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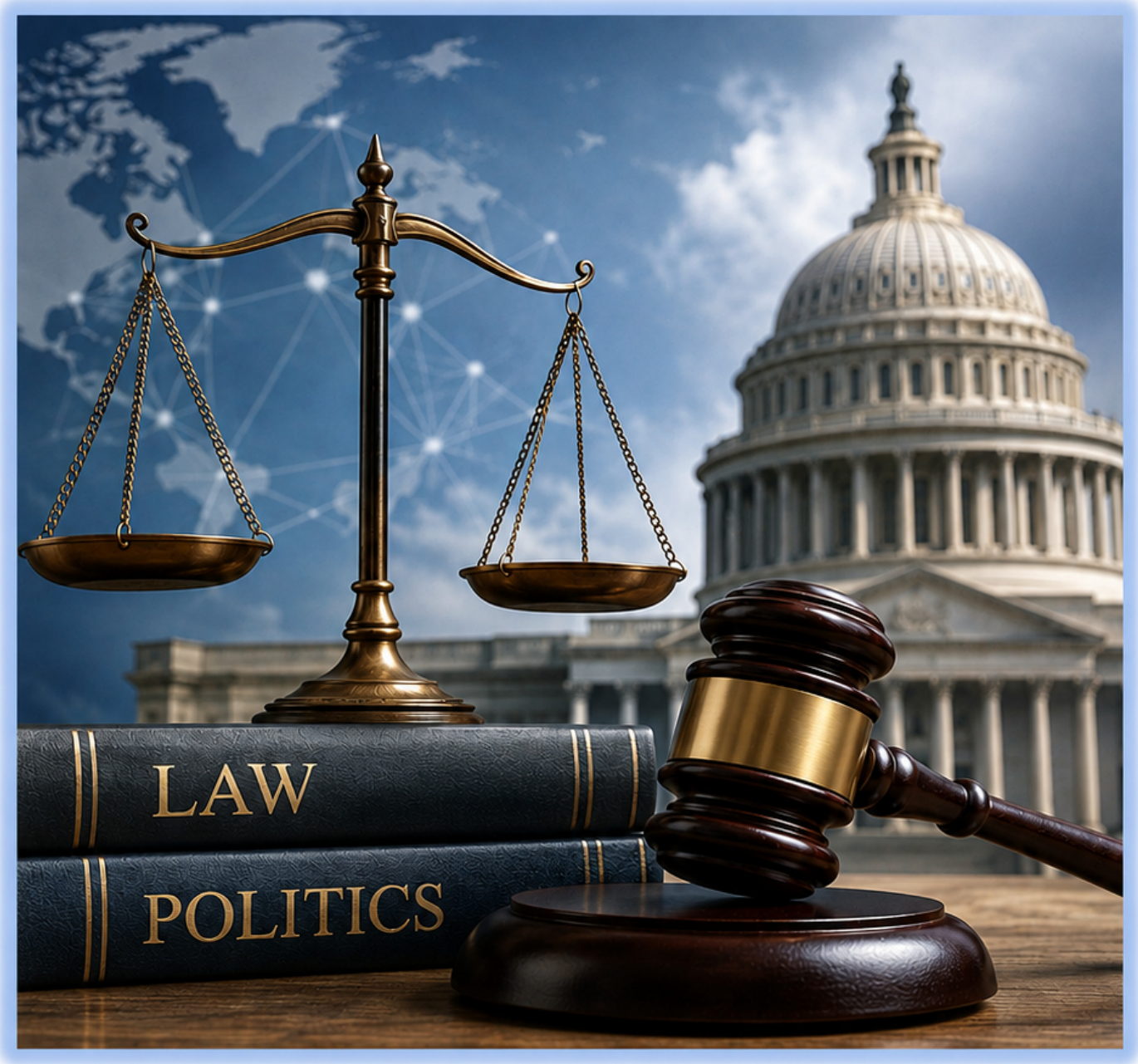

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Editorial Foreword

Prof. Dr. Sani Demiri

Editor in Chief

Dear Readers, Authors and Collaborators,

Mother Teresa University in Skopje is pleased to present **Volume 1 (2026)** of the *Journal of Law and Poltics (JLP)*. This edition builds on the momentum generated by the **TSD 2025** conference and features a selection of rigorously peer-reviewed papers addressing key sustainable development challenges in the Western Balkans and beyond.

The volume showcases advances in social sciences from multidisciplinary perspective aiming to bring novelties **in times of globalization and AI-driven solutions, and in search of sustainability**. Its scope spans research on the study of law and politics, analysis of political systems and political behavior, individual and group dynamics, culture, social policy and wellbeing. Under the leadership of **Editor-in-Chief Sani Demiri, PhD**, the contributions in this issue are closely aligned with the **United Nations Sustainable Development Goals (SDGs)** and propose practical, evidence-based pathways for regional development and long-term resilience.

We extend our sincere appreciation to the authors, reviewers, and institutional partners whose commitment and expertise made this volume possible. We invite the academic and professional community to engage with these works, contribute new research, and collaborate with us in future editions to further amplify their impact.

Sincerely,
Prof. Dr. Sani Demiri, PhD
Editor in Chief

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CHALLENGES AND SPECIFICS OF CYBERCRIME IN THE REPUBLIC OF NORTH MACEDONIA

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Abstract

Informatics, as a young science, is developing at a faster pace than any other field on the planet. Other sciences took entire eras to reach such levels of knowledge and expertise. However, despite all the advantages and benefits that computers bring to humanity, they have unfortunately become a tool for abuse by unscrupulous individuals, groups, or even organizations. Given the increasing importance of information technology and the growing dependence on computers in everyday life, it is essential to study the characteristics of so-called computer crime. Computers and information technology are not only used to facilitate existing forms of criminal activity, but also to enable new forms of crime. With the rapid growth of technology in recent years, cyber-attacks have become more frequent and sophisticated than ever before. According to recent data, an attack occurs every 39 seconds.

Keywords: crime, informatics, cyber, attack, security

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1. Introduction

Cybercrime generally refers to repeated forms of criminal behaviour related to information and computer systems. The modern development of information technology and global computer networks enables the execution of new forms of criminal acts in the field of high-tech crime, which were not present in society before. Computers are powerful tools, but in the wrong hands, they can also be powerful weapons. Technology, which makes our lives easier, also complicates them: everyone is a potential victim. It is indisputable that computer crime in modern society represents an inherent form of criminal behaviour, given the numerous characteristics that distinguish it from other types of criminal activity. This is why a specific approach is necessary for its research and study.

Although much has been said about cybercrime, there is no unanimous agreement on a single definition of the concept, which complicates the fight against cybercrime. Domestic literature indicates that defining cybercrime is difficult because it represents a relatively new form of criminal behavior that has not yet been fully differentiated from other forms. It exhibits great phenomenological diversity, and the problem is further compounded when the definition relies on positive criminal law legislation.

No one is immune from this type of criminality, but the most affected are those who are the biggest users of computers as a basic tool for their work—namely, legal entities. Companies protect themselves from Internet attacks individually, using their own mechanisms and resources. For many businesses and consumers alike, it's difficult to understand what level of security is built into the digital products or services they use, and what level they could professionally ensure themselves. Ideally, digital products and services should have security built in "by design," of which users should always be informed. On average, only 5% of companies' data is adequately protected.[1] In 93% of cases, an external attacker can break into an organization's network and gain access to local network resources.[2]

Apart from the term "cybercrime," other terms are often used: computer crime, internet crime, electronic crime, high-tech crime, network crime, etc. Cybersecurity is crucial for government, corporate, financial, educational, and medical organizations that collect, process, and store large amounts of data in computers and other systems.

2. Understanding the concept of Cybercrime

[1] National Strategy for Cyber Security 2023+26, Discussion Document, Ministry of Information Society and Administration, November 2022, page 8.
[2] Ibid. page 3.

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There is no single, generally accepted definition of cybercrime in the literature. Cybercrime is a complex phenomenon, and the term itself encompasses a variety of criminal activities. The term "cybercrime" is often used interchangeably with "computer crime," though these terms are not always synonymous. The concept of "cybercrime" is broader than "computer crime" and more accurately reflects the nature of the phenomenon as a crime within the information space. In contrast, we believe that "computer crime" is a narrower term, focused specifically on crimes committed using computers.

Cybercrime refers to criminal activity that either targets or involves a computer, a computer network, or a networked device.[3] According to Interpol, cybercrime includes sophisticated attacks against computer networks, hardware, and software. This definition is often referred to as high-tech crime.[4]

The United Nations Office on Drugs and Crime (2005) defines cybercrime as conduct that involves criminal acts against the confidentiality, integrity, and availability of computer data or systems, which are considered the core elements of cybercrime. Other definitions encompass a broader range of activities, but they can generally be divided into two categories: (1) crimes that target computer networks or devices, and (2) crimes that use computer networks to facilitate other criminal activities. The authors Parker, Nycym, and Aurom define computer crime as: "any illegal action that requires knowledge of computer technology for its execution and processing."[5] Mohr K. defines computer criminality as: "all delinquent actions in which electronic devices for data processing are used as a means of committing criminal offenses."[6]

The world expert in the field of computer crime, Don Parker, has focused his attention on the scientific treatment of computer crime. He defines it as: "any action related to the use of computer technology, with which the victim experiences or may experience loss, while the perpetrator acts in order to create a benefit for himself."[7]

Cybercrime is a form of criminal behavior in which the use of computer technology and the entire information and communication network serves as a means of committing a crime. In this context, a computer is either used as a tool or as the objective of the crime, resulting in relevant criminal-legal consequences.

