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articles

The Image of Women Life Through Documents of the Sharia Court in Sarajevo 1878-1914


Hana Younis

Abstract: In this paper, the author depicts a woman's life through the documents of the Sharia Court in Sarajevo and points out the reasons for her appearance in front of a kadi. The text analyzes the available documents in which women are plaintiffs or defendants, and through their examples, the author tries to point out the changes, especially for Muslim women in everyday life during the Austro-Hungarian rule. The paper also provides exact data on the number of married and divorced cases in the Sharia Court in Sarajevo in the period 1885. – 1907., 1911. and 1913. Special attention is given to divorces, the right to personal property, the right to care and alimony. The paper shows the position of women at the crossroads of two kingdoms through a image at the local level.

Keywords: Bosnia and Herzegovina, women, Sarajevo Sharia Court, property, the right to care, alimony wedding, divorce.

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Introduction

While the women are an unavoidable element of social existence, Muslim women are most frequently unspoken about in Bosnian-Herzegovinian historiography or only mentioned marginally, and texts about them have only been emerging in this recent period.¹ This is mostly reflected in the world's current sources of historiography that the young historians are trying to follow.² However, I must emphasize that a significant number of works that talk about the Bosnian history of this time and especially about Sarajevo have been published in Bosnian and other languages, and if they mention women, they are observed mainly through the male point of view.³ I need to point out that their word and role from this perspective is mostly bypassed due to a lack of sources. For this reason, and also because of the fact that much more space is needed aside of this article, I have reduced the theoretical framework and analysis of previously published works to a minimum in order to leave as much space as possible to real-life examples and thus give women space to point out their position and the time they lived in. I am standing by the opinion that concrete examples will be an incentive for future analysis, a comparison with what has been known so far, as well as new theoretical discussions.

In this paper, I will try to point out one segment in a woman's life, specifically through the preserved documents of the Sharia Court in Sarajevo after the Austro-Hungarian occupation. Through specific examples, I aim to show how the life of Muslim women in Sarajevo took place after the "departure" of the Ottoman Empire, additional to whether the post-Ottoman legacy of rights was clearly defined, and whether women managed to exercise their rights. Through this prism, the reason for the appearance of women as plaintiffs or defendants before the kadi will be illustrated. Thus, I will explain further with at least one part of their everyday life, and make them visible within that context. The analyzed available documents form just a small part of the total archive of the

1 Exceptions are some works that we can consider to be pioneer in endeavors in the illustration of the role and life of women in Bosnia during the Austro-Hungarian occupation and administration, such as: (Beljkašić-Hadžidedić 1997); (Giomi 2015); (Jahić 2017); (Younis 2018); (Kasumović 2007); (Kasumović 2018).

2 There is a large number of immeasurably important works that deal with the position and role of a woman in Ottoman and post-Ottoman periods in all parts of that empire. Some of them address the issue of women in the Balkans and are crucial in order to understand a woman's life. (Giomi and Zerman (ed.) 2018); (Faroqhi, 2002).; (Giomo, 2021.)

3 Sources that use numerous works written about Bosnia and Sarajevo are mostly travelogues, press, or archives of official institutions. Unfortunately, very few documents are written by a woman's hand or convey their direct opinion in those documents.

Sharia court in Sarajevo, but the rest of it is still uncategorized or has been completely lost during wars, fires, and inadequate storage.⁴ Nevertheless, the available documents provide a clear insight into the specific events due to which women were the main parties in front of the Sarajevo kadis.

Before I start with specific examples, it is necessary to indicate the time and life specificity of the period I am covering in this. Although the departure of the Ottoman state was observed as the departure of Sharia legislation for non-Muslim residents, it was not entirely true in practice. Namely, during the last decades of the Ottoman administration, significant legislative reforms were carried out. In accordance with the Vilayet Constitution from 1865, there were supposed to be established civil, as well as professional courts, such as the Commercial Court, where Councilors from all religions and Bosnian Vilayet participated in their work and decision-making (Aličić, 1983:59, 136, 225-226; (Skarić, 1985: 236). Living in Bosnia and Herzegovina during the Ottoman rule implied constantly being on the imaginary border between tradition and modernization, strict rules of belonging to the East or the West, and a constant struggle for their supremacy.

In 1878, when Austro-Hungary occupied Bosnia, the envisaged reforms had not yet been completely implemented. The establishment of a new government also meant the establishment of a new judicial system.

Immediately after the occupation, the Land Government, as the highest administrative authority in Bosnia, started with the establishment of new courts, proclamation of new laws and reconciliation of powers of the new judicial bodies. Although the Austro-Hungarian empire was cognizant of its inherited obligations on existing conventions, it was decided that Sharia law and Sharia courts remained constant, connecting them exclusively with certain private issues related to the Muslim population. Such division of powers was officially defined in 1883 when the Sharia courts obtained the name District as Sharia courts. The name itself clearly indicated that Sharia courts have become only a part of the District courts.⁵

4 In the Historical Archive of the City of Sarajevo is located a part of the preserved material of the District Sharia Court in Sarajevo. However, the fund is not ordered and only one small part, a total of 6 boxes, is available and it possesses analytical inventory. Also, in the Defter Collection of the same archive defter No. 202 is found, kept by the Sarajevo kadi, in which there are several records that refer to women. See: (HAS, KŠS); (HASA FD).

5 We want to point out that this work is solely from a historical and social perspective and has no intention of dealing with Sharia law or interpreting judgments in relation to fiqh provisions.

The judicial system was organized in such a way that as the first instance authorities operated the District courts, within which there was a division into Civil and Sharia courts. Although each employee of the District, Civil, and Sharia Court knew exactly which tasks and duties belonged to them, the division of tasks and duties was assigned and controlled by the district judge. Regarding the secondary authority for Sharia courts, it was represented by the Sharia Court II petitions, which in 1883 was renamed as the Supreme Sharia Court in Sarajevo (Karčić, 2011:124).

Austro-Hungary used the time from the occupation until 1883 to familiarize itself with the Sharia regulations in Bosnia and Herzegovina, to appoint kadis to the Sharia Court II petitions, who had been checked and proved to be loyal, with whose help the staff in the District sharia courts was later chosen. By the order published on 29 August 1883, the work and scope of Sharia courts in Bosnia and Herzegovina under the Austro-Hungarian monarchy was defined. As a model for defining the legal system in Bosnia and Herzegovina, the Monarchy used legal systems from colonies with majority Muslim population (Bečić, 2017:60).

Although there was an established strict division of the judicial jurisdiction, based on religious grounds, non-Muslims could still claim their rights exclusively before the District Court. This particularly refers to “women’s issues”, as in the power of the Sharia Court remained an exclusive jurisdiction over certain private issues of Muslims. It was these private issues, such as marriage, divorce, marital disagreements, custody etc., that were the basic problems in which one of the parties was always a woman. With such division of authorities according to religious grounds, confusion was created that was noticeable throughout the entire period of Austro-Hungarian rule in Bosnia and Herzegovina. As demonstrated in the documents themselves, it was extremely difficult to determine a boundary between private and public, and also what person women were supposed to contact for the solution of a particular problem. What brought an additional level of confusion was the pending issue of whether one court was responsible for the entire lawsuit or only a part of it?

The Sharia Court in Sarajevo was one of the 48 inherited Sharia courts in Bosnia and Herzegovina from the period of Ottoman rule (Imamović 1997: 209-210). The entire Sarajevo district belonged to this court, and by the number of employees, consisted of kadis, interns and clerks it was the largest in terms of the scope of work. During the occupation of Sarajevo in 1878, the building of *mehkema*, the Sharia Court building, was

completely burnt down, as well as the entire documentation kept there. This did not mean only the loss of adequate space for resolving very important issues, but also the impossibility of accessing and checking essential data from documents and archives of the Court that disappeared in the flames.⁶

Since the building was completely burnt down, the premises of the Sharia Court had to be relocated. We do not have exact data about where the Sarajevo kadi worked until January 1888, when the Sharia Court in Sarajevo moved to house no.101 in Ćemaluša Street. (Sarajevski list,1888: no.13: 2). The Sharia Court did not stay there for long, and four years later it was moved to the Ruždija building, which was relocated to Halilabašića Street, no.8 in Kovači. (Bošnjak, 1892: no. 50: 3). The Sharia Court conducted its business operations at the same address for the following several decades.

When analyzing the available documents of the Sharia Court in Sarajevo, it is clearly seen that the main problem why women came to the Court was the issue of divorce or the return of their property that they had brought with them as a dowry. Other problems are mentioned in a much smaller extent, such as custody of children, declaring adulthood, purchase and sale of property, etc. By comparing the documents of the Supreme Sharia Court and the newspaper/magazines, we also discover the problems of prodigality and execution. (Younis, 2018). It is important to highlight that the Sharia courts were obliged to keep records of deceased Muslims, and to submit those records to the Supreme Sharia Court on a semi-annual basis. These documents, apart from age and the cause of death, provide insight into the property status of deceased women, but also provide us with key information about their social status. (ABiH, VŠS, E, box no.82, 1/1896)

Considering the available documents, it can be concluded that the key problems why women went to the kadi were related to the defining of their marital issues, but also other incidental issues and problems imposed by everyday life.

Defining of marital union

Every Muslim marriage began with its initiation before the kadi, as defined by law. However, before the conclusion of the marriage ceremony, it was necessary to confirm whether people who wanted to get married are eligible. Thus, if a person is from

⁶ In 1888, the building of Sharia Court in Zvornik was burnt down with its complete archive and land registry.

a different district than the kadi, it was necessary first to obtain a confirmation from mukhtar, stating whether the bride was already married or not.⁷ If the bride was divorced or widowed, it was necessary to prove that a period of three months, stipulated by Sharia, had passed since the divorce or the death of the husband.⁸ The certificate was obtained from the main Sharia Court. At the same time, the groom had to obtain a certificate of completed military service.⁹ In addition, the bride and the groom had to have witnesses that certain prohibitions stipulated by Sharia did not refer to them. It is important to point out that the marriage ceremony was taking place mostly without the presence of any women, including the bride. The available documents do not reveal certain case where a woman personally attended the wedding. That can be interpreted as part of the tradition where the bride is waiting in her parents' house, celebrating with her closest and loved ones the arrival of the wedding guests who would be taking her to the groom, where the celebration continued. However, it is clearly confirmed that this was only a custom considering that when seeking a divorce, women not only attended but most frequently initiated the divorce litigation.

Between the weddings and divorces, and related to marital disagreements, women appeared in front of a kadi with complaints against their husbands due to intolerance, abuse, financial problems, but also because of leaving the marital union. The available documents of the Sharia Court in Sarajevo disclose interesting specificities of each of the mentioned cases, all of which had the same final goal, to prove the injustice committed to them and based on that to get a divorce.

It is interesting that the problems in marriage were voiced in detail mostly by women, while if men complained about their wives, they only stated that they were "left" without providing details. The case of Alija D. who first sued her husband for selling her entire property represents the real picture of a position of women even if they had

7 In such cases, the kadi of the Sharia Court, where the request for the wedding was received, requested in written form from the kadi of the district to which the bride belonged, according to the competences, the certificate about existence of any obstacles for the marriage.

8 As an example, we will mention Nura H. who concluded her first marriage in Sarajevo, and after the divorce she returned to her parents in Visoko. A year later, she wanted to get married again in front of the kadi in Visoko. In order for everything to be legal, the kadi from Visoko asked a response from the kadi in Sarajevo whether Nura was divorced and when, with the aim to establish the time passed. The kadi from Visoko was waiting almost a month for the response after which he could conduct the wedding of Nura and her new chosen one. (HASA, ŠSS, box no.1, 1.4.38)

9 In cases when the groom did not perform military service, the marriage, regardless of whether it was concluded regularly in front of the kadi or not, was not recognized. HAS, ŠSS, box no.3, 2.10.3.; HAS, ŠSS, box no.2, 2.10.86 19.11.1890.

certain tangible property. Documents indicate that most women who inherited some small movable or immovable property gave a power of attorney, voluntarily, to the husband to manage that property, after which he would use it and sell it. A significant number of cases, in which the defendant is the husband, is due to the sale of his wife's entire property based on her power of attorney, is found in the available documents of the Supreme Sharia Court. (ABiH, VŠS, E, box no. 45, 23/1885; ABiH, VŠS, B, box no.18, 6/1891; ABiH, VŠS, B, box no. 20, 24/1895; ABiH, VŠS, E, box no.86, 2/1898) How widespread this occurrence was is best illustrated by the fact that even in the very small scope of available documents of the Sharia Court in Sarajevo, there are several such cases.

The already mentioned Alija is one of the first available cases in which the husband was reported for the sale of the wife's real estate without her permission, but also because of physical abuse. The first lawsuit for abuse and reimbursement of funds from the sold property dates back to March 1881 and it was addressed to the Sharia Court in Sarajevo (HAS, ŠSS, box no.1, 1.2.22). However, the kadi rejected her lawsuit after a few months. Subsequently, she contacted the District Court, which also rejected her lawsuit and forwarded the files to the Supreme Sharia Court, which then returned the files to the Sharia Court in Sarajevo for reconsideration. In the lawsuit filed by Alija to the District Court, it is clearly stated that her husband Salih had sold the real estate that was her property. In order to prove this, she brought six witnesses before the kadi who confirmed that the property was exclusively hers. However, her husband Salih did not stop there, but he expelled both her and their child that was only several months old, from the house. The value of the property that her husband had sold totaled 4,250 groshens and Alija demanded that amount of money to be paid to her. She also demanded the legally stipulated care for her and the child.

This lawsuit is especially important because it is one of the rare ones in which the plaintiff complained in writing not only about her husband and his relationship towards her, but also the position of women in general. Alija openly and clearly writes that "in our Sharia, women very rarely have the right compared to husbands because we are not free as in other countries but we are worse than slaves..." She does not stop there but emphasizes the problem of sale of a woman's property after which she would be "expelled" from home to "wander around looking for happiness when her husband took away everything." In addition, she writes that this was a very frequent, mass occur-

rence that can be considered a “custom”. Alija was obviously familiarized with other cases where women, regardless of their legally stipulated rights, remained unprotected. She corroborates that by her example, stating that she was complaining about her husband for three months, who was also a drunkard, instead of protecting her property, which at that time was still there, the kadi did nothing. Thus, her husband was given extra time to sell out everything that remained of her property. If we take a look at the dates from the first lawsuit to the verdict of rejection by the District Court, it is visible that Alija appealed for the entire 10 months, but that her rights were not granted to her even after that. Being aware of her helplessness and inequality, she wrote during a lawsuit in October 1881 that they had protected Salih, her husband, who was a drunkard and also an “indolent man”, and “the two of us fragile” were left to “perish from all this trouble” (Ibid).

The analysis of Alija’s lawsuit and/or complaint demonstrates an extremely important segment of a woman’s life - the security of her personal property. She was obviously a literate woman with certain property in her possession and she was aware of her rights which distinguishes her from many women, who did not have the possibility or courage to fight for their position. The fact that she refers to women in “other countries” confirms that. Considering the date when Alija first complained about her husband was at the beginning of 1881, I can conclude that this practice has been established in everyday life even before the occupation, more precisely, when the kadi had authority not only over private, but also over property issues. The extent of how paradoxical that has been is indicated by the information that Alija wrote down that her husband was a drunkard, that he violated the Sharia rules of living without any reprimand. In addition, the unnecessary sale of the property was strictly prohibited and defined by a provision on prodigality, which became effective on the day of its issuance (Younis, 2015: 81-104). However, it is obvious it was much harder for women to exercise their rights, even if they fought for them. Moreover, the question is if women like Alija had faced so many obstacles, what was the case with illiterate women who did not know their rights and did not have the opportunity to fight for them?

Although Alija emphasized the problem of the sale of her property, her statement about physical abuse by her husband reveals another major problem that she faced. The specific request for divorce due to abuse is quite often mentioned in the documents. Even in the partially preserved material of the Sharia Court in Sarajevo, numerous cases wit-

ness that. Fata B. complained about specific physical abuse by her husband in March 1882. She clearly stated that she had been married for five months and that her husband had been beating her all that time “every day, and I was not guilty of anything”. Unfortunately, that was not all. Apart from the physical abuse, Fata argued in the lawsuit that he “did not take care” of her at all, so she was mostly “hungry”. That is why she asked the kadi for divorce. In the following document, it is visible that her husband Mušan P. was summoned to court for a “final divorce”, which indicates that Fata most likely managed to get the requested divorce. (HAS, ŠSS, box no.1, 1.2.13) Namely, the very form of the “final divorce” was mentioned in the documents only after the hearings and the decision to carry out a divorce. Unlike Fata, Arifa S. was one of the women who left the marital union due to verbal abuse. She left her husband Mehmed B. because, as she stated, he “treated her absolutely discourteously and inhumanely continuously». (HAS, ŠSS, box no.1, 1.2.28) She did not mention physical abuse but verbal abuse, and she wrote down that she wanted to «avoid daily quarrels».

Regarding the physical abuse, it should be considered that a large number of women did not file a lawsuit in the court and that most certainly physical abuse was even more widespread than it can be demonstrated in the documents.

Women had to fight against the system of authorities that Austria-Hungary administered not only by religion but also by legal issues. This specifically implies the issue of jurisdiction and informing the residents about which issues fall under the jurisdiction of certain court, and whether to address Sharia or civil court regarding certain issues, who will render the verdict in the fastest manner, what was the most important to women etc.

Mehmed’s daughter Fata has been lost in the system of authorities, who “went from the police to the kadi” trying to find out who was competent to solve her problem with her husband. (HAS, ŠSS, box no. 1, 1.2.69) Considering that both, the police and the kadi, told her that they don’t have the competence, she addressed the District Court, which reiterated the same as the previous instances. However, Fata insisted on filing a lawsuit, and then they send it to the competent institution. In the lawsuit she stated that she had been married for an entire year, but her husband had left her with her parents after three months, although she was already pregnant at the time. Fata did not complain until baby arrived and was supposed to be fed in the poor living conditions

of her parents in the Gorazde district. It ensues from the lawsuit that Salih Kapetanić, the father of the child and her husband, had not asked about them during those months, nor did he send any money for their support, which he was obliged to do by law. Fata claimed that her husband had enough money because he worked in the “civil service”, but after the conducted checks, the kadi found out that Salih had been fired from work. This did not mean that he was not obliged to pay care of his wife and child, but in that situation, it was more difficult to do so.

Although each divorce had its own specificities, in the largest number of cases when women demanded a divorce and the husband did not agree, the procedure was long and often never resolved. In the years of mass migration, divorces were more frequent, and the left wives were trying to find at least some safety in new marriages new marriage.

Given that the problem of poor abandoned women, often with children, had become apparent, the Government had tried to connect the issue of travel permit with the data about who remains in Bosnia and who will look after that person. Thus, if someone from the family did not guarantee in written form that they would take care of the woman, the issuance of permits and passports for those who were leaving their wives was stopped. However, this provision was adopted rather late because in the first years after the occupation, many women were left alone without any finances. One of them was Ašida M. whose husband had left in 1878 and moved to Istanbul. After four years, he sent her a message through his friends, who had returned to Sarajevo, that he divorces her. She immediately contacted the kadi with a request to divorce her because, as she stated, her husband Smail bey T. “neither wants to take care of me nor does he want to live with me as a husband and wife”. She listed the names of the witnesses who were ready to confirm that he said he was letting her go, which was supposed to be enough for the kadi to officially divorce her. In the same request, she clearly stated that after the divorce, “she will take another husband and marry him” (HAS, ŠSS, box number.1, 1.2.34).

Aiša Š. was also left alone, but she was waiting entire 7 years to contact the kadi for divorce. Immediately after the occupation, her husband Mehmed moved to Thessaloniki. She stayed and lived with his family, however, after 7 years, Aiša found another husband and decided to leave the family of the husband that had left her. In her first request, which she filed to the Sharia Court, she stated that she could no longer stay

at Mehmed's parents' house, where his parents, six sisters and his brother lived. Since she failed to get a divorce as planned, Aiša again contacted the Sharia Court stating that she did not know whether Mehmed is dead or alive.¹⁰ In that letter, she stated that she wanted to marry another person. She also wrote that the reason for his departure to Turkey was to escape from the numerous debts he had due to excessive alcohol consumption.¹¹ If the Court finds him, she asked to "inform him that I will no longer accept him as my husband and that he should completely leave me alone because he had left me in a rude way without any assistance." (ABiH, VŠS, E, box no.54, 4/89; ABiH, VŠS, E, box no. 105, 22/03) At the time of writing the second request, which she had also addressed to the Government, she was already living with her mother and brother. The Sharia Court checked the allegations she stated and found out that Mehmed was alive and that he had written to his parents, which meant that he was not dead, and that his whereabouts were not unknown. In that case, she could only ask of him to provide care for her, but not a divorce. Whether Aiša, as many women in that period, decided to start a new life with a new husband without official divorce from the first one, is difficult to establish. However, the documents of other Sharia courts indicate that such practice was gradually put into effect.

On the other hand, there are available documents that testify that women were also accused of leaving the marital union and that lawsuits were filed by their abandoned husbands. In such cases, the husband asked the kadi to return his wife forcibly, and if that was not possible, then she was declared a disobedient woman, *nashiz*, thus losing the right for care. In such disputes, the property issue was usually the most problematic. If they did not take all their belongings with them, they insisted on getting them via court, and if they took everything they considered theirs, then the husbands file a lawsuit for the return of things, indicating that the taken belongings are not of the wife. The Sharia Court recorded in statements in detail not only the items but also their value and gave a deadline for their return if those items concerned personal things. One of the women who left several valuables with her husband was Hasnija A. She asked from the Court that her husband returned the following: *1 baking pan, 1 glass, 2 plates,*

10 In that letter, Aisha wrote that she did not have any information about her husband for three years, so it is possible that he is dead because she "heard that 3 years ago he was hit by a car". (HAS, ŠSS, box no. 4,4.13.60)

11 "Since my husband is a drunkard and very negligent of me, I don't think I am obliged to consider him my husband and I want to divorce him in any way. I must finally notice that my husband fled to Turkey as a criminal without a passport." This was written in Aiša's application for divorce. (HAS, ŠSS, box no.4, 4.13.60)

1 basin, 1 ladle, 1 qazan, 1 copper candlestick, 2 wool pillows, 1 mattress, 1 quilt, 1 prayer mat, 1 carpet, 2 chests, 11 shirts, 7 underwear, 17 headscarves, 5 pieces of socks for women underwear, 5 headscarves, 2 Turkish sirwal made of basma fabric, 1 takum sheets, 3 female yeleks, 1 short overdress, 1 sofra towel, 1 mirror, 1 pair of female socks with slippers, 3 traditional garments and 12 embroidered handkerchiefs. After hearing both sides, the Court ruled that Hasnija's husband had to return all items or give her money in return in the counter value by assessing everything to 98 forints and 29 coins. Although Hasnija asked for some other things, the Court concluded that she could not prove that they were her property. (HAS, ŠSS, box br.6, 6.18.161) After the discussion, Hasnija was declared a *nashiz*, thus she lost the right to a regular standard care, but that's why it was impossible to forcibly return her to her husband with whom, as she stated, did not want to live anymore. In the same year, Rabija T., who was also declared a *nashiz*, experienced a similar fate but her husband had to return her things (HAS, ŠSS, box no.6, 6.18.202). It is interesting that in the mentioned cases it was mainly about clothes and dishes, and that the kadi rendered a verdict on their return and a deadline for the execution of the verdict. However, the case of Merjema L. was somewhat different. The Court declared her a *nashiz* because she had left her husband Ahmed Ramić. However, for the property valued to 153 forints and 20 coins, as well as a house that they lived in, and was her property, the Court decided that it had no relevant jurisdiction and that Merjema should contact civil court "since the same items do not ensue from the marital relationship." (HAS, ZD, Defter no.220: 438-440)

There are rare, but still present cases, when husbands sued their wives for returning certain things that they thought belonged to them. Even rarer are the documents that indicate that women managed to get a divorce after leaving the marital union, but only with the consent of their husbands. One of them was Almasa K. She left her husband and went to live with her female friend. Four days later, her husband Salih J. contacted the Sharia Court, asking if the Court could reconcile them so that his wife could "live well and peacefully in marriage" with him. He left the kadi with the possibility to divorce them if reconciliation is not possible. Salih only insisted that she returned to him the things she had taken away when she left the house, which he claimed belonged to him. (HAS, ŠSS, box no.1, 1.2.9)

In order for clearer insight into the number of marriages and divorces in the documents of the Sharia Court in Sarajevo, I will outline their exact number according to years:

Year	Marriages				Divorces			
	Unresolved weddings from a previous year	Arrived marriage requests	Performed weddings	Unperformed weddings	Unresolved divorces from last year	Arrived requests for divorce	Resolved requests for divorce	Unresolved requests for divorce
1885		315	315		3	30	33	
1886		339	339			31	27	4
1887		351	350	1	4	29	30	3
1888	1	331	332		3	30	31	2
1889		376	376		2	44	44	2
1890		382	382		2	48	48	2
1891		409	409		2	58	59	1
1892		324	324		1	41	39	3
1893		333	333		3	52	52	3
1894		416	416		3	77	77	3
1895		376	376		3	71	73	1
1896		354	354		1	62	55	8
1897		444	444		8	87	90	5
1898		404	404		5	87	92	
1899		334	334			61	57	4
1900		380	380		4	46	50	
1901		393	393			59	57	2
1902		383	383		2	54	54	2
1903		430	430		2	75	73	4
1904		442	442		4	68	71	1
1905		467	467		1	94	90	5
1906		457	457		5	102	107	
1907		510	510			100	100	
1911		513	513			106	106	
1913		497	497			104	104	

Table 1, Based on annual Statements of the Sharia Court in Sarajevo filed in the documents of the Supreme Sharia Court

Before moving onto the analysis of the data offered by the table above, it should be pointed out that in other Sharia courts in Bosnia and Herzegovina, unresolved cases of weddings and divorces were very rare.

