
THE RELATIONSHIP BETWEEN INTERNATIONAL LAW AND DOMESTIC LAW IN ALBANIA

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Abstract: International law has a significant impact on domestic law in the Republic of Albania as the country, being part of the legal family of civil law, has equated domestic law with other states that are part of this legal family. The Constitution of the Republic of Albania has defined the importance of international law and the relationship between international law and domestic law. The Republic of Albania applies international law binding on it. The application of international law determines the obligation of Albania to implement international customs and agreements, decisions of international courts, etc. The 1998 Constitution of the Republic of Albania has defined the importance, role, and implementation of international law.

The methods used in this research are the qualitative method, which is implemented through research, description, analysis, and comparison, and the quantitative method, which is accomplished by summarizing the data and grouping them. The combination of these methods has proved effective. This paper is based on doctrinal research for the collection of literature on the topics addressed in it. The area of research has covered the relations between Albania and the European Union, as well as relations between Albania and other international organizations such as the United Nations, the Council of Europe, the Organization for Security and Co-operation in Europe, and others. The sources used are both Albanian and other languages.

The Constitution recognizes the supremacy of the norms of classical international law over the country's laws that do not comply with it. It sets out the principle of direct implementation of a ratified international agreement, except when it is not self-enforceable, and its implementation requires the adoption of a law. According to the Constitution, The Constitutional Court of Albania decides on the law's compatibility with an international agreement. In that case, it has no jurisdiction over the implementation of the international agreement instead of a law that does not comply with it. This is within the jurisdiction and interpretation of regular courts. Concerning the accession to international organizations, the Constitution accepts the delegation of state competencies to international organizations for specific issues through the agreement of accession of the Republic of Albania. Consequently, with the will of the people expressed through its representatives, the transfer of state sovereignty is carried out, in part, for specific issues, through the delegation of state competencies. As a legal tool to enable the application of international law in our domestic law, all Constitutions adopted in the Republic of Albania since the first Constitution of 1950 and until the constitutional amendments of 2016 have been accepted and recognized the importance of international agreement.

Today all interstate relations are regulated through relevant international agreements. Nevertheless, political or financial crises recede the moment states cooperate with each other and the primary tool in establishing their mutual obligations and commitment is the international agreement. With the function that is recognized by the international agreement as an equalizer of law, it manages to unify the laws of a state and create stability in regional or even world affairs. The international agreement serves to establish obligations between the entities that sign it. The reasons for signing an agreement are various, whether to create stability and peace, end war between states, or even develop cooperation in various fields. As long as there is interconnectedness in the relations between states, the agreement will also serve as a bridge between them.

Keywords: international law, relationship, domestic law, international agreement.

1. THE RELATIONSHIP BETWEEN INTERNATIONAL LAW AND DOMESTIC LAW IN ALBANIA

The Republic of Albania applies international law binding on it. (Kuvendi Q. e., 2016) The application of international law determines the obligation of Albania to implement international customs and agreements, decisions of international courts, etc. The 1998 Constitution of the Republic of Albania has defined the importance, role, and implementation of international law, respectively in the following provisions:

