poverty is not only based on the level of income and expenditure (economic well-being) but also from the universal point of view of overall well-being which is particularly important in assessing the issues of distributive justice. That is, the same choices, same conditions during competitions and contests etc. GDP can provide information for economic growth but not for the development and well-being of citizens. Sometimes GDP growth is optimal however income redistribution goes largely to the rich. Or even worse, in order to get richer, some of them abuse with the quality of life of their citizens [12]. In some countries in the Balkans, for example, the quality of flour, the quality of chemicals that are used in agriculture and the quality of medicines are very poor.

During the last 10 years some of the western Balkan countries have had economic growth of more than 3% per year (Albania, Bosnia and Kosovo) but at the same time have had a worsening of the Gini index that measures the extent to which the distribution of income (or, in some cases, consumption expenditure) among individuals or households within an economy deviates from a perfectly equal distribution. A Lorenz curve plots the cumulative percentages of total income received against the cumulative number of recipients, starting with the poorest individual or household. The Gini index measures the area between the Lorenz curve and a hypothetical line of absolute equality, expressed as a percentage of the maximum area under the line. Thus, a Gini index of 0 represents perfect equality, while an index of 100 implies perfect inequality (Albania from 27 in 2001 to 33.2 in 2017; Bosnia from 30 in 2001 to 33 in 2017; Kosovo from 27.8 in 2011 to 29 in 2017). This enrichment has a positive impact on the GDP growth of a given country and at the same time negatively affects the quality of life of citizens.

Sen in the 1970s introduced a poverty index that combined household income with the Gini coefficient, this index was later reworked by the UNDP (Human Poverty Index).

The introduction of the Gini coefficient to evaluate poverty is very interesting. Today some supporters argue that the economic crisis that the world is going through is not only due to the errors of economic and financial policy but also because of the ethical collapses that occurred at all levels, the world economy today is dominated by utilitarianism, materialism and inequality [13]. The latter is one of the most important sources of tension and conflict in different parts of the world. Conflicts are simultaneously factors that intensify the phenomena of inequality and marginalization [14].

Analyzing the World Bank data (2018) of the Gini coefficient and GDP growth at constant prices, it emerges that there is a negative correlation between these two indicators, this leads us to think that inequality is holding back economic growth. Today, the European Union tries at all costs to avoid unbalanced development because the consequences fall not only in poor regions but also in rich regions, consequently seeing the reduction in the possibility of expanding its market and the slowdown in growth rates.

Returning to Sen's poverty index ($S=HI+(1-I)Gq*q/(q+1)$) Where Gq's Gini index calculated on incomes below the poverty line. H is the fraction of the population in poverty-fails to meet either of these requirements. I is the income gap ratio and q is the number of poor person.

The indices that make up S vary between 0 and 1. S is equal to 0 if all households or individuals have an income above the poverty line. S equals 1 if everyone has a zero income), which tells us that the more Gini's coefficient is around zero, the more this index decreases and the less poverty there is. (The Sen's poverty index, 2010 for the Western Balkan countries is: Albania, 0,19; Bosnia and Herzegovina, 0,02; North Macedonia, 0,04; Montenegro, 0,08; Serbia, 0,17).

As a result, we can say that human rights are a very important factor in the economic development of a given society because they contribute to the development of each person.

The development of each person increases their productivity and consumption, which would lead to an increase in the benefits in terms of well-being for economic activities, through the reduction of the use of resources and production costs and also to the increase in revenues by the increase in consumption which leads to an increase in the company's sales [15].

Furthermore, the reduction in the use of resources helps to reduce pollution.

Typical cases of the reduction are efforts to reduce energy consumption; less use of non recyclable products etc.

The development of each person as well as at an individual level also has an impact from the mesoeconomic point of view or the benefits go beyond the size of a certain state.

Skills and development

One of the most current topics that attracted the attention of academia and later that of international institutions is the study of well-being and quality of life in a multidimensional key [16].

A strong contribution in this area has been made by Sen with his approach to human capabilities and development [17]. This economic theory was first formulated by Sen in 1985 and later developed in

different disciplines and by several authors, starting with Nussbaum, initially in collaboration with Sen and later alone [18].

The focus of the capabilities approach centers on people's freedom in the choice of opportunities and in the development of human capacities.

For Sen the ability to act and freedom lead toward well-being [19]. That is, each person must have the opportunity and the freedom to do what puts them at ease and makes them feel good. These people, through available means and in relation to the skills they have, can transform these means into results and goals that they want to pursue [20].

If we see the figure 1 and figure 2 we see that the lower labor productivity have the same trend with the completed tertiary education in the Balkan countries. And also, the same trend has the wage (Albania 467 euro; Bosnia and Herzegovina 514 euro; North Macedonia 524 euro; Serbia 597 euro; Montenegro 800 euro; EU-28 1520 euro). Moreover, the higher the global skill index is, the higher labor productivity is [21].