So, the Sharia Court in Sarajevo was specific for unresolved, certainly complicated cases of divorce, but also marriage. However, in observing population diversity, number and cultural modernization, it is expected Sarajevo would have a larger number of *complicated* cases. What is remarkable is the increase in the number of divorces in the period of 1885 to 1913. While in the first year, there is a total of 30 divorce applications, less than three decades later that number increases to a total of 104. Looking at the number of marriages can be found that the percentage of divorces in relation to marriages rose from about 10% in 1885 to about 20% in 1913. Consequently, the issue of divorce was extremely important, and it became an obtrusive part of the life of women in Sarajevo. The number of unresolved divorces is also significant, with some cases remaining unresolved for years. If I compare this with other Sharia courts, where divorce litigations have been postponed over several years, a significant difference is detected between life in Sarajevo and life in other places in Bosnia and Herzegovina. I can only assume that these divorce applications were filed by women and that the husbands simply did not want to agree to it, or he was not in Bosnia and Herzegovina at all, and it was impossible to prove his death.

Other problems

Women did not only appear in front of a kadi only in divorce cases. Family problems after divorce were directed mainly to the maintenance support of the ex-wife, but also the children. Whilst children belonged to the mother, certain examples indicate that the father could have asked for children to belong to him if he was married and if there was someone who could take care of them. Such was the case with Salih D., who requested to stop paying alimony in April 1882 because, as he stated in the explanation, got married in the meantime, and he considered that the child could live with him. (HAS, ŠSS, box no.1, 1.2.42) After the divorce, his ex-wife Almasa had a child, who was three years old at the time of Salih's request. Until then, Salih was paying the alimony regularly through the police, but after the wedding, he considered that he was no longer able to pay that amount. In order not to leave the child without any income, he suggested taking the child to live with him. Unfortunately, I do not have any informa-

tion concerning how Almasa, the child's mother, reacted to this request and how this request was resolved.

Some cases indicate that not all fathers were paying alimony in a timely fashion, and according to the verdict, if such complaints occurred, the Sharia Court requested the seizure of property in order to collect the alimony stipulated by law.

In the documents, claims existed requesting an increase of alimony. The mentioned reason behind it was the increase of the price of groceries, but also the additional costs of child development, which by itself required higher costs. Widows with minor children, who were appointed a guardian, also encountered this problem. They had to ask the Court to allow an increase in the amount of monthly income from property that was theirs, but which they could not manage until the children were declared adults. (Younis 2018: 45-67)

Extremely rare disputes within Sharia courts refer to *illegitimate* children. The case of Čevija, the mother of an illegitimate child, is even stranger as she was married before, during pregnancy and even after childbirth. Namely, in 1883, her request reached the city headship so that they could take over the custody of her *illegitimate* child. (HAS, ŠSS, box no.2, 2.8.67) She stated that she is ill and unable to take care of the child. Back then, she wrote that the child was given for "feeding and upbringing" to a certain Mehmed M. After checking the allegations, the city headship rejected her request, claiming that she was not ill and that she was capable to support her child. Two months after the rejection by the city headship, Čevija or Đevka, as she is also named, agreed with Hussein A. that she renounces her child and that she gives the child to him and his wife, provided that they adopt him when the child becomes an adult. The agreement was also signed by Tahir-bey Č. who, according to Đevka, was the father of the child. In a submission by the police, it is stated that Đevka's legal husband "hesitates to support the mentioned child". (HAS, ŠSS, box no.2, 2.8.195) So, Đevka clearly stated before the Court who the real father of the child was, and who her husband was. The entire procedure was completed by the police that further officially informed the Sharia Court in Sarajevo about the settlement and its conditions.

Other disputes in which women appeared in front of a kadi mainly referred to the purchase and sale of real-estates, declaring of adulthood, insanity, spendthrifts or because

of the certification of documents, writing a will /*vasijetnama*/ or *vakufnama*; or simply the need for some lost documents.

A special problem when looking for documents was the fact that the Sharia Court in Sarajevo was completely burnt down during the occupation. Women, as well as other petitioners of various certificates and copies, had to bring witnesses with them to prove that the document they were looking for was indeed proper. The problem would arise if a person was not in Bosnia or if they did not have any living witnesses.

Declaring adulthood was extremely important because a person would automatically acquire the right to manage their personal property, but also the right to make decisions in all necessary situations. Many women were already married even before they received the certificate of adulthood, and their husbands mostly insisted on declaring adulthood. That was a prerequisite to request a power of attorney to manage her inherited property.

Speaking of spendthrifts and insane people, I have to mention that the processes were quite detailed and that their outcomes were published in the official magazine *Sarajevski list*. By doing so, the population was informed that a certain person was not able to manage their property and that their signatures or agreements would not be accepted and/or abided by. (Sarajevski list, 1911, no. 263: 6) By looking at the available documents in their entirety, I can say that the kadi rarely declared a person insane. The procedure would begin with the reporting of such a person, and the kadi would request a special assessment from the hospital before making a decision. When it comes to spendthrifts, I have to say that the analysis indicates that men were more often declared spendthrifts than women.

In the documents of the Sharia Court in Sarajevo, I also find women as signatories of *vakufnama* and wills which were certified, but also composed in the Sharia Court in order to be legally binding. It is interesting that the government had specially requested that duty stamps are placed on these documents as well, which means that their signatory to pay a certain amount of money. However, the Sharia Court in Sarajevo insisted that this type of documents was made based on religious regulations and that there was no need to place *duty stamps* on those documents. (HAS, ŠSS, box no.6, 6.17.57)

In the end, I will mention the case of Atija T., not a common case, but a case that demonstrates in a picturesque manner the key changes in the relationship of women

towards the Sharia Court. Principally, as it is recorded in the documents, she was very loud during the hearing due to the auction in the inheritance proceedings before the kadi; moreover, she insulted the Sharia Court “by pronouncing indecent words”. Due to the foregoing, Atija was sentenced to two days in prison as a “disciplinary punishment”. (HAS, ŠSS, box no.5, 5.15.253)

Conclusion

The changes that emerged by the Austro-Hungarian occupation impacted the lives of all the inhabitants. However, women as a particularly sensitive category of the population experienced these changes with more noticeable difficulty. While the available documents of the Sharia Court in Sarajevo are only fragmentary, they still provide us with enough data to indicate the key reasons for the appearance of women before the Court and thus clarify one segment of their everyday life. Life in post-Ottoman Bosnia created confusion especially in the case of solving private problems of Muslim women. Numerous stereotypes about the life of Muslim women and their lifestyle are denied by specific examples. The examples mentioned in the text have clearly pointed out that women without hesitation or any traditional obstacles went to the Court and appealed in person.

The problem of physical abuse was more widespread than can be proven through the available fragmentary documents. However, the fact that women sought protection from the kadi clearly shows that they knew their rights and did not refrain from seeking them. They are clearly looking for a way to get out of violent marriages in which they are not satisfied. Of course, this is seen much more in urban than in rural areas, which is also confirmed by the material of the Supreme Sharia Court. These examples also show that sharia courts have been very important in solving social problems and that they supported (as much as the legislative allowed them to) the most vulnerable in the population, especially women.

The examples distinctly point out that before the Sharia Court in Sarajevo, women were present in the Sharia courts due to numerous reasons imposed by everyday needs and living conditions. Many women have tried to exercise their rights multiple times, but the documents suggest that they did not give up and that they openly pointed out mistakes and a way of life that they would not tolerate. So Arifa S. left her husband

Mehmed after he started abusing her. She declared before the kadi that he had acted “inhumanely and discourteously”. Whereas Alija D. clearly claimed her rights and the payment of property that her husband had sold out, pointing out the injustice that was done to women in Bosnia, which according to her was not present in other states.

As each appeal and/or a lawsuit is specific, I believe that what has been stated therein indicates in great detail the relationships in marriage, various physical and material abuse, but also the position of women in general in the post-Ottoman Sarajevo and Bosnia. It is important to note that the documents testify that a significant number of women were forced to oppose the hitherto practice and established customs and that they had the courage, regardless of the kadi’s verdict, to continue living and working the way they considered was right. Here, I primarily denote the fact that women, if leaving their husbands without permission, were declared *nashiz* which implied losing the right for care, but that did not affect their decision to leave the marital union completely, nor to establish a new one.

A serious difficulty represented the non-existence of clear boundaries of the Sharia courts’ authorities, and for marital problems women had to turn to the kadi, who had jurisdiction in this area, while property issues required verdicts rendered by a District Court judge. This in many aspects aggravated and procrastinated their struggle for rights. The kadis also issued decisions about prodigality, insanity, they issued marriage certificates, marriage permits, declared adulthood, and made wills and *vakufnama*. The documents of other Sharia courts as well as the Supreme Sharia Court, that were available to us for insight, indicate that women were participants in other, several years long property and inheritance litigations, but that they also appeared before the court as witnesses on various issues.

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Isa Boletini (1864-1916): An Ottoman Albanian Figure of Twists and Turns


Beria Kafali Ferko

Abstract: Isa Boletini is one of the figures of Ottoman Empire with multiple identities and loyalties at the turn of the twentieth century. He was born in the village of Boletin near Mitroviçe during the transformation of the last Ottoman land in the Balkans into an independent state of Albania. He was one of the local figures who felt the foreign pressure in the region by the Great Powers and tackled them in his own ways which resulted in diplomatic crises between the Ottoman and Russian Empires. As a local power magnet, he was invited to the Palace to serve as a personal guard, tüfenkçi, to the Sultan Abdülhamid II. Endowed with privileges and concessions, he returned to his hometown where he became a gendarme of the Sultan and continued to exercise his authority within the limits. However, with the success of the 1908 Revolution by the Young Turks, the new regime targeted him and aimed to diminish the symbolism he carried as an old ally of the Sultan. Yet, in the tumultuous environment of the Balkans, perpetuating further violence turned the region into a more vulnerable land in the eyes of the Great Powers. This thesis aims to show the parallelism between the fluctuating events of the Balkans in nineteenth century and Isa Boletini's multiple identities, in the light of the "Imperial Biography" approach, by making use of Ottoman archival material which was not yet incorporated into the study of his life.

Keywords: Isa Boletini, Biography, Nationalism, Abdülhamid II, Kosovo

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Introduction

Isa Boletini is one of the Ottoman imperial figures with multiple identities and loyalties at the turn of the twentieth century. He was born in the village of Boletin near Mitroviçe during the transformation of the last Ottoman land in the Balkans into an independent state of Albania. He was one of the local figures who felt the foreign pressure in the region by the Great Powers and tackled them in his own ways which resulted in diplomatic crises between the Ottoman and Russian Empires. As a local power magnet, he was invited to the Palace to serve as a personal guard, “tüfenkçi”, to the Sultan Abdülhamid II. Endowed with privileges and concessions, he returned to his hometown where he became a gendarme of the Sultan and continued to exercise his authority within the limits. However, with the success of the 1908 Revolution by the Young Turks, the new regime targeted him and aimed to diminish the symbolism he carried as an old ally of the Sultan. Yet, in the tumultuous environment of the Balkans, perpetuating further violence turned the region into a more vulnerable land in the eyes of the Great Powers. This study aims to show the parallelism between the fluctuating events of the Balkans in the nineteenth century and Isa Boletini’s multiple identities, in the light of the “Imperial Biography” approach, by making use of Ottoman archival material which was not yet incorporated into the study of his life.

The study has three parts. The first part comprises a brief introduction about Isa and the way he was located in Albanian historiography. It is important to lay out the base which this study aims to challenge. The second part focuses on the Isa’s place within the Hamidian regime, specifically the period between 1902 and 1908. It argues that Isa Boletini fits in the general Albanian policy formulated by the sultan based on “bestowing favors, positions, and privileges on Muslim Albanians who became the linchpin of his regime in the turbulent region of Rumeli” (Gawyrch, 1980). The third part demonstrates the toxic and complex relationship between the Committee of Union and Progress (CUP) regime and Isa starting from 1908 until 1912. The vague and unsteady structure of the CUP regime preferred to alienate Isa Boletini because he was a symbol of the Hamidian regime who cannot be trusted.

This study intends neither to “steal” a national hero nor to degrade Isa’s effort for better circumstances. Rather, it acknowledges the possibility of *non-national* narratives

to read Isa's effort. Bringing different variables into the equation, such as social networks, human factors, personality, contingencies in the international arena and culture, demonstrates the complexities of the situation. I hope this composite system of multiple nets paves the way for a deepened narrative of independence which aims to be broken away from traditional national Albanian historiography. I believe only then, Albanian historical narratives about Ottoman dominance can "make sense".

Isa Boletini and his Representation in Albanian Historiography

The Boletini family was functioning within a society composed of a unique tribal structure with a self-administrative system organized upon a common culture, ancestry and social links in today's Kosovo region. A strong consciousness of common blood ties and regional responsibilities related to the protection of lands and privileges were the primary concerns of the people in the region. That being the case, the Boletinis were among the crucial collaborators of the Ottoman Empire upon a shared goal of the land protection in the Northern parts of Kosovo due to the natural isolation of the mountainous terrain (Boletini, 1996). Consequently, these lands "featured a fluid and autonomous social milieu", were nominally under the state control, and enjoyed a relative autonomy (Maggiolini, 2014, p. 221). In other words, the state apparatuses were welcomed as long as they were in line with the tribal concerns.

Despite the various titles and surnames I came across such in the archives as *Bolatin*, *Poletin*, *Polimnac*, *Poltinac*, *Poletenacik*, *Polti*, *Bolistinac*, *Beletinatz*, and *Polsentisbac*, hereafter Isa's name will be mentioned as Isa Boletini because it is the way he wanted to be addressed according to his seal: Ibn Adem Isa Abduhu Boletini (Cumhurbaşkanlığı Osmanlı Arşivi, [COA], Y.EE. /15-209, 1325, 01.07, (M-20-02-1907). As a member of the Boletini family, Isa Boletini was born on the 15th of January 1864, as the second son of Adem in the borderline village of Boletin near Mitroviçe. This city was not simply a frontier zone due to the complex and multidimensional conflicts between different groups of people. Born in a region full of conflicts, Isa was a reactionary activist figure who pursued solutions mostly involving brute force (Blumi, 2011). His life has coincided with the formation of new nation-states which has threatened the security of the *sacred* lands of these tribes and the protection was the utmost goal to be achieved.

At the turn of the twentieth century, Kosovo region has faced the state authorities' insistence to carry the reform programs about centralization policies. In theory, the durable and powerful ties were going to protect the region from the intense foreign pressure of the time. Hence, in the same year when Isa became the head of the family, Hafız Mehmed Paşa (1844-1903) was appointed as the governor of Kosovo to suppress the revolts resulting from both internal and external pressures. Within such a context, Isa has encountered several problems that required certain abilities to maneuver between multiple concerns. For instance, first time under his authority, Hafız Mehmed Paşa asked him to surrender due to his resistance against the increased taxes and burned his *kule* in 1895 (Arel, 2012). Hence, in the last years of the nineteenth century, Isa has turned into one of the most influential activist figures with guerilla tactics to protect the region from the Great Powers' and the neighboring states' ambitious involvements. Meanwhile he had to oppose the new regulations of the Sublime Porte which were against local peoples' interests. Growing out of the ultimate upset in the balance of power in the region, his reactionary activism was degraded either in a national context or considered as banditry acts from the statist perspectives.

In 1901, after a couple of years of armed conflicts between the Ottoman forces and the local powers in the region, the connection between Isa and the Ottoman authorities has entered into a new phase with the involvement of another Albanian figure in the region, the commander of the Eighteenth Infantry Division based in Mitroviçe, Şemsi Paşa (1846-1908). With his pro-collaborative approach, Isa was introduced to the Yıldız palace as a possible ally to protect the region. Yet, the inter-imperial diplomatic crisis between the Russians and the Ottomans led the latter to secure Isa as a valuable collaborator-to-be. Therefore, in 1902, he arrived in Istanbul upon the request of Sultan Abdülhamid II. He has served as a *tüfenkçi* for four years and returned to Mitroviçe in 1906.

Between the years of 1906 and 1908, he fulfilled gendarmery duties following his tribal concerns. He tried to follow a careful balance between the Yıldız Palace and Mitroviçe in accordance with his multiple responsibilities and agendas. After the Revolution of 1908 and the dethronement of the Sultan in 1909, Isa became the initial target of the new Committee of Union and Progress (CUP) regime. During the years of 1909 and 1911, again, he became "the bandit" for the Ottoman authorities and compelled to search solutions and cooperation among the other ambitious figures in the region

such as Montenegro. Escaping from the bear and falling to the lion, Isa found himself as a pion to be manipulated for capturing the western parts of Kosovo by Montenegrins. This eventually created a shared concern by the CUP and Isa which forced them to start a reluctant cooperation process during the year of 1911. Yet, it was too late to harvest the fruits of this collaboration due to the Balkan Wars (1912-1913) and the WWI (1914-1918).

From the Balkan Wars until his murder in 1916, Isa has continued to search solutions for the unsteady circumstances surrounding all the Albanian lands. After he participated in the declaration of independence in 1912, he became one of the stable companions of İsmail Kemal Bey for his search of the Great Power's support to consolidate the independence. This cadre of political elites as well as activists has traveled to Italy and England to conduct political negotiations with the representatives of other Balkan states where Isa was labeled as "the Robin Hood of Albanians" (Musaj, 2000). Isa has continued to be in contact with the Great Powers and with the guidance of France, in 1916, he arrived in Montenegro and was assassinated on the 24th of January in Podgorica.

As can be seen from his simplified and shortened biographical information, Isa Boletini's life is full of turning points and actors, twisted and turned by the contingencies of the time, and complex to fit in a linear narrative. However, Albanian historiography follows a certain path to nationalize him.

In a typical Balkan historiography, Isa Boletini is represented as a praised hero, a freedom fighter and a guerrilla, who participated in battles for the sake of an independent Albania and sought out to prove that a strong national consciousness existed. He was an inspiring figure who "defended the national values with pride", stood loyal to fighting traditions, and even asked for help from other contemporary European states to achieve victory over the "invaders" (Abdyli, 1997, p.5-6). The first extended biographical study on him was published in 1972 by Skënder Luarasi. Mostly relying on the memoirs of Isa's contemporaries, it leaves a remarkable gap for interpretation and overestimation. Moreover, the articles and books on the national awakening and independence have touched upon Isa's figure; yet few were targeting him directly. Hence, in 1985, Fatmira Musaj collected relevant data on him and aimed to add the archival material as a new dimension in her dissertation. Musaj relied on the primary sources of Albanian, British, Australian, French, Italian, Bulgarian and Kosovar national archives,

as well as Serbian, American and German newspapers. The Ottoman archives, however, were excluded, although it is possible to come across with some Turkish memoirs of former Ottoman soldiers such as Fevzi Çakmak, Lütfi Simavi, and Süleyman Külçe.

Although Musaj's academic work is a satisfactory summary of previous studies, there is one important source providing insights about Isa's personality: a memoir of Isa's nephew, Tafil Boletini (1888-1970) who was raised by his uncle and accompanied his journey throughout his life, hence his book being named *Pranë Isa Boletinit* (Near Isa Boletini). The problem with this book is the fact that it was "edited" by one of the presidents of the Institute of History, Prof. Marenglen Verli, and printed twenty-six years after Tafil's death in 1996. Hence, the legitimacy of the book leaves some questions.

Lastly, Isa Blumi is among the historians who claimed that Isa Boletini was mythicized and transformed into an icon in the post-WWI era. Blumi (2011) considers Isa as an ambitious political entrepreneur who found the opportunities to attach himself in regional power politics. The most crucial argument is that "the resistance" of Isa against the new borders and border politics "cannot be interpreted as being driven by collective 'nationalist' sentiments" (2011, p.143-148). Therefore, Blumi argued that Isa Boletini's activism was more complex than to be depicted as one of the founding fathers of the Albanian nation.

Isa and the Sultan Abdülhamid II

Şimâlî Arnavutluk ki gegadırlar çok mutaassıp, Müslümandırlar. Besa verdiler mi sözlerinden dönmezler idi. Ben onlara, onlar bana besa vermişler idi.

Sultan Abdülhamid II¹

The reign of Sultan Abdülhamid II was marked with the Ottoman effort to prioritize strategies regarding "the integrity of the Ottoman Empire, but conducted a policy that contributed to its dismemberment" (Akarlı, 1976, p.254-255). The chronicle problems during the Sultan's reign have made the destinies of Isa and the Sultan encounter. Surprisingly enough, both were unexpectedly acquired power due to the loss of previous power holders and became the *heads* of their particular vicinities. The suspicious death

1 Atif Hüseyin Bey, Sultan II. Abdülhamid'in Sürgün Günleri: Hususi Doktoru Atif Hüseyin Bey'in Hatıratı, (ed.) M. Metin Hülâgü (İstanbul: Pan Yayıncılık, 2007), p. 254-5.

of his uncle and mental breakdown of his brother brought Abdülhamid II to the throne. Whereas, Isa became a clan chief after the loss of his brother (Musaj, 1987). Out of the blue, these two men were meant to have authority and leadership by faith.

The first impressions of Isa were negative according to the sources. His name entered into the official records due to the upheavals resulting from the reform programs at the end of the nineteenth century. In 1895, Isa and his friends were engaged with banditry and killings of Christians in the Mitroviçe region, therefore necessary measures needed to be taken in order to capture them to assure peace in the region. The governor of Kosovo at that time, Hafız Mehmed Paşa, was appointed to stabilize the turbulence and spent a great deal of effort to capture Isa. Hence, in 1895, he was sure that Isa was nothing more than “a bandit and a murderer” to be captured (COA: Y. PRK.A. 1895:10/ 15). Consequently, the first impression of Isa echoed in the Yıldız palace as a bandit who upsets the tranquility in the region who had to be eliminated.

At the turn of the twentieth century, his name became more familiar in İstanbul due to the consulate incident. At the time, the opening of the Russian Consulate in Mitroviçe created a tremendous impact in the region. To begin with, opening a Russian Consulate in the region was a disputed issue for the Muslim Albanians (Saygılı, 2019). Isa was one of the names that were associated with these reactions due to his severe opposition with an Islamic discourse against Russian domination in the region, contrary to Albanian literature where his efforts were considered purely nationalistic. In September 1902, Isa was sure that the opening of the Russian Consulate was about to upset the balance of power in the region and strengthen Serbian claims. The idea of the consulate was “contrary to the advantage of the Muslims” in the region, and Isa with his tribe, as well as tribes from Peja and Novi Pazar gave *besa* to hinder if such an action happens. (COA: BEO 1902: 1929/ 144657)

Isa has continued to occupy the telegram traffic between Yıldız palace and Kosovo meanwhile the Russian authorities in the region have been watching the course of events and interfering with the local homicides of the Orthodox Albanians as the ultimate protectorate. With the massacres they have conducted in Mitroviçe, Isa and his bandit friends were frightening and terrifying the Christian people (COA: DH.ŞFR. 1901: 268/58-0). The reason was the clandestine armament of the Christians in the region by the Serbian state, and ultimately by Russia (Boletini, 1996, p.34). Isa was one

of the repetitive names mentioned as a murderer and the Russian Embassy has been requesting to deploy more soldiers to the region (COA: DH.ŞFR. 1900: 271/ 16 – 0). Since then, the Ottoman authorities considered moving Isa away from the region because it was the only possible way to balance the demands of the Russians and local chiefs. Therefore, the Sultan considered him as a potential force to collaborate rather than an alienated enemy (Tahsin Paşa, 2019, p.399). Moreover, Tafil Boletini depicts the situation vividly: “At that time, propaganda was spread as if it would be easier for the government to attack Boletin rather than going to war with Russia but the Sultan did not want to attack Boletin. When the people heard this, they put their guns down.” (p.35). This also shows that the situation was beyond Isa yet embodied in his character. Abdülhamid was aware that it was a delicate matter and needed special attention.

After the Hafız Mehmed Paşa, it was Şemsi Paşa, the commander of the 18th regiment in Mitroviçe who was authorized to create order and stability. Regarding the consulate issue, Şemsi Paşa shared Isa’s ideas and tried to convince the Sultan to withdraw the permission (Yarç, 2017). During his term, another problem occurred to confront Isa and the Ottoman authorities. His friend, Akif Bey from Novi Pazar, as another powerful figure in the region, has been creating disorder and instability. Şemsi Paşa managed to capture him and he was about to be sent to İstanbul. This created an agitation among others because the intention was clear: these local power magnets were eventually going to be eliminated. Moreover, there have been a lot of intelligence services warning the authorities that Isa was gathering his forces to march towards Novi Pazar to demand Akif’s release (COA: DH.ŞFR 1900: 281/ 54 – 0, 58-0). Şemsi Paşa was offering two options to the Yıldız: either there should be more soldiers to fight back or to release Akif Bey and have an agreement with Isa (COA: DH.ŞFR. 1900: 281/ 125 – 0). Şemsi Paşa’s suggestion was not a coincidence. As a half Albanian, he was aware of local peoples’ priorities and could predict further violence, if the authorities do not come to an agreement. This attitude of his as an arbiter was going to continue as it has been claimed that Isa was a blood-brother of him, or “a close friend from a very honored family from Sarajevo” (Saygılı, p.40), (Boletini, p.37).