In the introductory part, “Basic Principles,” Article 5 stipulates that, “The Republic of Albania applies the international law binding on it,” a new addition to this constitution. Unlike previous constitutions, this definition declares that Albania, at the beginning of the third millennium, open and detached from the communist regime, is determined to join the international community, taking on the rights but also the responsibilities deriving from daily coexistence and relations with other international entities. (Krisafi, 2004) This constitutional principle also creates the obligation for the Republic of Albania to implement international law, implicitly applying the international law of fundamental human rights. The Constitution of the Republic of Albania in Article 116, paragraph 1, defines the hierarchy of normative acts that affect the entire territory of the Republic of Albania. (Kuvendi, Article 121, Kushtetuta e Republikës së Shqipërisë, 1998) This provision places international agreements in the normative hierarchy by giving them a special place. The international agreement as an instrument of implementation of international law defines our country's Constitution as an act bearing legal force in the territory of the Republic of Albania. It is defined as the second source of law that applies to our legal system. International agreements ratified by law have prevalence in implementation in relation to other laws adopted by the Parliament of the Republic of Albania. This prevalence means that the courts or institutions are obliged to implement the international agreement ratified by law, thus repealing the law with which it conflicts. In addition to the Constitution of Albania concerning the relationship between domestic law and international agreement, the constitutional institution defines who has the power to express consent in concluding an international agreement on behalf of the Republic of Albania. The Assembly of Albania has adopted a special law that defines the procedure concluding an international agreement on behalf of the Republic of Albania and the government of the Republic of Albania. Law no. 43/2016, "On international agreements in the Republic of Albania," aims to determine the rules and procedures for concluding international agreements, under the Vienna Convention, "On the law of treaties" 1969, acceded to by Law no. 8696, dated 23.11.2000, and the Vienna Convention, "On the law of treaties" between states and international organizations or between international organizations, 1986, acceded to by Law no. 18/2014, dated 27.2.2014. This law applies to all international agreements, regardless of the designations they receive, accepted by public international law, between the state institutions of the Republic of Albania and the institutions of other states or international organizations. The Constitution of the Republic of Albania in Article 122/2 stipulates that any conflict of implementation between a ratified international agreement and domestic laws that conflict with it, will lead to the implementation of the international agreement. Supremacy of the international agreement ratified by Albanian law is defined in Article 131 of the Constitution. Therefore, the Constitutional Court also decides on the compatibility of the law with international agreements, as provided in Article 122. Given the above, the Constitution recognizes the supremacy of the norms of classical international law over the country's laws that do not comply with it. The Constitution sets out the principle of direct implementation of a ratified international agreement, except when it is not self-enforceable and its implementation requires the adoption of a law. (Kuvendi, Article 122, paragraph 1 of the Constitution: “Every ratified international agreement constitutes part of the domestic legal system after being published in the Official Journal of the Republic of Albania. It is directly applicable, except when it, 1198) According to the Constitution, the Constitutional Court of Albania decides on the law's compatibility with an international agreement. In that case, it has no jurisdiction over the implementation of the international agreement instead of a law that does not comply with it. This is within the jurisdiction and interpretation of regular courts, in which case, the judge will apply Article 122/1, 2 and not Article 145/2. On the other hand, it differs in the case when it comes to implementing a law that contains restrictions on human rights. Where these restrictions conflict with the European Convention on Human Rights or the Constitution, the judge of the regular courts shall refer the matter to the Constitutional Court according to Article 145/2, obligation which exists as per Article 17/2. (L. Omari, A. Anastasi, 2008) The constitutional provision of article 122/3 (Kuvendi, Article 122/3 of the Constitution stipulates that: “The norms issued by an international organization have precedence, in case of conflict, over the law of the country, when the agreement ratified by the Republic of Albania for participation in that org, 1998) determines the relationship of domestic law within the norms issued by an international organization, to which Albania adheres by special agreement. (Xh. Zaganjori, A. Anastasi, E. (Methasani) Çani, 2011) Concerning once again international organizations, Article 123 stipulates that the Republic of Albania delegates state competencies to international organizations for certain issues. This delegation is a result of the accession agreement concluded between the Republic of Albania and that organization. In this case, Albania seeks to join the EU. At the time of accession to this organization, the Albanian state will delegate a set of state competencies assigned to specific cases. The principle of the direct application refers to the norms issued by an international organization after the ratification of the accession agreement by the Republic of Albania. Meanwhile, regarding the principle of supremacy, there is a difference with Article 122/2 which lies in using the term “right” instead of the term “law.” The legal consequence of such wording in the Constitution is related to the extension of the principle of supremacy. Law means the set of norms that constitute the internal legal order in a given state, including the Constitution. For this reason, the supremacy of the

