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INNOVATİVE SOLUTİONS İN LABOR LAW AND CONSTRUCTİON SECTOR: FUTURE PERSPECTİVE

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ABSTRACT

This article addresses important issues at the intersection of labor law and the construction industry. It examines the new challenges and solutions that arise in terms of labor law in the transition from traditional construction methods to sustainable construction technologies. In a period when the concept of sustainability is becoming increasingly important in the construction industry, the need to adapt to this change from a labor law perspective is emphasized. Occupational safety measures not only protect workers' health, safety, and well-being in the construction industry but also increase the stability and sustainability of businesses. Implementing these measures effectively in the sector minimizes work accidents, increases work efficiency, and contributes to a safer working environment.

The article discusses the relationship between new technologies and sustainable construction practices used in the construction industry within the framework of labor law and legal regulations and legislation. It also analyzes the effects of these technologies and applications on the rights and security of employees in terms of labor law. Additionally, the effects of current legal regulations regarding the use of personal protective equipment and worker health on sustainable construction processes are examined. The provisions of education in construction works stipulated in our legislation and the practical applications of these provisions are discussed together with the deficiencies in the legislation. The difficulties experienced in the education process and the problems in the sector were examined, and solution suggestions were presented. While it is aimed at increasing safety awareness and creating a safety culture, especially in order to reduce occupational accidents, it is emphasized that a risky sector such as construction works is an important starting point in developing the understanding of safety.

The survey conducted on approximately 300 workers working at six different construction sites in different cities of Turkey revealed awareness of labor law, occupational health and safety, level of knowledge, expectations, and demands, personal protective equipment, their knowledge about the use of personal protective equipment and awareness about the need to use it. It is designed to measure the situation and the levels of.

The survey is considered an important data source for researchers, lawyers, and construction professionals who aim to understand the relationship between innovations in the field of labor law and the sustainability- and technology-oriented future of the construction industry and to develop future solutions in this field. This study is also based on a 20-question survey to measure workers' awareness of occupational health and safety, their knowledge of labor law, their rights, their knowledge of personal protective equipment, and their use. This survey aims to be an important data source to evaluate workers' knowledge and awareness levels and understand the relationship between labor law and occupational health and safety.

Keywords: Labor Law, Occupational safety in the construction industry, Sustainable construction, Sustainability construction technologies, Personal protectors

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INTRODUCTION

Labor law is the branch of law regulating labor relations and the relations, rights, and responsibilities between the employer and the employee. This legal field includes working conditions, employment contracts, employee and employer rights, occupational health and safety, recruitment and dismissal, wages and social rights, unions, and collective bargaining agreements. Labor law includes various legal regulations to regulate, protect, and fairly conduct business relations.

Employee Rights in Labor Law: Employees' wages and social rights are protected regarding working conditions such as working hours and overtime. Workers have the right to be fairly hired and fired by their employers and to be treated equally in the workplace. Occupational health and safety standards must be maintained by employers to protect the health and safety of workers. Employees' organizational rights, such as union membership and collective bargaining, are evaluated within the scope of labor law.

Employer Rights in Labor Law: Employers can evaluate workers' performance and determine business decisions such as hiring and dismissal. Employers have the right to organize employees' work by business objectives and establish workplace rules when necessary. Employers are obliged to pay employees wages per the conditions specified in employment contracts.

Labor law aims to maintain the balance between employee and employer, ensure fair labor relations, and properly apply the legislation in labor law. In this context, dealing with issues such as regulation of working conditions, provisions of employment contracts, and worker health and safety within the legal framework forms the basis of labor law.

Occupational safety in the construction industry is the set of measures taken to reduce the risks employees may be exposed to during work and prevent occupational accidents. These measures are critical for the health and safety of workers and are everyone's responsibility in the industry. Occupational safety measures aim to prevent harm to workers and other people.

Various steps should be taken to ensure occupational safety in the construction industry. These include taking safety measures in and around the construction site, training and awareness of workers, detecting and reporting dangerous situations, and using appropriate personal protective equipment (PPE). In addition, consultancy by occupational safety experts and continuous inspections are also important.

Taking occupational safety measures provides many contributions to the sector. First, reducing or completely preventing occupational accidents protects workers' health and does not put their lives at risk. This increases workers' morale and motivation, increases work efficiency, and positively affects the reputation of businesses. Additionally, implementing occupational safety measures ensures compliance with legal regulations and can prevent criminal sanctions. This ensures that companies are in a stronger legal and financial position.

Sustainable construction is one of the focal points of the construction industry today and represents an approach that balances environmental, economic, and social impacts. This method aims to minimize environmental impacts at every stage, from design to construction and subsequent operation of construction projects, to use resources efficiently, and to create livable structures that do not harm human health.

The concept of sustainability is evaluated in a wide range of areas in the construction industry, from material selection to energy use. In this context, construction technologies and building materials are critical in achieving sustainability goals. Highly efficient energy sources, recyclable materials, and renewable energy sources are important elements in creating sustainable structures.

Personal protective equipment used in the construction industry is used to ensure the safety of workers and protect their health. This equipment is important in reducing physical injuries and chemical and biological hazards, especially occupational accidents. For example, equipment such as protective helmets, glasses, work gloves, and respirators protect workers from dangers and provide a safe environment at the workplace.

Using these elements in the construction industry not only protects the health and safety of employees but also contributes to adopting environmentally friendly approaches, reducing operating costs, and increasing social responsibility awareness. Sustainability and occupational safety measures promote a more efficient and ethical business culture in the construction industry. This situation supports the development of the sector in a more competitive, environmentally friendly, and society-contributing structure in the future.

1. Materıal And Method

This study was carried out to understand the impact of occupational health and safety legislation on training processes in the construction sector. The literature review discussed the basic concepts of occupational health and safety legislation examined in the context of construction works and statistics in the sector. In this screening process, in-depth analysis of occupational health and safety legislation, field research in the sector, detailed examination of statistical data, and observation of occupational safety practices in a particular sector were used.

During the literature review, the focus was on the effects of occupational health and safety legislation on training processes in the construction sector and how these processes affect the health and safety of workers. In this context, issues such as how enterprises implement the current legislation, the compliance of training processes with occupational safety standards, and the impact of these processes on workers' health have been examined in detail.

This study is a survey conducted on approximately 300 workers working at six different construction sites in different cities of Turkey, their awareness, knowledge level, expectations and demands regarding labor law, occupational health and safety, their knowledge about personal protective equipment, and their use and usage. It is designed to measure the level of awareness about the need for The research aims to include individuals working at six different construction sites in different cities in Turkey and having different demographic characteristics. Sample selection was made using the random sampling method. The size of the sample and its level of representation were determined depending on the research aims, the sources, and the statistical calculations followed by the researcher. The survey form was designed to cover the following topics and demographic information. Their knowledge levels of labor law, occupational health, and safety, awareness, expectations, and demands, knowledge about the use of personal protective equipment, and awareness about the need to use them were collected using a survey form and face-to-face interviews. During the data collection process, it is important to provide necessary guidance to participants to understand and answer the survey form. It was prepared by complying with the principles of confidentiality and voluntariness during the data collection phase. The collected data were analyzed using statistical methods. Demographic characteristics and responses to survey questions were evaluated with statistical frequency distributions and percentages.

The survey includes 20 questions in total. Five of these questions are used to determine demographic characteristics, while the other 15 are designed as multiple-choice questions. The data obtained was evaluated with percentage values. These tables show the distribution of participants with different demographic characteristics and their answers to various questions.

The literature review aims to evaluate the integration of occupational health and safety legislation into training processes in the construction sector, the measures to be taken to increase the safety and health of workers, and the applicability of these measures. In this way, it is aimed to develop suggestions for improving occupational health and safety standards in the construction sector and to ensure harmony between the legislation and practical practices in the sector.

2. Dıscussıon

Worker Participation and Labor Law Awareness: The knowledge levels of the 300 construction workers who participated in the survey on labor law were distributed in different ranges. 25% of the workers stated that they had little knowledge of labor law, 40% stated that they had moderate knowledge, and 30% stated that they had a general awareness of it. Only 5% stated that they had a sufficiently in-depth knowledge. These results show that construction workers generally have a moderate level of knowledge about labor law.

Awareness Levels on Employee and Employer Rights: The awareness levels of the survey participants regarding employee and employer rights vary. While 55% of the participants stated that they had some basic information about labor rights, 30% stated that they had more detailed information about these rights. Regarding employer rights, 40% of the participants stated they had a general level of awareness.

Personal Protective Use and Awareness: 70% of the workers surveyed said they thought using personal protective equipment was important. However, only 45% stated they had sufficient knowledge about correctly using this equipment. This situation shows that although the importance of personal protective equipment is known, there are areas for improvement in correctly using this equipment.

Occupational Health and Safety Awareness: 60% of the workers participating in the survey stated that they have basic knowledge about occupational health and safety. However, only 35% stated they knew the need to prevent occupational accidents and reduce risks. This situation shows workers' awareness of occupational health and safety should be improved.

The findings show that occupational health and safety legislation significantly impacts training processes in the construction sector. The literature review revealed differences in the implementation level of existing legislation among enterprises and that training processes generally must comply with occupational safety standards. This situation led to the conclusion that occupational health and safety standards should be updated, and training processes should be reviewed to improve workers' health and safety conditions.

It has been determined that work accidents occur due to insufficient knowledge about labor law, workers' rights, and labor rights, and workers need to gain awareness about using personal protective equipment correctly. This causes financial harm to the workplace, and workers often unknowingly harm themselves and their families. The main reason is the need for more knowledge and awareness of workers, often resulting from a lack of education.