After three months, the Russian Consulate issue has been deteriorated and created tumultuous sequence of events. Isa led both empires to a political crisis beyond his previous reputation of banditry. He acquired a political color and left no choice for the Russians to give an ultimatum to cut their relationship with the Empire if he was not

deported from the region. Even though the Ottoman authorities have managed to stall the Russians off, and gained one year to manage Isa's deportation, the last ultimatum triggered one of the turning points of Isa's life: the road to İstanbul (COA: Y. A. HUS. 1902: 434/12-3).

However, Isa was not sure about true intentions of the Ottoman authorities. The governor of Kosovo, Reşad Paşa, was informing the Yıldız that it was tough to convince him; he has been raising difficulties and worrying about his journey (COA: Y.MTV. 1902: 235/ 67 – 0). Isa had a point and sensed that there could be further plans for him. He was right because first, his exile to Konya was considered as a solution (COA: BEO, 1902: 1944/ 145768 – 0). However, such a solution might not work and may create further repercussions in the region. There was only one solution to convince him: a direct order from the Sultan for Isa to come to İstanbul. The telegram was mentioning the delicacy and the complexity of the Consulate issue and his journey to İstanbul was going to prevent the conflict with Russia. Isa was going to be safe and his life was under the assurance of the Sultan (Boletini, 1996).

The Sultan's way of addressing himself to Isa has created a persuasive atmosphere. The Sultan Abdülhamid II "had to win the goodwill of the provincial notables and tribal leaders by giving them positions of responsibility" (Karpát, 2001, p.175). It was partially the success of Şemsi Paşa as well. Eventually all parts met on a common ground: Russian enterprises in the region were disturbing.

Yet, Isa had conditions and the negotiations have continued throughout October of 1902. He was getting opinions of other tribal leaders in the region and finally, he made up his mind to take the order upon three conditions: the Russian consul would not come to Mitroviçe after he leaves, he was going to be able to keep guns and have friends with him in İstanbul, and to stay *only* in İstanbul (Boletini, 1996). Finally, Şemsi Paşa has completed his duty and feeling relieved, sent a telegram to Yıldız that Isa's departure was assured. In any case of cession, he was going to exercise brute force (COA: Y.A.HUS. 1902: 436/ 27).

On the fourth day of the holy month of Ramadan in 1902, with a hundred lira for the traveling expenses, Isa departed with his two friends from Mitroviçe to Selanik, then İstanbul (COA, BEO. 1904: 2448/ 183574), (COA, Y.PRK.ASK. 1902: 187/ 77 – 0). One of the aides-de-camp of the Sultan Yakovalı Rıza Bey, escorted Isa during his journey

(COA, DH.MKT. 1906: 1038/ 19). The measures were taken in Selanik as well to assure that his travel was safe and any possible escape was prevented (COA, BEO. 1902: 1934/ 145035-0). On the very same day, he was rewarded with the license to operate the millstone mine in his village, Boletin (COA, BEO. 1905: 2530/ 189723, 1323.01.13). Apart from that, he was also given a share from the revenue of the stone quarry in the region in return for the protection he will provide for the Christians in various villages for the upcoming years (COA, TFR.I.KV. 1904: 75/ 7458-0).

Moreover, the state officials were going to appeal neither to his family nor his property for the existing debt he had for the tithe (COA, TFR.I.KV. 1903: 26/ 2532-0, 1321.06.25). Furthermore, he was going to return when the dust settles with the Russians and be getting paid regularly for the services he provides in the Yıldız. Yet, Albanian literature demonstrates this major development as an act of personal enterprise “to convince” the Sultan to withdraw the permission for the consulate. (Musaj, p.44-45).

Immediately upon his departure, the house he was going to stay was arranged. It was located in Beşiktaş at Serencebey Yokuşu, twenty minutes walking distance to the Yıldız Palace, rented from another Tüfenkçi, Osman Ağa. Within a couple of months, the upholstery of the house such as the carpets, sofa, and curtains, was renewed (COA: HH.İ. 1903: 167/ 5), (HH.İ. 1904: 168/ 62). When his house was ready, he asked permission from authorities for his uncle Ahmet to come to İstanbul as well (COA: Y.MTV. 1903: 247/ 106). This may counterpart the arguments of Albanian literature claiming that İsa was kept by force in İstanbul.

İsa has served as a tüfenkçi in one of the most important organizations of the Hamidian regime. These special guards were dedicated to the protection of the Yıldız palace and the Sultan himself; they were charged with observation, tracing, surveillance, disquisition, and guarding in particular. Constituted of Albanians, Arabs, Bosnians, Circassians and Turks, these special forces were called “tüfenkçiler” or “silahşorler”, knights skilled in the use of arms (Mayakon, 2010, p.145). With a paramount appearance, they used to wear their ethnic and local clothes. The most prominent features of the Albanian clothing were a feathered but modest shirt, salta, a white headwear, qylaf, and purple trousers, potur (Deringil, 2014, p.35). In addition to that, they could not speak in Turkish.

Albanians used to dominate this organization in terms of number and power of influence. According to the grand Hamidian policy, Albanians were one of the cornerstones

and the Sultan had a special trust for them which was resulting from their bravery and loyalty. The majority of them enjoyed a lot of privileges, blessings, and even personal compliments of the Sultan. Isa was one of them. For instance, Isa has made a present of tobacco, almost 2 kilograms, to the Sultan in return of his compliments (COA, Y. PRK. AZJ. 1907: 53/ 6).

His services were going to continue and even intensify with his return to Mitroviçe. His positioning as the voice of the Sultan in the famous Firzovik Meeting, which made the 1908 revolution possible, is a clear example of how Isa personally attached to the Sultan beyond interest centered explanations and shows how he was *not* an opportunist.

The defeat of Russians by Japan and the Russian Revolution of 1905 was “contingent developments” for the Ottoman Empire (Sohrabi, 2011, p.29). It was hoped that these unexpected developments could put the Russians of the track in the Balkans (Akşin, 2017, p.48). It seemed the right moment to send Isa back as it was promised. However, the Russian authorities in the region were disturbed by this decision, and Isa continued to be a political problem between the two empires. The Ottomans were assuring the Russian authorities about the certain treatment of Isa. He was going to be reprimanded and advised when necessary (COA, BEO. 1906: 2839 – 212921).

In February 1906, Isa returned to Mitroviçe and was warmly welcomed by the people (Boletini, p.9). Because of his experience in İstanbul and the given privileges, he emerged as a more powerful, credible and influential figure. Related to his activities in the region, there are three main points to be mentioned.

To begin with, Isa served as a *deruhdeci* whose responsibility was to assure the protection in the region. In the long run, he transformed into “the Sultan’s surrogate policeman” in Kosovo. Several times, he was involved in both local and foreign conflicts. For instance, while exercising authority and dominance in his vicinity, he was prioritizing the safety of the local figures at the expense of the Ottoman security forces. His assistance to the absconding of a troubled figure was an alarming event for the Ottoman authorities. They ordered a detailed investigation to confirm the allegation, yet a link could not be found (COA, BEO. 1907: 3133/ 234942). Due to these actions, with the involvement of Şemsi Paşa, Isa was invited to Selanik where he was advised and exhorted about his methods. Şemsi Paşa tried to remind him of the fact that he was a trusted and

authorized ally in the region and his disposition should be following the Empire's rules and priorities (COA, TFR.I.A. 1908: 37/ 3643).

Secondly, he had a direct telegram access to the Yıldız palace and the Sultan himself. It gave him the ability to avoid any interference of vilayet authorities. Isa was integrated into the famous Hamidian espionage system as well. In 1907, when Selanik had already turned into one of the centers of the CUP, the propaganda against the Sultan took his attention. One of the reporters of *Asır* newspaper, İsmail Hakkı Efendi, was spreading disrespectful rumors about the Caliph. As his first and foremost holy duty, Isa asked for permission to silence him. He concluded the *journal* that he prepared for the Sultan with an emphasis on his devotion: a dedicated servant to his highness (COA, Y.EE. 1907: 15/209).

Thirdly, on the other hand, all these privileges made him a potential threat which caused the Ottoman authorities to constantly keep Isa under surveillance. He was not always on the same page with the imperial concerns. According to Tahsin Paşa's observations whom Isa has been in contact with, given benefits and concessions have turned him into an unnecessary "spoiled figure". He questioned the given privileges to Isa and failed to understand the Sultan's decisions: What was the reason to turn a bandit into a "feudal lord" (Tahsin Paşa, p.398-399)? However, the Firzovik Meeting, which was a critical turning point for the Empire, disclosed the intentions of the Sultan and his relation with Isa.

The Firzovik Meeting can be claimed to be an unexpected opportunity for the CUP to declare the constitution. In 1908, when Şemsi Paşa gathered several Albanians and intended to capture Resneli Niyazi Bey, the CUP had different plans. After assassinating Şemsi Paşa, they channelized this massive gathering into a popular demand for the constitution (Özdemir, 2014, p. 283). It was the moment of fortune for the CUP and the moment of calamity for the Sultan. During this critical meeting, Isa was commissioned to solve the matter in favor of the Palace.

He was trying to convince the people about the Sultan's deep understanding of politics as well as his importance as the trustee of the Prophet within an Islamic discourse (Külçe, 2013). Isa sent telegrams to the Yıldız several times to inform the Sultan about the latest news and assure him that there were no actions to deny his authority. But after the assassination of Şemsi Paşa, the Sultan considered the possibility of these

telegrams being a political game of the CUP (Özdemir, 2014). Nonetheless, Isa was not trying to deceive the Sultan; his observations were correct. The discourse employed by the CUP authorities during the meeting never targeted the Sultan himself but rather his close circle of bureaucrats (Akşin, 2017). They portrayed the declaration of the constitution as a necessary action *to rescue* the beloved Sultan from these bottom feeder bureaucrats.

Yet, Isa was not alone and had the support of almost all other prominent tribal chiefs such as Ipekli Hacı Zeko, and Zeynel Bey. The league of Kosovar chiefs managed to hold the propaganda until Isa's unexpected departure due to the death of his daughter (Gawrych, 1980). He planned to return after the funeral. This could be one of the reasons why the Sultan waited two days to reply to the telegrams that were demanding the constitution (Külçe, 2013). It was exactly that moment when the prominent CUP members such as Necip Draga and Galip Bey stepped in and turned the meeting into a CUP propaganda. Tafil Boletini (1996) claims that due to personal grievances towards Isa and expected gains from the upcoming regime, Necip Draga affected the course of the meeting vigorously.

Therefore, Isa Boletini fits in the general Albanian policy formulated by the Sultan based on "bestowing favors, positions, and privileges on Muslim Albanians who became the linchpin of his regime in the turbulent region of Rumeli" (Gawrych, 1980, p.64). His general tendency to create these "neo-patrimonial, clientelist policies" was considered backward to be implemented in a modernized state as the CUP claimed to be (Sohrabi, 2011, p.34). The Sultan was dethroned. Then, what was the positioning of the CUP towards Isa?

Isa and the Committee of Union and Progress

"İsa Bolatin, Şale kabilesinden pespaye bir adamdır ki asil olmadığı için Arnavudlar nezdinde hiçbir zaman bir baş gibi telakki edilmez. Abdülhamid'den 60 lira maaş alan, meşrutiyetten sonra bu maaşı kesilen İsa Bolatin'in en birinci arzusu eski devrinin iadesi ve Abdülhamid'in tekrar tahtına geçmesidir."²

2 Arnavudluk ve İttihad-ı Terakki Son Fesadın Hakikati, Tanin, 17.09. 1912, p.1.

The CUP was very much concerned about the privileged local clans in the Kosovo region who have not been fulfilling duties such as tax payment or military recruitment. Through the local members of the Party, they challenged these people even if it was not solving the matters but causing further terrorizations. Not being able to reveal a common political, economic, ideological, and social program in accordance with the needs of these people, the turmoil environment caused a clash of interests among the local figures. Moreover, brutally suppressing the revolts that were resulting from the dissatisfaction of the locals led to collaborations between Albanians and other contested lands, such as Montenegro and Serbia, at the expense of the Empire. "As far as Isa Boletini was concerned, the events surrounding the Young Turk revolution would displace him from one of the concentric circles of power in the region, thrusting him into a global arena that he would ultimately prove incapable of controlling" (Blumi, 2013. P.535).

To begin with, from Isa's perspective, the abrupt event of the Revolution resulted in the Sultan's disadvantage whom Isa was collaborating with. These people were infidels and the "Jews of Selanik" (Boletini, p.10). From the CUP's side, he was one of the "bought" people and wretched representatives of the Sultan. Therefore, the first impressions were not positive and promising for both sides. Isa was aware of the fact that the Hamidian regime used to "respect" his power and let him exercise it up to a certain extent. This was particularly in contradiction with the statist and centralized policies of the CUP. Apart from that, his granted privileges by the Sultan were threatened since the CUP was diminishing leftovers of the previous reign. They were attacking him from all aspects and trying to take away his privileges. In 1909, Isa was informed that the millstone was not under his responsibility anymore due to some of his "inappropriate behaviors". Isa opposed the situation severely and focused on the unlawfulness of the action and asked if there was a court decision. The situation deteriorated further and the CUP authorities had to step back (COA, DH. MKT. 1909: 2740/5).

A couple of months after the revolution, in November 1908, the first conflict took place between the forces of "executioner" Cevat Paşa and Isa as a former ally of the Sultan (Kırmızı, 2009, p.99). The destructive measures were taken and eventually, Isa's kule was torn down. It was the battle where people realized "the true face" of the new regime (Musaj, p.61). It was more of a failure rather than a success since it has created further repercussions among the other local figures. The CUP's measures were backfir-

ing and consolidating the illegitimate image of these military men (Blumi, p.537). Yet, the tension deteriorated between 1909 and 1910. As a result, the colossal terrorization program of the CUP compelled the moment of “loose-loose” by both the local and state figures.

In the winter of 1909, the CUP authorities made their plans to capture Isa because he already proved himself as a challenging figure right after the revolution. He was openly conducting actions against the CUP branches in İpek (COA, DH. MKT. 1909: 2718/ 52). He was expected to raise difficulties during the springtime and it was the right time to approach him under the severe winter conditions (COA, DH. MKT. 1909: 271/ 30). The Porte was advising and putting pressure on the local forces to capture Isa as soon as possible. Even though the plan has failed regarding Isa, deploying soldiers in the region has pacified the gatherings and dispersed the crowds. After a couple of months, Mahmud Şevket Paşa, the lieutenant inspector of Rumeli, assured the Porte with a confident attitude that due to the taken measures, the region was under control and the capturing “the bandit” Isa Boletini was going to be successful as well (COA, DH. MKT. 1909: 2768/ 23). After one week, they attempted to exterminate him “to be a lesson” for others (COA, BEO. 1909: 3517/ 263747). Despite the damage they caused, they could not succeed to capture him. Yet, an alternative solution was planned: to convince him to come to İstanbul and from there, to exile him to Anatolia (COA, BEO. 1909: 3629/ 272142). However, this plan did not work either.

In 1910, new taxes were imposed and two thousand armed Albanians gathered in Prishtina to protest. Isa was involved in this revolt as the chief of his tribe (Malcolm, 1998). When the revolt was suppressed, Isa and many other clan chiefs were forced to take shelter in Montenegro where the situation was manipulated due to Montenegrin annexation plans for some parts of Kosovo (Akşin, 2011). The Porte was aware of the situation and sought an opportunity to capture Isa (COA, HR. SYS. 1910: 133/34). However, when these “refugees” realized the true intentions of the Montenegrin King, they wanted to return to their hometowns (Boletini, p.45). The archival documents show that Isa asked for amnesty and it was granted by the Ottoman authorities. The Kosovar authorities were advised to treat him well (COA, BEO. 1911: 3875/ 290604). Moreover, Isa was paid from his share of the stone quarry that was granted by the Sultan (COA, BEO. 1912: 4016/ 301138). Eventually, in 1912, both sides came to terms

after realizing the bigger threat of the foreign intervention. It was the first time both camps started to narrow the gap after four years.

Despite the chaotic and rough relationship, independence was out of context. In 1912, Isa clearly expressed his ideas on a redundant interference of the CUP regime in the region. However, what they were asking was not the autonomy or independence but to feel unrestricted (Birecikli, 2010). This clearly shows that the concerns had nothing to do with nationalist aspirations. The Kosovar Albanians were “concerned with regional matters, such as the maintenance of their prerevolutionary privileges” and “they wanted as little administrative control over themselves as possible” (Gawrych, 1980, p.361).

During this period, one of the most exciting claims about Isa can be his intention to “rescue” the Sultan from Selanik. Imagining a large group of armed forces composed of local figures marching towards the south and confronting the CUP forces would have been one of the most interesting events of the time. With a little chance, capturing the Sultan could be an astonishing turning point not only for the Empire but also for world politics. Not only once but twice brought to the agenda, the situation became a concern for Rifat Paşa, the minister of foreign affairs, in 1910. The Albanians were planning to throne Abdülhamid through an Albanian revolution (COA, HR.SYS. 1910: 133/22). It could be a bluff to threaten the CUP about their immense interference in the region. However, the second time, it sounded more serious in 1912 due to the organized and worrisome armed forces of Albanians (COA, BEO. 1912: 4113/308453). The Grand Vizier Ahmet Muhtar Paşa expressed his ideas to the Kosovar authorities about the futility and insignificance of the matter; hence there was no need to be concerned.

Not only the archival materials but there are also some claims on Isa’s plans to rescue the Sultan by his “comrades” of the time. As Hasan Prishtina provides insights about the different privileges during the “declaration” of independence, Isa and Rıza Bey were eager to rescue the Sultan.

According to Hasan Prishtina’s memorandum, Isa Boletini and Rıza Yakova intended to move towards Selanik to rescue the Sultan. Rıza Bey had already planned the release of the Sultan and he informed the notables in the Kosovo region (Kırmızı, 2009). Therefore, the idea was not unique to Isa but shared by others during the year of 1910. Yet,

Isa was not able to counter the CUP forces. However, in 1912, Hasan Bey among others resented to this idea and it created a split in forces.

However, Hasan Prishtina was in contact with the CUP authorities and tried to convince them about the insignificance of the matter. The defense of these people was for the sake of the “Albanian-ness”:

The two of them had nothing else on the mind at that time than getting Sultan Hamid out of prison. You could not talk to them about independence, not even say anything about autonomy. This was a red flag for Riza bey and Isa Boletini. I held the view that, although the two of them ought to have been punished, they should be punished by the Albanians and not with the involvement of others (Elsie and Destani, 2018, p.68).

The situation might have been one of the reasons why the CUP authorities decided to bring the Sultan from Selanik back to İstanbul. Therefore, the attempt was a clear example of peoples’ multiple allegiances, loyalties, and identities in the region. It was the same time when Isa was on his way towards the South to search for solutions to secure the homeland just like many Albanians. Rescuing the Sultan was considered one of the solutions.

All in all, the vague and unsteady structure of the CUP regime preferred to alienate Isa Boletini because he was a symbol of the Hamidian regime and he cannot be trusted. Yet, the foreign threat of the time led both the CUP and Isa to start a reluctant process of cooperation. However, it was too late to harvest the fruits of this collaboration due to the Balkan Wars.

Conclusion

In the long and tumultuous environment of the nineteenth century, Isa Boletini has been part of the Ottoman milieu as an imperial figure. He was born in a family that had positioned themselves as both state collaborators as well as opponents depending on the local concerns. Operating through capricious ties with İstanbul, he constituted an exemplary figure with co-existing multiple identities and loyalties related to the changing circumstances of the time. While national narratives tend to portray local concerns as acts of independence, this study attempted to demonstrate how important contingencies were for Isa Boletini. Therefore, Isa Boletini can be represented as an

activist always in search of solutions, Albanian national figure, a loyal servant of the Sultan, and an ignored leftover in the eyes of the CUP. But reducing his fluctuating and multiple identities and loyalties into *only* a freedom fighter is what this study aimed to challenge.

Isa's complexities and multiple identities became more apparent when he tried to balance his local concerns with the imperial ones. His loyalty to his clan and effort to exercise power at the expense of the Ottoman authorities were some of the cases that revealed his uniqueness. A similar observation can be made for his experience of the reluctant rapprochement process with the CUP regime. Although he is represented as an arch-enemy of the regime by the majority of historians, this study demonstrated an alternative perspective in light of the Ottoman archival material. The dialogue this thesis attempted to create between multi-dimensional sources complicates the simplistic nationalist depictions, claims and suppositions. Therefore, the general aim of the study was to question the Albanian nation-building process through the complicated figure of Isa Boletini.

Despite the general tendency to portray Isa Boletini's activism as "simple acts of Albanian patriotism", the multiple identities and loyalties he carried challenge the existing literature on him (Blumi, 2011, p.144). Although this study does not claim to fulfill all the missing gaps, on some level, it completes his complicated figure and provides a different but essential perspective. It shows that imperial figures tend to have a complex set of identities which requires them to be studied carefully. Also, the well-known figures of independence should be analyzed within the major contexts of the time. In light of this, the more imperial figures are studied the more realistic narratives are constructed. Eventually, it will give insights about how the empires as major structures were understood from the perspectives of the agencies operating within them. Such a methodology eases the deconstruction and reconstruction processes of the nationalistic narratives. Ultimately this picture enables me to ask fresh questions about the relationship between nationalism and historiography, puzzling out which may well be a lifelong preoccupation.

All in all, this study will be valuable only if it inspires the need to rewrite Isa Boletini's biography with the use of Ottoman sources as well. It demonstrates how using Ottoman sources in hope to understand Boletini's era and the Ottoman imperial context

in all their complications should attract our attention to his multiple and fluctuating identities. It would then be possible to capture the complexities with twists and turns of a man and his era.

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The Efforts of Ottoman Empire to Build Railways in The Balkans (1855-1913)

Besnik Emini

Abstract: During the second half of XIX century there were several plans to build railway in Ottoman Empire. Some of these plans were to be realized in the Balkans. Because Ottoman Empire did not had a technical possibilities to build this infrastructure by herself, started the negotiations with different European funds, governments, companies and personalities. The part of the Ottoman Empire in Europe had a priority in the project for building railway, by connecting Istanbul with European railway network through Sarajevo, which later fell under Austro-Hungarian administration. But there were also plans for connecting important harbors with internal part of the country. One of the plans was the railway line Thesaloniki-Skopje-Prishtina-Mitrovica. Railway transport was a quick way of transport and therefore the Empire wanted to benefit from it in different aspects, to improve the economical situation, but also to transport quickly its military troops in the region. There were also European governments which were interested to give credits to Ottoman Empire to build railways looking on that as a better way to have access on Ottoman markets. The Berlin Treaty of 1878 had a very important impact on the new railway corridors which were changed from previous plans, because the map of the Balkans was changed, and therefore railway priorities as well. The railway connections which were built during the Ottoman Empire modernized the transport and had a huge impact on the development of the region and made possible that the traveling to and from the capital of the Empire to be shorter than ever.

Keywords: Ottoman railway, railways in the Balkans, Istanbul-Vienna railway, Thessaloniki-Mitrovica railway.



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Introduction

Since the time when railway transport came into use in European countries, the authorities of Ottoman Empire started to make plans this method of transport to become reality in the country. Beside Ottoman Empire, Great Powers were also interested to build railway on its territory, but these attempts were not always successful. Because building railways was not an easy task, but very complicated technical issue, the job could not be done from the state itself, but from outside involvement. Beside technical aspects, which were not available in the country, there was also the financial issue, that needed a solution, because Ottoman Empire did not had such amount of money and experience to do that independently.

We can say that in the plans to modernize the transport in Ottoman Empire through building railways were several gigantic projects for that time, such were the railway lines linking Anatolia, Rumelia, Baghdad and Hejaz, and of course all this lines with European railway network.

In the age of competitive economy and increasing the goods which were imported from outside markets, the strength of central authority of Ottoman Empire in the provinces was a quite important issue. The reforms in the previous period have been focused on the military issues. The rapid industrialization in the West influenced the policy of Ottoman Empire to try to also change the economical aspects, and transport was a very important in this field. But to do this it has to start from restructuring the state administration, which could not be done without improving the authority of central state. Ottoman Empire has signed several agreements with other European states which regulated specified rights for trade within its territory. In 1838 the Balta Port Agreement was signed between the Ottoman Empire and Great Britain, which was allowing British merchants to have full access to all Ottoman markets and abolish Ottoman monopoly toward them, and this made it possible for foreign merchants to have advantage over domestic merchants (Akagündüz, 2016:459).

First plans for railway construction

Railway transport was the fastest and most reliable way of transport in that time in Europe, and state administrators were thinking that with this transport they will solve

many problems in the country and will have a huge impact in the society, will influence security, economy and politics. Foreign companies, beside the highly guaranteed price per kilometer from Ottoman Empire, had other benefits for exploring the natural resources near the lines that they were building. In the European countries, the priority for railway lines were determined based on economical aspects, but the Ottoman Empire decided to prioritize the Balkans, or its European part, not based so much on the economical aspect, but first for increasing security, by ignoring the other parts of the Empire which were more populated or had higher economical performance and where the railway would have a bigger impact.