norms issued by an international organization, when the ratified agreement with it provides for the direct implementation of these norms, will extend to the Constitution itself, and not only to the laws adopted by Parliament. Concerning the accession to international organizations, the Constitution accepts the delegation of state competencies to international organizations for specific issues through the agreement of accession of the Republic of Albania. Consequently, with the will of the people expressed through its representatives, the transfer of state sovereignty is carried out, in part, for specific issues, through the delegation of state competencies. Undoubtedly, in this case we are dealing not only with the limitation of state sovereignty (external aspect) but also with the limitation of the sovereignty of the people (According to Article 2 of the Constitution: "Sovereignty in the Republic of Albania belongs to the people. The people exercise sovereignty through their representatives or directly. ") (Internal aspect). (Xh. Zaganjori, A. Anastasi, E. (Methasani) Çani, 2011) These provisions help the people's sovereignty as a fundamental principle of this state, not to be understood as a sovereignty *summa potestas* - unchangeable - but as a flexible issue. (L. Omari, A. Anastasi, 2008) In our legal literature, Article 123 of the Constitution is considered an excellent legal basis for the Republic of Albania's accession to the EU. However, it would have been better if the Constitution had explicitly provided a specific clause authorizing EU accession as there have been several constitutional amendments since Albania first established relations with the EU.

The Constitution of the Republic of Albania does not clearly define the accession of the country to the EU. Nevertheless, it establishes the possibility for Albania to accede to international organizations. As mentioned above, the accession of Albania to the EU will lead to the assumption of obligations set by the organization to the Albanian state. The definition of obligations for the Albanian state begins with the signing of the Stabilization and Association Agreement with the EU. As for the relationship between EU law and the Albania's domestic law, in both cases classical international agreements and norms are drawn up by an international organization. The constitutional provisions give priority to both relationships with the country's laws. This approach is fully in line with the jurisprudence of the CJEU concerning its wording on the principle of the supremacy of EU law over national law. The issue left to be decided on concerns the relationship between the EU's primary law (Union Treaties) and derived (norms adopted by the Union institutions) and the Constitution. (Kellerman, 2008) Thus the Constitutional Court of Albania has a significant role to play, as the body charged by the Constitution to resolve constitutional disputes and deliver its final interpretation (Article 124 of the Constitution, paragraphs 1 and 2: "The Constitutional Court resolves constitutional disputes and makes the final interpretation of the Constitution. The Constitutional Court is subject only to the Constitution."). Furthermore, this Court has jurisdiction to decide on the compatibility of international agreements with the Constitution before their ratification. Therefore, even in the event of a conflict between an EU Treaty and the Constitution, the latter may be amended to pave the way for subsequent ratification of the Treaty. However, to understand the role of the Stabilization and Association Agreement in the sources of law in the Republic of Albania, we refer to the Albanian Constitution, which in the constitutional provisions has clearly defined the role, place, implementation, and moment of constitutional control of ratified international agreements by law in the Republic of Albania.

Since the first constitutions, Albania has defined the international agreement as a source of mandatory law to be implemented in the territory of Albania. Referring to the role of agreements and constitutional regulation as sources of law in the historical context, we notice that in the 1950 Constitution, Article 58/9 defined the obligation to sign and ratify international agreements by the Presidium of the People's Assembly. This competence belonged to the Presidium of the People's Assembly, and only in special cases ratification and denunciation could be performed by the People's Assembly. Since the first creation of the Constitution according to the concept of its sister constitutions, the Constitution of the People's Republic of Albania provided for this legal remedy to cooperate with other states.