[3] https://www.kaspersky.com/resource-center/threats/what-is-cybercrime 17.06.2023.
[4] https://www.interpol.int/Search-Page?search=Cyber+crime 18.06.2023.
[5] Don.Parker, S.Nycum, S.Aura: Computer Abuse, Stanford Reseach Institute,1973.
[6] Mohr.K.:Polizeilisches Lagebild der Computerkriminalitat, cit. sipas M.Boshkoviq, Kriminalisticka Metodika II, Beograd, 2000, p.305.
[7] Don Parker, Computer abuse, Springfield, 1973, fq.14, cit sipas M Boskovic, Kriminalisticka Metodika II, Beograd, 2000, p. 305.

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Difficulties in defining cybercrime arise from the fact that it is a relatively new form of criminal behavior and from its great phenomenological diversity, which cannot be fully encompassed by a single definition. Additionally, the continuous and rapid development of this field, such as the advancements in artificial intelligence, further complicates the matter.

Cybercrime knows no borders; it moves easily from one country to another, and from one continent to another. This mobility implies a shift in the definition of cybercrime and the crime scene, as well as the need for new, adapted tactics for criminal measures and actions. It also raises challenges related to the validity of criminal laws and the jurisdiction of police and courts.

3. Spatial and temporal dimension of criminal activity as one of the key challenges in the fight against cybercrime

By its very nature, cybercrime is an international crime that crosses national borders. Perpetrators do not have to be in the same country as the victims or the authorities pursuing them. This presents one of the key challenges in the fight against cybercrime, as differences in the legal systems and practices of the various countries involved can affect the efficiency and feasibility of cooperation, as well as the exchange of operational knowledge and evidence.[8]

Cybercrime knows no borders; it moves easily from one country to another and from one continent to another. This implies a shift in the definition of the crime scene and, therefore, the development of new, adapted tactics for criminal measures and actions, as well as challenges regarding the validity of criminal laws and police and judicial jurisdiction. Users can move freely in the virtual cyber world, which knows no national borders. Illegal actions can be carried out regardless of time and irrespective of the location of the perpetrator. The target can be any system, person, or situation. This is precisely why international data exchange carries numerous risks. It often happens that the location of the criminal action is in one country, while the consequences occur in another. This can result in major difficulties, as the same action in different countries can have different legal qualifications.

Thanks to the available technical capabilities and the automated environment, cybercriminal activity is carried out very quickly. It is precisely this time dimension that makes managing various data manipulation techniques and monitoring them so difficult. The time required to commit a criminal offense can be reduced to fractions of a second, which implies a high level of concealment and significant challenges in detecting such activity. Time is also a factor that does not limit the possibilities for the emergence of this form of criminality. A

[8] Klopfer F., Irina Razmal, et al. Introduction to Cybersecurity Management - A Handbook for Legislators www.dcaf.ch

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cybercriminal can commit an offense in three thousandths of a second.[9] Due to the speed of operation, the factors of space and time appear in cybercrime in a completely different form than in traditional crime. This realization is crucial from the perspective of legal regulation.

4. Cybercrime trends in the Republic of North Macedonia for the period 2017-2023

This article analyzes data from the Statistical Review (yearbook) of the Republic of North Macedonia for the period 2017-2023, which provides an overview of certain cybercrime acts. However, it does not offer a clear view of the structure of all cybercrimes. The official statistics do not separately record data on criminal acts and perpetrators, but only on the perpetrators. The data presented mainly reflect the situation of just five offenses.

Table No. 1 Reported adult perpetrators for cybercrime for 2018-2023

	2018	2019	2020	2021	2022	2023
Violation of the right of the distributor to encrypted satellite signal	-	-	1	-	-	-
Audiovisual piracy	1	-	-	-	-	1
Violation of copyright and other related rights	3	4	2	2	8	3
Sexual assault upon a child under the age of 14	-	-	2	1	1	3
Computer fraud	11	-	12	3	8	8
Damage and unauthorized entry into a computer system	71	58	48	60	77	98
Making and introducing computer viruses	2	-	11	9	-	-
Processing and use of a false payment card	28	25	20	22	21	5
Computer falsifying	-	-	1	-	3	1
Spreading racist and xenophobic material through a computer system	2	18	7	17	39	38

[9] Budimlić, M., Puharić, P., Computer Crime – Criminological, Criminal Law, and Security Aspects, Faculty of Criminalistics, Criminology, and Security Studies, Sarajevo, 2009, p. 9.

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Source: Statistical review, Perpetrators of criminal offences 2017-2023, www.stat.gov.mk

In the table above, data related to the number of individuals presented for criminal offenses with the character of cybercrime are demonstrated. The data shows that the number of individuals presented for these offenses is very small, considering that these crimes are often not reported to law enforcement to a large extent. Additionally, many of the perpetrators are professionals who take actions to conceal the traces of their criminal activities.

There are many reasons why the dark figure of this modern form of crime is high.[10] In cases of various abuses involving computer technology, the victim may not even be aware that they are the victim of a criminal act, meaning no criminal report is filed. Even if the crime is discovered, it is often too late to take any effective measures. The situation is further complicated by the fact that the capabilities of computer technology provide ideal conditions for concealing criminal activities and their consequences. Moreover, detecting many of these abuses requires a high degree of professional knowledge. Insufficient training of law enforcement, combined with a lack of awareness among potential victims about the risks and preventive measures, as well as inadequate legal regulations, results in a situation where the majority of cybercrimes are never reported.

Many cybercriminals engage in scams that allow them to steal small amounts of money from large numbers of individuals. This can discourage reporting for two reasons: first, the small financial loss for each person provides little motivation to report the incident; and second, victims may often believe that the perpetrators cannot be easily identified and therefore see no point in reporting the crime (United Nations Office on Drugs and Crime, 2010).

This type of crime has certain characteristics: it is committed quickly and easily, often in various ways where the perpetrator remains anonymous. Modern information technology creates ideal conditions for perpetrators to conceal their criminal actions, resulting in a low risk of detection.

Underreporting by businesses and corporations can be attributed to a variety of reasons. Perhaps the most common are concerns about financial losses, data breach liabilities, damage to brand reputation, regulatory issues, and loss of consumer confidence. Contemporary society, with its increasing reliance on paperless transactions, demands assurances that a company's infrastructure is secure and that confidential information remains protected. As such, organizations may have a vested interest in concealing incidents, as their disclosure could threaten consumer or client confidence. In addition to concerns about consumer trust, many corporations are

[10] Игњатовић, Ђорђе; (2018). *Криминологија*. Београд: Правни факултет – Центар за издаваштво и информисање pg, 56.

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uncomfortable releasing information to any entity, including law enforcement, and prefer to maintain control of the investigation. Thus, many companies choose to handle matters internally, including disciplining perpetrators. Some may naively assume that criminal prosecution can be achieved by simply sharing the results of their investigations with law enforcement. This assumption often arises from the perspective of security professionals, who downplay the need for proper law enforcement procedures, arguing that corporate investigations should not "waste" time maintaining the chain of custody.

Like their law enforcement counterparts, many prosecutors lack sufficient knowledge and experience to effectively prosecute computer crimes. Traditionally, prosecutors have not perceived cybercrimes as serious and often assigned them the lowest priority. This view has been influenced by the concerns of their constituents, who are often more focused on headline-grabbing street or violent crimes. Furthermore, this perception has been exacerbated by the lack of judicial interest in these crimes and the inadequate training of responding officers.

Table no. 2 Convicted adult perpetrators 2017-2023

	Total convicted persons					Main punishment				
	Violation of the right of the distributor to encrypted satellite signal	Computer fraud	Damage and unauthorized entry into a computer system	Processing and use of a false payment card	Computer falsifying	Violation of the right of the distributor to encrypted satellite signal	Computer fraud	Damage and unauthorized entry into a computer system	Processing and use of a false payment card	Computer falsifying
2017	1	1	17	8	1	1	-	4	7	-
2018	-	-	9	-	-	-	-	2	-	-
2019	-	-	7	2	-	-	-	2	-	-
2020	-	-	11	2	-	-	-	7	-	-
2021	-	-	22	2	-	-	-	7	2	-
2022	-	-	30	1	-	-	-	8	1	-

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2023	-	2	18	3	-	-	2	6	-	-

Source: Statistical review, Perpetrators of criminal offences 2017-2023, www.stat.gov.mk

From this table we see that the number of persons convicted for cybercrime is symbolic, since for the 7-year period for the ten computer criminal offenses we have only 137 persons convicted, while the number of persons presented is 755 persons, which means that only 18.1 % of the presented parsons are punished. The situation is even more alarming when we analyse the sentences imposed, where from the above data we see that only 49 people or 35% of the convicted persons were sentenced with main punishments, while other persons were sentenced with other punishments.