British investments were already involved in building railway lines abroad, between Cairo and Alexandria in Egypt in 1856. British investments will be also involved in the future plans for building railway in the European part of Ottoman Empire. To attract stakeholders for building railway in its territory, Ottoman Empire decided to made the call through the press. At the end of 1855 it was announced that the Empire wanted to build railway line to connect Istanbul and Belgrade. Therefore, the Balkan region was more or less the priority region for building railway, and this was planned to be done with European experience and capital (Engin, 2008: 235).

There were many reasons why the Balkan or Rumelia was chosen to be the region where the railway would start. Balkan was very turbulent region and the uprisings were very often. Railway transport was a possibility for quick transportation of army troops from one part to the other problematic region, to enable quick mobilization, apart of the economical benefits, which gave priority to this way of transport (Zeytinli, 2020: 228).

With the realization of planed railway network, The Balkans would be connected not only with Europe and with the capital Istanbul, but also with other destinations like Edirne, Thessaloniki, Plodviv, Sofia, Black Sea and later to more distant places like Meca and Baghdad.

Involvement of Russia in supporting the ambitions of Serbia and Bulgaria, and Austrian ambition on Bosnia and Herzegovina and beyond to the Aegean Sea were stimulation to prioritize the project. The Ottoman authorities were aware of the dangerous aspects of the penetration of foreign capital in the Ottoman Empire, but the technical disability and the lack of own capital put a pressure for allowing balanced inflow of capital and guaranty for monopoly in the operation for the given concession. Also there was a

strong desire to have direct line with Europe and to be integrated into European transport. Balkan region was also producing significant agricultural products, that could be transferred faster to the markets. Fast transport, the railway transport, was also the tool to strength sovereignty of the Ottoman Empire by connecting its parts with this modern transportation, and for the region to bel more integrated within the state.

The first railway lines built in the Balkans were not part of the planned international corridors, but they were usually connecting inland towns with the port cities which were benefiting from the access of agricultural products and exploration of natural resources (Zeytinli, 2020: 230). This kind of railway were the lines Chernavoda-Constanza (66 kilometers) opened for use in 1860 and Varna-Rustchuk (220 kilometers) opened in 1866. The contracts for the Chernovoda-Constanca line for the Ottoman Black Sea and The Danube Railway Company line signed in 1857 were granted to British M. J. Trevar Barkley for 99 years, and at the end of that period the railway line was to be transferred to Ottoman government without additional payment. But the situation was changed after the Berlin Treaty, the line remained in Romania and in 1882 the property rights were transferred to Romania for 1.650.000 francs (Akagündüz, 2016: 461). Same situation was with the railway Rustchuk-Varna granted for 99 years, on which French engineers worked with British contractors, using materials produced in Belgium and the capital from all this countries, and Netherlands as well (Zeytinli, 2020: 234). This contract was signed in 1859 for the “Rusjuk and Varna Railway Company”. The line which was linking Chernovoda-Constanca was aiming to improve connections with Danube traffic and trade, and to have shortest communication with Europe in the time when there were not yet railway lines through Rumelia (Антонова, 2017: 22).

In 1860, the government prepared a specification for those who want to build railway lines in the Ottoman Empire. The construction and operation of a 224 km long line extending from Ruse to Varna Port will be given to a British company. The Ruse-Varna Railway Company was established in October 1863 and its capital consists of 45.000 shares, and the value of each share was 20 British pounds each. However, when this capital was not sufficient, the shortfall was met with the loan bonds issued. It started operating in November 1866. Between 1868 and 1874 this line regularly paid a guarantee of 140.000 British pounds each year (Akagündüz, 2016: 461).

We can say that the Ottoman Empire planned to realize a serious project for railway construction in its European part. In the upcoming years, during the existence of Ot-

toman Empire, it will be the common interest between Ottoman state and European states to realize this expensive infrastructure.

Ottoman Empire was offering a kilometeric guarantee for the construction, which was a secure benefit for the concessionaires. Additional benefit had European companies which were producing materials and technology for the railway itself, like iron and steel, and their transport to the needed destination. The high return rates were another issue that attracted those who invested to enter the projects. The lines in European countries were more or less completed and the industry which produced railway technology also was motivated to spread its products in other markets, and the Ottoman Empire with its potential long-distance network was a good market to enter in (Zeytinli, 2020: 228).

Beside the good will of the Ottoman state to build railway, and the interest of European capital to realize that, it was also a diplomatic struggle for future supremacy in economy and beyond that in future plans to connect with territories beyond the borders of the Ottoman Empire to the east. Germans, Austrians, French and British were involved in the railway construction activities in the Ottoman Empire. After the Crimean War the Ottoman state's focus on railways, influenced from the alliance with Great Britain and France. Shortly afterwards, in 1854, the Sultan issued an edict acknowledging the benefits of the railway, and two years after the first railway concessions were approved to British constructors (Landau, 1971: 8). Therefore, it was the issue of necessity to build railway to strength the position of the state within its borders. In 1890, 41% of foreign capital investments arrived in the field of the railways (Zeytinli, 2020: 230). After the call was made, the first interested parties for buiding the railway came from Britain. Therefore, on January 23 1857 an agreement was signed between the Ottoman State and Labro, a British parliamentarian. The first line was planned to be build between Istanbul and Ruse through Edirne and Shumen, and another railway route from Edirne to Enez on the Aegean Sea. These lines, according to the agreement were given to Labro under concession for ninety-nine years (Engin, 2008:236).

Even though Labro started preparations quickly after the agreement, he could not find the necessary funds to start the construction, and this agreement failed. Another effort to give concession for Rumelian railways was made in 1860 to other entrepreneurs, Charles Liddell, Lewis Dunbar and Brodie Gordon, but as the first contract, this one was also terminated due to non-fulfillment of obligations toward the state.

Involvement of Baron Hirsch in construction of railways

The third contract was signed on March 31 1868 with the brothers Van der Elst from Belgium. They started building the railway line from Istanbul to Küçükçekmece and this section was to be completed on 1 March 1869, but as the deadline was approaching, it was obvious that the construction could not be completed (Engin, 2008:236).

Since these efforts failed, Nâfia Nâzırı Davud Pasha, the Minister of Public Affairs, was sent to Europe to establish new contact with intention to build the railway (Landau, 1971: 8). There he met with Baron Hirsch (Baron Maurice de Hirsch), a Jewish banker from Brussels (Akagündüz, 2016: 462). Shortly afterwards, an agreement was signed for Rumelia Railway (between Davud Pasha and Baron Hirsch). Based on the contract, the railway was to start from Istanbul and continue to Bosnia, passing from Edirne, Plovdiv, Enez, Burgaz and Thessaloniki to Sava River and eventually connect Istanbul with Vienna (Hertner, 2000:7).

Same as the previous contract, the concession was set for ninety-nine years starting from 1876. After the construction of the railway, it was to be given to the Austrian Southern Railway (Lombbar) company to operate with. Regarding the fact that the projected line would be long around 2.000 kilometers and the state should pay 14.000 francs per kilometer, the project was too expensive, and very profitable for Baron Hirsch, who profited 22.000 francs per kilometer through reselling the concession to other companies. This created situation to renegotiate the conditions. After renegotiating the terms and changing the price, Lombbar Company decided to withdraw from the business. This created difficult situation for the Ottoman Empire too, and the only one way out was to accept the Baron Hirsch's offer to run business alone (Engin, 2008: 236).

The Austro-Hungarian interest was to connect its railway to the Ottoman Railway, either through Sarajevo or through Belgrade, regarding the fact that its interest for expansion was toward the Aegean Sea (Джонев, 2008:24). Due to the lack of domestic funds, experts and technology, the Ottoman Empire had to pay a high cost for this infrastructure projects.

Hirsch got the concession on October 7 1869 and established the Rumeli Railway Company "Şahanesi" which was due to start with the line construction on January 5 1870

and the Rumeli Railway Operation Company, which started with its activities on January 7, 1870 (Akagündüz, 2016: 442). In order to provide the necessary capital for the construction of the railway, it was decided to do it through issuing bonds (1.980.000 bonds with the value of 400 francs each). Baron Hirsch bought the bonds from the state for 128.5 francs each, and sold them to various banks at a price of 150 francs. This created the necessary capital to start the construction, which started between Yedikule and Küçükçekmece on 4 June 1870. On the Aegean Sea it was decided that the railway would end in Alexandropoulos instead of Enez.

Construction work on the Istanbul-Edirne-Plovdiv- Sarımbey-Belova line, Edirne-Alexandropoulos (Dedeğaç) and Thessaloniki-Skopje and Banjaluka-Austrian border started in the second half of 1870. Following year, on 4 January 1871, the 15 kilometer line from Yedikule to Küçükçekmece was opened with special ceremony actually the first part of Rumeli railway. In the meantime, Baron Hirsch convinced the grand vizier Mahmud Nedim Pasha to make changes of the concessions by involving the Ottoman Empire with more obligations, as the sections of the railway which passed through the mountains appeared to be more expensive (Engin, 2008: 236).

On June 1872, the lines from Edirne to Dedeğaç (149 kilometers), Banjaluka – Austrian border (102 kilometers) and around 100 kilometers on the section Thessaloniki – Skopje were put into use. In this case, the Ottoman state had an obligation to construct the line from Sarımbey-Sofia-Mitrovica, Yanboly-Sumnu and Yenipazar to Sarajevo and Banja Luka.

For better exploitation of the constructed railway, a Railway Administration was established. The Ottoman state had trouble with the realization of its part of the obligation and the railways it took as responsibility due to financial difficulties, and on the other hand, Hirsch slowly completed the sections that he had begun, like the railway line Istanbul-Edirne-Sarımbey-Belova which was opened for use on June 17, 1873 and the line Skopje-Mitrovica and Trnova-Yanbolu in the second half of 1875.

The Ottoman Treasury decided to create funds by borrowing money for the construction of the railway. Agreement was signed between Ottoman Bank and Credit General Ottoman in 1873 for the amount of 50.000.000 liras of foreign borrowing. But the contract was cancelled because of financial panic in 1873 (Zeytinli, 2020: 238).

Soon, Baron Hirsch became one of the richest people in Europe, and on the other hand Ottoman Empire undertook the obligation for the Rumeli railway of around 2.772.000.000 francs, that would annually be paid off 28 million francs, for a period of 99 years. But this was a huge amount of money which was overtaking the possibility of the state to pay this debt constantly and as a result the lines were left unfinished and the connection with Europe could not be achieved (Engin, 2008: 236). Hirsch left a legacy of 800.000.000 francs when he died. On the other hand, the total cost for the Ottoman Railways of Rumelia of around 2.8 billion francs was paid until 1954 (Akagündüz, 2016: 463).

Such a great project and huge amount of money could not pass without bribes that Baron Hirsch was offering in order to hide his abuses related with the railway construction. Ottoman state didn't accept the lines finished by Baron Hirsch and therefore he created own commission which ensured positive report for the lines. The British government was invited as a mediator in order to establish an impartial commission. This commission made an inspection on the railway network on July and August 1875 and decided that the lines could not be accepted in the situation that they were.

Ottoman railway after The Treaty of Berlin

Soon, the situation in the Balkans became unstable due to rebellion and the start of the Ottoman-Russian war. This will be the turning point for the Ottoman railway network in the Balkans and will completely change the destiny of the railways and the desire to connect with Europe via the planned route through Bosnia (Hertner, 2000: 11).

The changes in the Balkans borders and the Treaty of Berlin will change the direction of the routes for connecting with European railways. The Berlin Treaty obligated the parties also to respect the responsibilities regarding the railway connections between involved parties, and connect with the Austro-Hungarian railway.

The situation with unification of the railway in the Balkans was in the hand of governments of Ottoman Empire, Austria-Hungary, Serbia and Bulgaria. Austria-Hungary was very interested not to lose time in connecting the railway network as soon as possible. Ottoman Empire suspended the construction because of political, military and financial reasons and the situation was changed after the establishment of the "Ottoman Public Debt Administration" in 1881. In 1883 representatives of the four

countries agreed that each country should make effort to build the railway lines in its own territory (Zeytinli, 2020: 239). Ottoman Empire maintained its rights on Rumelia railway and that these railways should be connected to the European lines. Rumeli Railways Hutût-ı İlsâkiyyesi Construcon Company, formed by the Imperial Ottoman Bank, and the Comptoir d'Escompte company took over the task to connect the lines from Belova to Vakarel on the Bulgarian border (46 kilometer) and Skopje to Vranje on the Serbian border (85 kilometers). The Serbian government completed the line from Niš to Vranje in 1886 and it was ready to be connected with the Ottoman Railway through Vranje-Skopje junction (Gounaris, 1989: 146).

Through this connection the Thessaloniki line was connected with the European railway, via Niš. With this connection, the Thessaloniki-Skopje-Prishtina-Motrovica line was not a limited line, but had an access to an international railway corridors (Dimitriadis-Drakoulis, 2020: 25).

After the completion of these sections, the famous Orient Express line was opened, connecting Istanbul and Vienna (Landau, 1971: 8), which departed from the Sirkeci station on August 12 1888. The activities related with the railway construction in European part of the Ottoman Empire have been permanently in tension between Baron Hirsch and Ottoman authorities. The relations between Baron Hirsch and Ottoman Empire from 1875 to 1888 were not solved because both sides had their demands. Baron Hirsch sold his company Rumelia Railways Management Company to Austria in 1878 which was later renamed to Eastern Railways Company. After this, the Ottoman state was asking to be paid 8,000 francs per kilometer, which the company refused due to losses caused by the fact that the Ottoman state did not build part of the lines, due to which the connection could not be made. In 1888, an arbitration tribunal was established in order to solve the problem but no agreement could be reached. Next, the German lawyer Gneist was chosen as an arbitrator. On February 25, 1889, he asked from Baron Hirsch to pay 23.000.000 francs to the Ottoman Empire, which forced Hirsch to step down from the Rumelia Railway. After this, there was a change in the ownership for the Rumelia Railway because Eastern Railway Bank, which was formed by Deutch Bank and Wiener Bankverein, bought the shares of Baron Hirsch in 1890, transaction that enabled the domination of German capital in the Rumeli Railways (Zeytinli, 2020: 239).

This ended the period of obligation, disagreements and cooperation between Baron Hirsch and Ottoman State (Engin, 2008: 236).

After 1878, the part of the railway that was under Eastern Rumelia become very insecure because due to Bulgaria's intention to take control of it. A lot of strikes paralyzed its normal operation. After the proclamation of independence of Bulgaria, the lines were left to Bulgaria for the compensation of 42 million francs (1919). After the conflict with Baron Hirsch was solved, Ottoman government increased its interest to continue with the railway lines in Rumelia by giving concessions to private investors. Priority was the lines Thessaloniki – Istanbul and Thessaloniki – Manastir. These two lines were important for connecting Istanbul, the capital city of the Empire, with Thessaloniki and also Manastir, which was also an important military center.

In 1892, the Istanbul-Thessaloniki line was given under the concession for 99 years to the French banker Rene Baudoay, who was resident of Istanbul. This railway line was 510 kilometers long. The Salonika-Constantinople Junction Railway Company should manage with the works as a joint stock company. This line was opened for operation in 1896, but had a low rate of use because there was also a sea transport and the Ottoman government paid 6 million francs per year as a guarantee for every kilometer (Zeytinli, 2020: 241).

Another priority line was the Thessaloniki-Manastir direct line which was granted to Alfred Kaulla in 1891, the director of Württembergische Vereins Bank and intermediary of Deutsche Bank, with a distance of 219 kilometers for a period of 99 years. The works in this section were completed in 1894 and operated under the name Oriental Railway Company. There were plans for this line to Albania and have access to the sea (Hertner, 2000: 23). Alfred Kaulla was previously involved in selling Mauser rifles to Ottoman Empire, and then become interested in railway construction. According to the Article 32 of the concession, a preliminary study for the construction of two branches of extended lines Manastir – Durazzo and Manastir – Valona was to be carried out, and the company should build the line that the Ottoman government will choose (Gounaris, 1993: 52).

The Ottoman State, as in the previous situations, guaranteed the amount of 14.300 franc per kilometer. After 1910, this company moved the head office in Istanbul and

continued the activity as German and Austro-Hungarian property during the period of Balkan Wars and World War I.

During 1907 there were plans and intentions of Britain to connect the railway line from Mitrovica through Novi Pazar with the Adriatic Sea in Albania. For connecting the Adriatic Sea with the existing network of railways in the Balkans, Italy was also interested. Serbia, which wanted to connect its railway with these possible projects, was also interested in the Adriatic Railway (British Documents on the..., 1928: 322). During the 1910-1912 period, the sections Sirkeci to Yeşilköy (18 kilometers) and Babeski-Kırklareli (46 kilometers) were built.

Conclusion

Because of the Balkan Wars and the World War I the development of the Ottoman Railways in the Balkans was stopped. From about 2000 km that was predicted to be the total length of the railway in the European part, due to territorial losses after the Second Balkan War there were only 466 km left for the Ottoman Empire, and the rest was left under the control of Romania, Bulgaria, Greece and Serbia.

By the end of the Second Balkan War, in the summer of 1913, due to huge territorial changes, 85 km of the railways were on Bulgarian territory, 77 km were in the new Greek areas and not less than 371 km were on Serbia's new territories (Hertner, 2000: 28).

When we analyze today's map of the railway network in the Balkans, the situation is not significantly changed, comparing the network which was planned and developed during the Golden Age of railway construction in the Ottoman Empire. The lines which connect Adriatic Sea, Manastir, Thessaloniki and Istanbul are still not available. Also, it is still not possible to travel from Mitrovica to Sarajevo and beyond to Vienna via the planned line. There is no direct line from Skopje to Sofia, Edirne and Istanbul either.

The Railway network in the Balkans during the Ottoman Empire made a significant modernization of life in the cities that had a chance to use this transport. The construction of most of the lines is associated with the name of Baron Hirsch and its companies which saw a good chance for profit in this business, and the Ottoman Empire that saw the chance to start the projects and make the railway transport in the Balkans a reality.

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Population Movements and Migration as a Trend: The Case of Albania

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Abstract: Migratory movements are part of the early history of human migration and nowadays there are still many migrations from one country to another. Albanian migration after the 1990s has attracted the attention of many different scholars and academics. According to experts, migration has become a key survival strategy but also constitutes an important feature of the Albanian economy and society. This study will investigate the reasons of migratory movements in Albania, and if the expectations of people who migrate have been met or not. Current problematic migrants might have will be analyzed, thoughts and arguments will be considered, whether they would like to stay in the destination country, or if they will try to move to another country or will return to their country of origin. Based on the data obtained, recommendations will be given to the right institutions in Albania, considering eventual measures, to avoid the permanent departure of qualified and educated individuals or to promote temporary migration, or more specifically, the circular migration. The aim of the study is to explore the relationship between employment, economic situation of families, the integration in the destination country, the achievements in the destination country and their influence on the motivation to emigrate, creating a new life away from the country of origin, as well as in the decision to stay temporarily or permanently in the country of destination or to move to a new destination country. The study focused on collecting information from the answers received from an online survey with questions about people motives to migrate, addressed to individuals from Albania who have had as their experience the phenomenon of migration. 308 people participated in the study. The study showed that the main reasons for living their country were the level of employment, the economic level of the families, the integration in the country of destination, the purpose achieved in the country of destination. The study concluded that a high percentage of respondents, mostly in EU, confirmed they have adapted to living in the destination country. They are adapted to the language of the host country, to the culture of the country of destination but without neglecting the cultural elements of the country of origin.

Keywords: Migration, Albanian, employment, integration



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Introduction

Migratory movements are part of the early history of human migration and nowadays there are still many migrations from one country to another. Albanian migration after the 1990s has attracted the attention of many different scholars and academics. According to experts, migration has become a key survival strategy but also constitutes an important feature of the Albanian economy and society as a whole.

Albania has traditionally been considered a country of migration. External and internal migration is seen as a way of surviving in difficult times of war and in times of peace, in conditions of economic, social and political instability.

Historical circumstances, as one of the main causes influencing migration, have shaped and determined the direction of Albanian migrations. Albania has constantly been a country where the population has moved continuously, inside and outside the country. The intensity and direction of these movements has been different in several periods.

This study will investigate the reasons of migratory movements in Albania, and if the expectations of people who migrate have been met or not. Current problematics migrants might have will be analyzed, thoughts and arguments will be considered, whether they would like to stay in the destination country, or if they will try to move to another country or will return to their country of origin. Based on the data obtained, recommendations will be given to the appropriate institutions in Albania, considering eventual measures, in order to avoid the permanent departure of qualified and educated individuals or to promote temporary migration, or more specifically, the circular migration.

The aim of the study is to explore the relationship between employment, economic situation of families, the integration in the destination country, the achievements in the destination country and their influence on the motivation to emigrate, creating a new life away from the country of origin, as well as in the decision to stay temporarily or permanently in the country of destination or to move to a new destination country.

The study was based on the creation of four research questions and subsequently main hypothesis created. Thus, the research questions concern the level of employment in the country of origin and its correlation with the motivation to emigrate. Moreover,

concerns are raised about another motivation to emigrate, about the economic influence. Furthermore, research questions include the integrations of people at the country of destination and the decision to remain at the destination country or the will to go back at the country of origin. Consequently, the hypotheses suggests that the level of employment in Albania, both with the economic situation, influence the motivation to emigrate, creating a new life away from the country of origin. Furthermore, a second hypotheses suggests that the new lifestyle and the integration at the new country influence the decision to not go back in the country of origin.

According to IOM (2011) in the Book of Emigration Terminology, migration is the process of human movement, because of crossing the international border, or movements within the state. This population movement includes all types of people movement, which can happen for different reasons, persons moving to start a new life in another destination country.

The concept of migration has its origins from the term “*migraine*” from Latin, which means “*to move*” and which refers to the resettlement of people in time and from one place to another. Thus, migration is a phenomenon that stems directly from the freedom and opportunity to move (Ikonomi, 2011).

Migration occurs due to the driving factors of the country of origin (dynamics and demographic structure, poverty, social divisions, unemployment, political situation, etc.) and attractive factors of the destination country (high wages, better livelihoods, favorable policies of emigration, family ties - relatives who have emigrated before, employment relief, etc., Xhelili & Avdiu, 2018).

During years 1991-1992 there was a significant movement of the Albanian population to nearby destinations such as Italy and Greece. This first wave first involved people who chose to migrate through the Embassies present in the Albanian territory. Following first pluralistic elections, in March 1991, about 25,000 Albanians chose to migrate massively on ships towards the coast of Puglia. Thus, thousands of Albanian citizens left their country heading to Western European countries. It is estimated that in that period, from March 1991 to October 1992, about 300,000 people emigrated.

The exodus of the local population in this period occurred for several reasons, mainly for political instability, difficult economic situation, and social insecurity (Piperno, 2003).

Following the gravity of the circumstances, although Italian government at first was unprepared to deal with, somewhat, measures were taken to normalize and to face of the situation. Italian authorities made a concession known as the Martelli Law by giving people temporary residence permits and the opportunity to register at employment offices (National Legislative Bodies, 1990).

The 2000s were generally calm compared to the 1990s, even though there were still people migrating from Albania. After years 2000 there was a relative stability combined with strong control measures from Western countries and Albania itself. During 2010s the subsequent economic crisis involving mainly Italy and Greece, resulted in a decrease of the rate of emigration from Albania. Nevertheless, emigration continued either in the form of seasonal or permanent migration. It is a sustainable migration that still exists towards Italy and Greece, and nowadays increasingly towards new destinations in Europe and North America. Moreover, emigration to more distant developed countries such as United Kingdom, United States, Canada and Australia has already turned into a new trend.

Meanwhile many Albanians are settled permanently at the countries of destination, being integrated at the host societies, recently is manifested also the phenomenon of Brain Gain, with several Albanians choosing to turn back in the country of origin.

After the 2000s Albania took a series of measures to prevent illegal immigration; in 2003 the Law no. 9034 dated 20.03.2003 was approved, revised by law no. 9668, dated 18.12.2006, regarding “the emigration of Albanian citizens for employment reasons”.

The object of this law was the regulation of relations in the context of migration of Albanian citizens, who leave the Republic of Albania for employment reasons (Law on Emigration of Albanian Citizens for Reasons of Employment, 2003).

The economic situation and the rate of employment affect the reason for emigrating

Migration is as old as humanity wandering in search of better life, but international migration according to all state border rules has improved so much that only at the beginning of the 21st century did the nation-state system, passports and visas were improved to regulate the influx of people (Martin, P., Abella, M., & Kuptsch, C., 2008).

The several factors and consequences of globalization push many people to move from their country of origin for a better life and of course by the legal rules of population movement.

The backward economic development in comparison with the countries of the region has also influenced the different features that this phenomenon has shown in Albania, which King and Barjaba (2005) call “*exclusion from exclusion*”. Many expected that the fall of the Iron Curtain would lead to high rates of East-West migration driven by economic contrasts.

Nonetheless, mass migration from East to West failed to materialize. This was an exception to the economic rule that migrants move to countries where wages and economic conditions were better. The exemption from exclusion was certainly Albania / the only clear example of the outbreak of mass migration across previously unexplored borders.

Emigration is a product of driving and attractive factors. In the case of Albanian emigration, the driving factors have prevailed compared to the attractive ones. Albanians consider the emigration as a solution, not as a choice. The driving factors are also different. However, economic factors prevail among them. Unemployment is still a driving factor affecting migratory flows.