In the Constitution of 1976, (QPZ, 1976) Article 67 stipulated that the institution that had the right to ratify international agreements was the Assembly. The Assembly ratified and denounced international treaties of particular importance. However, a novelty for this Constitution, unlike in the past, is the competence given to the Council of Ministers to sign international agreements. Article 81 of the 1976 Constitution provided that: "The Council of Ministers concludes international agreements, adopts and denounces those that are not subject to ratification." In law no. 7491, dated 29.4.1991, "On the Main Constitutional Provisions," Article 4 stipulates that the Republic of Albania recognizes and guarantees the fundamental human rights and freedoms of national minorities, accepted in international documents, clearly showing Albania's readiness to sign international agreements. Article 8 stipulates that the legislation of the Republic of Albania takes into account, recognizes, and respects the generally accepted principles and norms of international law. This implies that the norms of international law were provided for in an international agreement with the agreement itself the source of international law.

As a legal tool to enable the application of international law in our domestic law, all Constitutions adopted in the Republic of Albania since the first Constitution of 1950 and until the constitutional amendments of 2016 have been accepted and recognized for their importance. This is because all constitutions as fundamental laws have expressly

provided for the signing of international agreements by constitutional institutions such as the Presidium of the People's Assembly, the President, or the Council of Ministers.

International law and international agreements find a new approach in the 1998 Constitution. The Republic of Albania, with its system of sources of law, has categorized these by following the criterion of hierarchy, where the first source prevails over the second and stands in a superior position compared to the sources of lower level. The Constitution of the Republic of Albania (Article 116) provides for normative acts with general force as follows: Constitution; International agreements ratified by law; Laws; Other acts of the Council of Ministers and acts of the Municipal Council or local government bodies.

Therefore, our Constitution was adopted in 1998 as the first source listing next the international agreements ratified by law, giving it great importance and making international law part of the Albanian legal system. Present constitutions throughout the world effectively regulate the relationship between domestic and international law by defining the procedures that ensure compliance between the norms of the two orders. Likewise, the Constitution of the Republic of Albania determines the position, importance, and applicability of international law and, the very source of international law, the international agreement. Due to its importance, Parliament will sign and ratify international agreements that the Constitution itself has defined in Article 121/1,

- **Territory, peace, alliances, political and military affairs.** The meaning of this international agreement includes all international agreements which provide for the delegation of state sovereignty of the Albanian state, military or political cooperation with other states, for example the North Atlantic Treaty Organization (NATO), in which Albania acceded in 2009. Albania became a member of the North Atlantic Treaty Organization following the ratification of the Accession Protocol by all allied countries and the deposit of the instrument of NATO accession in the State Department that is also the legal holder of the Washington Treaty

- **Human rights and freedoms, as well as the obligations of citizens.** The set of fundamental rights and freedoms provided by the Constitution of the Republic of Albania in the catalog of rights and freedoms, notably personal rights and freedoms, civil and political rights, and freedoms, as well as economic, social, and cultural rights and freedoms, are guaranteed by the Constitution of the Republic of Albania. This includes many international agreements concluded between Albania and the United Nations and between Albania and the Council of Europe. Of particular mention to show the importance of the international agreement in our legal system is the case of the European Convention on Human Rights (ECHR). In the 1998 Constitution, Article 17 foresees the importance of the European Convention on Human Rights, stating that those restrictions on human rights concerning fundamental rights and freedoms can never be more severe than those provided by the ECHR. In this way, the Constitution shows a clear position of the ECHR by putting it on par with itself and assigning it the same weight.

- **Membership of the Republic of Albania in international organizations.** Of notable mention here there are the international membership agreements often supported by definitions, such as the declaration, treaty, convention, etc. Through this type of international agreement, Albania has become a member of the United Nations (UN), the Council of Europe (EC), etc.

- **Assuming financial obligations by the Republic of Albania.** The Constitution has also provided that in other cases, the Assembly, with a simple majority, may ratify other international agreements that are not provided for in the above circumstances.