Raising awareness of workers on occupational health and safety issues, proper implementation of existing legislation by businesses, and developing occupational safety culture are vital in reducing occupational accidents and creating healthy working environments. In this context, it is recommended to implement solution-oriented approaches such as understanding workers' rights and working conditions, training on the correct use of personal protective equipment, and awareness-raising programs. These steps will contribute to protecting the health and safety of employees in the business sector and increase workplace productivity.

CONCLUSİON AND RECOMMENDATİONS

It emphasizes the need to implement more effective occupational health and safety legislation and the importance of making training processes compatible with occupational safety standards. Increasing workers' awareness of their rights and occupational safety, regular training programs, and more comprehensive information on labor law and rights are important in this context.

The results of the research conducted in the field of occupational health and safety are very important and striking. This study, based on a survey conducted with 300 construction industry workers, examined workers' knowledge and awareness levels on labor law, employee and employer rights, use of personal protective equipment, and occupational health and safety. The results revealed the need for more awareness and potential risks in the sector.

It has been determined that the workers' knowledge of labor law is generally at a medium level. However, although the level of awareness of workers and employers about their rights shows that workers have basic knowledge, they reveal that they need more detailed knowledge. It has been understood that workers generally need more knowledge about using personal protective equipment and occupational health and safety.

These findings highlight that there needs to be more awareness in the business sector, which can lead to occupational accidents and harm workers' health. One of the main reasons for occupational accidents and health problems is workers' need for more knowledge and awareness about labor law, rights, and occupational health and safety. This situation poses a serious obstacle in preventing accidents and risks that may occur in workplaces.

It is understood that it is vital for businesses to properly implement awareness programs, training, and current legislation in this field to protect the health and safety of workers. Training and awareness-raising activities must be implemented quickly to improve occupational safety culture, understand workers' rights, and correctly use personal protective equipment.

As a result, concrete steps should be taken to increase the knowledge and awareness of workers in the business sector on labor law, rights, use of personal protective equipment, and occupational health and safety. These steps will contribute to reducing occupational accidents, creating healthy working environments, and ensuring that workers work by health and safety standards. Protecting the health and safety of employees in the business sector will not only increase the efficiency of workplaces but also affect people's lives.

As a result, integrating occupational health and safety legislation into training processes in the construction sector is of critical importance for the health and safety of workers. Appropriate training programs, reviewing occupational safety standards, and more effective implementation of existing legislation will constitute the basic steps towards reducing occupational accidents and creating healthy working environments.

These steps should be planned as follows; The precautions to be taken and the solutions to be developed in the field of occupational health and safety in the construction sector are of critical importance. The following steps should be followed to improve the current situation and reduce work accidents:

- **Strengthening Training Programs:** Workers should receive comprehensive training programs on occupational health and safety. These trainings should include topics such as labor law, workers' rights, and the correct use of personal protective equipment. Raising awareness and training of workers is an important step in reducing work accidents.
- **Updating the Legislation:** Occupational health and safety legislation should be more comprehensive and effective for the construction sector. Existing legislation should be reviewed and updated, and businesses should be encouraged to comply with these new regulations.
- **Inspection and Monitoring of Applications:** Implementing occupational safety standards in workplaces should be regularly inspected and monitored. Audits are important to evaluate businesses' compliance with legislation and identify deficiencies.
- **Awareness Raising and Communication:** Employers and employees should establish An open communication network. Regular information meetings on occupational health and safety should be held, and workers should be encouraged to express themselves on this issue.
- **Use of Technology:** Studies should be carried out to predict and prevent occupational accidents using technological tools such as artificial intelligence and data analytics. These technologies can help create safer working environments in terms of occupational safety.

These recommended steps will provide important guidance for improving occupational health and safety standards and reducing occupational accidents in the construction sector. In this way, healthier and safer working environments will be created by paying more attention to the health and safety of workers, and work efficiency will increase by minimizing occupational accidents. Employees will work more efficiently in a safer environment. Safety of life and property will be ensured. Visible and invisible costs within the workplace will decrease, and these costs can be shared among workers as incentive payments.

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MINING SECTOR REGULATIONS IN TERMS OF INTERNATIONAL LAW

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ABSTRACT

The importance of natural resources in human life is known to everyone. Mining activities are indispensable for modern life. The healthy development of mining, which is an economic activity, requires, above all, a constructive and appropriate legal infrastructure. Legislation is one of the primary factors affecting the mining sector, which constantly interacts with nature and society. The United Nations is closely interested in world energy and oil problems. Among the members of the United Nations, developing countries have the majority in numbers compared to industrialized countries. These underdeveloped countries use the United Nations as a forum to share their opinions on issues such as sovereignty over their mineral resources or the application of national law in investment-related disputes between foreign states and multinational companies. This study evaluated the mining sector in terms of international legislation. This research considers international agreements related to mineral exploration and exploitation that are important for global operators. The mining status in international agreements has been analyzed, emphasizing the increasing amount of multilateral environmental agreements. In addition, the challenges posed by the principles of sustainable development for the mining sector and the development of international mining law are explored.

Keywords: *Mining sector, Mining Law, International Mining Law, International Legislation*

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INTRODUCTION

In recent years, many initiatives have been taken to understand the mining sector's role within the "sustainable development" scope, focusing on mining. Many governments have implemented several regulatory actions regarding mining, including comprehensive environmental and social provisions and legal and financial aspects. (Dalupan, 2004)

Many companies related to the mining industry have created some optional codes of conduct to facilitate and implement this transformation. These rules are in parallel with studies such as the Mining, Minerals, and Sustainable Development Project (MMSD), which will be developed by multinational organizations such as the United Nations and the World Bank.

These initiatives have worked to identify current mining problems and establish principles that can be applied in the sector. Such issues include the environmental and social impacts of mining and related economic considerations (concerns that underpin sustainable development). It raises the possibility that efforts to define global problems and general principles may lead to the development of international law on mining and sustainable development. (Dalupan, 2004) However, before assessing whether these initiatives lead to the development of a global governance regime, it is necessary to evaluate the current status of mining in international law and especially in multilateral agreements.

The article attempts to provide an overview of the multilateral agreements affecting the mining sector. In addition, by making some examinations of the increasing number of multilateral environmental agreements, the development of international mining law and the status of mining in international agreements are analyzed, and the challenges posed by the later recognized and developing sustainable development principles for the mining sector and the development of international mining law are examined. The sustainable development paradigm is also discussed in this article.

1. Developments in International Mining Law

Important developments regarding the mining industry and governments' mineral resources programs worldwide exist. One of the developments is positive; the other brings out some problems. These two trends operating simultaneously have the potential to dramatically change the way mining companies, resource-based economies, and the entire world operate in the 21st century.

The first trend introduces international opportunities for the development of mineral resources. In terms of supply, industrial development, and mining, in particular, has accelerated due to several factors. These factors include the end of the Cold War, the emergence of new market economies in Asia, Latin America, Africa, and Eastern Europe, the trend towards nationalizing state mining wealth, and the increasing financial liberalization of emerging economies. (United Nations Economic and Social Council, Committee on Natural Resources, 1996, p.8)

The second trend consists of the development of mining and increasing difficulties in production. By its nature, mining causes significant environmental, social, cultural, and economic degradation. The spread of mining worldwide, especially in resource-based economies in developing countries, has increased international awareness and interest in the negative effects of mining. (Martin, 1997, p. 33) These concerns give rise to national and international legal regulations regarding mining. (UNCTAD, 1994, p.1)

Earlier in the 20th century, international agreements on natural resources largely focused on the economic value of resources, regulating the use of shared resources and their transboundary impacts. Today, more than 900 bilateral, multilateral, regional, and global international environmental agreements cover the atmosphere, space, sea, fisheries, forests, fauna, biodiversity, and forestry. (Bell, 1997)

Multilateral environmental agreements have traditionally emerged as a response to an environmental crisis. Desertification, drought, depletion of the ozone layer, damage to biodiversity, pollution, industrial accidents, and climate change problems are examples.

It should be noted that there has yet to be a comprehensive international legal regulation regarding mining and mineral resources. It is the only field where there are binding international agreements that contain general principles regarding mining, and that is the area related to the occupational safety and health of employees in mines. This situation arises from the activities of the International Labor Organization and similar institutions.

Although there has yet to be aional legal regulation on mining and mineral resources, comprehensive research on multilateral agreements provides important clues on this subject.

2. Permanent Sovereignty and Limitations over Natural Resources

The right to permanent sovereignty over natural resources is one of the fundamental principles of using mineral resources in international law. This situation arises from the state's responsibility regarding the environmental damage caused by its activities under its authority and control. It refers to the environment beyond the state's national control powers.

Recognition of this right and the obligation to avoid transboundary environmental damage is regulated in various international agreements such as the United Nations Charter (1945), Continental Shelf Convention (1958), Protocol to the Convention on Long-Range Transboundary Air Pollution by Heavy Metals (1998), United Nations Declaration on the Human Environment (1972), Rio Declaration on Environment and Development (1992) and the United Nations Convention on Biological Diversity (1992). The Protocol to the Convention on Long-Range Transboundary Air Pollution by Heavy Metals (1998) demonstrates the responsibility to avoid transboundary environmental damage. The protocol aims to control heavy metal emissions. With this Protocol, States are obliged to take certain measures. However, the obligation to avoid transboundary environmental damage is not the only limitation on the state's right to permanent sovereignty over natural resources. By ratifying agreements that limit or even prohibit mineral extraction in designated areas, states accept the restriction of their sovereign rights.