Table no. 3 Convicted adult perpetrators with main punishment-imprisonment 2017-2023

Source: Statistical review, Perpetrators of criminal offences 2017-2023, www.stat.gov.mk

	Imprisonment 2-3 years					**Imprisonment 1-2 years**					**Imprisonment from 6 month to 1 year**					**Imprisonment up to 6 months**				
	Art. 157	Art.251-b	Art.193-b	Art.271	Art.274-b	Art. 157	Art.251-b	Art.193-b	Art.271	Art.274-b	Art.157	Art.251-b	Art.193-b	Art.271	Art.274-b	Art. 157	Art.251-b	Art.193-b	Art.271	Art.274-b
2017	-	-	-	1	-	-	-	2	5	-	-	-	-	1	-	-	-	1	-	-
2018	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1	-	-
2019	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2020	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	2	-	-
2021	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2022	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-
2023	-	-	-	-	-	-	-	1	-	-	-	2	-	-	-	-	-	-	-	-

The table above shows the data related to the sentences imposed, respectively the main sentence prison for the period 2017-2023. From these data we see that we have a symbolic number of people sentenced to prison and that only 21 people are convicted, while the number of people sentenced to main punishment is 137 (the number of people presented for these criminal offenses for the mentioned period is 755) or only 2.8% of the presented persons were sentenced to prison.

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Table no. 4 Convicted adult perpetrators with main punishment-fine 2017-2023

	Total fine				
	Violation of the right of the distributor to encrypted satellite signal	Computer fraud	Damage and unauthorized entry into a computer system	Processing and use of a false payment card	Computer falsifying
2017	1	-	1	-	-
2018	7	-	-	-	-
2019	-	-	-	-	-
2020	-	-	4	-	-
2021	-	-	5	-	-
2022	-	-	7	-	-
2023	-	-	5	-	-

Source: Statistical review, Perpetrators of criminal offences 2017-2023, www.stat.gov.mk

From the table above, we can see the number of individuals sentenced to fines, which is the same as the number of those sentenced to prison. This suggests that the penalties are largely symbolic, with only 30 individuals being fined. This number indicates that judges are not imposing monetary penalties, even though many of these perpetrators commit these crimes for financial gain.

From this data, we can conclude that we are dealing with less severe forms of cybercrime, a more lenient attitude by judges toward these perpetrators, or the failure of law enforcement to present strong evidence. This suggests that the competent institutions (police, prosecution) have not been able to prove a higher degree of responsibility. This fact is quite disturbing, as it sends a message to those who are uncertain about committing cybercrime—or even those who have already committed crimes but have not been caught—that the penalties for such offenses are

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minimal. This implies that for criminals, the low punishment may justify the commission of the crime.

The number of reported crimes, accused individuals, and convicted persons can be considered symbolic. This approach suggests one of two possibilities: either cybercrimes do not significantly contribute to the overall crime rate, or the high "dark figure" of crime is due to victims not reporting the crimes, difficulties in detection, or insufficient activity and capacity from state authorities to detect, prove, prosecute, and adjudicate this type of crime

5. Conclusions

In this paper, the concept of cybercrime in the Republic of North Macedonia (RNM) and in general is examined. During the attempt to define it, the first difficulties became apparent. Namely, no matter how adequate each conceptual definition of cybercrime seemed at first glance, it was quickly realized that this form of criminal activity is so complex that it is very difficult to express its specificity, content, and significance for society in a single definition. The lack of a clear definition of computer crime poses a problem in the comprehensive fight against this phenomenon, because, among the most common forms of crime, this type has the spatial dimension of a minor crime.

This crime is spreading rapidly, with a wealth of emerging forms, as it involves technologies with vast possibilities and applications in everyday life. The greater the use of IT technology, the greater the potential for its misuse. Because of this, the dark figure of cybercrime is difficult to estimate due to the reasons mentioned above.

This type of crime easily transcends national borders and has an international character. The amount of damage caused by the commission of these crimes increases daily. The main challenge in preventing cybercrime is that detection and protection against it are expensive.

Experts agree that the threats are numerous and serious, but they also warn that the threats we will face in the future will be even more dangerous than those we face now. It is difficult to assess how well we can defend and protect ourselves from these threats now and in the future, but what is certain is the imperative need to begin today, as tomorrow may be too late to take necessary action.

The elusive nature of cybercrime means that law enforcement agencies must adopt new techniques to prevent cybercrimes, identify offenses, recognize patterns of crime, and pursue lines of inquiry that are robust enough to justify a criminal investigation.[11]

[11] Cybercrime, Future-oriented policing projects, www.interpol.int 17.06.2023

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From the analyzed data, we can conclude that the number of individuals charged with these criminal offenses is very small, considering that these offenses are not widely reported to detection bodies for various reasons. The number of unknown perpetrators is also high, making it even more difficult for law enforcement to solve these crimes and learn more about their characteristics. The number of individuals convicted for these offenses is very small, and the situation is even more alarming when analyzing the sentences imposed, where minimum prison sentences and fines prevail. This suggests that the criminal policy on this phenomenon is not efficient, and it is an additional indicator that in the future, we will see even more crimes in this area.

References

- Boshkoviq M.(2000), Kriminalisticka Metodika II [Criminalistics Methodology], Beograd,
- Cybercrime, Future-oriented policing projects, www.interpol.int
- Don Parker, S.Nycum, S.Aura (1973). Computer Abuse, Stanford Reseach Institute.
- Don Parker, (1980) Computer abuse, Springfield.
- Клопфер Ф., Ирина Размал, и др. Вовед во управувањето со сајбер безбедност-прирачник за пратеници, www.dcaf.ch [Klopfer F., Irina Razmal, et al. Introduction to Cybersecurity Management - A Handbook for Legislators.]
- Будимлић, М., Пухарић, П., (2009). Компјутерски криминалитет – криминолошки, кривичноправни и сигурносни аспект, Факултет за криминалистику, криминологију и сигурносне студије, Сарајево. [Budimlić, M., Puharić, P., (2009). Computer Crime – Criminological, Criminal Law, and Security Aspects, Faculty of Criminalistics, Criminology, and Security Studies, Sarajevo]
- Игњатовић, Ђорђе (2018). Криминологија. Београд: Правни факултет – Центар за издаваштво и информисање, Београд. [Ignjatović, Đorđe (2018). Criminology. Belgrade: Faculty of Law – Publishing and Information Centre, Belgrade].
- Национална стратегија за сајбер безбедност 2023-2026, Документ за дискусија, Министерство за информатичко општество и администрација, ноември 2022. [National Cybersecurity Strategy 2023-2026, Discussion Document, Ministry of Information Society and Administration, November 2022].
- What is cybercrime? How to protect yourself https://www.kaspersky.com/resource-center/threats/what-is-cybercrime
- https://www.interpol.int/Search-Page?search=Cyber+crime

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THE IMPACT OF ADMINISTRATIVE CASES AS PRELIMINARY CASES IN CIVIL PROCEDURE AND CASE LAW IN THE REPUBLIC OF KOSOVO

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Abstract

The purpose of this study is to show how administrative issues affect the development of civil proceedings, when they are presented as preliminary cases, the resolution of which is the competence of the competent administration bodies according to the procedure established by law and how the judges of the Basic Court of Pristina - Lipjan Branch, acted when faced with such a legal situation.

So, the focus of the study will be the analysis of the decisions of the Basic Court in Pristina - Lipjan Branch, where will be analyzed and evaluated the decisions from the civil procedure of this court, in which the administrative case is presented as a preliminary issue. By carefully analyzing these decisions, we will understand how the judges of this court reacted in such situations, and what were the consequences in the development of the civil procedure, if they influenced the delay of the civil procedure and its suspension.

In view of this study, at the end of the paper we will present two cases of civil proceedings before this court.

This research paper will help law students to create a clearer and more accurate vision of legal concepts and institutes as well as to expand their knowledge during application in everyday legal life, even more than a study of this type has been lacking so far in our legal literature.

Keywords: administrative case, preliminary case, civil procedure and court practice

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INTRODUCTION

"The court has the power to order the trial of specific and carefully defined cases, the resolution of which is likely to resolve the case as a whole or promote the resolution of the judicial process as a whole" (Practical Law 1994).