The entity that has the competence to conclude international agreements on behalf of the Republic of Albania is the President of the Republic, a competence that the Constitution of the Republic of Albania has defined in Article 92 (ë). International agreements concluded on behalf of the Republic of Albania are signed by the President of the Republic or, with his authorization, can also be signed by the Prime Minister, members of the Council of Ministers, or any senior official after being appointed to office. For these international agreements, the plenipotentiary is issued by the Minister for Europe and Foreign Affairs, after the President's authorization. (Kuvendi, Article 34 of Law no. 43/2016, "On international agreements in the Republic of Albania," 2016) International agreements are signed on behalf of the government by the Prime Minister or, with his consent, by the members of the Council of Ministers or any senior official. The international agreement may be signed by the Minister for Europe and Foreign Affairs or the ambassador of the diplomatic mission in the country where the international agreement is accredited. The authorized persons are endowed with full power by the competent authority after the adoption in principle of the draft agreement by the Council of Ministers. For these international agreements, the plenipotentiary is issued by the Minister for Europe and Foreign Affairs, after the authorization given by the Prime Minister. The plenipotentiary is compiled in the Albanian language, according to the official format, stamped with a dry stamp, and can be accompanied by a translation into English. (Kuvendi, Article 34 of Law no. 43/2016, "On international agreements in the Republic of Albania," 2016)

In law no. 43/2016, "On international agreements in the Republic of Albania," Article 17 provides for the procedure of ratification of the international agreement by the Parliament of the Republic of Albania, ratification which

absolutely leads to the adoption of a law. Ratification is a legal act indicating the consent of the Republic of Albania to be bound by an international agreement previously signed by it and finalizes the obligation of the Albanian state before other international entities with which it concludes the agreement, enabling the entry into force of the international agreement and making it applicable in our legal system. When we talk about ratification as defined by law no. 43/2016, "On international agreements in the Republic of Albania," we have determined the consent to enter into force. All other agreements that do not require ratification will enter into force and become enforceable at the time of expressing the will to be bound by the international agreement. Albania signs the international agreement through the legitimate subjects by applying the procedures to prepare ratification by the Assembly and the process must be completed within 30 days from the date of signing. Depending on the type and scope of the international agreement, the responsible Ministry submits for consideration to the Council of Ministers the proposal for ratification of the agreement together with the draft law for ratification, draft decision for the draft law, adoption decision in principle, texts of the agreement signed in Albanian and English or certified translation, in the absence of signature in the Albanian language, explanatory report, and opinions of the Ministry for Europe and Foreign Affairs and the Ministry of Justice on the content of the draft law. The same procedure applies to the Albanian state's expression through accession, acceptance, or adoption. The Assembly carries out accession, endorsement, or permission of an international agreement.

The conclusion of international agreements on behalf of the government provides for the signing by the government and the obligation to notify the Assembly of international agreements signed on behalf of the Albanian government. The notification is made by the Prime Minister, who informs the Assembly whenever the Council of Ministers signs an international agreement not ratified by law. (Kuvendi, Article 121, Kushtetuta e Republikës së Shqipërisë, 1998) The announcement made by the Prime Minister serves as information on the international relations established by the government, taking into account the consensus of the Assembly, but not only because it is considered a control filter for the government in its activity in the international arena. We mention here numerous cooperation agreements in the political, educational, and cultural fields, which enter into force through a Council of Ministers' Decision.

Therefore, ratification or not of the international agreement, regardless of becoming part of our legal system, itself one of the primary sources of law in Albania, directly impacts any development or crisis in our social order.

Its impact on the legal system is understood when it becomes a mandatory part to be implemented in it, being a relationship between people in a society, is expressed and sanctioned in law, that is, in legal norms. Part of these norms are the rules of conduct defined in international agreements applicable in Albania since the international agreement based on the Constitution is part of normative acts with general effect in the country. The legal order is divided into two elements, with the first being normative and including rules of conduct and the second including concrete behaviour, material that is compiled based on norms. Given that social relations are dynamic, we say that the legal norms governing these relations are also dynamic, so the legal order itself is not static.