Similarly, multilateral environmental agreements on social issues do not limit the right to permanent sovereignty over natural resources only to the obligation not to cause transboundary environmental damage. Within the framework of multilateral agreements, the exploitation method and intensity of mineral resources can be defined in different ways. To summarize, the principles contained in multilateral environmental agreements affect where and how mining operations should be carried out, even within the borders of independent states.

Traditionally, international law has adopted a "hands-off" approach to mining. The right to permanent sovereignty over natural resources (just like over real and legal persons) gives states the authority to have independent political and legal control as a principle of international law. (Wälde, 1992, p. 49) This is related to principle 21 of the Stockholm Declaration, the most famous expression of the doctrine of sovereignty. According to the Charter of the United Nations and the rules of international law, countries use their resources and determine their environmental policies by exercising their sovereign rights. However, states are also responsible for not harming the environment of regions and countries outside their borders during these actions.

States can limit their sovereignty through long-term legal customs practices, the development of general principles of legal nature, binding agreements, and judicial decisions. (Buergenthal, 1990) Through these new rules, states "give up" their rights and create "international law" based on new standards of behavior.

The state's permanent sovereignty over natural resources is no longer absolute. International restrictions are imposed in three ways: according to the basic principle of international environmental law, states are responsible for preventing cross-border environmental damage, fulfilling obligations in multilateral agreements, and the emergence of sustainable development principles. (Wälde, 1992, p. 50) All these factors accelerated the development of "international environmental law." To date, nearly a thousand environmentally focused international agreements have been accepted, many institutions are active, and most of these initiatives started in 1970. (Pring & Joeris, 1993, p. 422) During this period, with the spread of environmental awareness among the masses, environmental organizations significantly pressured political governments. This pressure has also been a driving force for the environment to gain a legal basis. (Kılıç, 2001, p. 133)

The branch of international mining law has yet to exist. First, states want to keep their sovereignty over mineral resources, an important part of their economy. The second reason is the primitive state of international law. Today's international legal system has no real legislative, executive, or judicial powers. In addition, the enforcement mechanism in international law could be stronger and depends largely on the political will of sovereign states. The last reason is that the sources of international law are not equal. Some international rules (for example, case law) qualify as legally binding or "hard law." Others (declarations, principles, guidelines, etc., of the United Nations and other institutions) fall into the non-binding or "soft law" category. (Wälde, 1992, p. 66) "Hard" and "soft" norms of modern international law are increasingly focused on mining. Binding rules that can be applied worldwide do not yet exist for the mining industry, although certain forms of "hard law" such as "international standards" may be in place. "Soft law", on the other hand, cannot be ignored and is the norm that states can recognize as binding rules in agreements over time.

3. International Management Regimes for Mine Resources

Unlike renewable energy sources, there has yet to be an international management regime or accepted principles for mining and mines. Various factors can explain why it will take more work to establish general principles regulating the mining sector. These factors include the wide range of mines and mineral use methods, the diversity of mining methods, and the different physical environments and climates of the mining areas.

Another important factor is the relatively small size of the global mining industry compared to the energy sector. (Hinde, 2000, p. 23) However, mineral resources are rarely shared in nature, unlike sea and water resources. Mineral reserves are generally detected within the borders of a certain state, and extraction operations are carried out within that state's borders. The Pascua-Lama mines reserves shared by Argentina and Chile constitute an exception. The countries in question have signed the Mining Integration Agreement. Thus, since mining activities and their impacts are often located within the borders of a particular state, the international community strives, at a minimum, to develop mining-focused standards or guidelines for the use of minerals.

4. Sustainable Development and Mining on International Law

Environmentally focused legal regulations developed by the international community in Stockholm and Rio, the United Nations General Assembly, and Johannesburg have played a major role in the universalization of environmental law and the development of the sustainable development paradigm. (Caldwell, 1999, p. 227)

The common theme of the countries' new mining laws is the "sustainable development" paradigm. The concept of "sustainability" tries to find a compromise between the contradictory concepts of protecting environmental quality and ensuring economic development. In this context, the conflict between the concepts of environment and economic development was witnessed for the first time at the 1972 United Nations Conference on the Human Environment in Stockholm. At this conference, developing countries were hesitant that industrialized countries would hinder the development of developing countries by turning their environmental protection standards into international rules. (Pring, 1999, p. 13)

Sustainable development is defined in the report of the World Commission on Environment and Development (WCED): "Development that meets the needs of today without jeopardizing the ability of future generations to meet their own needs." (WCED, 1987, p.43) This report, which is the first and only official witness in the world, is important in terms of pointing out both sides of equality in development, even though it is ambiguous. To explain sustainable development in more detail, "Sustainable development" means increasing the quality of human life within the ecosystem's limits. (IUCN, et al., 1991, p.10)

Sustainable development drives global economic efforts. (Pring, 1999, p. 20) The economy continues its existence based on natural resources. The continuation of development depends on developing and transferring knowledge, organization, technical competence, and science to life. For overall development, sustainability necessitates three elements: preserving choice for future generations, supporting social and community stability, and renewing environmental quality.

The development of the mining sector also requires the following elements: reducing poverty, meeting basic human needs, assessing and mitigating environmental impact, reducing pollution, protecting resources, and occupational health and safety standards. Sustainable

development principles are increasingly important in discussing new and existing mining developments in resource-based economies. These principles led to the renewal (Silveira, 1995, p. 239) of UN programs and are demanded by industrialized countries, international financial institutions, and some developing countries. (Cohen, 1996 p. 150) In addition, sustainability has quickly come to the agenda of the responsible international business world. The most developed international mining companies have started to implement these principles. (Wälde, 1992, p. 58)

5. Multilateral Agreements on Mining

As we have established above, the UN Charter, as the basis of international law, emphasizes the rights and obligations of states. Legal regulation and management of mining within its borders are some of the state's internal affairs.

International responsibility for this issue has begun to develop under the auspices of the UN, and the UN has also dealt with the issue, which has become a common problem for developing countries. Problems such as the global impacts of mining-related activities, human and environmental rights, climate change, and waste management have been addressed within the framework of the UN.

5.1 Stockholm Conference - Declaration and Action Plan for the Human Environment

The first assessment made on the environment on a global scale was the United Nations Conference on the Human Environment held in Stockholm between 5 and 16 June 1972. By the decision taken at the Stockholm Conference, the UN Environment Program (UNEP) was established by the UN General Assembly on 12 December 1972. Following the said Conference, policies, plans, and projects for the protection of the environment, starting from the United Nations and its affiliated organizations and other regional organizations it has begun to be addressed within a wide spectrum ranging from the Organization for Economic Co-operation and Development (OECD), the Organization for Security and Co-operation in Europe (OSCE), the European Council, the European Union (EU), the IMF and the World Bank, to the General

Agreement on Customs and Tariffs (GATT). (Çevre ve Sürdürülebilir Kalkınma Paneli, 2002, p. 6)

The Conference took place with the participation of 130 states; it resulted in the adopting of the United Nations Declaration on the Human Environment and the Action Plan for the Human Environment, emphasizing that efforts would be made at the international level to address many environmental problems. (Futrell, 1997, p.1) According to the United Nations Declaration on the Human Environment, the world's capacity to produce vital renewable resources must be maintained and, where possible, renewed and improved. The Action Plan contains many recommendations on different sectors of the environment and mineral resources. Recommendation 56 on mining and mineral resources focuses on sharing, accumulating, and accessing relevant information. The UN Secretary-General has proposed providing a convenient tool for exchanging information on mining and mining operations, especially on the environmental conditions of mining sites, measures taken on the environment, and positive and negative environmental repercussions.

The World Nature Charter adopted ten years after the Stockholm Conference, stipulates that natural resources cannot be wasted but must be used with limitations by the stated principles. The World Nature Charter, which imposes restrictions on non-renewable minerals, considers the reserve status of the minerals in question, their consumption characteristics, and the compatibility of extraction processes with the functioning of natural systems. The Stockholm Declaration, the Action Plan, and the World Nature Charter are the complex body and fundamental instrument of current international environmental law. These recognized agreements on the importance of non-renewable minerals are very important for the mining industry.

5.2 Rio Conference- United Nations Conference on Environment and Development

The Rio Conference was held in Rio de Janeiro between June 3 and 14, 1992. Unlike the Stockholm Agreements and the World Nature Charter, the agreements accepted in Rio do not contain any special mention of minerals or non-renewable resources. However, Rio has certainly been a guiding meeting for the "sustainable development" paradigm.

According to Principle 1 of the Rio Declaration, people are central to sustainable development concerns. They have the right to a healthy and creative life in harmony with nature. Therefore, human development and well-being are the primary motivation and ultimate goal of any initiative, agreement, or program. In Principle 25, it is determined that peace, development, and environmental protection are interconnected and indivisible.

Regarding environmental issues, the Rio Declaration promotes the precautionary principle, internalizing environmental costs, using economic instruments, and environmental impact assessment. In social issues, the participation of different groups is recognized and encouraged. In particular, the great role of indigenous peoples' unique knowledge in environmental management is emphasized.