In Law no. 03/L-006, for the Contested procedure, respectively in article 10 paragraph 1, it is stated that "The court has the duty to try to conduct the procedure without delay and with as little expense as possible, as well as to make impossible any abuse of procedural rights belonging to the parties" (Law no. 03/ L-006 on contentious procedure article 10 paragraph.1 viti III / Nr.38/ 20 shtator 2008 Prishtinë), while in the Summary of Judicial Practice of the European Court of Human Rights, it is stated that, "Every person has the right to have his case heard fairly, publicly and within a reasonable time by an independent court and impartial, established by law, which will decide as to disputes regarding its rights and obligations of a civil nature" (Filatova 2021,fq 8).

Often, in civil proceedings which take place in relation to a civil-contentious, non-contentious case or even in enforcement proceedings, as a preliminary issue which affects the trial of the main case is presented the resolution of an administrative case (Dobjani 2007, fq 21).

Thus, the successful development of civil proceedings directly depends on the resolution of the preliminary issue, the resolution of which is the competence of any other public administration body. In this case, when the final decision in civil proceedings is conditioned by the administrative decision, the court suspends its proceedings until a preliminary decision is made by the competent body.

A special problem, in the contentious legal procedure, is the case when as a

preliminary issue are presented the final rulings of the administrative bodies, with which the final ruling for expropriation has been executed, by giving possession of the expropriated immovable property to the user of the expropriated immovable property over which he has acquired the right of ownership. Also, the data on the reconciliation regarding the compensated compensation for the expropriated real estate are missing and there is no evidence to prove that any agreement has been reached on the compensation of the expropriated real estate, while the witnesses testify that this compensation is in no way done so far.

Often, in civil proceedings, which take place in relation to a civil-contentious, non-contentious case or even in enforcement proceedings, as a preliminary issue which affects the trial of the main case is presented the resolution of an administrative case.

Thus, the successful development of civil proceedings directly depends on the resolution of the preliminary issue, the resolution of which is the competence of any other public administration body. In this case, when the final decision in civil proceedings is conditioned by the administrative

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decision, the court suspends its proceedings until a preliminary decision is made by the competent body.

A special problem, in the contentious procedure, is when the final administrative issues are the final decisions of the administrative bodies, with which the final decision for expropriation has been executed, giving in its possession the real estate of expropriated the user, over which he has acquired the right of ownership. Also, the data on the reconciliation regarding the compensated compensation for the expropriated real estate are missing and there is no evidence to prove that any agreement has been reached on the compensation of the expropriated real estate, while the heard witnesses prove that this compensation is in no way done so far.

This close and mutual relationship between the civil and the administrative procedure, has made that in the civil procedure, when as preliminary issues are presented the issues which are decided by the competent administrative body, in the administrative procedure, cause the delay of the procedure, and in cases also terminate it and the parties do not have a certain right over the proof of ownership in real estate.

As a preliminary issue, in civil proceedings, not only those of an administrative nature are presented, but they can be of different types and natures. In civil proceedings, civil cases themselves are often presented as preliminary issues, e.g. in disputes of transfer of immovable property in possession, if the ownership over this immovable property is disputed, then the issue of proof of ownership is presented as a preliminary issue, the resolution of which leads to a fair trial for the transfer of immovable property in possession.

Since the object of our review is an administrative issue as a preliminary issue in civil proceedings, in this case our attention will be focused on the review of this issue from this aspect, with special emphasis on presenting cases from court practice.

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ESSENTIAL FEATURES OF THE ADMINISTRATIVE ISSUE

The essential feature of these legal-administrative issues is that they are created, changed and extinguished as a result of the exercise of administrative function or public authorizations (Sokoli 2014,fq.51), by public administration bodies, in accordance with the law and according to a certain procedure. Thus, "public administration bodies, within their competencies, are obliged to decide on any request submitted by natural and legal persons" (Law no. 05/L-031 ON GENERAL ADMINISTRATIVE PROCEDURE, article 11 Nr.20/21 qershor 2016 Prishtinë). In such a relationship, the parties in the procedure are not in the same and equal position, so the principle of equality of the parties does not apply, but the principle of subordination.

The law on contentious procedure states that disputes referred to in Article 1 are not reviewed and adjudicated according to the provisions of contentious procedure, if these by a special law are left to the competence of another administrative body (i.e. not the court) or social, even why they are of a juridical-civil nature (Law no. 03/ L-006 on contentious procedure article 10 paragraph.1 viti III / Nr.38/ 20 shtator 2008 Prishtinë).

There are cases in practice where the administrative matter is left to the jurisdiction of the regular court to adjudicate this conclusively and not the administrative body here, for example: disputes between parents and children, regarding the custody and education of children, before the dissolution of the marriage came into competence of the custodial body which operates within the center for social work, and after its resolution in the jurisdiction of the court. There are cases when in order to conduct civil proceedings regarding a legal-civil case it is necessary for the administrative body to decide on it in the administrative procedure with a final decision, for example: the owner of the expropriated immovable property has the right to I request monetary compensation for the expropriated land only when the decision for expropriation of the competent body for expropriation has become final and if in the administrative procedure before the competent body the parties have not reached an agreement on the amount of fair compensation of the expropriated immovable property. If the case remains so at the initiative of the parties, uncontested proceedings may be instituted in court for the issue of fair compensation in cash of the expropriated immovable property (Brestovci 2002 fq.16). In this case the procedure is conducted in accordance with the provisions of the

Law on Uncontested Procedure of Kosovo (LAW no. 03/L-007 FOR

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NON-CONTESTED PROCEDURE neni 21 viti IV/Nr.45/12 janar 2009 Prishtinë).

It may happen that during the development of the civil or administrative procedure, there is a need to decide on the preliminary issue before deciding on the main issue, which is in principle resolved in another procedure and by another body. If for the preliminary case there is a final decision as mentioned above, this decision has legal force and this is taken into account by the court, and if it is in question the administrative body the final judgment is taken into account by the administrative body (Sadushi 2005,fq.121). If the administrative body does not resolve the issue which fell within its competence, then there is no obstacle for the court to make the solution and give an answer regarding it, if such issue in relation to the main issue is presented as a preliminary issue.

This course of action is necessary because without resolving the preliminary issue, the main issue cannot be tried, so the resolution of the preliminary issue paves the way for the trial of the main issue and the taking of a fair and meritorious decision in civil proceedings. The same rule applies when in the administrative procedure the issue of legal-civil nature is presented as a preliminary issue.

Exceptions have been made to the above rules. When the decision on the administrative matter depends on the existence of a marital relationship or on the existence of paternity or maternity, the administrative body does not have the competence to give an answer - a decision on whether any of these relationships exist. In such a case, the administrative body is obliged to terminate the administrative procedure until the court, with a final court decision, decides on the existence of these relations mentioned above.

Thus, for example: when the party in the administrative procedure requests that the administrative body decide on the existence of adaptation by the adopter in the absence of a decision for adaptation, in this case the administrative body terminates the administrative procedure, while the competent court in final form decide on the proof of the existence of the adoption (Podvorica 2008, fq.81). From what has been said, it appears that the administrative body does not have the competence to resolve the case as long as the court for the civil case does not adjudicate with a final decision on this issue which presents a preliminary issue in the administrative procedure.

The legal nature of the administrative case and its features described above as well as its presentation as a preliminary issue in civil proceedings is of mutual importance in these two types of proceedings, because the decision given in one or the other procedure causes legal effects for decision merits related to a main legal-civil issue, respectively legal-administrative.

In judicial practice, there are frequent legal-civil disputes where the parties to the lawsuit seek legal-civil protection for a concrete contentious issue where its resolution depends on the resolution

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of the preliminary administrative case, which in fact is a crucial issue for the merits of civil-legal issue.

JURISDICTION OF THE COURT TO RESOLVE THE PRELIMINARY CASE

The authorization of the court to resolve the administrative case, as a preliminary issue in the civil procedure on which the trial of the main legal-civil case depends, is left to the jurisdiction of the courts in accordance with the principle of independence and the principle of economy of civil procedure (Brestovci 2002, fq.16) it becomes possible for the procedure to take place without delay and quickly without waiting long for the decision of the administrative body. This is of great importance where based on the initiative of the parties the administrative procedure has been initiated to the competent body and the party intentionally causes the delay of the administrative procedure in order to avoid evasion and procedural obstacles for the speedy trial of the legal-civil case (Stavileci 1997, fq.52).

The court decides on the preliminary issue itself after the completion of the review of the claim, but before deciding on the claim in the preliminary case ad meritorious. "When the decision of the court depends on the preliminary resolution of the case, whether there is any subjective right or legal relationship related to it, for which, the court or other competent body has not yet made a decision (preliminary case), then the court has to resolve such an issue itself, unless otherwise provided by special provisions"

(Law no. 03/L-006 FOR THE CONTENTIOUS PROCEDURE, ARTICLE 13 viti III /

Nr.38/ 20 shtator 2008 Prishtinë). The decision on the preliminary case, when deciding on a preliminary administrative case is not given as a separate decision (there is no form of decision in the procedure), only that it is part of the decision - judgment rendered in relation to the claim and that in its reasoning part (Agushi 2013,fq.72). However, such a non-formal, but meritorious decision in the material legal aspect has legal force because it acquires the quality of a final decision on that preliminary administrative issue which has been resolved by that dispute together with the main legal-civil issue.