Although driving factors predominate, some attractive factors continue to be influential in motivating to emigrate. Among them, could be mentioned the educational factors, which are expressed in the large number of Albanian students studying in foreign universities: Italian, Greek, American, German, Dutch, etc. Another attractive factor continues to be the aspiration of qualified Albanians to build professional careers in Western countries. Among the attractive factors can be mentioned the support from existing migrants and their families in the host countries (Ministry of Internal Affairs, Albania, 2015).

Migration for employment reasons or the movement of people across borders to work has reached the top of political agendas in many countries of origin, transit, and destination (OSCE, 2009). Different countries are constantly increasing their regulatory capacities to manage the movement of labor through various policies and cooperation agreements. The movement of people for employment reasons will continue to exist and therefore it is necessary to fully manage migration for employment reasons; and

in the meantime, avoiding the negative effects it could have from this free movement of the population.

Migrants have an impact on the development of the countries of destination and origin. Immigrants thus make a major contribution to the improvement of human capital in their countries but also through remittances, which their relatives spend on their needs in the country of origin.

But migration also has a positive effect on countries with an aging population, helping to increase the workforce. Also, many studies show that migrants are involved in employment in jobs left vacant by the local workforce when the latter do not prefer to be engaged in certain jobs. Thus, migration supplies an opportunity to complement the workforce of the destination country, including in different sectors a young workforce which affects the growth of dynamism and innovation.

Integration in the destination country

The emigration of individuals to another society in addition to material benefits is accompanied by coping in the process of inclusion, integration and adaptation to the social conditions of the host society. The main influences of this process are “cultivation” and “assimilation” of emigrants in the host society. This situation is supposed to involve the full acceptance and accommodation of the newcomers in the host society. Involvement also occurs with the fading of changes in customs, traditions, norms, values, etc., with those of the natives (Gunther, 1969).

Immigrants and their children must adjust to the new living in their destination country. But it often happens that these applications of the elements of adaptation bring about a fading of their culture (language, traditions, etc.), to adapt to the culture of the destination country. But sometimes the phenomenon of assimilation helps immigrants to adapt more quickly to the new living in the destination country.

Thus, the frequent non-use of the mother tongue will help the immigrants to learn the language of the destination country, which will be more useful in the communication of daily life in the workplace and at school. This will help them to get to know the culture of this country even better (Kaya, 2002).

The integration of immigrants in the destination country is facing the “continuity of integration”, which is the process of assimilation and acculturation of the society. Although this process poses challenges to the identity of the immigrant. Immigrants are challenged by stigma and adaptation efforts in the host country. Albanian emigrants have also met discrimination from host societies.

The Albanian states and the host countries have been constantly trying to arrange agreements between them to create a more effective protection and support for the emigrants. Through the respective policies of the countries, the emigrants enjoy equal treatment with the citizens of the host countries for labor power, social security payments, union membership, etc. (OSCE, 2006).

The social integration of migrants in destination countries is interdependent on the various processes found in it. To have the most effective integration, a part of the emigrants is physically connected with institutions which help the emigrants in their integration in the society and in the fields of economic, cultural, school life, etc. Moreover, the aid from these institutions is also offered to immigrants for the preservation and continuity of the cultural identity, norms, values, traditions, etc. of their country of origin (Bell, 1975).

Immigrant associations also serve as a connecting bridge between young immigrants from Albania and immigrants who have previously emigrated to these destination countries; working to ensure the social integration of Albanian immigrants in the host society.

European integration for immigrants is based on the pluralist model, especially after visa liberalization. Through various centers and associations that run in the host countries, emigrants are encouraged to learn the Albanian language. Also, the policy of quarterly residence of seasonal emigrants gives them the opportunity to feel more accepted by the locals and of course to preserve the socio-cultural identity.

The goal achieved in the destination country (of individuals from emigration)

Individuals considering freedom of movement decide to emigrate to host countries for various reasons. The countries of origin and the host countries are constantly develop-

ing policies to help immigrants. To help the resettlement of migrants in the destination country, measures are taken by the respective countries in five directions:

- Protection of migrant workers for employment reasons,
- Regulation of the labor market,
- Easing social cohesion,
- Increasing social welfare and
- Supplying social protection.

The above measures are also found in the smallest standards expressed in international human rights legislation and international labor law. But in addition to international legislation where many states are part of, countries of origin also have their own national legislation to protect the rights of their immigrants in the countries of destination. Institutions must work together to create employment opportunities for migrants leaving their countries of origin for a better life but also to supply more monetary income.

But different states often apply for granting of permanent or temporary status to migrants for several reasons. For example:

- Employers of destination countries employ migrants in low-skilled jobs, jobs for which temporary workers are required.
- Increasing size of the demographic deficit. This reason has led many countries to sign agreements for the admission of migrants for employment purposes.
- It often happens that the granting of permanent status to immigrants can be granted even when a close link is proved between immigrants and employers.

Granting residence status in destination countries also helps migrants to become involved and integrate into social life in the destination country 16

Certainly, working in immigration supplies a substantial income for individuals who have decided to live and work outside their country of origin. The immigrant family saves part of this income. Emigration has a primary impact on the country's economy as a result of remittances. Remittances are one of the main pillars of the Albanian economy, influencing the realization of various investments in the country of origin.

Problems, findings and analysis of results

The study focused on collecting information from the answers received from the questionnaires addressed to individuals in cities in the Republic of Albania, who have had as their experience the phenomenon of migration. 308 people took part in the study.

1. Gender of respondents

Out of 297 participants in the study, it results that 76.8% belong to the female gender, while 23.2% belong to the male gender. 11 people did not respond.

2. Age group of respondents

Out of 302 participants in the study, it results that 19.24% of them belong to the age group 0-20 years; 57.1% of them belong to the age group 21-30 years; 21.1% of them belong to the age group 31-50 years; and 2.5% of them belong to the age group 51-65 years. 6 people did not respond.

3. Civil status

Out of 302 study participants it results that 58.3% claim to be single, 32.1% claim to be married; 8.2% claim to be in a cohabiting relationship with their partner and only 1% are divorced. 6 people did not respond.

4. Level of education

Out of 302 participants in the study, it results that 3% of them claim to have elementary education; 13.2% of them claim to have high school or middle school education; 56% of them claim to have a Bachelor's degree; and 20.9% of them state that they have completed Master studies in one of the profiles for which they have completed Bachelor studies or different with them and 0.9% have completed doctoral studies. 6 people did not respond.

5. Country of origin

Out of 242 participants in the study, it results that 20.47% are from the city of Tirana; 29.13% are from Fier, Berat, Durrës and Shkodra; 5.11% did not answer and 45.27% are from almost all other cities in Albania. 66 people did not respond.

6. Place of destination

Out of 247 persons interviewed, it results that 24.29% of them claim to have emigrated to Germany; 22.67% of them claim to have emigrated to Italy; 18.21% of them claim to have emigrated to Albania; 9.31% of them claim to have emigrated to England; 6.47% of them claim to have emigrated to Greece and 6.47% claim to have emigrated to France, Belgium, Sweden and Canada. 61 people did not respond.

7. Level of employment in the country of origin

From the persons participating in the study from 293 respondents it results that 35.5% of them claim to have been employed before emigration; while 64.5% of them claim that they were not employed before emigration. 15 people did not respond.

8. Reason for emigration

Out of 291 respondents regarding the reason for emigration, it results that 29.9% claim that they emigrated for a job that provided you with more income; 8.6% state that they have decided to emigrate to create a financial capital for the family; 12.4% claim to have emigrated for studies; 32% state that they have decided to emigrate for a better life for themselves and their family; 3% claim to have emigrated to join their family; 4% state that they wanted to leave Albania and 2% specified other reasons for leaving Albania. 17 people did not respond.

9. Employment in the country of destination

Out of 213 respondents it results that 38.96% did not specify the position where they work in the host country; 31.92% of them claim to have worked in the health sector (nurse, assistant nurse, physiotherapist); 14.1% are positioned in the services sector (cleaners, plumbers, babysitter, driver, saleswoman, etc.); 8.1% expressed that they work in other jobs; and 6.1% are not in employment situation. 95 people did not respond.

10. Realizing of the trainings about the work in the destination country

Out of 291 respondents, it results that 60.8% receive training on the work they perform in the destination country and 39.2% do not receive training on the work they perform in the host country. 17 people did not respond.

11. Financial situation in the host country compared to that of the country of origin

Out of 294 respondents, it results that 36.1% said that the financial situation is high income; 24.1% have stated that their financial situation is above average income; 32% are middle-income and 7.8% are low-income. 14 people did not respond.

12. Adaptation of lifestyle in the destination country

Out of 292 persons interviewed, it results that 59.2% have been relatively adapted to the way of life in the destination country; 36.3% are fully adapted to living in the destination country; 3% did not adapt at all and only 1.5% specified other answers. 16 people did not respond.

13. Integration of migrants in the destination country

Out of 291 persons interviewed, it results that 69.1% have managed to be sufficiently integrated in the destination country; 24.4% answered that they are fully integrated in the destination country; 4.5% answered that they do not feel at all integrated in the destination country and only 2% specified other reasons. 17 people did not respond.

14. Situations of prejudice and discrimination in the country of destination

From 292 answers received from the questionnaires it results that 45.5% have never encountered situations of prejudice and discrimination by the locals; 40.4% turn out to have answered that they have encountered several times situations of prejudice and discrimination by the population of the destination country; 9.9% have experienced situations of prejudice and discrimination by locals many times and 4.2% have specified other answers. 16 people did not respond.

15. Current living

Out of 297 respondents it results that 57.2% are satisfied with current living; 23.6% are very satisfied with their current living; 13.5% say they are not very satisfied with their current living; 4.7% said they were not at all satisfied with their current lifestyle and only 1% specified other answers. 11 people did not respond.

16. Realization of the purpose for which individuals have emigrated

Out of 293 respondents, it results that 60.4% the purpose for which these individuals have emigrated has been somewhat realized; 23.5% have replied that it is fully realized; 12.6% answered that it was not realized and only and 3.5% specified other answers. 15 people did not respond.

17. The problems that immigrants currently face

Out of 275 respondents, it results that 40% of the respondents have temporary problems with employment; 37.5% of the respondents have specified other problems in terms of the problems they face (such as difficulties in knowing the language of the host country, difficulties in lifestyle, difficulty in obtaining documents, etc.); 18.5% of the respondents stated that they have problems with housing and only 4% of the respondents turn out to have answered that they have problems with the education of children. 33 people did not respond.

18. The thought of migrating to another destination country

Out of 297 respondents, it results that 53.9% answered that they do not intend to emigrate to another destination country and 46.1% want to emigrate to another destination country, to see the opportunities they offer to immigrants. 11 people did not respond.

19. Desire to return to the country of origin

Out of 298 respondents, 66.4% do not want to return to their country of origin and 33.6% want to return to their country of origin. 10 people did not respond.

Discussions

- The results of the questionnaires show that individuals who have recently decided to emigrate belong to the age group - 21-30 years; age which is interested in securing a job and increasing financial situation.
- The results show that only a low percentage of respondents stated that they are divorced or practice cohabitation.

- The findings show that a significant percentage of immigrants who have decided to leave their country have completed higher education and Master studies. This is exactly what is considered in international terminology as brain drain.
- The movement of emigrants to different countries of destination is accompanied by cooperation between the institutions of the two countries (country of origin and destination) and interstate cooperation; aiming at maximum protection against their citizens. Cooperation between states also affects the avoidance of negative elements of immigration, such as. his irregular movement.
- The high level of unemployment in the country of origin is a driving factor for the emigration of Albanians to different countries of destination; for securing a job to meet and their daily life requirements.
- As we notice and from the answers received from the respondents about 31.92% work in the health sector; This high percentage of employees in the field of health also comes from the agreements concluded between the institutions of the country of origin and destination to recruit these individuals as different countries have increasing demand for employment of individuals in these professions.
- More than half of the respondents find that the financial situation is very good compared to the country of origin.
- Emigration has a primary impact on the country's economy as a result of remittances. Most of this income is provided by the employment of the head of the household, while the rest is provided by other family members. The immigrant family saves part of this income.
- From the data collected from the questionnaires it results that a high percentage of respondents is the initial goal for which they decided to emigrate has not been achieved. This leads us to the reasoning that the destination countries have offered you the relevant opportunities to achieve their goals and objectives.
- From the answers received from the respondents came a series of initial problems faced by immigrants in the host country. Problems that are natural and take their time to minimize.
- Temporary employment problems also come because of obtaining temporary permits or completing pre-training before these migrants start working. Immigrants also face

other problems: such as difficulties in recognizing the host country, difficulties in lifestyle, which are minimized over time; this is due to the constant effort of the emigrants to adapt to the lifestyle of the host country but also thanks to the provision of assistance by the relevant actors of the destination country.

- Individuals decide to emigrate to different countries of destination for a variety of reasons such as: standard of living in destination countries, higher employment opportunities, higher wages, better economic opportunities, opportunities for professional development and different qualifications, political stability, meritocracy, stability, providing the best services, etc.

- The return of migrants to the country of origin is influenced by a number of factors. It is the immigrants themselves who decide to stay or return after a period of emigration. There are several reasons why immigrants decide to return to their country of origin but three of them are the main motives:

- Economic
- Social
- Psycho-social (family, personal)

The decision to stay or return is a matter for the immigrant himself.

Conclusions

The study reached to the conclusion of confirming the hypothesis raised at the beginning of the study:

The level of employment, the economic level of the families, the integration in the country of destination, the purpose achieved in the country of destination affect the motivation to emigrate, emigrate, create a new life away from the country of origin, as well as the decision to stay temporarily or permanently in the destination country or to move to a new destination country; which is verified by the analysis of the information collected.

- The study concluded that a high percentage of respondents, exactly 95.5% said they have adapted to living in the destination country. They are adapted to the language of the host country, the use of which is necessary during the performance of daily work

but also for communication during daily life; are adapted to the culture of the country of destination but without neglecting the cultural elements of the country of origin. There are also those people who may have changed their religion as a reason to adapt to the culture of the destination country. Respondents who used the language of destination stated that this was done to help children continue their education in order to perfect the language of the country of destination, thus helping them to study their schooling as efficiently as possible.

- The study concluded that a high percentage of respondents are integrated in the destination country. This comes for several reasons: high employment opportunities, relevant policies that help immigrants, the local community which continuously provides support and assistance to this contingent of individuals.

- The study concluded that a very high percentage of respondents answered that they are employed in the country of destination, respectively 93.08%. So finding a job to provide income and meet the needs of their daily life pushes these people to build a new life towards different destination countries. But it should be noted that in the countries of destination most emigrants do not work in their professions for which they graduated in Albania. For most of them the recognition of diplomas or the continuation of specializations is a worrying problem and requires time.

- The study concluded that a high percentage of respondents for about 83.9% has achieved the purpose for which individuals have emigrated. The most important factor that has driven the country's emigration has been the economic factor. Mostly Albanians leave for economic reasons, such as: difficult living conditions, difficult economic situation, inability to find a job in the country of origin, etc. Difficulty finding a job in the country of origin also exists among educated people who have invested in their education in the hope of finding a future job in their country of origin.

- The study concluded that a high percentage of respondents who have decided to emigrate about 77.8% have completed Bachelor, Master, and doctoral studies. The phenomenon of brain drain from the countries of origin to those of the destination can be explained by analyzing the "driving" and "attracting" factors. In general, qualified intellectuals decide to emigrate by also making a comparison of elements between countries of origin and destination. This comparison by them is made in several perspectives such as: economic, political, social, cultural, educational, etc. Qualified persons, in ad-

dition to in-depth knowledge of their profession, also possess knowledge in foreign languages, which makes it even easier to integrate into the host society but also to invest in various university specializations.

- The study concluded that a high percentage of respondents about 80.8% are satisfied with current living in the destination country. This is also due to the fact that the host countries take appropriate measures to come to the aid of persons who decide to build a new life in these countries through policies, strategies, relevant legislation; through the protection of these individuals by relevant institutions; through the provision of relevant services that these individuals need; through the provision of social protection and support by all relevant actors.

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National Identity in Post-Yugoslav States: Constitutional Relationship Between The Ethnic, Civic and National

Davor Trlin

Abstract: This paper treats the issues of identity. It showcases the approaches to the relations among ethnic, civic and national interests in the drafting of constitutions in transitional countries. Tethered to the fundamental principles of good drafting, the paper highlights the balance of constitutional relations in post-Yugoslav countries. Most of these states are heterogeneous societies, which makes it harder for the constitution-maker to define the state as civic. The Montenegrin society is established on civic foundations, whereas Macedonian and Bosnian-Herzegovinan constitutions established a constitutional system in which the collective particularities of ethnic groups are manifested largely on the expense of citizens or other collectivities. This paper also deals with the problem of constructing national identity, where ethnic identity is seen as an obstacle.

Keywords: National identity, culture, ethnicity, civic, constitution



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Introduction

The aim of this paper is the analysis of certain phenomena and processes. On the one hand, there is national identity and democracy, and on the other hand, there are societies that can be labelled unstable, such as the countries that emerged from the breakup of former Yugoslavia. Most of these countries are economically very weak, and in most of them there is a trend of strong political confrontation between the political structure of the government and the opposition.

The essence of the term “democracy” is the rule of majority with respect to minority rights. It is necessary to explain the concept of “national identity”. National identity is a part of identity¹ as a psychological category. Along with national, there is also cultural identity,² but it is not the subject matter of this paper. I explored the definition of the notion of national identity in books and articles on sociology and politics and found that there is no single definition of national identity. I will not try to give a definition of national identity because, as ancient Romans would say, *Omnes definitionem periculosum est* (“Any definition is dangerous”).

In this essay, I will expose the legal regime of “people”, “nation”, “state”, and point out the various provisions in the constitutions and other normative acts in former Yugoslav countries. National identity is not regulated in legal provisions of these countries. According to the records made available to me, it is not regulated in comparative constitutional law either. In the late eighties, the European Union initiated a policy of creating a European identity, so the Maastricht Treaty introduced provisions on the national identity of the Member States.³ In the nineties, national identity was used for the preservation of national sovereignty and independence. The obligation to respect national identity, in addition to the Maastricht Treaty, was expressed in the Lisbon Treaty.⁴ The

1 The term “identity” comes from a Latin term meaning sameness.

2 It is questionable whether cultural identity is a legal concept. See: ROELLECKE, G. (2001) review of the manuscript of Gabriele Britz, *Kulturelle Rechte und Verfassung, Über den rechtlichen Umgang mit kultureller Identität*, *Juristenzeitung*, p. 562 and further.

3 See: Article 6, Paragraph 1 and Paragraph 2 of the Maastricht Treaty; the original version of Article 126 of the Maastricht Treaty.

4 See: Article 3, Paragraph 3, and Article 4, Paragraph 2 of the Lisbon Treaty. It is certain that jurisprudence was ready to capitulate before determining the legal content of “national identity”. See: DOEHRING, K (1993), *Staat und Verfassung in einem zusammenwachsenden Europa*, *Zeitschrift für Rechtspolitik*, p. 98, 101; UHLE, A. (2004) *Freiheitlicher Verfassungsstaat und kulturelle Identität*, *Jus Publicum — Beiträge zum Öffentlichen Recht*, Band 121, p. 4.

answer came along the line of dividing legal spaces: what makes up cultural identity of a national constitutional state from the European perspective is exactly what makes up national identity of the Member States from the perspective of the European Union (Uhle, 2004: 5).

Nation is a stage in people's development manifested in the creation of the nation state. State and law affect the formation, development and maintenance of the nation, because they bind people hard and strengthen other social connections. The state has a dominant role in the construction of national identity, because national identity to a large extent is achieved through coercive categories regulated by imperative legal norms: the institution of citizenship, the use of a common language, the use of a state symbols, and emotional relations of the individual towards the state, which legal norms cannot regulate. Professor Radomir Lukić wrote that nation is "a relatively intimate and a permanent community of a number of people who have long lived together and thus acquired common features and character so that they understand each other and can easily get together".⁵ Keeping this in mind, we can conclude that nationality indicates a legal bond with a particular state.

Nationalism⁶ is an exaggerated national identity which occurs when a nation is too important for an individual during his or her identification (Milošević-Đorđević, 2003). In political theory, nationalism is usually divided into two categories: patriotism and chauvinism. The former usually carries a positive meaning, whereas the latter carries a negative one. I believe that patriotism is not an obstacle in the development of national identity in the former Yugoslavia, but chauvinism is.

Legal regime and the content of the terms "people", "nation", "state" in constitutions and other legal acts in comparative law differs. However, there is usually a distinction between people (*ethnos*) and nation (*demos*),⁷ but in most cases there is no distinction

5 Original language version: „relativno prisna i trajna zajednica izvjesnog broja ljudi koji su dugo živjeli zajedno i time stekli izvjesne zajedničke osobine i karakter tako da se međusobno razumiju i mogu lako da se zbliže“ See: LUKIĆ, R. (1975) Uvod u pravo, Beograd, Naučna knjiga, p. 37

6 Jürgen Habermas states that initial nationalism had been related to forming modern nation-states and had a positive, libertarian spirit and democratic connotation, but later on started being more linked to authoritarian and anti-democratic tendencies and social forces (being more existent among upper classes and attached to rightist, conservative ideological orientations). See: HABERMAS, J. (1992) Citizenship and National Identity, Praxis International, Vol. 12, No. 1.

7 To research the phenomenon of national, Emmerich Francis used these terms productively. He understood "general reality of the people" under *Ethnos*, and under the *demos* "historical type of modern nation". See: FRANCIS, E. (1965), *Ethnos und Demos. Soziologische Beiträge zur Volkstheorie*, Berlin, Duncker &

between nation and state. Constitutional formulations of the people-nation-state relationship in Western democracies are very diverse, both in homogenous and heterogeneous societies. The Preamble to the Constitution of France speaks of “the French people” who officially declared their commitment to human rights and certain principles of “national sovereignty”. Heterogeneous countries such as Belgium and Switzerland have built a kind of national identity by using the terms “Belgians” and “the Swiss”, even though the Belgian and Swiss nation are not mentioned in the constitutions of these two countries. The Western, state-level legal approach clearly distinguishes between “nation” and “people”—the nation represents people (citizens of a country), and people represent a community of origin. On the other hand, the Eastern, cultural and biological approach substantially equates nation and people. The Statute of the United Nations speaks about relations among nations which are member states of the United Nations. This is one of the arguments for the claim that, to a large extent, the distinction between “people” and “nation” is universal, i.e. that in public law, there is a dominance of the Western, state understanding of nation, where nation and citizenship are synonyms (Šarčević, 2009: 25-31).

Yugoslav identity

There were numerous differences among the regimes in communist countries, but they all had three common characteristics: 1. a common form of collective ownership over the means of production; 2. a ban of political opposition, and 3. the establishment of effective protection of human rights and fundamental freedoms guaranteed by the constitution. Lidija R. Basta stated that socialist societies were organized in quasi-states and operated according to one basic principle—complete control of the Party.⁸

Socialist order in these countries was imposed by an external force and could be upheld only until it is in effect. The Swiss, German, and particularly the American model of federalism were transferred to other countries. It often did not produce the desired results. This fact is most obvious in a number of countries of Central (Latin) and South America, which implemented a specific form of federalism, based on the American model, called “caudillismo”. It was coined by Daniel J. Elazar and is defined as the rule

Humblot, p. 87.

⁸ See: BASTA, R. L. (1998.) Uloga ustava u zemljama centralne i istočne Evrope IN SAMARDŽIĆ, S., NAKARADA, R. KOVAČEVIĆ, Đ, (Eds.) *Lavirinti krize-Preduslovi demokratske transformacije SR Jugoslavije*. Beograd, Institut za evropske studije, p. 57-58.

of a central power through a displaced political leader in some provinces (Elazar, 1995: 33). It is also a historical fact that the Soviet model of federalism⁹ has not given positive long-term results in the countries that were modelled on it. The states that were affected by Soviet federalism—the Czechoslovak Socialist Republic and the Socialist Federal Republic of Yugoslavia—as a result of the centralized state apparatus, the autocratic political regime, the ideology which permeated the whole society, monopolization of power by a single party, directivist concept of economic policy, in the end disintegrated¹⁰ after the collapse of the bipolar division of world order. However, it is a fact that these federations in some elements (the right to secede) gave more options to federal units than Western federations did (Trnka, 2006: 87). Three socialist states have disintegrated in a similar way—the Soviet Union, in a rather chaotic manner, Czechoslovakia peacefully, without bloodshed (the “stuffed”, “velvet” revolutions in Central and Eastern Europe), and Yugoslavia by armed conflicts and heavy and ruthless crimes. The general assessment is that the reason behind different forms of dissolution of such federations is a different degree of mismatch between ethnic and administrative borders (Sokol-Smerdel, 1998: 286). That is why the Yugoslav federation dissolved in the bloodiest possible way. There was a threat that some people would have to live in more than one country, and some people were very manipulated by their political leaders who presented them the same or similar fate in what has already befallen them during the Second World War (Serbs in the Republic of Croatia).

Socialist Federal Republic of Yugoslavia found itself in a deep political and economic crisis in the late 1990s. Unresolved national issues and the delay in economic development were the main generators of the crisis. In the political struggle of nationalist and reformist parties, the former won. The struggle for national emancipation led to the strengthening of the rigid form of nationalism—chauvinism. In my opinion, there are three reasons for this: 1. the death of Josip Broz Tito, the charismatic leader of Yugosla-

9 Professor Krbek points out that the Soviet federation necessarily deviate from those patterns of federation, which is developed in the federations of civic states. See: KRBEK I. (1947), *Sovjetski federalizam prema građanskim federacijama*, Zagreb, Jugoslavenska akademija znanosti i umjetnosti, 1947.