It should be noted that Agenda 21 in Rio is not legally binding. It is also known as the "Earth Summit" and is a conference that brings together all the world's countries on environmental and development issues globally for the first time. As a result of the conference, five basic documents emerged: the Rio Declaration, Agenda 21, Forest Principles, Climate Change Convention, and Biological Diversity Convention. (Çevre ve Sürdürülebilir Kalkınma Paneli, 2002, p. 6)

5.3 Johannesburg Summit - World Summit on Sustainable Development

Ensuring sustainability in terms of economic development requires sensitivity in the use of resources in economic activities since the world's resources are limited. (Kaya & Tomal, 2010, p. 50) After a thirty-year process, it is time to evaluate what has been done regarding the use of resources and the environment. A "general evaluation" conference should be held on the tenth anniversary of the Rio summit. For this purpose, the "United Nations World Sustainable Development Summit" was held in Johannesburg, Republic of South Africa, from 26 August to 4 September 2002. Approximately 65 thousand heads of state and government from all over the world, technocrats, non-governmental organization officials, industrialists, local governments, and groups representing all segments of society came together at the summit. At the summit, it was confirmed that sustainable development is the main issue of the international agenda, and new data on environmental protection and

the fight against poverty were presented. (United Nations, Department of Economic and Social Affairs, 2002, p.17) The importance of non-governmental organizations and ensuring cooperation in implementing the summit decisions were emphasized. (Yıldırım & Öner, 2003, p. 15) In addition, at this summit, the concept of Sustainable Development became the name of a summit for the first time, and it was revealed that the concept was adopted and understood by all segments of society. In the statement published after the summit, economic development, social development, and environmental protection have been identified as the three components of Sustainable Development. (Tıraş, 2012, p. 63)

Chapter IV of the Implementation Plan, focusing on mining, titled "Protection and Management of economic and social development based on natural resources," is very important. (UN, 2002, p. 18) Article 46 of the Implementation Plan determines that mining, minerals, and metals are important for many countries' economic and social development. According to Article 46, Minerals are indispensable for contemporary life. What needs to be done at all levels to ensure that mining, minerals, and metals contribute more to sustainable development is as follows:

- Developing efforts to evaluate the environmental, economic, health, and social impacts of mining, minerals, and metals, including the health and safety of workers. To this end, ensuring the transparency and accountability necessary for sustainable development in mining by developing national and international partnerships and activities between relevant governments, intergovernmental organizations, mining companies, employees, and other relevant parties;
- Increase the participation of local and indigenous communities and relevant groups, including women, to enable these groups to take a more active role in mining-related work, including rehabilitation work following pit closures, observing international regulations, and taking into account important cross-border impacts in these studies;
- Providing financial and technical assistance in mining and processing minerals to developing countries and countries whose economies are in transition and improving capacity in this field, including small-scale mines within the scope of these studies. Meanwhile, where possible and necessary, carry out initiatives to

create more added value in mineral processing, improve scientific and technological knowledge, and rehabilitate areas damaged by mining activities.

However, at the end of the summit, participants stated that the measures taken to solve the problems in the mining sector were insufficient and that these measures had been criticized before. (Sampat, 2002)

5.4 United Nations Framework Convention on Climate Change

The United Nations Framework Convention on Climate Change (UNFCCC) was opened for signature at the United Nations Environment and Development Conference held on June 3-14, 1992. The purpose of the Convention is to succeed in stopping the accumulation of greenhouse gases in the atmosphere at a level that will prevent the dangerous anthropogenic impact on the climate system, to reach such a level in a time that will allow the ecosystem to adapt naturally to climate change, food production will not be damaged, and economic development will continue sustainably.

The basic principles of the Convention are:

- Protecting the climate system based on equality and following the principle of common but different responsibilities,
- Taking into account the needs and special conditions of developing countries that will be affected by climate change,
- Taking precautions against the effects of climate change and ensuring that the measures taken are cost-effective and provide global benefit,
- Supporting sustainable development and including the policies and measures to be determined in national development programs,
- The cooperation of the parties.

In the Convention, countries with historical responsibilities for the emergence of climate change and OECD member countries at the time were grouped into two lists according to their development levels. According to the Convention, unlike Annex I, Annex II countries have obligations such as providing financial support to developing countries

that carry out emission reduction activities and assisting their development and technology transfer. By the relevant provisions, for the Convention to enter into force, 50 countries had to submit their ratification or acceptance documents to the UN by February 1994; more than 50 countries had submitted their ratification or acceptance documents to the UN, and the Convention came into force on 21 March 1994. One hundred ninety-two countries have ratified the Convention, including 41 Annex-I Countries (40+EU) and 151 Non-Annex-I Countries. All four countries (Andorra, Vatican, Iraq and Somalia) have observer status. (DSİ Genel Müdürlüğü, Etüd ve Plan Dairesi Başkanlığı, İklim Değişikliği Birimi, 2012, p. 1)

5.5 Kyoto Protocol

Since the absence of any sanctions in case of non-fulfillment of the obligations mentioned at the conference held in Rio De Janeiro in 1992 constituted the missing part of this contract, in order to overcome this deficiency, a new document was prepared in which the obligations were more strictly controlled and had sanctions, and was signed in December 1997. It was discussed and opened for signature in Kyoto, Japan. (Çetin, 2013, p. 80)

The Protocol aims to reduce greenhouse gases worldwide. In this Protocol, the parties included in Annex-I commit to reducing the total emissions of CO_2 equivalent greenhouse gases caused by human activities listed in Annex-A to at least 5% below the 1990 levels during the commitment period covering 2008-2012. It is stated that they will ensure that the amounts determined by and calculated following the registered digitized emission limitation and reduction commitments are not exceeded and that these parties will have made demonstrable progress in realizing their commitments in this Protocol by 2005. Since the parties in Annex I, which correspond to at least 55% of the total CO_2 emissions of 1990, must ratify the Protocol in order for the Kyoto Protocol to come into force, the Kyoto Protocol was declared de facto on 16 February 2005, with the approval of the Russian Federation on 18 November 2004 has entered into force. One hundred sixty-eight countries and the EU are parties to the Protocol. (DSİ Genel Müdürlüğü, Etüd ve Plan Dairesi Başkanlığı, İklim Değişikliği Birimi, 2012, p. 2)

Conclusion

New game rules with their characteristics have emerged in the international mining market. On the one hand, it is affected by the globalization of the world economy. On the other hand, creating a new model of the state's political and economic systems that meet international standards in sustainable development conditions has become a prerequisite for reviewing national mining legislation. Renewed Mining Law focuses on strengthening the state's position in major investment projects to ensure the economic interests of countries. Mining Law has been developing within the branch of law for years, both at the international level and within the country. Changing relationships in the mining sector; expanding the use of minerals. The characteristics of this economic sector and the importance of its legal regulation for the state and society should be considered. More basic scientific research is needed.

There are several multilateral agreements affecting the mining sector. The Stockholm and Rio Conferences, the Johannesburg World Sustainable Development Summit, and the agreements and action plans that emerged after these conferences are considered turning points. The problem of the production capacity of renewable resources was put forward at the Stockholm conference. The Rio instruments defined the concept of "sustainable development" without mentioning the mining sector, and at the end, mining principles were announced at the Johannesburg summit. It has been concluded that the branch of international mining law has yet to be established because states do not want to give up their sovereignty, and the international legal system does not have real legislative, executive, and judicial powers.

The role and position of the state in the use and management of mines, international legal obligations of states regarding mining, analysis of investment-related elements of mining contracts, and resolving disputes arising from Mining Law are among the most difficult issues.

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MEDIATION IN CRIMINAL AND CIVIL CASES IN THE POSITIVE LAW OF THE REPUBLIC OF NORTH MACEDONIA - SITUATION AND CHALLENGES

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ABSTRACT

The mediation procedure is one of the forms of peaceful, contractual, and out - of - court settlement of disputes. Mediation belongs to the group of evaluative ways to resolve disputes. As such, it offers many innovative advantages over the state trial. Strengthening mediation will simplify access to justice in terms of reviewing free legal aid, court costs, attorneys' fees, and the costs of enforcing judgments. Precisely because of this, the subject of analysis of this paper are the legal limits within which mediation can be used when solving criminal and civil cases in the positive law of the Republic of North Macedonia. The recommendations aimed at improving the application of mediation in criminal and civil cases are in the direction of advancing the term and bringing it closer to the public and structures where its application lies.

Key words: mediaton, civil cases, criminal cases, mandatory mediation, alternative procedure.

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INTRODUCTION

As one of the alternative ways of resolving disputes, the word mediation etymologically comes from the latin term „medius“ which means impartial, neutral or one who walks the middle.

In the theory of extrajudicial dispute resolution, mediation is defined as a procedure in which a third neutral person helps the parties in the dispute reach an agreement using recommendations, negotiations, or suggestions without imposing a binding decision on them. The purpose of the mediation procedure is to conclude a settlement agreement that resolves the conflict of interests between the parties with their mutual compromise.

The mediation procedure is a non - litigation procedure. It is a non - adjudicative procedure and as such it differs from the trial, and because of the principle of voluntariness on which it is based, it takes precedence over it. The dispositive nature of this procedure means that this procedure is initiated, conducted, and concluded according to the autonomy of the will of the parties, with an exception existing in those legal systems where mandatory mediation is regulated only in terms of initiation.