If the preliminary administrative case has been resolved by the competent administrative body, the court in the civil procedure related to a contentious case is attached to it (Brestovci 2006,fq.16). This rule applies as such a decision which is given by the civil or criminal court as well as when it is given by the administrative body. This results from an interpretation and application of the argumentum a contrario method of the Law on Civil Procedure - LCP (Law no. 03/L-006 FOR THE CONTENTIOUS PROCEDURE, ARTICLE 13 viti III / Nr.38/ 20 shtator 2008 Prishtinë).

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JURIDICAL PRACTICE AT THIS COURT

When the decision of the court depends on the resolution of a preliminary administrative case, they act within the framework of what is regulated by the legal provisions, when the courts have the right to resolve such a case themselves, and in such cases we have no delay in the procedure, as may happen in the case when by special provisions it is not determined otherwise, and it must be done by the administrative body.

A very complicated situation is presented to us in the case of proving the right of ownership in immovable property which is owned by the respondent parties, without any administrative decision on expropriation and are registered in the land registers. During the main trial, when the court, in writing, had requested from the service for legal property issues the case file for expropriation, it had received an answer that such decisions do not exist.

This has caused the courts to suspend the decisions, due to the administrative decisions that have been presented as preliminary issues and have hindered the further development of the procedure and the right holders and has prevented the realization of subjective rights.

The following cases can serve as an illustration of this:

The plaintiff, with a lawsuit requests the confirmation of the ownership right in the real estate which in the land registers is registered in the ownership of the respondent. As a basis for registration in the registers of owned lands, the respondent Economy of Hunting in Pristina, has now been made without a final decision of the administrative body, for expropriation.

The respondent to the government with the disputed immovable property, since this immovable property since 1987 constitutes the complex of the protected park of “Blinaja”. The property is fenced and protected.

However, the plaintiff states that he continuously uses this real estate in the way he now the lawn, and with the lawsuit he has asked to be recognized the right of ownership, since the real estate in question is his. During the dispute, the court, in reviewing the evidence in order to establish the full factual situation, according to the response to the lawsuit of the respondent authorized, as well as the statements of witnesses heard, states that this property has been expropriated several times.

The court requested in writing from the property law service that the files of the expropriation case be submitted to him as evidence, but this evidence was not presented to him on the grounds that the documents on the case in question do not exist.

The court also requested this evidence from the defendant's attorney, as he had previously stated that the expropriation of this immovable property had taken place, but this evidence was not presented until the end of the main hearing.

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From what was described above, we consider that in this dispute the administrative issue has been presented as a preliminary issue, but the final decision for expropriation of the property in question does not exist.

In the case file, there is also no evidence on the basis of which it could be proved that the competent administrative body has executed the final decision for expropriation by handing over the expropriated immovable property to the user of the expropriated immovable property, i.e. respondent.

Also, in the case file there is no evidence to prove that any agreement has been reached on the compensation of the expropriated real estate, while from the heard witnesses it is confirmed that this compensation has not been made in any form so far.

In the second case we present the course of the civil procedure before this court, for the legal-civil case with the object of dispute obstruction of possession. The plaintiff had sought to prove that the respondent had obstructed possession of a section of public road. The respondent party, with a counter-claim, had challenged the right of ownership of the plaintiff, over the disputed part with the fact that the registration of the property in the real estate book was done without the decision of the official administration body, a fact which the respondent could not prove, in the absence of the same.

From the mentioned examples we illustrated the fact that in the case of civil procedure where the administrative case is presented as a preliminary issue, the civil procedure was followed with shortcomings as a result of the lack of these decisions to proceed further in the main case, in the mentioned examples do with the proof of ownership, in the first case and the obstruction in possession, in the second case.

In any case, when the court does not adjudicate the administrative case together with the main case, then with a special ruling terminates the contentious procedure until the preliminary administrative case is decided in a final form, while for the cases for which it has In order to resolve them, it issues a decision on the administrative issue, and then based on this decision decides on the main issue, influencing the effectiveness of the civil procedure and avoiding the shortcomings mentioned above.

CONCLUSION

In the past, the impact of the administrative case as a preliminary issue in civil proceedings and in terms of case law, was more influential, as civil-legal and administrative issues were previously regulated by special positive legal provisions, where in terms of implementation of positive law, Kosovo courts have adjudicated disputes of the same nature and have brought court decisions which have been applicable to case law.

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Since after the war in Kosovo, the institute of administrative affairs as a preliminary issue in civil procedure has undergone changes in terms of new legal regulations, which changes are bringing many innovations in legal provisions, for this reason I have tried to point out, during the treatment of this paper.

Finally, the paper aims to provide an analysis and contribution to clarify some dilemmas - innovations that exist in theory and that may affect the legal practice of the work of courts in general and of this court in particular, as well as to acquaint readers with some of the attitudes of case law.

REFERENCES

1. Agur Sokoli. 2014. "Administrative Procedural Law". Pristina.
2. Arben Agushi. 2013. "Insurance and compensation of damage". Pristina.
3. Congratulations Podvorica. 2008. "Family law". Pristina.
4. Comments on the Law on Procedure - Belgrade 1977.
5. Emir Dobjani. 2007. "Administrative Law 1". Tirana.
6. Ekrem Agushi. 2003. Lectures. "The Judicial Institute of Kosovo". Pristina.
7. Esat Stavileci. 1997. "Introduction to Administrative Sciences". Pristina.
8. Faik Brestovci. 2002. "Civil Procedural Law I". Pristina.
9. Faik Brestovci. 2006. "The right of civil procedure II". Pristina.
10. Law No. 04/L-139 for the Enforcement Procedure Ligji.nr. 05/L-118 Gazeta zyrtare Nr.15/11 maj 2017 Prishtinë.
11. Law No. 03/L-007 for the Uncontested Procedure nr.45/12 janar 2009

    Prishtinë.
12. Law No. 05/L -031 for the General Administrative Procedure nr.20/21 qershor 2016 Prishtinë.
13. Law No. 03/L-006 for the Dispute Procedure nr.28 16 tetor 2012 Prishtinë.
14. Practical Law, Preliminary Issue https://uk.practicallaw.thomsonreuters.com/4-205-5201?transitionType=Defau lt&contextData=(sc.Default)
15. Sokol Sadushi. 2005. "Administrative Law 2". Tirana

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BUREAUCRATIC BARRIERS AND OBSTACLES IN ORGANIZATION AND FUNCTION OF THE LOCAL GOVERNMENT IN THE REPUBLIC OF NORTH MACEDONIA- COMPARATIVE ASPECTS WITH THE REPUBLIC OF KOSOVO

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ABSTRACT

This paper covers the bureaucratic barriers and obstacles in detail, which affect the organization and function of the Local Government in the Republic of North Macedonia (MK), including a deep comparative analysis with the Republic of Kosovo. The local government in both countries passed wide reform of decentralization processes, but the bureaucratic challenges continue to be present and frequently affect the effectiveness of the local institutions and the service quality for citizens. The paper includes a theoretical analysis, analysis of the legal framework, comparison of administrative structures, identification of obstacles, comparative tables, graphics, as well as professional recommendations.

The local government represents the closest level of the government with citizens, serving as critical point for the economic, social, and democratic development of communities. The effective function of the local self- government depends on the political, administrative, and financial autonomy and on unnecessary non-intervention of the central government. In the Republic of North Macedonia, decentralization was a gradual process since 2002, but the bureaucratic challenges continue to be present. On the other hand, Kosovo, after proclaiming independence, built a more initiative-taking decentralization model.
This paper aims to analyze bureaucratic obstacles in the Republic of North Macedonia, to compare

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the administrative model with the Kosovo model, to identify positive practices and structural deficiencies, to propose measures to improve the functionality of the local government.
Dominant words: local government, governing, local self-governing.

1.Historical development of the local government in the Republic of North Macedonia and in the Republic of Kosovo

The organization of the local government in the Republic of North Macedonia passed some historical phases, affected by political and constitutional amendments. In the period of former Yugoslavia, municipalities had a very important role in managing with policies of the local development, but worked within a centralized political system.[12]After independence of the country in 1991, a new legal frame for the local self-governance was created, but the real decentralization began only in year 2002 through approval of the new law on the Local Government and ratification of the European Card for the Local Self- Governance.[13]The Constitution of the Republic of North Macedonia recognizes the local government as a form to exercise state sovereignty through citizens and municipalities in a territorial basic unit.[14]This guaranteesautonomy in fields of the urban planning, local economic development, primary education, public services and environmental protection. The law for Local Government of 2002 determines detail powers of municipalities and principles for their functionality. Basedon law, municipalities have their own competences, delegated and mutual powers with the central government.[15]

UNMIK regulation No. 2000/45 over the self-governance of the Municipalities in Kosovo is the first regulative act with legal powers which put the foundations of a system of the local and democratic self- governance and in service of the citizens in the state of Kosovo. This regulation establishes the legal base of the system of the local self-government according to principles and European democratic practices. From 1999 until 2010, multiple UNMIK regulations with legal power, organic laws, sectoriallaws, and administrative instructions arose, which gave a bigger autonomy to the local government in Kosovo. Immediately after the proclamation of the independence of Kosovo, in February 2008, the Assembly of the Republic of Kosovo approved new main laws for the local government, which replaced the formerlegislation. The development of the legal framework for the local government in Kosovo can be dividedinto three time periods:

1.Period of municipality administration with municipal administrators, according to UNMIK regulations from 2000 until 2002.