Figure 1: Labour productivity
Figure 2: Proportion of 30-34 year olds having completed tertiary education, 2018

The individual well-being in this context is seen not as a condition materialistic or available income, which certainly represents an essential and indispensable tool but do not constitute in itself a metric to measure well-being and quality of life of people [22].

According to Sen, there are aspects of human life that people recognize as a value for life, perhaps not as immediately and directly as: education; knowledge; level of nutrition; health conditions; safety and quality of the environment in which they live; political freedom; religious freedom [23].

We can say that the capabilities approach presents itself as a theoretical and alternative paradigm to the classic visions of development that exclusively concern GDP, production and wealth to maximize well-being, without taking into account the distribution of income in society. Thinking that well-being is something material. In reality, according to Nussbaum, politicians and economists who adopt per capita average wealth as the center of gravity of their models distort reality and impoverish the sense of society; the state must bring the person into a deciding position [24].

It should also be taken into account that people differ from each other in different aspects. There are differences in type: physical; psychological; social status; education level; environment where you live; working status. All of these we can indicate differently as: age; sex; health condition; professional skills; handicapped; work they do, etc. The combination of these characteristics determines our ability to convert the goods and resources available into results.

All forms of measuring well-being should consider this truth. What an individual can obtain depends on a plurality of factors mentioned (by wanting to group these indicators and compare them with some theoretical approaches to the study of well-being and quality of life as a whole we can organize ourselves into three groups of experiences: the approach of capabilities and human development, the approach of social exclusion, the limit of GDP as a metric for well-being).

Income is an important factor to help maintain a certain level of well-being for each individual but in the same way for all of us, to have the availability of schools; libraries with different books; quality university structures and the right to study are also very important. Such as the possibility of taking a good degree course at university or having a technical or professional diploma that guarantees a pleasant and well-paid future job. According to Stanisic, Lekovic and Stosic [25], exist a positive correlation between the quality of higher education and the competitiveness level of the Balkan countries.

When Sen talks about well-being understood as being well, he makes a distinction or, for Sen when we talk about well-being, we should have some concepts in mind: being well, a certain level of standard of living and freedom. One of the main problems of Balkan countries is the freedom of choice.

The first is limited to the dimensions of well-being in your personal life, the other to a wider space that includes relational aspects that can indirectly influence your life and contribute to the improvement of our well-being. Like living in a green area assembled with playgrounds for children increases well-being even without having children. This is not related with the standard of living but seeing others who use this park makes you feel good.

A subsequent category introduced by Sen is freedom or better the ability and possibility of an individual to pursue his goals that assigns a value.

It seems quite obvious that the well-being concepts listed above combine with each other and intertwine with the concepts of capacity and functioning and opportunities available.

The more combinations, the greater the choice for individuals [26]. Sen defined this process with the expression "human development", a process of widening people's choices.

Choices mean having an income for a decent life, the possibility of having a long and healthy life, the possibility of having adequate education.

The idea of human development as a capability is a broad concept and defined as an index of human development. But before we talk about this index, let's explain well the term "capability", it refers not only to the subject or his abilities but to access the distribution of resources and opportunities to promote the realization of proper goals [27].

Sen developed the approach of human capacity differently from economists' point of view [28]. The latter linked human ability as a productive capacity that depended on training, education and learning skills during their career or during their life. Also, the human ability has a positive impact in economic development [29].

Sen links human capacity as well as the role of people in expanding production opportunities. That is, in the broadest and most complex and complete sense.

In this sense, human capital has value outside the economic logic of mere production of goods or services, this also includes education and training; ability to communicate; to participate in a public speech; make informed and useful decisions.

The human capacity integrated with economic development means a condition of living a worthy life. These are the human qualities that determine economic growth and development [30]. Sen acknowledges the plight of public institutions, infrastructure and environmental features to improve personal well-being. On the other hand, formal and sanctioned rights sometimes prevent it and worsen the quality of life of individuals. For example, if a woman who has children has hard time to keep her job than the one that does not have children, in this case it is important to equip herself with tools, identify needs and try to fix them in order to bring everyone into the same condition.

Capabilities are not individualistic are combined and the development of internal capabilities of the individual are linked with collective and institutional ones [31].

Sen when he built the approach relied on criticism of the traditional approach. For Sen to have possession of the goods cannot be automatically translated into well-being, owning and the ability to benefit from the characteristics of such good is not the same thing.

For Sen, poverty is the lack of capability, not the lack of possession of certain assets. The income is significant only on the instrumental level, it is only a very important means of capability [32].