1. Mediation in criminal cases in the Republic of North Macedonia

The role and significance of mediation is extremely important in terms of realizing a strong reform process of the judicial system of the Republic of North Macedonia and fulfilling the current obligations arising from the process of accession to the European Union. Reforms related to mediation as an alternative way of resolving disputes are one of the strategic goals of the Justice Sector Reform Strategy 2017 - 2022 (Ministry of Justice, Justice sector reform strategy for the period 2017 - 2022 with an action plan, p. 17). Namely, the Strategy states that the dysfunctional concept of mediation remains as a remark that has been going on for years in the progress report of the European Commission, so for those reasons it is necessary to stimulate the application of mediation in conditions when the courts are faced with a large number of cases and the use of the alternative way of resolving disputes, which promotes their peaceful resolution, will most directly affect the reduction of the number of court cases, and thus also the relief of the judiciary from unnecessary

handling of cases that could be resolved out of court. The realization of the function of administration of justice (pronouncement of the law) by other, non - judicial bodies, is not an obstacle to the constitution of an integral system of judicial law, to the extent that their decisions are subject of the guarantee of judicial control, as is the case with mediation (Sotiroski and Gurkova, 2011, p. 90). Namely, mediation in criminal proceedings will not cheat the judicial system, i.e., violate legal certainty, it is not contrary to the right of access to the court, and its practice in criminal cases will not arouse the attitude that the crimes for which it can be initiated are not serious crimes. It aims to relieve the courts of disputes that can be settled amicably, and its conception is not intended to compete with the legal profession as such.

Mediation in criminal matters became an integral part of a broader concept of restorative justice, where the main principle is settling the conflict and renewing impaired relationships between the victim, the perpetrator, and the society, which have been impaired by the criminal offense. Mediation is an alternative procedure aimed at settling criminal cases, realized outside of the criminal law system. It is understood as a process, within which the parties concerned - the accused and the aggrieved person, engage in mutual discussion and in cooperation with the mediator try to settle mutual conflicting relationship and agree on how to deal with the consequences of the crime in the future. In a criminal justice context, mediation represents a shift towards restorative justice, which views crime as the violation of one's rights by another. Also, it contains an aspect of reparation that is not a component of mediation in the civil context. As free of charge public service where mediators mediate between the parties to a crime or a dispute and assist them in the negotiations, the purpose of mediation is to discuss the mental and material harm suffered by the victim and agree on measures to redress the harm. Mediation is a procedure either parallel or supplementary to the criminal process and a key objective is to prevent recidivism. Mediation use is based on a criminal offense being regarded as a conflict between the victim (aggrieved person) and the perpetrator. Mediation is conducted by an expert in conflict resolution - a mediator, who leads the negotiation and maintains a forthcoming and balanced approach towards both parties and assists them in finding a solution, not only in damage compensation, but also explanation why the crime has occurred. Mediators in criminal cases guide the complex dynamics between suspect and victim. It is

important that the suspect takes responsibility for the committed crime and its consequences. This makes rehabilitation possible for both parties. Mediation offers the aggrieved person a possibility to understand the situation and its circumstances and increases the probability of expedited damage compensation. It allows the perpetrator to apologize to the aggrieved person, to explain his conduct and to remedy the consequences of the committed crime. Mediation is interconnected with criminal proceedings and its results are also considered in them. From the point of view of procedural criminal law, mediation is a special non - procedural form of dealing with criminal cases, results of which may be projected in the decision on the case.

If the offender admits, during the mediation procedure, having committed the crime, such an attitude means, even if it is unable to remove the evil caused, at least accountability and, consequently, eliminating the feeling of blaming the victim, a feeling frequently experienced with such crimes (Gorghiu, 2013, p. 367). The mediation procedure allows victims to express completely and directly blame their pain and embarrassment caused by the offence, manifestations that are not possible in court of law. Victims can present their uncensored side of the story beyond issues of interest for the criminal trial. By means of such manifestation, it is possible to restore the balance of forces between the victim and their offender; we should not overlook that a successful mediation procedure may have as an effect the victim's restoring their emotional balance, an effect that cannot be reached in a criminal trial (Gorghiu, 2013, p. 367). The victim of a crime primarily seeks to make their assailant liable, and this goal can be more easily achieved via mediation as the offender, by attending the mediation meetings, admits their guilt and show willingness to correct the antisocial crime committed. Thus, the offender represents that he takes responsibility, and the victim leaves the mediation with the feeling that the offender has been held accountable; the mediator, playing a significant role, must act with sympathy and professionalism.

1.1. The arrangement of mediation according to the legal provisions of criminal procedure

This form of dispute resolution is provided by law as an alternative to court proceedings for multiple disputes, and the provisions of the Law on Mediation are also applied in criminal cases, unless otherwise determined by a separate law (Law on Mediation, article 1 paragraph 3,

Official Gazette of the RNM, no. 294/21). The Law on Criminal Procedure regulates mediation as an alternative voluntary way of resolving conflict situations (Law on Criminal Procedure, chapter XXX, article 491-496, Official Gazette of the RNM, no. 150/10). Namely, the Law stipulates that even before the main hearing is scheduled for criminal offenses under the jurisdiction of the individual judge, which are prosecuted under a private lawsuit (mostly crimes from the group of crimes against the freedoms and rights of man (Nuredin,2022) and citizen (coercion, threat to security, violation the inviolability of the home, illegal search, unauthorized publication of personal data), against honor and reputation (slander, insult) and acts against property (theft, arbitrariness, evasion, confiscation of other people's property, damage to other people's property, fraud) for which The Criminal Code explicitly states that they are prosecuted in a private lawsuit, the individual judge can propose that the private plaintiff and the defendant go to a mediation procedure, and if there is consent from both parties and they agree to be referred to a mediation procedure, the individual judge brings decision to refer to mediation (Criminal Procedure Law, article 475). Such a proposal is the result of the procedure's expediency reasons. If the parties do not give their consent within the specified period, the individual judge decides that the proposal to refer to mediation is not accepted and schedules a main hearing according to the provisions for the abbreviated procedure (Criminal Procedure Law, article 491 paragraph 5). The parties of the mediation procedure are the suspect, his defense counsel and the injured party and his attorney. Within three days of the given consent, the parties shall amicably determine one or more mediators from the Directory of mediators and notify the individual judge accordingly. In accordance with the principle of efficiency, the mediation procedure can last up to 45 days from the day of the consent given by the parties to the competent individual judge (Criminal Procedure Law, article 493), because it is the legal deadlines that make the mediation effective in contrast to the long court proceedings that lead to criticism of the inefficiency of the court system. The mediation procedure until the signing of a written agreement is carried out by the mediator in accordance with the provisions of the Law on Mediation (Criminal Procedure Law, article 494). In an agreement with the parties, the mediator will determine the terms for conducting the mediation. Before the mediation procedure starts, the mediator must familiarize the parties with the principles, rules, and costs of the

procedure. In the mediation procedure, the mediator communicates with the parties together or separately.

One of the ways of ending the mediation procedure and the most optimal way to end the dispute is to sign a written agreement with the prescribed mandatory elements it should contain (Criminal Procedure Law, article 496 paragraph 2) in case both parties manage to agree on a joint solution. The Law on Criminal Procedure provides for the other ways that mark the end of the mediation procedure, and which are the basis for the individual judge to schedule a main hearing according to the provisions for the abbreviated procedure (Criminal Procedure Law, Article 495 paragraph 2). The most common way of ending mediation is a written statement by the mediator that no further attempts at mediation are warranted. The mediation procedure, except by signing a written agreement, can end: with a written statement by the mediator, after consultations with the parties, that further attempts at mediation are not justified, on the day of submission of the statement; with the expiration of the 45 - day period ascertained by notification by the mediator; by withdrawing the parties at any time from the mediation procedure without stating the reasons for it, and the withdrawal will be considered from the day of submission of the withdrawal statement; when the mediator stops the mediation procedure with a decision if he considers that an agreement has been reached that is illegal or unenforceable. However, when the mediation procedure ends with the signing of a written agreement by the mediator and the parties to the procedure, it is submitted to the competent court without delay. At the same time, this entails responsibility for the timely fulfillment of obligations by the suspect, who is obliged to submit proof of fulfillment of obligations and reimbursement of the costs of the procedure to the competent individual judge, after which the individual judge brings a decision to stop the procedure, which is submitted to the suspect and the victim. If the deadlines expire, and the suspect does not submit evidence that he has fulfilled the obligations determined by the written agreement, the individual judge schedules a main hearing according to the provisions for the abbreviated procedure (Criminal Procedure Law, article 496).

1.2. Mediation representation in criminal cases

In favor of mediation as a tool for the peaceful resolution of disputes, according to the data of the Ministry of Justice, the number of successfully resolved disputes with mediation is as much as 55% of the total number of mediation attempts registered in the e - register, and this number it is believed to be much higher, given the fact that every mediation attempt is not recorded in this system (Lazetic et al., 2022, p. 8). Regarding the attitude of judges about mediation in criminal cases, its evaluation as a useful mechanism for resolving criminal cases prevails, and fewer of them consider it to be a good mechanism, but without significant achievements, taking into account the negative aspects of the mediation procedure, namely: the parties do not have confidence in mediation, the mediation is not well thought out legally, the mediators do not have authority among the citizens, as well as the fact that the mediation is closed to the public, so this is why mediation in private lawsuits usually does not give positive results in the largest number of cases. The small number of criminal cases in which mediation is used as an alternative way of resolving the dispute, does not go in favor of the strategic direction for greater application of mediation according to the Justice Sector Reform Strategy for the period 2017 - 2022. Judges who judge criminal matters apply the mediation procedure in an exceedingly small percentage (Lazetic et al., 2022, p. 36). At the same time, in no case did the procedure end successfully, that is, with the signing of an agreement. A significant percentage of judges (44%) at the level of courts in the territory of the RNM agree to the introduction of a mandatory attempt at mediation in cases following private criminal lawsuits (Lazetic et al., 2022, p. 84). The introduction of mandatory mediation cannot be a permanent solution, but only a temporary solution for stimulation that should familiarize subjects with mediation and its benefits so that they apply it on their own initiative in the future. The obligation may be the reason for the high number of cases, but also for the high degree of failure in criminal cases. However, the practice of mandatory mediation will change the mental code and thinking in the direction of further consolidating the ways and forms of dispute resolution. The introduction of the mandatory mediation in the RNM in conditions of overloading of the judicial system on the one hand, and lack of judges on the other hand, will actually affect achieving a great relief of the judiciary by transferring the powers to resolve criminal cases

in extrajudicial proceedings that will ensure greater efficiency and economy in handling and reducing the number of pending cases from the relevant area. Mediation is suitable as an alternative solution, and for certain crimes more, and for certain crimes less.