[12] Janev, I. (2010). Local Government in Macedonia. Skopje.

[13] Law on the Local Government (2002).

[14]Constitution of the Republic of North Macedonia.

[15] Ibid.

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2.Period of municipality administration without municipal administrators according to UNMIK regulations and other legal acts of IPVQ with powers transfer to authorities of the local government, gradually from 2002 until 2007.

3.Period of the local government according to Constitution and approved laws by the Assembly of the Republic of Kosovo, from 2008 until today.[16]

Legal frameworkon LocalGovernment based on principles of the Constitution of Kosovo and the European Card over the Local Government (KEVL). Article 123 of the Constitution, section 4 determines basic principles of the local government in Kosovo, such as: good governance, transparency, efficiency, and effectiveness in offering public services, by showing exceptional care to needs of communities, which are not majority and their members.[17]

2. Conceptual frameworks of the local government

2.1 Local Government Definition

The trend in political, economic, and social developments in the world, recently is going in two opposite directions, one direction towards globalization and the other towards localization. This overall movement of human society affectsalterations of governing systems, especially the local government. The building of political concepts over protection and affirmation of human rights, in particular the creation of competitive democratic systems of the trade service economy to increase the wellbeing of the citizens of one country, created preconditions for sudden developments of the political and administrative systems in service of citizens. Every country in the world today accepts decentralization as political democratic instrument to bring centralized government of the country closer to its citizens, in other words the local government is a system of public institutions, which have delegated powers to manage local interests. It represents the decentralization of the government from the central level to ensure more effective and more democratic government.

2.2 Basic principles of the local government in the Republic of North Macedonia and the Republic of Kosovo

- **Local autonomy** – ability of municipalities to exercise independent powers.
- **Subsidiarity** – assignments have to be conducted as closely as possible with the citizen.
- **Transparency** – inclusion of citizens in decision making processes.
- **Accountability** – local institutions are responsible for their actions.

2.3 Types of decentralization

[16]https://mapl.rks-gov.net/wp-content/uploads/2018/03/ORGANIZIMI-DHE-FUNKSIONIMI-I-VETEQEVERISJES-LOKALE-NE-KOSOVE.pdf

[17]Assembly of Kosovo: "Constitution of the Republic of Kosovo", April 2008, chapter X, article 123, section 4.

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Political decentralization – transfer of the political authority.

Administrative decentralization – transfer of managing functions.

Fiscal decentralization – transfer of financial sources and budgeting powers.

3. Local Government in the Republic of North Macedonia

The local government in the Republic of North Macedonia is definedthrough the Constitution of the Republic of North Macedonia as the highest legal act of the country, by the Law for the Local Government (2002), Law over the financing of municipalities, European Card over Local Government. Municipalities in the Republic of North Macedonia have powers in the primary education, culture and sport, urban planning, environmental protection, primary education. The organizational structure of municipalities includes: the Mayor, Municipal Council, and the Municipal Administration. Even if formal decentralization exists, many decisions continue to depend on the central government. This creates administrative delays, lack of flexibility, obstacles to implement projects. Many municipalitiesface small budgets, dependence on central transfers, inability to develop local projects, or we can say that they have insufficient financial resources.

There are complicated administrative procedures, where bureaucratic obstacles appear through: multiple regulations, complicated authorizations, tendering procedures, which last for months etc. Based on some statistics, more municipalities have insufficient professional staff in project management, urban planning, and financial administration. All this comes as a result of the appointment of municipal administrators often affected by political parties, causing lack in professionalism, conflicts of interest, and project stagnation. Even though the law predicts types of public participation, these mechanisms often do notwork as they should, due to the lack in transparency or insufficient information.

4. Local Government in the Republic of Kosovo

In accordance with principles of the Constitution of the Republic of Kosovo, European Card for Local Government and “Package of Ahtisaari” the Assembly of the Republic of Kosovo approved LVL, as organic or basic law to organize the labor of the Local Government in Kosovo. The law determines norms and standards of the Local Government, which consists of four main pillars:

- Organization and operation of SVQ.
- Government of Local Authorities (Local Autonomy).

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•Local Democracy (Election of Municipal Authorities).

•Supervision of Local Authorities.

The law defines a model of the proportional political representation in decision making, as principle of the local democracy. This representation arises directly by citizens in two main authorities of the Local Government, Assembly of the Municipality, and the mayor. While the basic principle of the local government is the equal representation of the citizens in decision making, through this law and with the law for the local elections, by defining the municipality as one single election area, citizens are able to proportional representation only through political parties and civicinitiatives, but not the citizens themselves. Meanwhile the citizens are allowed to participate in direct decision making through civicinitiative and referendum[18]. By the law,the mechanisms of the local democracy are defined, such as local elections, referendum, petition, civic initiatives, consultative committee, consultation of settlements and towns, meeting with citizens, transparency, and positive discrimination for minority communities. The law defines rights of specific autonomy in managing local finances of municipalities. These rights have been broken down and specified with a specific law for Finances of the Local Government. Municipalities have the right to decide, to appoint, to collect and spend their own incomes and to receive funds from the government. The municipality is allowed to enter cooperation with other municipalities in favor of the faster local economic development, of the efficiency and effectiveness to offer services tocitizens and diverse groups of interest. The right to cooperate at the local level, as from national intermunicipal aspect and from international municipal one, as well as the right to create and join societies, is one of the promoted rights and principles guaranteed by the Card (KEVL).[19]The law entitles municipalities to create municipal associations, to protect and promote their mutual interests. Municipal associations, as in the international legal system, have no right to exercise any kind of power. The association of municipalities plays the role of interest mediator of the respective associations and can offer services for members of association and not to other public or private subjects. The association creates the environment and builds its capacities to offer to municipalities, to exercise their powers in professional way. The law at the same time gavethe municipality a high autonomy degree but also created double mechanisms to supervise their operation. The labor of the municipal authorities is observed by MAPL and sectoral ministries on one side and from the other one by the citizens themselves through civic initiatives, according to certain legal mechanisms. The cooperation between central and local authorities, legally is built on three basic principles, such as:

[18] MAPL: “Law on the Local Government”, Prishtina 2008, article 70, 71

[19]Council of Europe: “European Card of the Local Government”, article 10.

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-complete adherence to constitutionality and legislation.

-Strengthening and enabling municipal authorities in implementation of responsibilities.

- Provision of respect for civil rights and liberties.[20]

Also, mechanisms are built, which are not very stable in function of the prevention to violate the law in their operation (previous review) and also, if this doesn't happen, the operation of the municipal authorities is allowed to be reviewed after the decision making and before their implementation by the supervision authority- MAPL. The administrative revision is limited to provision to adjust municipal activities with the constitution and with the law. This provides high autonomy for the municipality.

5. Comparative aspects: Republic of North Macedonia- Kosovo

Field	MK	Kosovo
Local Autonomy	limited in practice	wider and more functional
Local Financing	insufficient	stable
Professional Capacities	low	more advanced
Bureaucracy	high	moderate
Digitalization	at the beginning of process	more advanced

6. Analysis methodology of the Local Government

This part represents the methodological approach used to analyze bureaucratic barriers in the Republic of North Macedonia and Kosovo. The approach is combined (mixed- methods):

- **Documentary Analysis**: review of laws, international relations, strategic documents.

- **Comparative Analysis**: evaluation of differences and similarities in administrative frameworks.

-**Institutional Analysis**: review of internal structures and their operation.

-**Analysis for the service efficacy**: evaluation of impact in the bureaucracy, in services offered.

[20]Assembly of Kosovo: "Law on the Local Government", chapter X, article 74.

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According to data of national and international organizations over the performance of municipalities: 63% of municipalities in the Republic of North Macedonia report delays in tendering procedures for over **90 days,** 48% of the municipalities report lack in professional capacities in the department of finances, while in the Republic of Kosovo, only 28% of municipalities report similar delays, while 70% use digitalized systems for administrative management.

Municipalities in the Republic of North Macedonia face structural problems of different natures: economic problems with low and unstable budgets, dependence on central grants, lack in self-incomes. We also have burden administrative procedures, prolonged procedures, old fashioned regulations, and lack interinstitutional coordination. Further we take the example of two cases with two municipalities: Tetovo (Republic of North Macedonia), Prishtina (Republic of Kosovo).

Case 1: Municipality of Tetovo (Republic of North Macedonia)

- Faces lack in capital investments.
- Prominent problems in waste management.
- Big administrative delays due to inefficient processes.