10 Although Yugoslavia was restored on the basis of a federal system, Yugoslav federalism, modeled on the Soviet federalism, was more administrative and cultural. The conflict with Stalin in 1948, from defensive reasons, led to the strengthening of national unity. But already after Stalin's death, since the early fifties, frequent constitutional changes were evidence of the fact that Yugoslavia is still looking for a formula that would, on the one hand, allow the Serbian people to live in one state, and on the other hand, to eliminate the danger of assimilation and outvoting. However there were many obstacles to federalization of Yugoslavia: unified ideology as the main connective tissue of the multiethnic state; personal power; strong police and military structures, but, above all, the identification of the Serb people with Yugoslavia as their own state.

via, who managed to restrain inter-ethnic and inter-republic animosities, 2. conflicts in the Yugoslav Communist Party and its dissolution, and 3. the decline of the Republic of Serbia in the financial sense. Yugoslavia began to disintegrate in 1990 and finally broke up in 1992. Its six federal units became independent states.

After the fall of communism, there was a process called “constitutional revolution” taking place in the dissolution of the former Yugoslavia. This process assumed the following transitions: 1. the transition from a controlled planned economy to a market economy; 2. the transition from a one-party rule to a multi-party democracy, 3. the transition from an arbitrary and limitless power system to a constitutional rule and rule of law. After a peaceful shift of the communist regime, there was a significant increase in the influence of the idea of a “national revolution” which significantly disrupted the establishment of the constitutional principles in the political practice.

The new constitutions of the former Yugoslav republics contained a number of specific matters, particularly the treatment of ethnic and national minorities. It was assumed that a peaceful change of the communist rule will inevitably lead to a peaceful process of reforming the society in the direction of liberal democracy along with establishing the rule of law. Programs and promises of election winners supported such expectations. In Croatia, for example, the development was contrary to such expectations. Soon after the adoption of the Constitution in December 1990, the winners of the election demonstrated that their intention was to make a constitutional and legal system only as a means to establish permanent dominance of a single party and a single social class. The Croatian Democratic Union, the party which won the first democratic elections in Croatia, was in favour of Croatian independence from the beginning. The Great Serbia project pandered to this political party and there was a collision of two nationalisms, the Great-Croatian and the Great-Serbian. Croatia, led by Tuđman, the victim of Serbian aggression in the midst of the war, negotiated with Serbia, led by Milošević. In Karadžević, these two politicians, among other things, made an agreement on the division of Bosnia and Herzegovina. The Croatian Constitution, adopted on 21 December 1991, stipulated that Croatia is a sovereign, independent and internationally *recognized national state of the Croatian people*.¹¹ I will prove here that the claims that this Constitution abolished the status of constituent people in Croatia to Serbs are false, since this

11 See: Article 1 (titled “Historical Foundations”) of the Constitution of the Republic of Croatia of 1991.

status never existed.¹² Term “constituent people” did not exist in the constitutional text or in other legal provisions, but it is used in the political practice.

At the end of the 18th century, the period when modern nations began to be created, there were attempts to create a South-Slavic (Yugoslav) national identity. At the end of 19th and at the beginning of the 20th century, the term “Yugoslavs” began to be used to refer to the South Slavs in Austria-Hungary. After the First World War, when the Kingdom of Serbs, Croats and Slovenes was created, the term “Yugoslavs” was used for all its peoples, especially South Slavs. Aleksandar Karadžević (Alexander II) established dictatorship in 1929, the country was renamed the Kingdom of Yugoslavia, and he officially declared that there is only one Yugoslav nation with three tribes. In 1928, the Yugoslav monarchy adopted the Citizenship Act, which replaced all previous individual regulations of certain areas of the new common state, the State of Serbs, Croats and Slovenes. That effort failed, and it even made internal conflicts worse. After 1945, the constitution no longer mentioned the “Yugoslav nation”.¹³

Socialist Yugoslavia,¹⁴ formed after the Second World War, was a federal country which formally recognized ethnic diversity. However, many people declared themselves as Yugoslavs because they wanted to identify with Yugoslavia as a whole, and not with one of its peoples. The 1971 census recorded that Yugoslavs made up 1,33% of the total population. The 1981 census recorded that Yugoslavs made up 5,4% of the total population. After the breakup of Yugoslavia, the majority of Yugoslavs again declared the same nationality they had before the breakup. Nevertheless, even after the breakup some

12 There were claims that the Croatian Parliament’s “Christmas” Constitution of 1990 abolished the status of constituent people in Croatia, but they are not true since this status never existed as one can see in the Constitution of the People’s Republic of Croatia of 1947. In Article 11, which stated that the Serbs are equal people to Croats, with a similar formulation in the Constitution of the Socialist Republic of Croatia of 1963. By the amendments to the Constitution of 1971 and 1972 formulation that SRC is a “national state of Croatian people, the state of Serb people in Croatia and the state of ethnicities living in it”, entered the constitutional system for the first time, and the similar is mentioned in a Constitution of the Socialist Republic of Croatia of 1974. Such formulation has not risen Serbs to the level of a constituent people in Croatia, but it only recognized different, that is, a special status in relation to other peoples and ethnicities.

13 Although constitutions and other legal acts, did not mention Yugoslav national identity, ethnic identities were not officially rejected, but the formal and factual insistence on the primacy of the class principles led the national and ethnic identities of the subordinate position in legal and political system of the SFR Yugoslavia, and they were repressed as identities of lower rank. Accordingly, the ethnic (often meant as “national”) identification was often seen as a threat to integrative class identity.

14 The name of the Federal Republic Yugoslavia was valid until the adoption of the Constitution of 1963, when it was replaced with the name of the Socialist Federal Republic of Yugoslavia. The new name was needed to show the primacy of class principle over national. See: Constitution of Yugoslavia (1986.) IN BLAUSTEIN, P. A. and FLANZ, H. G. (Eds.) Constitutions of the Countries of the World. New York, Oceania Publications.

people continued to declare themselves as Yugoslavs. According to the 2002 census, there were 80,721 Yugoslavs in Serbia and Montenegro; the 2001 census recorded 65,505 Yugoslavs in Canada.

It can be said that the Yugoslav project was successful in terms of state constitution, but it was permanently unsuccessful in its intention to build a national identity. From the data that less than ten percent of the population of Yugoslavia declared themselves as Yugoslavs, it can be concluded that the project did not have significant success. The thesis is that during the time of “brotherhood and unity” ethnic tolerance reigned. However, the tragic end of Yugoslavia raises the question of the extent to which such tolerance was real, and the extent to which it was simply imposed on people. A possible conclusion is that the idea of tolerance cannot be imposed under the authoritarian regime.

After the collapse of communism and the division of the World into East and West, the energy from the Yugoslav nationalism was transferred to specific nationalities. There was a clash of the destructive part of the national identity that led to a bloody war (the situation was similar in certain parts of the former Soviet Union: the wars in Azerbaijan, Chechnya, South Ossetia, Abkhazia and Dagestan), and in the end it sacrificed the economic interests of nations and peoples in the region. The victims of the Second World War are deemed the enemies of quisling formations, whereas the collaborators of the occupiers are deemed to be antifascist. Antifascism is equated with communism, and communism is considered to be just as evil as fascism.

With the establishment of a new social order, these states faced the process of transition in all social, economic and legal structures. Currently, the population in these countries suffers the consequences of the collapse in economy and political instability. The new system has led to such an impoverishment that workers in these states began to wonder if they were closer to a tycoon who belongs to the same ethnic group as they themselves, who does not pay them adequately, and who denies them annual bonuses without appropriate legal grounds, or to the previous economic system.

Nations in the Western Balkans

The nations in the Western Balkans are late nations. In this connection, it must be noted that the legal aspect must delineate the terms “people” and “nation”. “Nation”

means a political and state union (demos), and “people” means a cultural and biological communion.¹⁵ State-law approach will point out that the Statute of the United Nations speaks about the “relationship among “nations” (state peoples). “Nation” is the people that constitute a state/country, therefore the people of the state/state-people. This notion is characterized by a group of characteristics that have a non-state character (religion, language, awareness of the common origin, etc.).

The process of building a nation state, which in other states ended two centuries ago, started too late in the Western Balkans and it progresses very slowly. In these countries, the terms “nation” and “people” are still used as synonyms. Constitutional theory in countries of the former Yugoslavia commonly perceives nation and people as the same phenomenon which is biologically determined. However, the dogma of earlier versions of constitutions refutes such views.¹⁶ According to the constitutional provisions from 1974, republics are communities of state peoples (republic nations). Article 1 of the 1974 Constitution of Yugoslavia stipulates that Yugoslavia is a federal state, a community of voluntarily united peoples and their socialist republics.¹⁷ It is a notori-

15 Professor Šarčević clarified the ideal type of distinction between “ethnos” as the community of origin and “demos” as “a community of rights and obligations”, as a form of a terminology pattern that distinguishes the ethnic community from state community, and compatriot from citizen. See: ŠARČEVIĆ, E. (2009.) *Dejtonski Ustav: Karakteristike i karakteristični problemi*, Sarajevo, Konrad Adenauer Stiftung, p. 15.

16 While the constitutional declarations of Slovenia and Macedonia clearly indicate the existence of the Slovenian and Macedonian state people, and Montenegrin, Croatian and Serbian constitutions cite the nation states of majority state peoples—Montenegrins, Croats and Serbs, by the letter of the constitution in Bosnia and Herzegovina, there are arrangements about Serbs, Muslims, Croats and other peoples and ethnicities living in it. See: Article 1, Paragraph 1 of the 1974 Constitution of the Socialist Republic of Slovenia; Article 1 of the 1974 Constitution of the Socialist Republic Macedonia; Article 1, Paragraph 2 of the 1974 Constitution of Socialist Republic of Montenegro; Article 2, Paragraph 2 of the 1974 Constitution of the Socialist Republic of Croatia; Article 1, Paragraph 2 of the Constitution of the 1974 Socialist Republic of Serbia, and Primary Principles I, Article 1, Paragraph 1, Article 2, Article 3, Paragraph 2 of the Constitution of the Socialist Republic of Bosnia and Herzegovina. The original text of the 1974 Constitution of Bosnia and Herzegovina treats Bosnian constituent peoples—they are equal (see: Article 3). They commonly exercise their sovereign rights and national interests in Bosnia and Herzegovina as their state (Primary Principles II, Paragraph 1). The Constitution used the noun “people” (not nation), and the regulations that described segments of state sovereignty always had the same order, first working people and citizens were mentioned, then the peoples that were eventually listed as Muslims, Serbs and Croats (the order is constantly changing throughout the text of the Constitution, or as in Article 282, 284, Paragraph 1, no names were mentioned) and members of other peoples and ethnicities (see: Paragraph 1 of the Preamble, Primary Principles II, Paragraph 1, Article 1, Paragraph 1, Article 282 of the Constitution).

17 The 1974 Constitution abolished the primacy of class identity and set class and national identity in the relationship of formal equality. The full definition of sovereignty in the Constitution of Yugoslavia was as follows: “*The Socialist Federal Republic Yugoslavia is a federal state as a state community of voluntarily united peoples and their socialist republics... based on the government and self-management of the working class and all working people and the socialist self-managing democratic community of working people and citizens of equal peoples and ethnicities.*” See: Constitution of Yugoslavia (1986.) IN BLAUSTEIN, P. A. and FLANZ, H. G. (Eds.) *Constitutions of the Countries of the World*. New York, Oceania Publications.

ous fact that there is no success in the imposition of a national identity “from above”, as was the case with Yugoslav identity.

Constitutional preconditions for and limitations of national identity

On the referendum held on 21 May 2006, the citizens of Montenegro decided that Montenegro is an independent, sovereign and civic state. On 3 June 2006, the Parliament of Montenegro, based on the results of the referendum, adopted a Decision on Independence,¹⁸ whereby Montenegro regained its independence and left the state union Serbia and Montenegro¹⁹ for the first time after 1918. The Constituent Assembly of Montenegro adopted the Constitution of Montenegro²⁰ on 19 October 2007. This legal act stipulates that “*the holder of sovereignty is a citizen with Montenegrin citizenship*”.²¹ The Preamble of the Constitution does not just mention ethnic Montenegrins. It is based on the civic spirit concept and it stipulates as follows: “*Based on the decision of the citizens of Montenegro to live in an independent and sovereign state of Montenegro... determination that we, as free and equal citizens, members of peoples and national minorities who live in Montenegro: Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and others, are committed to a democratic and civic Montenegro*”.²² Montenegro is defined as a “*civic, democratic, ecological and a welfare state based on the rule of law*”.²³ Therefore, Montenegro is constitutionally defined as a civic state in which civic interests prevail. Holders of the constitutional rights are individuals, not collectives as a rule. Montenegro has tried, from the beginning of its independent existence, to build a society with a civic spirit which is based on the principles of liberal democracy.

In Croatia,²⁴ the Croatian people are defined as the statehood. Under its Constitution, Croatia is established as a “national state of the Croatian people and the state of the

18 Published in: The Official Gazette of Montenegro, Number 36/2006, 05 June 2006

19 The EU set up certain criteria related to the referendum in Montenegro. Thus, the required registered voter turnout for the referendum to be valid is 50%. The required voter turnout for the decision on independence is over 55%. Voter turnout was 86,5%. About 55,5% of voters opted for independence of Montenegro, whereas 44,5% of them voted against it. Unlike in the case of other former Yugoslav republics, the EU set the exact percentage of citizens of Montenegro who have to go to the polls and vote for independence.

20 Published in: Official Gazette of Montenegro, Number. 1/2007, 25.10.2007.

21 See: Article 1 of the Constitution of Montenegro.

22 See: Preamble of the Constitution of Montenegro.

23 See: Article 1, Paragraph 2 of the Constitution of Montenegro.

24 Croatia adopted its constitution as an independent state on 22 December 1990. The Croatian Parli-

members of autochthonous national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians, Russians and others who are its citizens, to whom equality with citizens who belong to Croatian people and the realization of national rights in accordance with the democratic norms of the United Nations and countries of the free world are guaranteed.²⁵ In addition to state-significance of the Croatian people, the Preamble guarantees protection and the status of national minorities. On the grounds of this fact, Constitutional Act on the Rights of National Minorities²⁶ (from 2002) and the Election of Members of the Croatian Parliament Act²⁷ were adopted. These two legal acts guarantee the political rights of minorities so the total of eight representatives of national minorities, three of which were mandatory members of the Serb minority, entered the Croatian Parliament after the elections held on 23 November 2003. Croatian Constitutional Act on Amendments to the Constitutional Act on National Minorities²⁸ and the Act on Amendments to the Election of Representatives to the Croatian Parliament²⁹ guarantee that national minorities which comprise 1,5% of the total population have at least three seats of that national minority,³⁰ and minorities which comprise less than 1,5% of the total population have double voting rights, i.e., in addition to universal suffrage and a total of five members of those national minorities. These legal provisions have been repealed by the Decision of the Constitutional Court of the Republic of Croatia, which has significantly changed minority rights. The decision brought back in legal force an earlier provision of Article 19 of the Constitutional Act on the Rights of National Minorities, which guarantees that a minority which comprises over 1,5% of the population has the right to at least one and at most three representatives, while a minority which comprises less than 1,5% of the population carries the right to a minimum of four representatives, without the double-vote right. According to the Croatian Constitution, the official language is the Croatian language, and the official script is Latin, but some local units can introduce another language in official use, and the Cyrillic or some other script, under the condi-

ment passed the Declaration of Sovereignty and Independence of the Republic of Croatia and the Croatian Constitutional Decision on Sovereignty and Independence on 25 June 1991. The European Community recognized Croatia on 15 January 1992.

25 See: Preamble of the Constitution of Croatia.

26 Published in: "People's papers" No. 154/02.

27 Published in: "People's papers" No. 69/03.

28 Published in: "People's papers" No. 80/10.

29 Published in: "People's papers" No. 145/10.

30 In practice, it is the Serb minority.

tions prescribed by law. The Constitutional Act on Amendments to the Constitutional Act on National Minorities stipulates that *“equal official use of language and script used by the members of national minorities is exercised on the territory of the local government where the members of national minorities comprise the smallest third of the population”*.³¹ By the end of 2012, tensions related to the introduction of the Serbian language and the Cyrillic alphabet in official use, appeared in a number of municipalities which fulfil legal requirements to introduce them. This is particularly evident in Vukovar.

The Republic of Macedonia³² gained independence from former Yugoslavia by adopting its own constitution on 17 November 1991. In Macedonia, sovereignty belongs to its citizens. According to Article 2 of the Macedonian Constitution: *“In the Republic of Macedonia, sovereignty derives from the citizens and belongs to the citizens,³³ the citizens of the Republic of Macedonia shall exercise power through democratically elected representatives, in a referendum, and through other forms of direct expression”*.³⁴ In 2001, there was an armed conflict between ethnic Albanians and government forces, which resulted in the Ohrid Agreement from 13 August 2001, which was the cause for significant constitutional changes. Principles of the Ohrid Agreement were introduced in the Macedonian constitutional system by way of amendments to the Constitution of the Republic of Macedonia from 20 November 2001.³⁵ The constitutional system of Macedonia introduced a novelty—a minority veto. This institute implies that certain laws and regulations relating to culture, education, personal documents, and the use of symbols, are voted by dual majority, i.e. the majority of delegates present and voting (quorum is the majority of all MPs), provided that such majority includes most of the delegates who claim not to belong to the majority community in Macedonia, i.e. ethnic Macedonians. Here, in a democracy, there is a deviation from the principle of majority rule in matters of collectives, where the majority cannot impose regulations to the minority in relation to the matters in which a minority, as a particular ethnic-cultural collectiv-

31 See: Article 12 of the Constitutional Act on Amendments to the Constitutional Act on National Minorities.

32 The official, constitutional name. Macedonia is a member of the UN since 8 April 1993, but under the name the Former Yugoslav Republic of Macedonia (FYRM), because of the Greek opposition to the name of Macedonia. However, a large number of countries had recognized Macedonia under its constitutional name, the Republic of Macedonia.

33 See: Paragraph 1 of Article 2 of the Constitution of the Republic of Macedonia.

34 See: Paragraph 2 of Article 2 of the Constitution of the Republic of Macedonia.

35 See: Amendments IV, V, VI, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII and XVIII to the Constitution of the Republic of Macedonia, published in: Official Gazette of the Republic of Macedonia, No. 91.

ity, is different from other collectives. There are other instruments for the protection of ethnic minorities, such as decentralization of local self-government,³⁶ proportional representation in bodies of government,³⁷ the official use of the Albanian language³⁸ and the establishment of inter-community Committee.³⁹ The Ohrid Agreement did not change the constitutional provision which identified citizens as a source of sovereignty. However, the Ohrid Agreement changed the formulation of the Preamble of the Constitution and regulated that the adopters of the constitution are the citizens of the Republic of Macedonia. As a result of a compromise, the Constitution was amended by Amendment IV to the Constitution of the Republic of Macedonia; thus, the adopters of the Constitution are first the citizens, and then Macedonian and other peoples. Citizens of Macedonia continue to be the bearers of sovereignty, however, constitutional rights of ethnic groups which do not belong to the Macedonian people, who are the majority, especially the Albanian people, are now regulated and protected by normative solutions. The protection of collective rights is not territorialized,⁴⁰ because Macedonia is still a unitary state, but with a greater degree of decentralization than was previously the case.

After the secession of Montenegro and the dissolution of Serbia and Montenegro, Serbia became independent. By adopting the new Constitution in 2006,⁴¹ it replaced the previous constitution from 1990. In the new Constitution, the sentence "*Serbia is a state of all its citizens*" was replaced by the following sentence: "*Serbia is a state of Serbs and its other citizens*"⁴² Clearly, one of the ethnic groups living in Serbia is "more equal" than others. Earlier in this paper, I have shown that this kind of constitutional discrimination on ethnic grounds also appears in the Croatian Constitution.

36 "Equitable representation of persons belonging to all communities in public bodies at all levels and in other areas of public life." Article 8 of Annex A to the Constitutional Amendments.

37 "A revised Local Self-government Act will be adopted and it will reinforce the powers of the elected local officials and substantially broaden their competencies in conformity with the Constitution (as amended in accordance with Annex A) and the European Charter on Local Self-government, and reflecting the principle of subsidiarity in effect in the European Union. (...) Boundaries of municipalities will be revised within one year of the completion of a new census..." Article 3 of the Development of a Decentralized Government.

38 "Any other language spoken by at least 20 percent of the population is also an official language, written using its alphabet, as specified below." Article 7 of the Annex to the Constitutional Amendments.

39 "The Committee considers issues of inter-community relations in the Republic and makes appraisals and proposals for their solution." Article 78 of Annex A to the Ohrid Framework Agreement.

40 "There are no territorial solutions to ethnic issues": Article 1.2 of the Framework Agreement.

41 Published in: Official Gazette of the Republic of Serbia, No. 98/2006.

42 See: The Preamble of the Constitution of the Republic of Serbia of 2006.

On the other hand, just like the Constitution of Montenegro, the Constitution of Slovenia⁴³ stipulates that “*Slovenia is a state of all its citizens and is founded on a permanent and inalienable right of the Slovene people to self-determination*”.⁴⁴ However, unlike the Constitution of Montenegro, which does not single out any people as nation-building, the Constitution of the Republic of Slovenia only mentions the will of the Slovene people to create their own state by self-determination. The Preamble of the Slovenian Constitution also emphasises only the right of the Slovene people⁴⁵ to self-determination.⁴⁶

The General Framework Agreement for Peace in Bosnia and Herzegovina is the peace accord which was reached in Dayton, Ohio, USA, in November 1995. It was formally signed in Paris on 14th December 1995. This agreement ended the Bosnian War which lasted from 1992 to 1995. The structure of the government in Bosnia and Herzegovina is regulated by Annex 4 to the Agreement, which is actually the Constitution of Bosnia and Herzegovina. Annex 4 proclaimed constitutional ethnization of the society of Bosnia and Herzegovina, state and constitutional law. It was made possible through the use of a constitutional term “constituent peoples”⁴⁷ (Bosniaks, Serbs and Croats). These constituent peoples were made the masters of the division of territory, division of competencies and the control over legal goods of Bosnia and Herzegovina. It was regulated by the provisions in the normative section of the Constitution. The Constitution proclaimed an institutional ethnic balance between Bosniaks, Serbs and Croats. The same section does not mention “others” and citizens, and they are the basis of the constitutional system of Bosnia and Herzegovina, according to the Preamble of Annex 4. Sections of the Constitution are discriminatory, as was determined in two decisions of European Court for Human Rights (in 2009 and 2015),⁴⁸ so Bosnia and Herzegovina has to change its electoral system and open House of Peoples of Parliamentary Assembly of Bosnia and Herzegovina and Presidency of Bosnia and Herzegovina to its citizens who do not identify themselves as constituent peoples. I also have to emphasise that

43 Published in: Official Gazette of the Republic of Slovenia No. 33/91-I, 42/97, 66/2000, 24/03, 69/04, 68/06, and 47/13.

44 See: Article 3 of the Constitution of the Republic of Slovenia.

45 It is important to point out that the original text in the Slovenian language speaks of “the Slovenian people” and not “the Slovenian nation”.

46 See: Preamble of the Constitution of the Republic of Slovenia.

47 See: Preamble of the Constitution of Bosnia and Herzegovina.

48 See: Sejdić and Finci versus Bosnia and Herzegovina (27996/06 and 34836/06), and Zornić versus Bosnia and Herzegovina (3681/06).

this Constitution (its source text is in the English language) only speaks about Bosniaks, Serbs and Croats as (constituent) peoples and the adjective “Bosnian-Herzegovinian” is tied with citizenship, which is a segment of nationality. I can conclude that a constitutional precondition for Bosnian-Herzegovinian national identity exists in normative solutions in this post-Yugoslav country.

Conclusion

The issues of national identity have not gained much attention from the local public law and social issues professionals. One of the obstacles is the fact that in the former Yugoslav republics, in professional and colloquial speech, the notion of “the people” (ethnos) is equated with the notion of “nation” (demos). This constitutes the core element in the formation of national identity. For example, there are not many Serbs, citizens of Croatia, who will say that they are of Croatian nationality, or many Croats from Bosnia and Herzegovina who will proclaim themselves as the members of the Bosnian nation. On the other hand, there are few constitutional provisions which define a nation in terms of the state. The basis of national identity among people in the former Yugoslav republics is mainly their identification with one of the ethnic groups, the culture and history, rather than with the state. This is mostly the case with the ethnic groups that are in minority in one of these states.

A brief overview of the positioning of civic and national elements and their relationship in the constitutional systems of the states formed after the breakup of Yugoslavia shows that in the legitimisation and the emergence of the state and its constitution, the role of ethnic groups is not negligible at all. The constitutional relationship between the civic and national element is different. Only in Montenegro, as an extremely civic state, is civic interest prevalent, while the holders of human rights are typically individuals, groups only exceptionally. Montenegro has been “running” from the ethnic and cultural elements of the political system, and immediately after the restoration of independence it has been trying to assume the basic principles of liberal (“bourgeois”) democracy and build a civic spirit of society. The Macedonian political system is burdened with ethnical relationship between Macedonian and Albanian groups that resulted in armed conflict. The Ohrid Peace Agreement brought about the legal solution of the conflict and inter-ethnic issues in terms of converting Macedonia from a national state of the Macedonian people to a multi-ethnic state and an extension of

political rights of the Albanian ethnic groups. However, neither Macedonian nor Albanian ethnic collectivity is the holder of sovereignty; it is the Macedonian political people-Macedonian citizens. The citizen as the original carrier and symbol of sovereignty is the basis of democratic government. We have seen that all the states that emerged from Yugoslavia are particularly sensitive to issues such as the makers of constitution, the constitution standardization of the dominant people and the political representation of minority ethnic groups, due to their importance (Macedonia) and the role of constitutional courts in this process (Montenegro and Croatia). Such issues are resolved in very different ways. From all this it follows that there is no universal principle of relations between the civic and national element in constitutional arrangements of various heterogeneous political communities, whose balance is one of the foundations of the socio-political system of a particular country.