An especially important impact concerning mediation in penal matters in the country has the Council of Europe Recommendation No. R (99) 19 („Penal Mediation Recommendation") where the Penal Mediation Guidelines were used as a basis for legislation (Council of Europe, 2018, p. 20). The legal provisions are especially applicable in criminal cases regarding criminal offences, for which, according to the law, the reconciliation of the parties removes the criminal liability. From the nature of mediation as a mean of reconciling the mutual relations of the conflicting parties, the point of view arises according to which it is most suitable for its application in proceedings after criminal acts against marriage and the family, and the courts have the obligation to offer it to the parties with the possibility of their dispute being resolved through mediation, rather than in court proceedings. A mandatory attempt at mediation or conciliation will enable easier and more painless access to justice for vulnerable categories of persons. Mediation in the criminal justice system can reduce repeat offending because the offender has had to confront the consequences of his actions.

Mediation is regarded as the most suitable alternative to adjudication, because unlike adjudication, mediation is believed to address the causes of disputes, reduce the alienation of litigants, inspire consensual agreements that are complied with, are durable over time, and help disputants resume workable relationships (Northern Territory Law Reform Committee, 1996, p. 4). The courts should encourage criminal mediation because it takes the mystery out of the process for the participants, it gives everyone the chance to speak freely in a much more relaxed setting, and the people whose lives have been impacted have the chance to directly participate in the process and influence the outcome of the matter; when mediation is successful, it frees up court time for the prosecution of matters that cannot be resolved and really need to be tried (Moriarty, p. 4). The recommendations aimed at improving the application of mediation in criminal cases are: greater promotion of the advantages of the mediation procedure; in the case of private lawsuits, after being admitted to the court, they must be submitted to an authorized mediator, and returned to the court after a procedure has

been carried out, that is, after an attempt at mediation has been made or proof that the mediation was unsuccessful; the mediation procedure should be more accessible and better designed; mediators to be more open to the public, to know the laws so that they can successfully help the parties and not be guided by personal interests; legal changes, a campaign for public debate before any legal changes start, a campaign to affirm mediation as a procedure, emphasizing the positive aspects of mediation, to hear the views of practitioners, those facing everyday problems; greater transparency through familiarization with media coverage; education of lawyers to advise the parties on the mediation procedure. The recommendations are aimed at improving the legal solutions for mediation, as well as with the aim of improving the conditions in which the concept and application of mediation develops.

2. Mediation in civil cases in the Republic of North Macedonia

The mediation procedure in macedonian law is an alternative to the civil procedure. This has been the case since the adoption of the first Law on Mediation in 2006 (which was prepared in accordance with the Strategy for the Development of the Justice System for the period 2004 - 2008), until today (Majhosev et al., 2014, p. 121). The mediation procedure was introduced to reduce the overloading of the courts with a considerable number of cases, to enable faster and more economical access of citizens to justice and for the purpose of effective alternative resolution of disputes (Sotiroski, 2011, p. 142).

In this context, even the new Law on Mediation from 2021, which replaced the Law on Mediation from 2013, did not take a major systemic step towards regulating the mutual relationship of mediation in the resolution of all civil cases and civil proceedings. Namely, according to the current Law on Mediation, and according to the Law on Civil Procedure, the mediation procedure is an alternative to the civil procedure. Hence, the possibility of resolving civil disputes through mediation in macedonian positive law depends solely on the will of the parties.

2.1. Mediation according to the positive provisions of civil law

The current statistical data in this regard show that only about a hundred cases have been resolved by the mediators, which is a relatively small number if one takes into account that the possible engagement of

167 mediators in the Republic of North Macedonia is foreseen for the resolution of disputes with the help of mediation (Sotiroski, 2011, p. 138).

Also, judges who judge civil matters apply the mediation procedure in an exceedingly small percentage. According to 73% of the judges, none of the mediation procedures were successful, that is, they did not end with an agreement (Lažetic et al., 2022, p. 36).

It is precisely because of this that the need to introduce a model of mandatory mediation for civil disputes in Macedonian law is imposed, because practice has shown that voluntary mediation does not work effectively by itself. As an example of this, the model for mandatory mediation in commercial disputes, which is regulated in the Law on Civil Procedure, can be taken.

Mandatory mediation in the Republic of North Macedonia was introduced for the first time in 2015 with the Law on Amendments and Supplements to the Law on Civil Procedure (Spirovska, 2021, p. 116). Namely, according to article 461 paragraph 2 and 3 of the Law on Civil Procedure, there is an obligation for a mandatory attempt at mediation in commercial disputes for monetary claims whose value does not exceed 1,000,000 denars, and for which the procedure is initiated by a lawsuit before a court. This is a unique situation where the current Law on Civil Procedure refers to mandatory mediation. In these disputes, the parties are obliged, before filing the lawsuit, to try to resolve the dispute through mediation. This does not apply to procedures by payment order before notaries. When submitting the lawsuit, the plaintiff is obliged to submit written evidence issued by a mediator that the attempt to resolve the dispute through mediation has failed. The court will reject the lawsuit to which the evidence from the mediator that the matter cannot be resolved through mediation is not attached.

In the context of this, it seems that the Law on Mediation from 2021 should undergo amendments and additions in a way that will introduce a mandatory attempt at mediation in family, property, consumer, commercial, labor, insurance, disputes arising from the procedures of notary payment orders and other civil relations in which the parties can freely dispose of their requests.

In accordance with Article 272 of the Law on Civil Procedure, the court is obliged to deliver to the parties, together with the invitation for the preparatory hearing, a written indication that the dispute can be resolved in a mediation procedure, in disputes where mediation is allowed.

The current legal solution applies only to commercial disputes, because currently only mandatory mediation is allowed in them, and in the future, it should apply to all disputes for which mandatory mediation will be provided for.

Introduction and practice of the compulsory attempt for mediation in the Republic of North Macedonia will affect the achievement of great unloading of the judiciary, in the areas that now are heavily exploited and do not show efficiency in solving it. The new concept of mandatory mediation will ensure greater efficiency and economy.

The changes and additions in the direction of introducing mandatory mediation are also in accordance with European secondary law. In the context of this, within the European Union, mandatory mediation is regulated in secondary law, where the Council of Europe sets out the Recommendations for the introduction of a mandatory attempt at mediation (Recommendation No. REC (201) 9 of the Council of Europe, Annex to Recommendation No. REC (2002) 10. The Council of Europe opens the possibility for member states to decide on the eventual acceptance of the offered legal mechanisms.

According to the current legal solution of article 200 paragraph 1 point 6 of the Law on Civil Procedure, if both parties request it, the dispute can be resolved through mediation. It can be concluded from this legal provision that the parties can initiate the mediation procedure during the litigation procedure if there is a mutual agreement for it (Stoileva and Gorgieva, 2019, p. 30). In this case, the litigation procedure will be terminated and the possibility of resolving the dispute in the mediation procedure will be left. In this case, the court is obliged to issue a decision to terminate the civil procedure in accordance with article 273 paragraph 1 of the Law on Civil Procedure.

In accordance with Article 308 paragraph 4 of the Law on Civil Procedure, if the parties have concluded an agreement in a mediation procedure, they are obliged to submit it to the court within eight days from the day of its conclusion. The court schedules a hearing at which it notes on the record the concluded agreement, which acquires the character of a court settlement if the conditions for concluding a court settlement are met in accordance with article 307 of the Law on Civil Procedure.

Article 16 of the Law on Mediation, which regulates the relationship between the litigation procedure and the mediation procedure in the case where the mediation procedure is ongoing, should undergo

amendments and additions. Namely, according to Article 16 of the Law on Mediation, „the parties have no right until the completion of the mediation procedure to initiate arbitration, court or other proceedings for the dispute that is the subject of mediation, except when it comes to temporary measures or security measures“. This article should undergo changes and additions because it is in direct contradiction to article 6 of the European Convention on Human Rights, because it limits the rights of citizens determined by this Convention.