Case 2: Municipality of Prishtina (Republic of Kosovo)

- Advanced digitalization of multiple services.
- Increasing transparency through online platforms.
- High realization of infrastructural projects.

Conclusion

The local government in the Republic of North Macedonia has high potential to advance the economic and social development of the country but faces challenges, which require deep reforms and stable cooperation among institutional actors. Only through the enforcement of financial autonomy, increasing administrative capacities and depolitization of the administration, can the local government achieve European standards. Analyses and statistics show that the Republic of North Macedonia faces prominent bureaucratic obstacles which directly affect the performance of the municipalities.

Kosovo represents a more flexible and more decentralized model, from which the Republic of North Macedonia can gain through deep structural reforms. Recommendations are advanced for reforms in:

1. Expanded Fiscal Autonomy- municipalities should manage with more local taxes.
2. Full digitalization of the administration- creating a single electronic national platform.
3. Depolitization by the law- reforms in the Law for Administrative Employees.

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4. Higher intermunicipal interaction- share of professional sources.
5. Compulsory annual training for the administration.
6. External and compulsory audit for capital projects.

The system of local government continues to face structural, financial, and administrative challenges. The lack in professional capacities, the high budgeting dependence on the central government, incomplete implementation of laws, as well as the institutional fragmentation, limit the potential of municipalities to effectively exercise their powers.

On the other hand, the expanding of transparency, administrative modernization, citizens inclusion and use of technology appear as real possibilities for improvement. Comparison with European practices show that decentralization reforms require stable approach, long-term political support, and investments in building local capacities. In overall, the local government remains one development process, which can achieve more efficient operation through the enforcement of the local autonomy, increasing institutional responsibility and active engagement of the community. Results of this paper emphasize the importance through which the local institutions have to be empowered not only legally, but also, in a way to contribute to the democratic, economic, and social development of the country.

Used Literature:

1. Constitution of the Republic of North Macedonia.
2. Constitution of the Republic of Kosovo.
3. Law on the Local Government – Republic of North Macedonia (2002).
4. Law on the Local Government- Kosovo (2008).
5. Reports of OSCE, European Council, UNDP over the decentralization.

Literature from web pages:

1. https://mapl.rks-gov.net/

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A COMPARATIVE ANALYSIS OF THE PRESIDENTIAL ELECTION PROCESS IN KOSOVO AND NORTH MACEDONIA

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Abstract

The President is the Head of State and a symbol of national unity. The role, powers, and electoral method depend on a country's political system and constitutional framework.

Kosovo and North Macedonia are parliamentary republics. An in-depth analysis of their constitutional and legislative frameworks shows that, despite sharing the same model of governance, the electoral method/process for electing the President of the Republic differs significantly.

In Kosovo, the President is elected by the Assembly requiring a qualified majority in the first two rounds and a simple majority in the third round. This process emphasizes parliamentary consensus and political negotiation, often involving inter-party agreements. If no candidate is elected, the Assembly is dissolved, and new parliamentary elections must be held.

In North Macedonia (RNM), the President is elected directly by the citizens. The election process involves one or two rounds, depending on whether a candidate secures an absolute majority in the first round. This system prioritizes citizen participation and electoral legitimacy, giving the President a mandate derived directly from the electorate. If the required conditions are not met, the entire procedure is repeated.

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This study highlights the similarities and differences of the presidential electoral process of Kosovo and RNM and offers recommendations for strengthening democracy and ensuring effective governance in both countries.

Keywords: *President, election, Kosovo, North Macedonia, Assembly.*

Introduction

The President of the Republic is considered the highest state authority. The political position of the President and its powers depend on the state's political system (presidential, parliamentary, semi-presidential or semi-parliamentary), constitutional organization of the Republic as well as the presidential electoral process (Neziri, 2024:148).

The key characteristic of the countries with the presidential political system is that the President of the Republic exercises extensive powers and holds a strong political position due to the legitimacy gained through general and direct election (by citizen's vote). In contrast, in countries with the parliamentary political system, the President of the Republic is elected by the Assembly (indirect election, by vote of deputies) and exercises ceremonial/symbolic and representative powers (Neziri, 2022: 251).

Kosovo and North Macedonia (RNM) operate as parliamentary republics. Nevertheless, RNM cannot be defined as a pure parliamentary Republic. The Constitution of RNM has elements from the presidential system (such as: the election of the President through a direct vote, by citizens' vote) as well as from the parliamentary political system (such as: cooperation between the executive and the legislative) (Neziri, 2024:160).

The first President of RNM (1991) was elected by the Assembly of RNM (by indirect elections), while all subsequent Presidents (from 1994 to the present) were elected through general and direct elections (Vasilev & Treneska & Smilevski, 2024).

The study is structured into three parts. The first and second sections provide a detailed analysis of the Constitution provisions and positive laws that regulate the conditions and procedures for electing the President in Kosovo and RNM, while the third section provides comparison of the current presidential electoral process, highlighting the key differences and similarities. The comparative analysis focuses on the comparison of the key electoral components such as: candidacy requirements, electoral method, election process and institutional consequences of electoral failure.

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The paper provides theoretical knowledge which can contribute to the academic literature on public administration and political science.

The research question is: *What are the main similarities and differences in the presidential electoral process between Kosovo and North Macedonia?*

The research hypothesis is as follows: *Although Kosovo and RNM operate under the same political system, the procedure/method of electing the President of the state differ significantly.*

Research methods

For the purposes of this study, we use descriptive-comparative methods, along with analysis of constitutional and legal provisions, academic literature, scientific articles and official websites. The research focuses on examining the Constitutional provisions of North Macedonia and Kosovo, as well as relevant positive laws such as the Electoral Code (of both countries), the Law on Government (of both countries), the Law on the President of Kosovo and the Rules of Procedure of the Assembly of Kosovo.

1. Analysis of the Presidential Electoral Process in Republic of North Macedonia

The procedure for electing the President of the Republic is regulated by the Constitution and the Electoral Code (Neziri & Saliu, 2025: 97).

According to the Constitution, the President of RNM is elected through direct, general and secret ballot for a five-year term (article 80). Every North Macedonian citizen aged 40 or older, who has lived in the country for at least ten of the past fifteen year, hasn't been elected twice as a President of the state and has secure signatures from either 10,000 voters (registered in the Voters List) or 30 members of Parliament (MPs) has the right to run for President of the State (article 81).

The presidential elections are organized throughout the entire territory of the RNM, including the diplomatic-consular missions of the RMV in Africa and Europe; Australia and Asia; South and North America; as an electoral unit (Electoral Code, article 4).

The right to vote has every Macedonian citizen registered in the Voter's List. The right to vote is equal, universal and inviolable. The President is elected during the last 60 days of the previous President's term. If the President's mandate ends early due to reasons specified in the article 81 of the Constitution (resignation, death or permanent inability to exercise office), then the new President must be elected within 40 days from the day of the termination of the mandate. The

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announcements for the presidential election is made by the Speaker of the Assembly, the act is submitted to the State Election Commission, Ministry of Foreign Affairs, Ministry of Justice and published in the "Official Gazette of RNM (Electoral Code, article 4-12). Citizens are informed through public notification (Electoral Code, article 13). The election campaign starts 20 days before the elections day. The day before the day of elections is a day of electoral silence (Electoral Code, article 69).

The presidential election typically consists of two rounds. Each Macedonian citizen registered in the Voter's List may vote, each voter can vote for only one candidate. In the first round, a candidate can be elected as a President of the State if he/she receives an absolute majority (50%+1 vote) of all registered voters. If neither candidate reaches the required majority, a second round is held within 14 days between the two candidates who received the highest number of votes. In the second round, the winner must obtain a simple majority, and at least 40% of registered voters must participate and vote. Failure to meet these conditions results in a repetition of the entire election process (Electoral Code, article 121-122).

According to the Constitution, the mandate of the President begins with signing the Solemn Oath of Office at the Assembly of RNM. The President declares that he/she will perform the duties/functions of the office with dignity and responsibility, will respect the Constitution and the laws, as well as protect the sovereignty and territorial integrity.

By assuming office, the President has the duty to: "*represent the state, serve as Supreme Commander of the Army of RNM*, *determine the mandate for constituting the Government, nominate two judges of the Constitutional Court, two members of the Judicial Council and three members of the Security Council; appoint and revoke ambassadors and diplomatic representatives of RNM abroad; appoint and dismiss state officials as determined by the Constitution and the laws; award titles of gratitude and awards as defined by laws, grant pardons in accordance with the law, perform other constitutional duties*" (article 84).

President of the state enjoys immunity during the term in office, but he/she held responsible in case of infringing the Constitution or the laws. The procedure for determining the President's responsibility is initiated by the Assembly (with a 2/3 majority of all MPs), while the decision upon the President's responsibility is taken by the Constitution Court (with a 2/3 majority). If the Constitutional Court finds violations that result in the termination of the President's mandate, it sends the decision to the President of the Assembly and after publishing it in the Official Gazette of RNM, the President of the Assembly has to announce new presidential elections.