The analysis of the national identity of Yugoslavia's successor states shows that there can be no discussion about building a model civic/national constitutional identity, although their constitutions define it as such. However, it should be noted that the states classified as civic also contain ethnic elements of the concept of identity, although they are not in the very foundations of their constitutions. For example, in France and the USA, the dominant culture and language are also imposed on all members of the society, and the integration of community members takes place by assimilation. In addition, in reality there is a discrepancy between the proclaimed civic values and civic practices in these countries. Solutions that exist in Yugoslavia's successor states are contradictory and do not create conditions to build the community that is proclaimed. Instead of defining the state as civic and installation of the principles that degrade it, we should ask ourselves what the desirable community is and with what solutions it could be achieved.

When comparing the subject of constitutional identity of socialist Yugoslavia and its successor states, it can be concluded that common components do exist. In most cases, the constitution gives a priority to ethnicity (most constitutions except the Montenegrin constitution), and a radical form of ethnocracy is determined in the constitutional system of Bosnia and Herzegovina. The analysis of the constitutional framework in all these states, except Montenegro, shows that there cannot be a process of building the model of a constitutional or national identity because the constitutions of these states restrict it. General principles of those constitutions are typical for the constitu-

tions which can be labelled ethnic, where belonging to an ethnic group determines the political subjectivity. The effect of such a constitutional framework is the creation of a community in which general values exclude those members of the society who do not belong to that particular ethnic group (in Bosnia and Herzegovina there are three ethnic groups and they exclude both others and citizens from the decision-making process).

The making of an identity is a question of culture, but it is always a question of activity, the political mobilisation of identity. If there is a political and social will for adopting some values, then these principles should be incorporated in the constitution and institutions, but in the everyday political discourse as well. Normative solutions in Yugoslavia's successor states do not make preconditions for the creation of a nation, the community which is proclaimed. Instead of proclaiming them as civic states and incorporating antinomic normative solutions that degrade such proclamations, there is a need for a strong debate about what national identity in these countries represents and how most of the population can learn to identify with this identity.

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What Matters – Size, Membership or Mobilization? Analyzing the Factors that Contribute to the Success or Failure of Ethnic Minority Parties – A Comparative Case Study of Albania and Bulgaria

Joana Treneska

Abstract: The aim of this article is to examine which factors contribute towards the success or its lack of an ethnic minority political party. With a comparative case study of two countries - Albania and Bulgaria, and by implementing the most similar case design (Mill's method of difference), we test two hypotheses. Mainly, the focus is on EU membership and the size and mobilization practices of the ethnic minority i.e. whether these factors where the countries differ, have determined the position of the ethnic minority parties within the respective countries. The results defy the commonly applied theory that the institutional arrangement of the political and electoral system determines the likelihood of success for each political party, including the political parties of the ethnic minorities. In the case of the ethnic Greek parties in Albania, the constitutional ban took a toll on their success rates, while the party of ethnic Turks in Bulgaria managed to surpass it. The differing outcomes of the ethnic minority parties in both countries where the institutional arrangement is similar, calls for further research on potential intervening and antecedent variables, such as the international position of the country in question, the size of the ethnic minority, and the mobilization capacities of the party which represents them.

Key words: Albania, Bulgaria, Ethnicity, Minority, Parties



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Introduction

In terms of electoral votes, the ethnic minority political parties have succeeded and failed in different environments. In Bulgaria and Albania, ethnic political parties are essentially banned (Juberias 2000:37) Both countries have created an unfriendly environment for ethnic minority parties by imposing constitutional bans on parties based on ethnicity, as well as by providing a neutral electoral system with electoral rules which treat all parties (large and small), equally, with an electoral threshold of 4 and 3 % respectively. In the case of Albania, the parties representing the Greek minority have experienced a gradual decrease of its electoral votes over the years, along with a gradual decrease of citizens who have declared themselves as ethnic Greeks in performed censuses over the years. Bulgaria on the other hand, is a case where the party which informally represents the ethnic Turks, managed to surpass the constitutional and electoral barriers and gained an increasing electoral success over the years. The Roma citizens on the other hand, which are the second biggest ethnic minority in Bulgaria, are at a standstill in terms of party representation. The main research question of this paper is evaluating if EU membership and/or the size of the ethnicities, which are factors where the counties differ, have contributed to the political success and failure of the analyzed ethnic minority parties and ethnicities.

Literature Review

Ethnic identity can play a relevant role in the type of vote within ethnically diverse democracies. Whether ethnic based parties are fruitful for democracies has been a debated issue. Horowitz (2000) and Reilly (2003) make a case against such parties by arguing that they tend to divide the society even further and they see all the political issues from an ethnic lens or are unconcerned with issues which are not directly targeting them or their constituencies. Proponents of ethnic based parties in contrast (Stroschein, 2001; Kymlicka 2001), argue that they are a legitimate part of democratic politics and that they do not cause social division, but simply reflect it. They generate the need for negotiations and compromise via an institutional channel (the Parliament), rather than informally via violence.

The success or failure of ethnic parties, particularly in new, unconsolidated or newly consolidated democracies have been explained as the product of a few factors by the

academia. According to Spirova (2004), constitutional provisions and electoral legislation are the most common tools of state policy that can influence their success or failure. Institutionalists such as Ljiphart (1999), argue that a proper electoral system and electoral rules are essential for small parties to succeed, including ones who represent ethnic minorities. The author claims that consensual democracies, which include a Proportional Representation (PR) electoral system, are the best fit for newly established democracies. A PR system, with a low electoral threshold and/or reserved seats for minorities, is relevant for development of the party system, especially in countries with large social cleavages. Raymond, Huelshoff and Rosenblum (2015) argue that party development has a learning curve, meaning that emerging democracies require time and multiple elections in order for parties and voters to find each other and create party fragmentation with a suitable electoral system. Ethnicity is further considered as a useful marker for elites, when they look for voters and potential party coalitions (Bates, 1983; Horowitz, 1985; Chandra, 2004; Posner, 2004; Posner, 2005.) Spirova also performs a comparative study of Romania and Bulgaria, as the most extreme cases in regards to their electoral rules and treatment of ethnic minority parties, with Romania being generous, while Bulgaria restrictive. The author finds that the “positive discrimination” within the electoral arrangement can have an effect if it is supported by the size of the minority and if it is politically dynamic. The ethnic Turks and Roma in Bulgaria as well as the Hungarians and Roma in Romania were the adequate cases for the author’s argument.

In the field of Europeanization, academics such as Spirova (2015) performs research on candidate countries and member states in Eastern Europe and concludes that ethnic-minority parties are more EU-enthusiastic than mainstream parties. They also treat the EP elections as a more important electoral arena than mainstream political parties and use it to further pursue their ethnic agenda. “The European Parliament (EP) elections, for example, provides a new arena in which ethnic minority parties can participate, gain visibility, and advance minority-related agendas (Spirova, 2012, :76).” Most studies view the EU as an agent of change in the area of minority protection and minority rights which is especially effective where ethnic minority parties are part of the governing coalition (Toggenburg, 2004). Spirova (2015) further argues that constitutional provisions and electoral legislation are the most common instruments of state policy that can influence the success or failure of ethnic parties. This in turn, can have a

toll on the party's capacity to mobilize its electorate, if it has institutional limits, such as constitutional bans on ethnic parties, and the outcome would be a relatively small electorate, hence, lack of success.

Theoretical framework

Since the cases of our study are similar in the section of institutional arrangements, i.e. they both have imposed a similar hostile surrounding for small ethnic based parties, even though the outcome of both countries are in contrast to each other, we challenge the institutionalist theory, according to which the type and nature of the political and electoral system is the decisive factor for the success or failure of ethnic minority parties.

We build our research on the theory which focuses on EU integration and how it affects the party politics in newly accessed member states, as well as theory on the institutional arrangements that can have a toll on the success of smaller parties, which in our case are the ethnic minority ones. The second theoretical framework upon which we rely is that size matters. Basically, the size of an ethnic minority when compared to the ethnic majority and the rest of the ethnic minorities plays a role, if not an essential role that determines to what extent the ethnicity in question would be represented by parties and institutions.

Argument

In the first hypothesis, we argue that the EU membership is a crucial factor for success of ethnic minority parties. The basis of this argument are the Copenhagen criteria, which entail respect for and protection of minorities. This gives the state an incentive to provide a good environment for ethnic minorities and their representation. Secondly, EU membership means parties can compete in EP elections as well. Due to the electoral system which is friendly towards smaller parties, as well as the parties getting a second arena where they can pursue the interests of their ethnicities, the likelihood of success would increase as an outcome.

The second hypothesis is based on the argument that a larger potential electorate leads to more votes. If the ethnic political party has a large ethnicity to which it could appeal, and the state is dealing with a large proportion of its population, those factors lead to

an increase likelihood of success for the ethnic minority party. According to this hypothesis, ethnic parties ought to be “lucky enough” to represent a large ethnic minority within a state, meaning their strategy should include first and foremost a mobilization of the electorate. The causal chains of both hypotheses are presented below:

Causal Chain

H1: Copenhagen Criteria (Protection of ethnic minorities) → EU Accession → two arenas where interests can be represented (EP and national elections) → greater likelihood of success for smaller parties in EP elections → larger success of ethnic minority parties

H2: Larger size of the ethnic minority → larger electorate for the ethnic minority party → larger success of ethnic minority parties

From this causal chain, we derive the respective hypotheses and their variables:

H1: EU membership increases the likelihood of success for ethnic minority parties.

H2: Larger size of the ethnicity increases the likelihood of success for ethnic minority parties.

IV1: EU Membership

IV2: Size of the ethnic minority

DV: Success of ethnic minority parties

Empirical Research Strategy

Research Design

The research consists of a comparative case study of two cases: the Albanian and the Bulgarian state. The research method is qualitative, where the level of analysis is country level, while the unit of analysis is an ethnic party.

As for the research design, I will apply the most similar case design (Mill’s method of difference), which implies that both cases have similarities, but differ in one aspect, which might be the effect or the cause of the phenomenon. In our two cases, there are two differences, hence, two hypotheses. The EU membership and/or the size of the

ethnic minority may be the cause of success for an ethnic minority party or the lack of it. The hypotheses are not mutually exclusive, implying that one can have an effect on the dependent variable as much as the other. The casualty of the study is probabilistic. The design is Y-centered, meaning that we aim to explain the dependent variable (Y) with as much as X as possible, in this case with 2 possible explanatory variables. Applying Mill's method of difference when choosing the cases for this research secures the internal validity issue. As for external validity, it has its limits due to the specific features of both countries, as well as the EU element, which is known for its "sui generis." If the hypotheses hold, it can apply to the other countries of the region, which have multiple similarities with each other, as well for the most part of other post-communist countries which have or are transitioning towards a democratic setting and are ethnically diverse.

Two-way casualty: An endogeneity effect is highly unlikely in the first hypothesis, because the success of ethnic minority parties cannot be the cause of accession in the EU. It can be a factor, but not the main cause, as the Copenhagen criteria encompasses numerous other criteria required for accession. As for the second hypothesis, there is a chance of an endogenous effect if we consider that mobilization strategies of ethnic minority parties can induce citizens belonging to an ethnic minority to start declaring themselves as such formally, and as a result the size of the ethnicity to modify on paper (during the performance of a census). A strong party strategy of an ethnic party may also provide incentives for migration which could also increase its size, but for their success to be that influential, the state would need to provide a good environment, which in this case it does not, compared to other countries which are more ethnic minority-friendly. The lack of success of ethnic minority parties can also have a decreasing effect on the size of the ethnic minority on paper, by not providing a good incentive for ethnicities to declare themselves as belonging to a minority during a census. This however, can be managed if there is a graph on the mother tongue, which indirectly indicates the ethnic origin.

Concept Specification

Ethnic Minority: Ethnicity is a broad concept that has been defined differently by academics. Some have overlapped it with language, culture and/or religion. In our research we will use Chandra's definition, which does not focus on which category of citizens is

included in the ethnic group, but whether an ethnicity or ethnicities are excluded. If it encompasses less than 50 percent of the population, the ethnicity is considered as a minority, hence, the range can vary from 0 to 49 percent. In our cases, the relevant minorities are the Turks and Roma in Bulgaria, and the Greeks in Albania.

Ethnic Minority Party: Chandra (2011) defines an ethnic party as a party that is a champion of the particular interests of one ethnic category or set of categories. The three key aspects of an ethnic party as defined here are the ‘particularity’, the ‘centrality’ and the ‘temporality’ of the interests it champions. By ‘particularity’ Chandra implies that an ethnic party as defined here must always exclude some group - implicitly or explicitly. By arguing that the representation of the interests of some ethnic groups is central to the signals a party sends, this definition rules out parties that make only peripheral references to ethnic categories. Chandra (2011) provides multiple criteria according to which we can detect an ethnic party. The one that we will use is the ethnic leadership criteria, according to which if the party leader declares him/herself as part of a specific ethnicity which is not the majority, it implies that the party represents that particular ethnic minority.

Operationalization of variables

EU Membership: A country which is a member of the European Union. The range varies from being a member state to being a non-member state of the EU. In these cases, Bulgaria, which got accession in 2007, is a member state, while Albania is not.

Size of the Ethnic Minority: The size of each ethnicity will be measured according to the official censuses that have been performed in each country. Bulgaria has performed censuses since 1900, while the last one was performed in 2017, while Albania has performed them since 1945, with the last one being in 2011. In the census, citizens are being asked to declare their nationality, which is what is relevant for us in this research. The censuses that are considered by the international arena as illegitimate, will be taken into consideration, due to lack of other official available data on demographics that encompasses multiple years. It is measured in percentages, while the range varies from 0 percent to 100 percent. Data from the Institute of Statistics in Albania and the National Statistics Institute of Bulgaria is used for measurement of this variable.

Success of Ethnic Minority Parties: Success can have multiple meanings, but in this case it is measured by the number of votes that the party has achieved in national elections and in the case of Bulgaria - EP elections as well. If the number of votes are rising over the years, it would imply that their success is rising and vice versa. The range varies from zero votes to all votes from the electoral turnout. Data from Global Elections Database is used as a measurement for this variable.

Analysis

Albania and Bulgaria have multiple similarities regarding history, the political and electoral system, the socio-economic structure, the ethnic structure and their approach to ethnic minorities. Both are post-communist states who have transitioned from an authoritarian rule to a democratic one, they have a strong legislative body, even though Bulgaria is considered to have a semi-presidential political system. Bulgaria has an electoral system consisting of proportional representation, while Albania exchanged it for a mixed one since 2008, where 100 members were elected directly in single member constituencies with approximately equal number of voters while 40 are elected from multi-name lists of parties or party coalitions according to their ranking. Bulgaria's electoral threshold is at 4 % while in Albania it is at 3%. The relevant similarities for this research is the segment of ethnic minorities and how they are being represented. Albania is considered to have six ethnic minorities while Bulgaria has twelve. According to their last censuses, 85% of citizens of Bulgaria have declared themselves as Bulgarians in the ethnicity graph, while 82% in Albania have declared themselves as ethnic Albanians. This implies that both countries have ethnic minorities living within their territory and a roughly equal size of the ethnic majority. Regarding their representation, both countries have similar laws for ethnic parties. Albania has enacted a law for political parties in 1991, which forbids the formation of political parties on an ethnic, religious and regional basis. Bulgaria has enacted a similar law whose basis was to ban ethnic parties. These laws did not completely serve its purpose, since both countries have ethnic minority parties competing in elections. Even though they are not registered as ethnic on paper, they are very much ethnic in practice. The success of the ethnic minority parties of both states varies.

Where they part ways is on EU membership and the size of ethnic minorities. Bulgaria got accession in the EU in 2007, while Albania still has a status of a candidate country.

As for the size of their respective ethnic minorities, even though the overall percentage of the majority in both countries is something over 80 %, Bulgaria has ethnic minorities that are larger in size than that of Albania. These two differences are analyzed whether they attribute to the success of ethnic minority parties or the lack of it.

Ethnic Minorities in Albania and Bulgaria

Albania

The biggest minority in Albania is the Greek minority. It is concentrated in the south of the country, along the border with Greece, an area referred to by Greeks as “Northern Epirus”. The largest concentration is in the districts of Sarandë, Gjirokastër (especially in the area of Dropull), Delvinë and in Himara (part of the district of Vlorë). According to the census performed in 2011, 0.87 % (24 243) of the population declared themselves as Ethnic Greeks. The size of the ethnicity has gone through a sharp decrease since the first conducted census in 1945, where they have not been counted in the censuses in 1991 and 2001 (see Figure 1). The other ethnicities include Roma, Aromanians, Macedonians, Balkan Egyptians, Serbian-Montenegrins and other. The size of each ethnicity is less than 10 000 citizens according to the census of 2011. According to the censuses from 1945 onwards, most of the ethnicities have also experienced a constant decrease, while some such as the Roma, Aromanians and the Balkan Egyptians, have not been counted until the last census. It is relevant to mention, that at the 2011 census a total of 390.938 (14% of the total population) did not declare their nationality, while another 44.144 (1.6%) considered the nationality as ‘not relevant’. The census is regarded as unreliable and inaccurate by the Council of Europe. The fact that a whole 14% did not declare their nationality may imply that the existing ethnic minorities in Albania are larger in size than they are officially registered. Also, it might be an indicator for the state’s behavior towards ethnic minorities, by not providing an incentive for the citizens to declare their ethnicity. Both Albania and Greece have different versions on the size of the ethnic minority, with Greece claiming the real numbers are larger than the official ones. According to Berxholli, Protopapa & Prifti (2007), Greece’s claim is based on counting multiple different ethnicities as Greeks due to their common Orthodox religion.

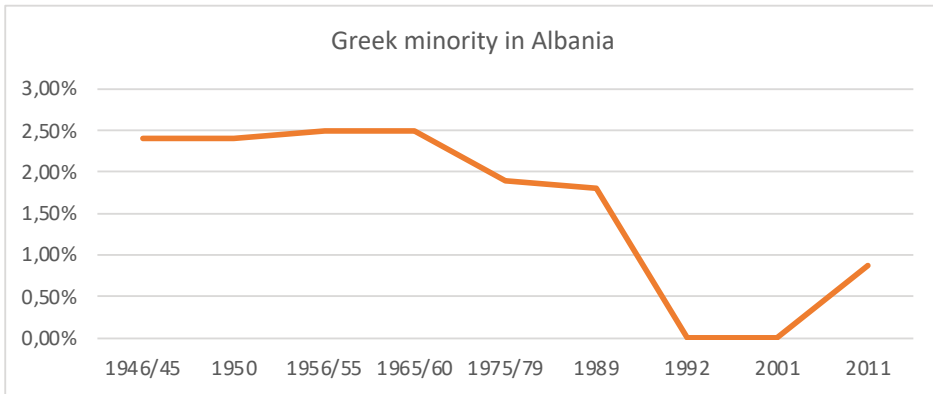


Figure 1: Ethnic Greeks in Albania

Bulgaria

The largest minority in size in Bulgaria is comprised of ethnic Turks. They are concentrated in 9 administrative regions in Bulgaria and constitute about 9% (588.318) of the population according to the census of 2011. Over the years they have also experienced a mild decrease in size, but they are still an objectively largely ethnic minority within the country (see Figure 2). The second largest minority is constituted by the Roma people. They are quite dispersed across the country and have experienced a steady rise across the years, according to the censuses conducted from 1900 until 2011 (see Figure 3). Other minorities consist of Russians, Armenians, Vlachs, Sarakatsani, Macedonians, Greeks, Jews, Romanians, Tatars, Gagauzes and others.

Even though there is variance in the size of the ethnic minorities in both countries, there is a vivid difference in the incentive to declare one self's ethnicity. This argument is supported by the difference in numbers of people who have refused to declare their ethnicity in the censuses. Namely, 10 % of the population in Bulgaria did not declare their ethnicity in the 2011 census, while in the case of Albania, it was 14 percent. This may indicate the existence of ethnicities which are not registered or an indication for ethnicities larger than they are officially registered. Regardless, there is a relevant difference in official size of the biggest ethnic minorities in the analyzed cases (see Figure 4).

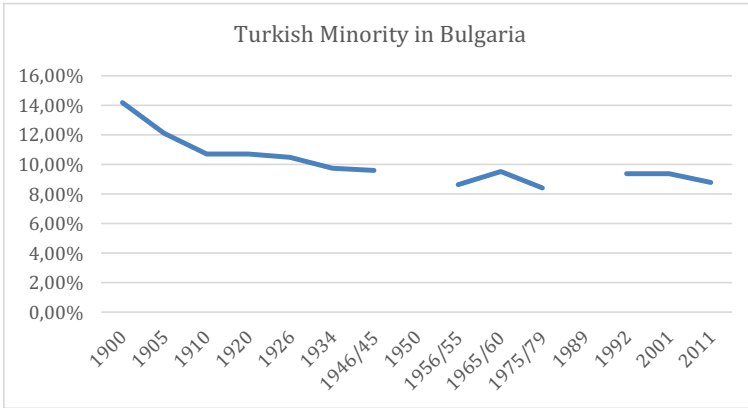


Figure 2: Ethnic Turks in Bulgaria

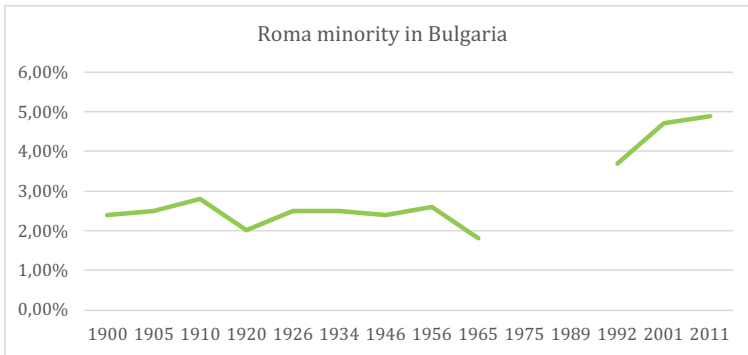


Figure 3: Roma in Bulgaria

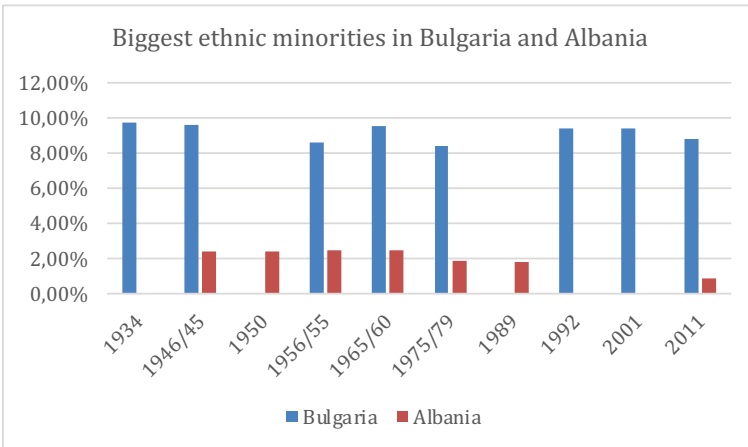


Figure 4: Ethnic Greeks in Albania and Ethnic Turks in Albania

Ethnic Minority Parties in Albania and Bulgaria

Albania

The Greek minority in Albania is represented by the political and social organization “OMONIA” which fielded the political party called “The Party of the Union of Human Rights” (PUHR), during the 1992 elections. The party leader is Vangjel Dule, who was born in Gjirokastra, where ethnic Greeks are densely located, declares himself as an ethnic Greek. In the elections of March 22, 1992, the Greek party PUHR received a total of 48,923 votes or 2.9 % of the total votes cast in Albania. Those votes secured two seats in the Albanian parliament and are occupied by two Greek nationals representing the PUHR. It is interesting that the census in 1989 counted 1.82 % of the population as ethnic Greeks, while PUHR won 2.9% of votes in 1992. Bearing in mind that this does not include underage people, and that the turnout of ethnic Greeks cannot be 100 %, the results are conflicting. Berxholli, Protopapa and Prifti (2007) justify this by claiming that non-Greeks voted for PUHR out of economic incentives provided by the Greek government if they vote for PUHR. Seven other legislative elections followed afterwards, with some relevant increase of votes in 1996 and 2005, leading to only 0.14% of votes in the last elections in 2017. After its peak in terms of winning seats in the Parliament in 1997 (4 seats), it gradually decreased to only 1 seat in the 2009 elections, leading up to joining the Democratic Party in the 2017 elections and winning 1 seat. Nevertheless, it can be noticed that as the official records detected less and less ethnic Greeks in the census, the party got less and less votes in each election (see Figure 5).