An essential element of the international agreement to become part of the Albanian legal system is its applicability. Depending on applicability, international agreements are their self-enforceable or not. If they are self-enforceable, the adoption of a law is not required for them to enter into force, whereas, in the other case, the applicability is done by adopting a specific law to enable its entry into force.

International agreements signed by the Republic of Albania as part of the sources of law in the country directly impact our legal system. Due to their position in relation to the Constitution and laws adopted in the Assembly, they are implemented immediately after ratification by law from this institution. Unlike international agreements signed on behalf of the Albania, international agreements signed by the Council of Ministers of Albania are self-enforceable and do not require the enactment of a particular law to be enforced. The entry into force of international agreements in Albania is done via the same procedure as for other laws according to Article 117/3 provided by the Constitution of Albania. The law adopted by the Assembly, for the ratification, accession, acceptance, adoption, denunciation, or adoption decision after signing the international agreement, together with the text of the agreement in Albanian and other foreign languages signed, are published in the Official Journal. (Kuvendi, Article 34 of Law no. 43/2016, "On international agreements in the Republic of Albania," 2016) For other agreements that do not require the adoption of a law to be implemented, the Assembly and the Council of Ministers forward to the Center for Official Publications (COP) a printed and an electronic copy in Albanian and other foreign languages, signed or a copy of the translation into Albanian, certified when the agreement has not been signed in Albanian. Any notification on the entry into force, suspension, denunciation, and abrogation of the international agreement, the Ministry for Europe and Foreign Affairs forwards it to the COP. As an obligation deriving from membership in the United Nations, Albania should register international agreements with the UN Secretary-General or relevant organizations after they entered into force, according to the parties' agreement. The self-enforceability of an agreement is discussed when an agreement is not ratified by law. International agreements in their wording do not

determine whether the agreement is self-enforceable or not. The self-enforcement of agreements is regulated by the constitutions or constitutional law of each country. The Albanian Constitution stipulates that agreements as a source of the right to become enforceable must be ratified by law by the Assembly of the Republic of Albania. Ratification, in this case, means the adoption of a law, which enables the agreement to be implemented by state bodies depending on the type addressed to the respective bodies of judiciary, legislative, and executive power, and by natural or legal persons depending on the purpose of the international agreement. Self-enforceability is a matter to be determined by the domestic courts, whenever they are faced with allegations of subjective rights violations, or when faced with the complicated issue of determining whether the domestic law that a judge applies daily and with whom he is very familiar violates or fails to comply with an international norm. The number of international agreements concluded by the Republic of Albania is considerable due to the numerous developments of the Albanian state and the cooperation in various fields with other countries to achieve political, economic, cultural, and technological development. This best shows that the importance of international agreements is absolute for our social order. Today all interstate relations are regulated through relevant international agreements. Nevertheless, political or financial crises recede the moment states cooperate with each other and the primary tool in establishing their mutual obligations and commitment is the international agreement. With the function that is recognized by the international agreement as an equalizer of law, it manages to unify the laws of a state and create stability in regional or even world affairs. The international agreement serves to establish obligations between the entities that sign it. The reasons for signing an agreement are various, whether to create stability and peace, end war between states, or even develop cooperation in various fields. As long as there is interconnectedness in the relations between states, the agreement will also serve as a bridge between them. In times of crisis or development, the agreement minimizes or brings the crisis to an end or, conversely, results in further development. Ultimately, it remains the means of adjusting a state's domestic legal system to cope with external change. The international agreement as a standard of law unifies the law of a group of states and creates stability in regional or world affairs and is also the case in the development of the Albanian state.