If our health is not very good and we do not have the possibility of quality hospitals; if we don't have access to schools; lack of work; a secure future; positive family relationships; crime, etc., as

a result, every government must ensure the developed and encourage their citizens to develop their capabilities. Afterwards each person will have the freedom to lead a certain type of life rather than another. If an individual wants to go to work, he can use public transport, bike or car and he is who decide to use more one or the other.

It's about poverty Sen indicates that poverty unlike well-being is not multidimensional [33].

An important contribution to the development of capabilities was made by Nussbaum [34], which links human rights to a minimum number of capabilities that may be internal, i.e. the stages of development of the person itself, or combined, that is, to derive from the interaction of internal capacities with certain external circumstances that can facilitate the operation of a given function [35]. Nussbaum developed a theory of justice, where citizens have the right to demand from their governments, Sen instead does not consider the approach of capabilities a theory but a framework to assess well-being. Rights under Nussbaum should be considered as combined capabilities [36].

Rights to freedom of choice and rights to individual guarantees.

Conclusions

In this essay we presented the capability approach and human rights in an innovative and promising perspective to re conceptualize economic development. Sen's theoretical approach has changed the way human ability is understood differently from what economists' point of view. The effects are evident both on the national policies of developed countries and on the international institutions, which no longer limit attention to economic aspects such as GDP growth, but take into account the conditions of living a healthy and worthy life.

The UNDP [37] through the Human Development Index, measures development as a process of widening people's choices, well-being for them means the guarantee of all rights.

Sen's approach to poverty not only takes into account the level of income but focuses on the functioning of choices and rights.

Being monetarily poor for Sen is lack of health, education, housing, rights, freedom of choice etc. According to Sen, these factors influence the lack of income.

The analysis of the main elements of the capability approach brings up a paradigm, which is an alternative way for human behavior and the concept of well-being.

Sen's approach provides very important guidance for extending the basis of the indicators needed to study socio-economic processes, useful for making choices by policy makers. That is, moving from the income indicator to a multidimensional perspective. With this in mind, public policies in several countries in order to combat poverty must promote environments useful for creating and acquiring capabilities rather than dispensing resources to passive individuals who are not willing to turn these resources into skills to improve the quality of their lives. As a result, we can argue that the development of capabilities is one of the few avenues for policy makers to improve well-being in a given area or country. In conclusion, we can say that human rights and capabilities are very important factors for the economic development of a given society because they contribute to the development of each person. The development of each person increases their productivity and consumption, which would lead to an increase in the benefits in terms of well-being for economic activities, through the reduction of the use of resources and production costs and also the increase in revenues from the increase in consumption which leads to an increase in company sales. Furthermore, the reduction in the use of resources helps to reduce pollution. The development of each person besides at an individual level also has an impact from the mesoeconomic point of view or the benefits go beyond the dimensions of a given state.

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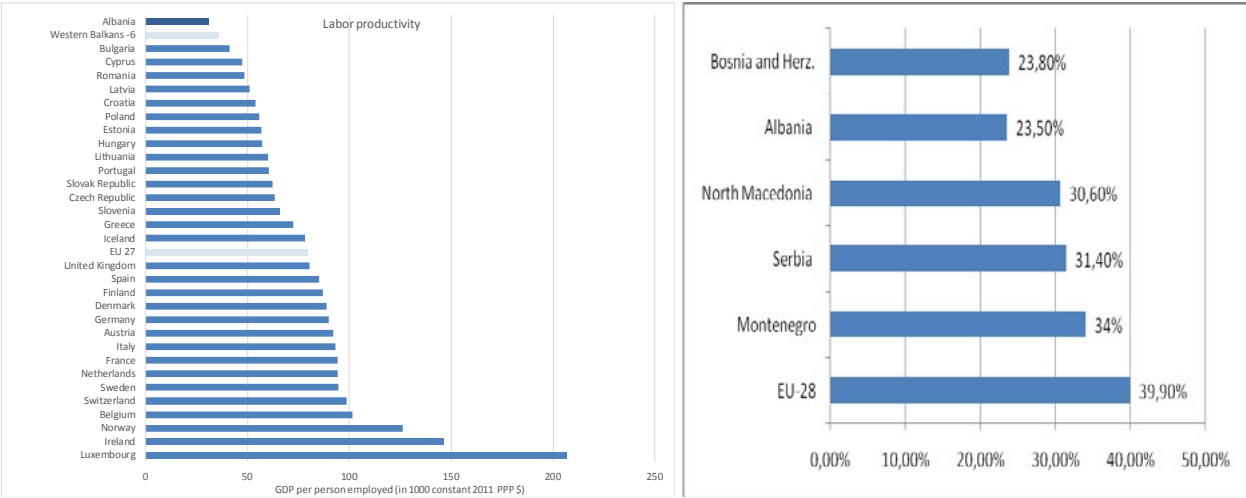
Source: Estimates based on World Development Indicators and Eurostat, 2018

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