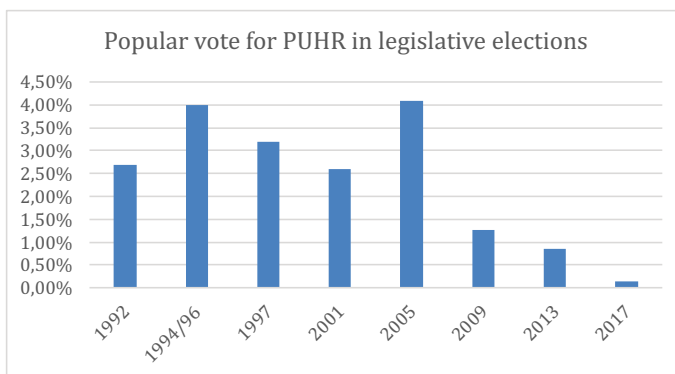


Figure 5: Popular vote for PUHR in parliamentary elections

Bulgaria

Bulgaria also has a constitutional ban on ethnic parties, but that did not decrease the presence of ethnic parties effectively. They have maintained a stable position in the political system while not officially registering as an ethnic party. There is more than one minority ethnic party, but the most prominent one is the Movement of Rights and Freedoms (DPS). The Turkish-dominated Movement of Right and Freedoms (DPS) was founded officially in the early 1990s. Its current leader is Mustafa Karadayi, who declares himself as an ethnic Turk. Although it does not have an openly stated ethnic platform by including ethnic Bulgarians in both its membership and its leadership, it represents the interests of the Turkish minority in Bulgaria and its support is concentrated heavily in the region populated by the minority. It gained a consistent share of the votes throughout the 1990s and has been present in all legislatures (Kumanov, 1999:134). Its support was considered instrumental for the changes of governments during 1991-1994. Since 2001 the DPS has been an official coalition partner in the Bulgarian government (Harper 2003:339).

DPS has earned a gradual increase of votes over the course of 9 legislative national elections, with a decrease in the last one in 2017 (see Figure 6).

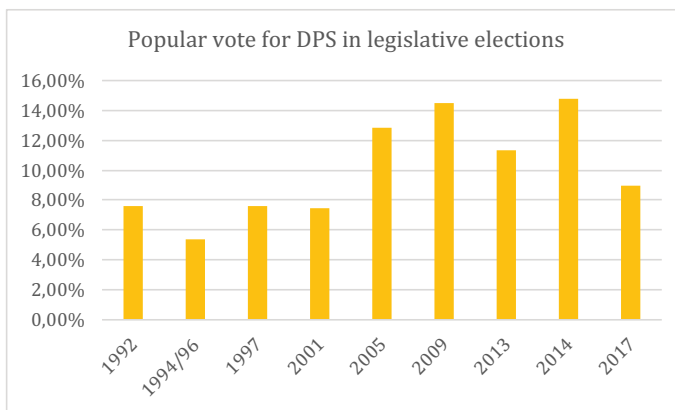


Figure 6: Popular vote for DPSin

The difference between DPS and PUHR is not only in the size of the electorate, but also in the electoral arenas where they compete. Namely, the DPS has participated in the EP elections in 2007 (the one which is conducted after a country's accession in the EU)

and the regular elections in 2009, 2014 and 2019. The EP election campaign has turned out to be profitable for DPS, which can pursue the interests of the ethnic minorities on another platform, that happens to be institutionally friendly towards small parties. According to the election results, the DPS has earned a larger share of the electorate votes in the EP elections, (see Figure 7).

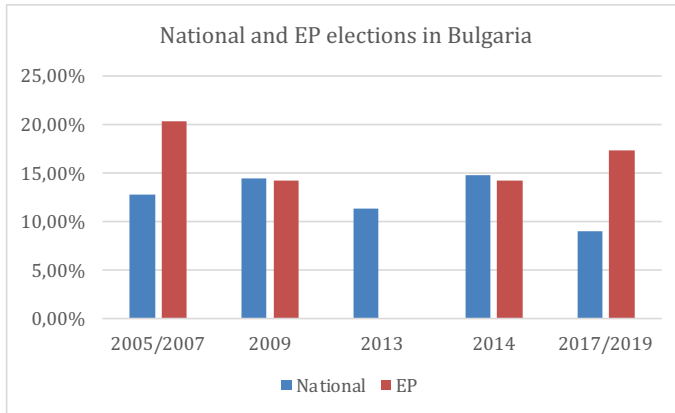


Figure 7: National and EP elections in Bulgaria

Even though the DPS has managed to not only survive, but thrive as an ethnic party, despite the constitutional ban and the neutral electoral rules that do not provide benefits for ethnic minority parties or small parties in general, the second largest ethnic minority - the Roma, did not experience the same path. Spirova (2004) argues that the reason for the lack of success of Roma parties is the size of the minority, which is 4 %. This is the electoral threshold for earning a seat, as well as the heterogeneous nature of the Roma ethnicity and the inability to mobilize the electorate as a consequence. The Roma parties have struggled over the years with the constitutional ban of ethnic parties in Bulgaria, as well as the electoral threshold. They have gained some success in local elections by getting 3 Roma mayors and over 60 councilors elected (Spirova, 2004:18). As far as the national legislative elections are concerned, the Roma population has been mostly represented by including Roma MPs within mainstream parties, or by joining coalitions with other parties. The multiple Roma parties that competed sometimes together and sometimes against each other, divided the electorate and experienced a lack of success. They also haven't had any significant success on both national and EP elections after Bulgaria's accession in the EU.

When we compare the percentage of popular votes for ethnic minority parties across the years in Bulgaria and Albania, we can detect a gradual decrease in Albania, and a gradual increase in Bulgaria. Even though in both cases, the sizes of the ethnicities have decreased over the years, the outcome is different (see Figure 8).

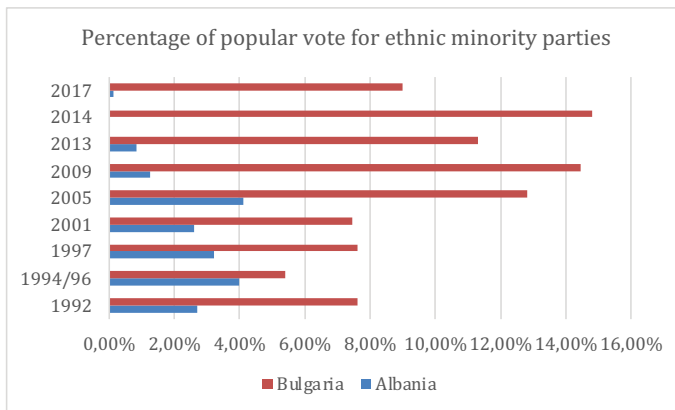


Figure 8: Popular vote for ethnic minority parties in Albania and Bulgaria

Conclusion

Our main hypotheses claims that a larger size of the ethnicity to whom the ethnic party aims to appeal and/or EU membership affects the success or failure of the party. With the comparative analysis of these two cases - Albania and Bulgaria, their biggest ethnic minorities (Turks and Roma in the case of Bulgaria and Greeks in the case of Albania), and the respective parties representing these ethnicities, a few conclusions can be carried out. For the first hypothesis, an EU membership has brought noticeable success for DPS due to the second arena where the party can and does compete successfully. However, the membership did not have an effect on the Roma parties, which have continued to struggle to mobilize the electorate after the accession as much as they did before the accession. This implies that we cannot accept nor reject the first hypothesis completely. What can be established, is that small ethnic parties have a chance of increasing their success once the country enters the EU, as long as they have already reached some level of success before the accession. The reason for this success can be looked into, whether the conditionality for accession, which is protection and representation of minorities had something to do with it, or the party reached success by itself via mobiliza-

tion. Nevertheless, popularity and success on national elections is still a relevant condition for further success in the EP elections. Therefore, we can conclude that the first hypothesis can be accepted if we add an antecedent variable, namely the above-mentioned factor on being already established and known on national legislative elections.

As for the second hypothesis, it is obvious that the constant decrease of the already relatively small size of ethnic Greeks (officially), has imposed a challenge for the ethnic minority party. The size of the ethnic Turks in Bulgaria has also experienced a gradual decrease, but the size is still objectively too large to be ignored. Yet, the situation with the Roma population imposes a limit on this hypothesis, since their numbers are constantly rising and yet electoral success is at a standstill. According to the last census (4.9 %), the size of the ethnicity has already surpassed the 4 % threshold. It seems that the mobilization capacity of the parties plays a relevant and parallel role alongside the size or the success of an ethnic party. The EU membership could be the reason for the gradual increase of registered Roma in censuses over the years, however, the conditionality factor has not played a relevant role in the case of Albania, as we see a gradual decrease of registered Greeks in the performed censuses. Due to these factors, we cannot accept the second hypothesis fully as well.

Other than the mobilization aspect, the countries' Constitution preambles may have had an institutional effect that "sealed the deal" on ethnicities and their representation. The constitutional ban on ethnic parties and the neutral electoral approach is common for both states, however, there are noticeable differences in the preambles. *The Bulgarian Preamble states*: "We, the Members of the Seventh Grand National Assembly, guided by our desire to express the will of the people of Bulgaria, by pledging our loyalty to the universal human values of liberty, peace, humanism, equality, justice and tolerance; by holding the rights, dignity and security of the individual as the highest principle; in awareness of our irrevocable duty to guard the national and the state integrity of Bulgaria, hereby proclaim our resolve to create a democratic and social state, governed by the rule of law, by establishing this Constitution". The Albanian on the other hand states: "We, the people of Albania, proud and aware of our history, with responsibility for the future, and with faith in God and/or other universal values, with determination to build a social and democratic state based on the rule of law, and to guarantee the fundamental human rights and freedoms, with a spirit of religious coexistence and tolerance, with a pledge to protect human dignity and personhood, as well as for the pros-

perity of the whole nation, for peace, well-being, culture and social solidarity, with the centuries-old aspiration of the Albanian people for national identity and unity, with a deep conviction that justice, peace, harmony and cooperation between nations are among the highest values of humanity”. It can be observed that the Bulgarian Constitution refers to the citizens as “people” of Bulgaria, while the Albanian one focuses on the nation, the national identity, unity and refers to its citizens as “Albanian People”. For future research, it should be looked into whether constitutional and institutional beginnings such as these have set the pillars which would cause path dependency for all parties in the future and make the job easier for some, or harder for others.

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Historijski Pogledi// Historical Views, God.//

**Vol. IV, No. 5, Centar za istraživanje moderne i savremene
historije Tuzla, Tuzla 2021, 347 str.**


Reviewer: Jasmin JAJČEVIĆ


Peti broj časopisa „Historijski pogledi“, rezultat je kontinuiranog rada Centra za istraživanje moderne i savremene historije Tuzla. Redakcija se trudila da *Časopis*, zbog otežanih uslova rada, ne izgubi na kvalitetu. Da je kvalitet *Časopisa* neosporan potvrđuje i činjenica da je isti indeksiran u 35 međunarodne naučne baze¹, te da su svi brojevi časopisa i svi radovi u DOI sistemu.

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brika *Prikazi* pet radova, a rubrika *Izvištaji* jedan rad. Svi radovi su recenzirani i kategorizirani.

Autori radova su iz Republike Poljske, Republike Bugarske, Republike Crne Gore, te Bosne i Hercegovine. Objavljeni radovi tretiraju važna pitanja iz moderne i savremene historije.

U rubrici *Članci* objavljeni su radovi koji tretiraju slijedeća istraživačka pitanja: *Granice i spone: Mali Zvornik i Sakar u tokovima deosmanizacije Balkana XIX i XX stoljeća*, Safet Bandžović piše da se u proučavanju višedecenijskog procesa nastajanja srpske države u XIX stoljeću na prostoru Smederevskog sandžaka i iseljavanja muslimana iz njega, posebnu pažnju zauzima sudbina dva mala naselja (Malog Zvornika i Sakara), na desnoj obali Drine, koja su do 1878. bila u sklopu Bosanskog pašaluka. Nastanak naselja Mali Zvornik vezuje se za postojanje zborničke tvrđave i grada Zvornika na lijevoj obali Drine, koja se prvi put pominje 1412. godine. Mali Zvornik je rastao na desnoj obali Drine kao dio grada Zvornika. U XIX stoljeću u Malom Zvorniku i Sakaru, na granici sa Smederevskim sandžakom, muslimani su činili većinu stanovništva. Kako ih je samo Drina razdvajala od naselja Divič i Tabaci na njenoj drugoj strani, stanovnici ovih naselja su rođaćkim, prijateljskim i ženidbenim vezama bili čvrsto povezani, a i ekonomski su bili upućeni jedni na druge.

Proces uvakufjenja vakufa tuzlanske dobrotvorke Tahire-hanume Tuzlić, rad je Izeta Šabotića. U ovom radu je dao osvrt na proceduru uvakufjenja vakufa Tahire-hanume Tuzlić, udove Gradašević iz Tuzle. Tahira-hanuma Tuzlić imala je značajne zemljišne posjede. Nakon smrti supruga Bećir-bega Gradaševića, odlučila je da jedan dio imetka uvakufi u "Evladijet vakuf". Saznavši za ovu namjeru Bakir-beg Tuzlić, jedini muški potomak znamenite begovske porodice Tuzlić, pokušao je na sve načine osporiti joj navedeno pravo. I pored protivljenja, dobrotvorka Tahira-hanuma Tuzlić je uvakufila svoju imovinu u "Evladijet vakuf Tahira-hanuma Tuzlić", te istu dala na korištenje u opšte dobrotvorne svrhe.

Tomasz Jacek Lis u radu *Emancipacija žena u Bosni i Hercegovini u vrijeme austrougarske uprave (1878-1918)*, govori da je emancipacija žena bila nešto novo na području Bosne i Hercegovine. U radu se ukazuje kakav je bio utjecaj dvije žene (učiteljice) na ovaj proces: Jelice Belović-Bernadzikovske i Jagode Truhelke. Obje su rođene u Osijeku, donijele su na bosanski prostor ideje, da žena treba biti slobodna i dobro obrazovana, ne samo za

svog supruga, nego i za sebe. Osim učiteljica veliki doprinos imale su i žene ljekari. Poljakinja Teodora Krajewska ili Čehinja Anna Bayerova, također su donijele feminističke ideje u Bosnu, što je bitno, jer kao ljekari imale su veliko poštovanje i ugled kod ljudi. Propagiranje feminističkog mišljenja bila je značajna stvar, koja je utjecala na emancipaciju žene. Druga stvar se odnosila na promjene u svakodnevnom životu, koje su uticale na promjene položaja porodice. Društvena promjena bila je vrijedna i za žene, koje su bile na margini, kao bludnice.

Prilog istraživanju položaja i aktivnosti radničkog pokreta u Bosni i Hercegovini od završetka Prvog svjetskog rata do početka Husinske bune, je rad u kojem Denis Bećirović na temelju arhivske građe i relevantne literature analizira i prikazuje aktivnosti radničkog pokreta u Bosni i Hercegovini u prvim godinama nakon završetka Prvog svjetskog rata. Tokom ovog razdoblja borba za radnička prava, najčešće putem štrajkačkih akcija, rezultirala je, između ostalog, povećanjem nadnica, uvođenjem osmosatnog radnog vremena u najvećem broju preduzeća, ostvarivanjem prava na biranje radničkih povjerenika i na sindikalno organiziranje. U nizu bosanskohercegovačkih gradova dolazilo je i do fizičkih obračunavanja između radnika i organa sigurnosti Kraljevine SHS. Usljed sve snažnijeg angažmana radničkih predstavnika došlo je i do zaoštavanje političkih prilika u Bosni i Hercegovini.

Jasmin Jajčević u radu „*Uz Tita i Partiju*“. *Djelatnost Antifašističkog fronta žena Bosne i Hercegovine i njihove reakcije na propagandu Informbiroa tokom 1948. i 1949. godine*, na osnovu izvora prvog reda, te relevantne literature, prikazao je djelatnost Antifašističkog fronta žena Bosne i Hercegovine u godinama poslije završetka Drugog svjetskog rata, kako na unutrašnjem, tako i međunarodnom nivou, kao i stavovima oko Rezolucije Informbiroa 1948. godine i reakcijama ženskih organizacija u Bosni i Hercegovini na propagandu Informbiroa tokom 1949. godine.

Albanci u Jugoslaviji od kraja 60-ih do početka 80-ih XX stoljeća, rad autorice Mariyane Stamove. Ona se u radu fokusira na događaje nakon Brionskog plenuma u ljeto 1966, koji se pokazao kao “rubikon” za prirodu i razvoj međunacionalnih odnosa u jugoslovenskoj federaciji. Odluke plenuma dovele su do oslobođenje do tada potisnutog albanskog problema. Ovo je prva velika pobjeda Albanaca u Jugoslaviji. S tim u vezi, započeo je pokret među albanskim stanovništvom u multinacionalnoj federaciji sa glavnim ciljem postizanja punog nacionalnog priznanja, uključujući republički status Kosova. Treba

napomenuti da je tek nakon sredine šezdesetih došlo do proboja u manjinskoj politici. Označavanjem manjinskih zajednica u saveznoj Jugoslaviji kao "jugoslovenske nacionalnosti", uvedene su odgovarajuće promene u pravima Albanaca u Jugoslaviji, usled čega je njihova društveno-politička aktivnost naglo porasla.

Transformacija države i prava u Iranu nakon Iranske revolucije 1979. godine, rad je u kojem Sead Bandžović piše da je svrgavanjem šaha Reze Pahlavija 1979. završeno iransko carsko doba dugo 2.500 godina. Na njegovim ostacima izgrađena je nova iranska država – Islamska Republika Iran u kojima su principi islama vidljivi i osjetni kroz sveobuhvatnu ustavnu vladavinu. Bio je to rezultat djelovanja različitih političkih struja: konstitucionalne, islamističke i nacionalističke. U takvim uslovima izgrađeno je specifično političko uređenje, jedinstveno u svijetu jer se temelji na šijitskoj pravnoj tradiciji a suveren u takvim sistemima je bog, a ne narod. Nova revolucionarna vlast, prevedena ajatolahom Ruholahom Homeinijem, sprovela je niz reformi u svim porama iranskog društva radi njegovog približavanja islamskim vrijednostima i učenjima kojima je nova vlast težila.

Amir Ahmetović u radu *Društveni i stranački rascjepi u Bosni i Hercegovini poslije izbora 1990. godine*, navodi da od izbora 1990. godine i od početka procesa osamostaljivanja Bosne i Hercegovine iz SFRJ, svjedočili smo događajima koji neupitno pokazuju duboke podjele (rascjepe) u bh društvu. Najprije je pitanje osamostaljivanja ili način njegova provođenja bilo jedno od pitanja koje je duboko podijelilo bh društvo (plebiscite 1991. srpskog naroda u Bosni i Hercegovini i referendum 1992. građana u Bosni i Hercegovini). Potom je to bilo pitanje odnosa prema pripadnicima konstitutivnih naroda u Bosni i Hercegovini na teritoriji koju su (do početka tragičnog rata i agresije) kontrolisale vladajuće stranke SDS, HDZ BiH i SDA.

Vlasenica od 1991. do 2013. godine: Promjene u etničkoj strukturi stanovništva pod utjecajem rata protiv Republike Bosne i Hercegovine. U ovom radu autor Sead Selimović, ističe da je Vlasenica, kao strateški važan grad u planovima i ciljevima agresora, bio meta napada već od 1991. godine. Na ovaj bosanski grad je planirana, pripremana i organizovana agresija i ratni zločini nad Bošnjacima. U Vlasenici su organizirani logori za Bošnjake, ubijani su civili a potom „zatrpani” u masovne grobnice, vršena su masovna i sistematska silovanja i drugi oblici seksualnog nasilja, ciljano je ubijana i progonjena

bošnjačka elita, masovno su protjerivani i deportovani civili, uništavana su kulturna dobara i imovine te rušeni vjerski objekti.

Mesud Šadinlija, u radu *Neki aspekti djelovanja vojske Jugoslavije u agresiji na Republiku Bosnu i Hercegovinu na području srednjeg Podrinja početkom 1993. godine*, govori da prisustvo regularnih jugoslovenskih vojnih snaga u srednjem Podrinju i njihovo učešće u agresiji na Bosnu i Hercegovinu bilo evidentni od samog početka. Direktivom od 19. novembra 1992. Drinskom korpusu Vojske RS je planirana ofanzivna borbena dejstva srpskih snaga u srednjem Podrinju, započeta tokom novembra i okončana sporazumom o demilitarizaciji Srebrenice u aprilu 1993. godine, prema dokumentima Vojske RS imala su tri sukcesivne faze kodnih naziva: „PROBOJ”, „PESNICA” i „UDAR”.

Procesuiranje u predmetu Radovan Karadžić - ICTY IT-95-5/18, Meldijana Arnaut Haseljić, piše o procesuiranju Radovana Karadžića, navodeći da je Međunarodni krivični sud za bivšu Jugoslaviju podigao Optužnicu (prvobitnu 25. jula 1995, a 19. oktobra 2009. godine operativnu Optužnicu) protiv Radovana Karadžića, bivšeg predsjednika Republike Srpske i vrhovnog komandanta Vojske Republike Srpske. Nakon dugogodišnjeg skrivanja u Srbiji, Karadžić je uhapšen 21. jula 2008, a u ICTY je prebačen 30. jula iste godine. Suđenje je otpočelo 26. oktobra 2009. godine. Optužnica Radovana Karadžića je teretila za genocid; zločine protiv čovječnosti: progoni istrebljivanje, ubistvo, deportacija, nehumana djela - prisilno premještanje; te kršenje zakona ili običaja ratovanja: ubistvo, terorisanje, protivpravni napadi na civile, uzimanje talaca. Radovana Karadžića optužen je za individualnu krivičnu odgovornost u skladu s pravilom 7(1) Statuta Međunarodnog suda kroz učešće u nekoliko udruženih zločinačkih poduhvata (UZP). Presuda Pretresnog vijeća protiv Radovana Karadžića izrečena je 24. marta 2016. i njome je osuđen na 40 godina zatvora za genocid, zločine protiv čovječnosti, te kršenja zakona i običaja ratovanja.

Adib Đozić u radu *Identitet i samostid - Kako to izgleda kod Bošnjaka. Prilog razumijevanju nekih karakteristika nacionalne svijesti kod Bošnjaka*, piše da društveno-historijska, prije svega politička, egzistencija bošnjačke nacije, od momenta nastanka i razvoja nacionalnih pokreta na Balkanu, živi u specifičnim uslovima permenentne borbe za biološki opstanak, koju označavamo „uslovima historijske nužde” uzrokovala je nastanak nekoliko značajnih karakteristika nacionalne svijesti Bošnjaka na nivou kolektivnog identiteta. Jedna od tih karakteristika je i samostid, samosram, koji se izražava u skoro svim sfera-

ma nacionalne svijesti a prije svega u simboličkoj sadržajnosti javne sfere gdje je izraženo preувелиčavanje tuđeg a omalovažavanje vlastitog. Ta karakteristika se najjasnije izražava u simboličkoj sadržajnosti imenovanja institucija kao što su npr. škole, ulice, te simbolizacija historijskih ličnosti i sl. Uzroci samostida kod Bošnjaka nastali su pod uticajem straha i ostalih uslova viševjekovnog življenja u uslovima „historijske nužde”, čitaj uslova neslobode, od represivnog karaktera nacionalističkih ideologija, srpske i hrvatske, i ideologije lijevog mesijanizma kod Bošnjaka. Ove ideologije posebno su došle do izražaja u omalovažavanju i svojatanju bošnjačkih kulturnih i političkih autoriteta.

Prilozi o prošlosti Bosne i Hercegovine u turskoj historiografskoj periodici (2010-2020), autorski tandem Lamija Hatibović i Amer Maslo predstavili su radove o historiji Bosne i Hercegovine koji su objavljeni u najuglednijim historiografskim časopisima u Republici Turskoj u periodu od 2010. do 2020. godine. U prvom dijelu rada objašnjen je kriterij zbog kojeg su se autori odlučili na časopise *Belleten*, *Tarih Dergisi*, *Osmanlı Araştırmaları*, *Tarih İncelemeleri Dergisi*, *Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi* – OTAM. Poseban osvrt je dat na radove bosanskohercegovačkih autora koji su objavljeni u tim časopisima.

Rubrika *Prikazi* sadrži izdanja štampana 2019. i 2020. godine. Predstavljeno je pet knjiga. U rubrici *Izveštaji*, Jasmin Jajčević predstavio je Izveštaj sa Naučne manifestacije „Historijski pogledi 3“.

Historiografiju legitimiraju pouzdane i provjerljive obavijesti o minulim procesima, događajima i ličnostima, kazivanje o prošlosti jezikom činjenica, brojki i relevantnih uvida. No, historijskog znanja nema bez autorovog historijskog pogleda, bez svjesnog zahvata u predmetnu materiju i odnosa prema tragovima prošlosti. Za kredibilitet historijske nauke je važno da taj historijski pogled određuje odgovornost prema ostavštini koja omogućuje znanje o minulom vremenu.

Časopis „Historijski pogledi“, namijenjen je podizanju svijesti i edukaciji o važnosti savremene i moderne historije i unapređenju proučavanje i istraživanje pitanja i tema iz moderne i savremene historije, ne samo na prostoru Bosne i Hercegovine, već i šire. S tim u vezi, pozivam kolege historičare, te naučnike i stručnjake iz srodnih nauka na saradnju, da svojim člancima iz moderne i savremene historije daju doprinos izlaženju narednih brojeva časopisa.