2. CONCLUSIONS

The implementation of the international agreement follows the rules established by the domestic law of each country. The relationship that international law creates with domestic law is not the same. Certain countries have provided in their constitutions a control filter before the inclusion of international agreements in domestic law, which serves as the constitutional control performed on international agreements. Constitutional review of the international agreement in a state guarantees the supremacy of the constitution. This control is a new measure created by the state to preserve the constitution as a standard, stating that the constitution itself is not a simple law but a fundamental one that stands above any other law or legal norm achieved through an agreement of all people living in a given country. Constitutional justice supports the enforcing of constitutional rules regardless of whether the parties are public entities or other. In this way, any judge who enforces constitutional rules on issues or disputes brought before him is granted constitutional justice. (K.Traja, 2000) The Albanian state applies the principle of prior control of the constitutionality of international agreements. This principle consists of the preliminary control of the agreements concluded by Albania before the ratification by law by the Assembly. The Constitutional Court is the institution mandated by the Constitution of Albania to exercise this function. The importance of controlling these agreements is clearly seen in the fact that, in the series of cases on which the Constitutional Court decides according to Article 131 of the Constitution, this takes precedence. The preliminary review conducted by the Constitutional Court serves to prevent any unconstitutionality contained in the international agreement, before ratification. (S.Sadushi, 2012) After ratification, the agreement becomes binding and directly applicable and cannot be changed without the other party's consent making thus a preliminary review necessary. In the control exercised by the Constitutional Court, it adds that, if an agreement is incompatible with the Constitution by not adhering to the principles that it sanctions, in content and formal point of view or procedure, by not adopting the law on the conclusion procedure of the international agreement by Albania. The Constitutional Court, having no legislative initiative, does not have the competences to participate in the drafting of a law ratifying an agreement; however, it has the right to terminate the ratification procedures in the Assembly. This court has decided on compliance of the international agreement with the Constitution, as is the case of law no. 8577, dated 10.2.2000, Article 52/3, setting the deadline for reviewing the request on the agreement's constitutionality at one month from its submission. The decision of the Constitutional Court is binding on the Assembly. If the court deems that the agreement has elements that conflict with the Constitution, the Assembly must make the necessary changes for the agreement to be in compliance with the Constitution. Ratification of an international agreement can never be accomplished without regulating the unconstitutional elements that the Constitutional Court has determined in its decision.

Not all international agreements can be sent to the Constitutional Court for preliminary review. Due to the large number of relations established between states and/or international organizations, there are various such agreements. In addition, it should be borne in mind that the Constitutional Court does not review every agreement concluded by the government, but only those agreements that are ratified by law by the Assembly. (L. Omari, A. Anastasi, 2008) The Constitutional Court can't decide a prior review of the constitutionality of international agreements on its own initiative as it does not have such jurisdiction. It exercises this function if required by the responsible bodies when they suspect that an agreement does not conform to the Constitution. The Constitutional Court has no jurisdiction to initiate such a process, and only a limited number of subjects can enjoy this right. Specifically, the Constitution in Article 134 and the law, "On the organization and functioning of the Constitutional Court of the Republic of Albania," has defined the list of these entities.

Clearly, the prior control of international agreements was adapted to the very nature of the relations established in the international arena, and, when this control measure was exercised before the ratification of an international agreement by law, the signatory state had the opportunity to renegotiate. Thus, it would not appear as a violator of the obligations provided in the international agreement concluded between states or other international organizations. When exercising its preliminary control over an international agreement before ratification, the Constitutional Court is not subject to the pressure of implementing this agreement, knowing that it is directly applicable and binding after ratification. The Constitution, in paragraph 3 of Article 122, recognizes the norms of international organizations as superior to domestic law. This right first includes the Constitution and then all other laws and normative acts. Even in case of political pressure, the court remains impartial and cannot be swayed by other considerations, such as the state's commitment to international responsibilities. (K.Traja, 2000)

A very controversial question is when an agreement is ratified by law and later found contrary to the Constitution. In this case, a law can be adopted to amend the Constitution so that the agreement is not considered incompatible with it. However, the agreement may not be implemented, and in this case, the state may find itself in an unfavorable position in relation to other parties. This may in turn damage the image of the state in the international arena. The Constitution of the Republic of Albania has provided in Article 180 the possibility of reviewing the international agreement even after it has been ratified, but this right is given only to the Council of Ministers and only for those agreements which have been ratified before the Constitution entered into force.