3. Benefits of mediation as an alternative to court proceedings

On the side of the benefits of practicing mediation in criminal proceedings, the mitigating circumstances for the courts and for the parties to a case are significant. Mediation is not a way for the perpetrator to avoid responsibility for what he has done, but a way to face it, perceive the consequences, listen to the victim/damaged and participate in finding a fair and acceptable solution for both opposing parties (Jovanovska and Tuntevski, 2019, p. 2). Namely, conducting mediation in criminal proceedings will lead to: reducing the workload of judges, leaving them the opportunity to better focus on more difficult cases; efficiency in terms of reducing the time for resolving criminal cases, because mediation in criminal proceedings must not last longer than 45 days; cost - effectiveness of the procedure by avoiding court costs and attorney's fees for delaying hearings; one - stage procedure, i.e. simplification of the process due to the avoidance of time and costs for resolving the dispute at a higher level, that is, by appeal; depending on the outcome of the mediation, achieving satisfaction for both parties, which is not the case in court proceedings, where one party is always dissatisfied, starting from the previously reached mediation agreement when both parties agreed to participate in making a decision on the matter; there is autonomy of the parties, namely, the parties are the authority in the procedure, have control over its development, respect the dignity of the other party and have full influence over the process and the outcome and content of the agreement; from the perspective of the defendant/suspect who decides to adopt a conciliatory attitude, the most important advantages are: possibly milder treatment by the court and a chance to reach an agreement with the aggrieved person concerning compensation and redress; the advantage of mediation is the confidentiality, but also the flexibility of the procedure,

which takes place in a pleasant atmosphere for the parties; avoiding a criminal record for the perpetrator; directing the procedure towards finding a common solution and leveling the conflict between the perpetrator and the victim, with the absence of accusation, proof, sanctioning.

Mediation is also a better way of resolving disputes than civil proceedings. The reasons for this should be sought in several directions. First, mediation is an informal procedure. Informality means that the parties can create the rules by which they and the mediator will act. It allows the mediation to take place in a constructive atmosphere that resembles a business meeting. Unlike mediation, when the dispute is decided by a civil court, the actions of the parties and the judge are strictly formal and the same is legally determined in advance.

The initiation and conduct of mediation depend on the will of both parties. This means that, if any of the parties during the procedure decides to withdraw, she will not suffer any legal consequences regarding her personal or her material claim. In civil proceedings, the initiation and conduct of the proceedings depends solely on the will of the plaintiff. The moment he notices that his right is threatened or violated, he can file a lawsuit. Unlike him, the defendant, not of his own volition, becomes a party to the court proceedings. If he refuses to participate in a procedure, by order of the court, due to his behavior, he will suffer legal consequences for his person or material position.

Every individual or business entity strives to preserve its good reputation in society. The knowledge that any type of procedure is being conducted against a subject lead to a decrease in trust in him in the eyes of the public. That is why it is important for legal and natural persons that the procedure in which they resolve the dispute takes place away from the eyes of the public. This is especially important when huge economic giant companies must resolve a mutual dispute, which is increasingly common due to the accelerated trend of globalization, business, the growth of the international economy, investments, and the ambition to create a single economic market. Mediation is a secret procedure and in it the public is always excluded. This means that apart from the parties and the mediator, no one else knows the facts in dispute, the way the meetings are conducted, what is communicated there and the final solution to the dispute, i.e., the settlement. Also, the party can tell the mediator his secrets, but he must not pass them on to the opposite party without his

consent and without any consequence on the outcome of the dispute. Contrary to the mediation, the civil procedure is public because the courts are part of the judicial authority in the state whose function is the administration of justice which is public.

In mediation, there is no proof of disputed facts, its basis is negotiation with the help of a third neutral person-mediator, during which the parties try to harmonize their interests in a constructive atmosphere and resolve the dispute by reaching a mutually acceptable solution. In civil proceedings, the truth or falsity of the claims of the parties is determined through the evidence. Each party tries to prove the truth of its claim or the falsity of the opposite party's claim, to obtain a decision in its favor.

The main purpose for which the plaintiff starts the civil proceedings is the passing of a judgment by the judge, who will be the regulator of the relations between the parties. According to the court ruling, one party must always win the dispute, she is the winner, and if the other party loses, she is the loser. In mediation, the mediator does not have the role of a judge, he is only a „guardian of the procedure"who helps the parties to better understand the nature of the problem, to familiarize themselves with the numerous possibilities that can lead to its solution in whole or in part, which is why a solution cannot be imposed on the parties. Namely, the parties have the main say: they make the final decision on the dispute as an agreement, according to which there is neither a winner nor a loser. Such an agreement allows the parties to maintain and even deepen friendly relations with each other and business cooperation, which is not the case when the dispute is resolved by a state court.

Civil proceedings and mediation also differ in terms of the length of their duration. Court proceedings usually last a long time, their duration is usually measured in months and years, while mediation from negotiation to reaching an agreement takes a brief period of a few days or a few weeks.

A consequence of the short duration of the mediation is its lower cost. According to Ambrose Bierce „Litigation is a machine in which you go in like a pig and come out like a sausage" (Bierce, 1967, 178), which means that litigation impoverishes the parties because they are exposed to a large number of costs starting from court fees, awards and costs of lawyers, expert fees, etc., while in mediation the costs are reduced to the mediator's reward for the work performed.

Conclusion

Mediation in criminal and civil proceedings is carried out little or not at all in our courts. The number of cases that are resolved through mediation is still trivial, when compared to the number of cases for which legal proceedings have been initiated; although after the adoption of amendments to the Civil Procedure Code in 2015, the percentage of procedures in which mediation is used increases, it is mostly seen as an opportunity to prolong the dispute, and not for a successful settlement of the opposing parties (Kocevski and Crvenkovska, 2018, p. 12). However, this does not mean that the application of mediation in both, civil and criminal proceedings is unsuccessful, but that more work should be done to discover the weaknesses that cause non - implementation and to correct them by devising and implementing solutions through which, step by step, the practice of applying mediation will be reached. In our country, the wider application of the mediation procedure would be of immense importance, because it allows considering the mutual interests of the parties and the possibility of reaching an agreement, as an expression of the voluntary approach and will to reach a common compromise.

Mediation, as an alternative way of resolving disputes, offers many advantages for citizens and business entities, but it needs greater affirmation, which can be achieved by taking appropriate affirmative measures, legal changes and strengthening awareness of the advantages it offers as an extrajudicial way of resolving disputes of various kinds. Namely, the best way to apply mediation is a good promotion that will include all information and misinformation about this method of dispute resolution, which will make the parties familiar with mediation and increase their interest in this method of peaceful dispute resolution.

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SCOPE STRUCTURE AND DYNAMICS OF JUVENILE DELINQUENCY IN THE REPUBLIC OF NORTH MACEDONIA IN THE PERIOD 2013-2022

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ABSTRACT

Juvenile delinquency refers to criminal behaviors and actions committed by children in conflict with the law, mostly between ages 14-16 and 16-18. It encompasses a wide range of offenses, such as theft, vandalism, drug abuse, and even violent crimes. Several factors contribute to the development of juvenile delinquency. These include family dysfunction, peer influence, socioeconomic status, and a lack of positive role models. Many young offenders come from broken homes or dysfunctional families characterized by abuse, neglect, or violence. The socioeconomic background of a young person also plays a role in juvenile delinquency. Poverty, unemployment, and a lack of access to educational opportunities can increase the likelihood of involvement in criminal activities. To address the issue of juvenile delinquency, a holistic and multidimensional approach is necessary. It involves early intervention, community programs, and rehabilitation efforts. Implementing effective prevention programs that target at-risk youth can help reduce delinquent behavior before it becomes deeply ingrained. When researching a complex phenomenon such as juvenile delinquency, it is important to consider its dynamic structure and scope. In this article, we discussed juvenile delinquency, taking into account the official data of the Republic of North Macedonia for the last ten years. Furthermore, we have provided a detailed explanation, emphasizing certain crucial terms per the North Macedonian child protection law.

Keywords: Juvenile, delinquency, crime, child, law

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INTRODUCTION

In identifying the causes of criminal behavior, it is important to determine which factors contribute to a delinquent identity and why some adolescents who adopt a delinquent image do not discard that image in the process of becoming an adult. Delinquent identity is quite complex and is, in fact, an overlay of several identities linked to delinquency itself and to a person's ethnicity, race, class and gender. Delinquent identity is always constructed as an alternative to the conventional identity of the larger society. Violence and conflict are necessary elements in the construction of group and delinquent identities. (Report, 2003)

In order to analyze the scope, structure, and dynamics of juvenile delinquency, it is very important to define the phenomenology term. Phenomenology comes from the Greek word *phainómenon*, which means phenomenon ("that which appears"), and the Latin word logos, which means study. There are several basic emergent forms of criminality, including juvenile delinquency. In order to be able to research the phenomenology of juvenile delinquency, the scope (totality), structure, dynamics, and emergent forms, including gender and age, and prevalence of juvenile delinquency, should be observed as particularly important characteristics.

Considering the above-mentioned basic components of phenomenology, **scope** means monitoring criminality statistics from the total number of crimes committed in a certain place and a certain period. Here we also list the statistical number of crimes committed and perpetrators of crimes, specifically adults, children, etc. One of the main problems is the "dark number" of criminality within the framework of determining the scope or totality. The types and characteristics of total criminality are included in the structure of juvenile crime and the types of crimes committed by juvenile delinquents.

The dynamics of criminality, as the next characteristic, can only be imagined with the structure and scope of criminality. Thus, the dynamics or movement of criminality refers to changes in the extent of criminality as a social mass phenomenon during a period and in a certain space, or generally speaking. The dynamics explain the decrease or increase in the rate of criminality in a certain period. By sublimating the

scope, structure, and dynamics, we obtain data for a certain period around the statistical movement of juvenile crime.

1. The Scope of the Juvenile Crime

The scope of juvenile delinquency can be determined for each year or longer and shorter periods (e.g., longitudinal research) for an entire country or region. The scope of juvenile delinquency, but also the scope of general criminality, can be determined by:

- filed criminal charges against children (reported children in conflict with the law),

- filed charges against children (accused children in conflict with the law) and

- convicted children in conflict with the law.