The first President of independent Macedonia was Kiro Gligorov (1991-1999). He served two mandates. In the first mandate he was elected by secret ballot by the Macedonian Assembly, while in the second mandate (in 1995) he was elected by citizens (through general and direct election).

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Since 1995, all subsequent Presidents : Boris Trajkovski (1999 – 2004), Branko Crvenkovski (2004-2009), Gjorge Ivanov (2009-2019), Stevo Pendarovski (2019-2024), and lastly Gordana Siljanovska – Davkova, were elected through general and direct elections.

2. Analysis of the Presidential Electoral Process in Republic of Kosovo

The conditions and the procedure for electing the President of Kosovo, are regulated by the Constitution, the Law on the President as well as the Rules of Procedure of the Assembly (Neziri & Saliu, 2025: 98).

According to the Law on the President, as a candidate for President may be any citizen of Kosovo which is 35 years old or older, has lived in Kosovo for at least the last ten years and has gathers the signatures of at least 30 deputies of the Assembly. Considering that each candidate must obtain the signatures of at least 30 deputies, and each deputy may only sign for one candidate, presidential election includes minimum two candidates and maximum four candidates. The President is elected by the Assembly in secret ballot, in unique and solemn session. The election shall be made at least 30 days before the end of the mandate of an a actual President (articles 3- 4)

The presidential election involves three rounds of voting. Considering the fact that in the first and in the second round, the President is elected by 2/3 votes of all deputies of the Assembly, it is necessary participation and vote of at least 80 deputies. If no candidate is elected in the first two ballots, then a third ballot is held. In the third ballot, deputies vote for one of two candidates that have the highest number of votes in the second ballot. In third round, the President is elected by 61 votes, meaning that at least 61 deputies must participate and must vote (Rules of procedure of the Assembly, article 106). If, even in the third round, no candidate achieves the required number of votes, due to the failure of electing the President of the Republic, the Assembly is dissolved and new parliamentary elections must be held within 45 days (Constitution, article 86).

The President's mandate lasts 5 years and there is a possibility of re-elected only once. During the mandate, the President cannot perform other public or political party functions (Rules of procedure of the Assembly, article 88).

By assuming office, the President is obliged to: *"represent the country (internally and externally). guarantee the functioning of constitutional institutions, convene Assembly's first meeting, announce parliamentary elections, lead the foreign policy of the country, sign international agreements, receive credentials letters; command the Kosovo Security Force, lead the Consultative Council for Communities, appoint the candidate for Prime Minister, appoint the President of the Supreme Court, appoint judges to the Constitutional Court (upon the proposal of the Assembly), appoint the Governor of the Central Bank of Kosovo, as well as other public*

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officials; declares State of Emergency (in consultation with the Prime Minister), grants titles of gratitude, medals, and awards in accordance with the law, grants individual pardons in accordance with the law" (Constitution, article 84).

The President of Kosovo enjoys immunity from civil lawsuit, prosecution and dismissal for actions or decisions that are within the scope of responsibilities of the President of the state.

If the President is temporarily unable to perform the duties and responsibilities, she/he may voluntarily transfer the duties/responsibilities of the position to the President of the Assembly who shall then serve as Acting President of Kosovo (for a period for no longer than six months).

The President may be dismissed by the Assembly in cases where a serious illness prevents the President to perform the responsibilities and duties of the office, in case of a serious violation of the Constitution and upon a conviction for a serious crime. The procedure for dismissal is initiated by the Assembly members, but the decision for dismiss is taken by the Constitutional Court (Constitution, article 91).

Since 1999, Kosovo has had six presidents: Ibrahim Rugova (2001–2006), Fatmir Sejdiu (2006–2010), Behgjet Pacolli (February–April 2011), Atifete Jahjaga (2011–2016), Hashim Thaçi (2016–2020). Currently, Vjosa Osmani serves as the President of Kosovo.

3. A Comparative Analysis of the Presidential Electoral Process in Kosovo and North Macedonia: Differences and similarities

Differences in the procedure/method of electing the President of the Republic (North Macedonia vs. Kosovo):

- **Candidacy requirements (qualification necessary to be elected as a President)** - In RMV, a candidate for President shall be 40 years old or older and must be nominated by at least 30 deputies or 10,000 voters registered in the Voters' List. In Kosovo, a candidate for President shall be 35 years old or older and must be nominated by at least 30 deputies.
- **Method of election (eligible voters) –** in the RNM, the President is elected by the citizens (direct election), while in Kosovo the President is elected by the Assembly – (by deputies as a citizens representatives - indirect election).

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- **The number of candidates for President** – In RNM, the election must include at least two candidates and there is no limit to the total number of candidates. In Kosovo, the election must include a minimum of two candidates and no more than four candidates.

- **The election procedure (voting procedure) -** In RNM, the President is elected by the citizens. The presidential elections consist of two rounds. In the first round absolute majority (50% +1of all registered voters) is required. In the first round absolute majority is sufficient but at least 40% of registered voters must participate and vote. In Kosovo the President is elected by the Assembly. The Presidential electoral procedure includes up to three rounds. In the first two rounds, a two thirds majority (80 votes) is required, while in the third round a simple majority (61 votes) is sufficient.

- **The institutional consequences of electoral failure** – In RNM, failure to elect the President, results in a repetition of the entire presidential election process. In Kosovo, failure to elect the President, results in the dissolution of the Assembly and new parliamentary elections must be held.

Similarities in the presidential election procedure (North Macedonia vs. Kosovo):

- **The duration of the mandate** – the President of R. of Kosovo and the President of the R. of North Macedonia are elected for a five-year term;

- **Possibility of being re - elected once** – According to the Constitution (in RNM and in Kosovo), there is a possibility of re-electing once. These means that the President may be elected to serve as a President of the Republic for no more than two mandates.

Conclusion and recommendation

Kosovo and RNM operate as parliamentary republics. Even though they share the same model of governance, the comparison highlights a fundamental difference in the method/procedure of electing the President of the State.

The study shows two models of electing the President within the parliamentary political system: one based on institutional consensus and political negotiation (Kosovo) and the other based on direct election (citizen participation) and electoral legitimacy (RNM).

When applied transparently and inclusively, both models contribute to good governance and the development of democracy. Effective governance requires transparent elections, fairness, strong

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democratic institutions, and active civic participation, all of which are essential for strengthening democracy and ensuring effective governance in both countries.

Reference

[1] Constitution of the Republic of North Macedonia with amendments to the Constitution I-XXX, available online at: https://www.sobranie.mk/

[2] Constitution of the Republic of Kosovo available online at: https://gzk.rks-gov.net/

[3] Electoral Code " Official gazette of the Republic of North Macedonia", no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19 98/19, 42/20, 74/21 and 215/21) available online at: https://www.ifes.org/

[4] Law no. 003/L-073 on general elections in the R. of Kosovo

[5] Law no. 03/L-094 on the President of the Republic of Kosovo, available online at https://president-ksgov.net/

[6] Neziri, L. & Saliu, A. (2025). Comparative analysis of the political system of North Macedonia and Kosovo. *Knowledge - International journal* , *70*(1), 95–100. Retrieved from https://ojs.ikm.mk/index.php/kij/article/view/7547

[7] Neziri, L. (2024). The state as a specific organisation of society: State organisation of North Macedonia. *Knowledge - International Journal* , *62*(1), 147–151. Retrieved from https://ojs.ikm.mk/index.php/kij/article/view/6572

[8] Neziri, L. (2024). The role and place of the Parliament in the political system of the Republic of North Macedonia: Relations between the legislative power and the executive power. *Knowledge - International Journal* , *62*(1), 159–162. Retrieved from https://ojs.ikm.mk/index.php/kij/article/view/6574

[9] Neziri, L. (2024).Public Administration and the state. *Knowledge - International Journal* , *63*(1), 99–102. Retrieved from https://ojs.ikm.mk/index.php/kij/article/view/6670

[10] Neziri, L. (2022). Analysis of the electoral system for presidential elections in the Republic of North Macedonia: Advantages and disadvantages. *Knowledge - International Journal* , *51*(1), 251–256. Retrieved from https://ojs.ikm.mk/index.php/kij/article/view/5061

ISSN (online) 3142-6166

[11] Pankovski, M. & Mladenovska, S. (2019), The Republic of Macedonia's 2019 Presidential Elections Handbook, Skopje available online at: https://www.kas.de/

[12] Pollozhani, B., & Mucaj, F. (2018). E drejta kushtetuese. Prishtina, pp.380-401.

[13] Rules of Procedure of the Assembly of the Republic of Kosovo available online at: https:// https://gzk.rks-gov.net/

[14] Vasilev, Gj & Treneska, J. & Smilevski, T. (2024), Handbook on 2024 Presidential Elections in the Republic of North Macedonia, Skopje, available online at: https://izbornaarhiva.mk/

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