We believe that the state should exercise this constitutional control over international agreements either as a filter to prevent incompatibility and thus secure a more dignified position in the international arena. The Constitutional Court of Albania has had two important decisions regarding the review of the constitutionality of international agreements, i.e., Decision no. 186, dated 23.9.2002, and Decision no. 15, dated 15.4.2010. After the announcement of the decision of the Constitutional Court, the Assembly had two options: 1) If the Constitutional Court rules on the constitutionality of the agreement, then it ratifies it by law, and 2) if it rules on incompatibility with the constitutional provisions, then the Assembly does not ratify it, but depending on the circumstances, renegotiates the agreement in question with the other signatory parties.

BIBLIOGRAPHY

- Omari, L., & Anastasi, A. (2008). *"E drejta Kushtetuese"*. Tirane.
Law no.5506, dated 28.12.1976 [http://www.qpz.gov.al/doc.jsp?doc=docs/Ligj Nr 5506 Datë 28-12-1976.htm](http://www.qpz.gov.al/doc.jsp?doc=docs/Ligj%20Nr%205506%20Dat%2028-12-1976.htm). (s.d.).
According to Article 2 of the Constitution: "Sovereignty in the Republic of Albania belongs to the people. The people exercise sovereignty through their representatives or directly."
- Traja, K. (2000). *"Drejtësia Kushtetuese"*. Tirane.
- Kellerman, A. (2008). Efektet juridike të Marrëveshjeve të Asociimit me BE-në për qytetarët e vendeve joanëtare. *Revista Juridike*.
- Krisafi, K. (2004). *"Kushtetuta shqiptare dhe e drejta ndërkombëtare"*, në *buletinin special, "5 vjet Kushtetuta"*, Tirane: BOTIMEPEX Publishing House.
- Kuvendi. (1998). *Article 122, paragraph 1 of the Constitution: "Every ratified international agreement constitutes part of the domestic legal system after being published in the Official Journal of the Republic of Albania. It is directly applicable, except when it."* Tirane.
- Kuvendi. (1998). *Article 122/3 of the Constitution stipulates that: "The norms issued by an international organization have precedence, in case of conflict, over the law of the country, when the agreement ratified by the Republic of Albania for participation in that org."* Tirane.
- Kuvendi. (1998). *Article 121, Kushtetuta e Republikës së Shqipërisë.* Tirane.
- Kuvendi. (2016). *Article 34 of Law no. 43/2016, "On international agreements in the Republic of Albania,"*. Tirane: Qendra e Publikimeve Zyrtare.

- Kuvendi, Q. e. (2016). *Article 5, Kushtetuta e Republikës së Shqipërisë: ndryshuar me ligjet nr. 9675/2007; nr. 9904/2008; nr. 88/2012, nr.137 / 2015 /*. Tirane.
- QPZ. (1976, 12 28). Law no.5506, dated 28.12.1976 [http://www.qpz.gov.al/doc.jsp?doc=docs/Ligj Nr 5506 Datë 28-12-1976.htm](http://www.qpz.gov.al/doc.jsp?doc=docs/Ligj%20Nr%205506%20Datë%2028-12-1976.htm). Albania, Tirane.
- Sadushi, S. (2012). *Zhvillimi i Drejtësisë Kushtetuese*. Tirane: Toena Publications.
- Xh. Zaganjori, A., & Anastasi, E. (Methasani) Çani. (2011). *“Shteti i së drejtës në Kushtetutën e Republikës së Shqipërisë”*. Tirane: Adelprint Publishing House.