The recording of criminality is of crucial importance for measuring criminality in a country. It is important to say that only some countries have institutions that keep statistics on criminality. In the Republic of North Macedonia, specifically, records on juvenile delinquency are kept by: The State Statistics Office, the basic courts, the Ministry of Justice, the Center for Social Work, and the Ministry of the Interior.

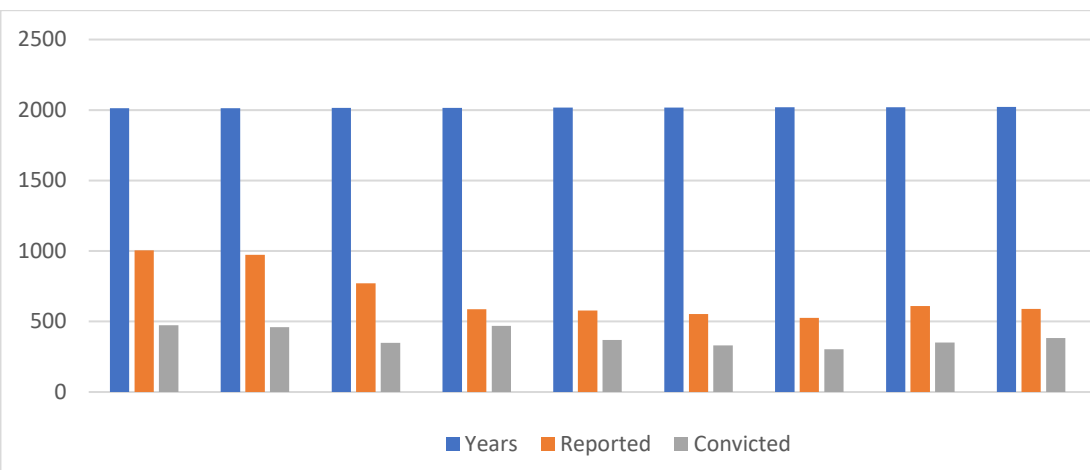
Table number 1: Reported and convicted juvenile delinquents from 2013-2022 in RNM

The term "reported child - perpetrator of a crime" means a child against whom the criminal complaint procedure has not been initiated (the complaint has been rejected), against whom the preparatory procedure has been stopped, or a proposal for sentencing or an educational measure has been submitted. The term "convicted person" means a child - a perpetrator of a crime who has been sentenced to a criminal sanction - prison for children or an educational measure - by a court decision. In order to show the difference, or rather the representation of children in conflict with the law within the overall criminality in Macedonia, we present the situation regarding reported and convicted adults in North Macedonia. (Perpetrators of Criminal Offences, 2016)

Table number 1: Reported and convicted juvenile delinquents from 2013-2022 in RNM

Years	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
Reported	1005	972	772	587	578	554	525	610	589	473
Convicted	473	461	348	468	368	330	304	350	382	262

Graph number 1: Reported and convicted juvenile delinquents from 2013-2022 in RNM



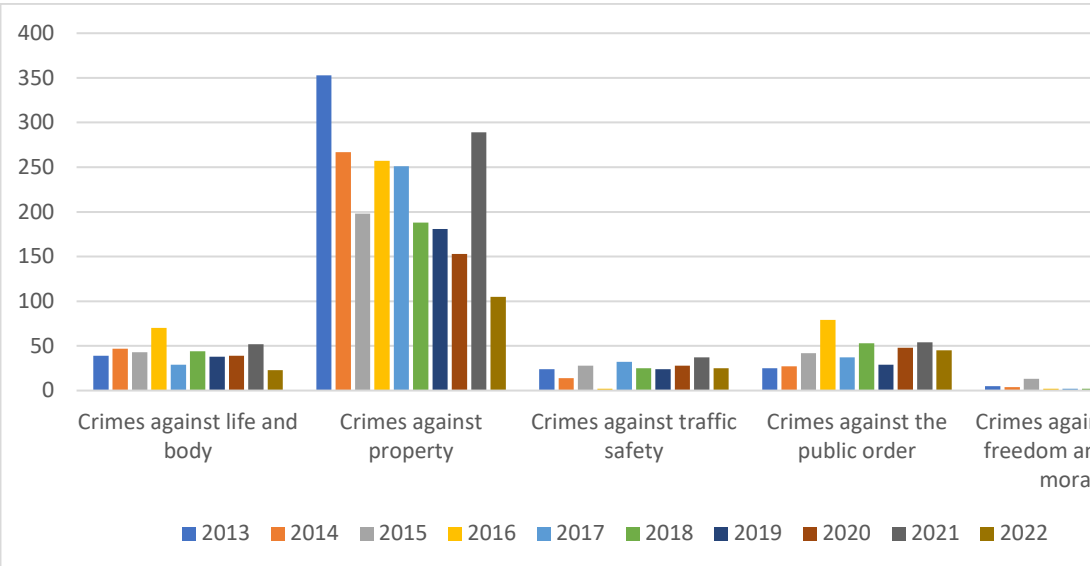
2. The Structure of the Juvenile Crime

The structure represents a factual basis on which the facts that characterize certain phenomena (structural changes in society that lead to the occurrence and changes in criminality and delinquency) are systematized and explain their internal composition. The structure expresses the composition of the phenomenon, while classification is applied as a method to explain the structure of the phenomenon. (Arnaudovski, 2007)

Table number 2: Most committed types of crimes by juvenile delinquents in RNM

Years	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Crimes against life and body	39	47	43	70	29	44	38	39	52	23
Crimes against property	353	267	198	257	251	188	181	153	289	105
Crimes against traffic safety	24	14	28	2	32	25	24	28	37	25
Crimes against the public order	25	27	42	79	37	53	29	48	54	45
Crimes against sexual freedom and sexual morality	5	4	13	2	2	2	2	5	15	15

Graph number 2: Most committed types of crimes by juvenile delinquents in RNM



3. Movement (Dynamics) of the Juvenile Crime

The third important characteristic of criminal phenomenology is the dynamics or the movement of criminality and delinquency. Crime and delinquency are dynamic and changing; they show constant scale, structure, and prevalence changes. The dynamics of delinquency are influenced by the following factors: social, economic, political, cultural, etc., so, for example, if the transition period is taken into account, it can be noted that the dynamics of criminality and delinquency are different.

It should be emphasized that within the mentioned factors, it is important to add migrations, which in the last few years have proven to be a serious factor in the movement of juvenile delinquency. Specifically in North Macedonia, the collapse of the socialist system and the beginning of the transition period created changes in the structure, scope, and dynamics of criminality and delinquency. Hence, this situation contributed to creating new forms of criminality and delinquency. The historical dimension of the dynamics of juvenile delinquency is of great importance in order to be able to analyze statistical data or, rather, the movement of juvenile delinquency over the years.

Conclusion

The characteristics of juvenile crime are perceived through certain variables: gender, age, financial situation etc. All of the above variables as factors directly influence the development of the juvenile. The contemporary juvenile crimes characterized by the organization of young people in juvenile groups or gangs for the commission of criminal offenses. (İbish, 2022) Juvenile delinquency has increased in proportion to industrialization in Western societies. Industrialization brings together rapid and irregular urbanization. As a result, unemployment, inequalities in income distribution, and deterioration of traditions, especially the increase in the population of children and young people, create a tendency to crime.

The study of the position of the child in criminal law and criminology has a wider scientific and social significance because the way the child is treated in the criminal law of a certain criminal law system is an indicator of the degree of development of that system following the achievements of the criminal law field.

Property crimes, as well as crimes against public order, crimes against the general safety of people and property, not only in Republic of North Macedonia but also in other countries, are characterized as typical crimes committed by juvenile perpetrators and are characteristic of juvenile delinquency, but the situation surrounding the presence of crimes against life and body and crimes against sexual freedom and sexual morality is extremely worrying, this situation indicates that it is high time to create more comprehensive actions for the prevention of juvenile delinquency at the national level in order to reduce the rate of the listed serious crimes.

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APPLICATION OF ARTIFICIAL INTELLIGENCE IN THE JUDICIARY AND ITS APPLICABILITY IN NORTH MACEDONIA

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ABSTRACT

The integration of Artificial Intelligence (AI) in various industries has spurred curiosity about its potential role in reshaping the judiciary. This scientific paper delves into the application of AI within the judicial system and examines its potential impact in North Macedonia.

AI, encompassing machine learning and natural language processing, holds substantial promise in the legal realm. Its automation of tasks such as legal research, case analysis, and document review stands to significantly streamline judicial processes, ultimately enhancing efficiency. Moreover, AI-powered algorithms can aid judges in navigating complex legal precedents, enabling informed decisions derived from comprehensive data analysis.

In the context of North Macedonia's judiciary, prevailing challenges like case backlogs, resource constraints, and operational inefficiencies underscore the potential value of AI. Its implementation could potentially expedite case management, improve evidence analysis, and optimize resource distribution. Furthermore, AI-driven legal chatbots and virtual assistants might serve as vital tools, granting access to legal information and support to those lacking the means to consult legal professionals. Yet, the integration of AI in the judicial sphere demands careful deliberation on potential risks and ethical considerations. Concerns about biases in AI algorithms, transparency, and ensuring accountability necessitate robust safeguards to maintain fairness within the system. To effectively harness AI's benefits, North Macedonia needs stringent legal and ethical frameworks, technological infrastructure investments, and comprehensive training for legal practitioners.

Keywords: Artificial Intelligence, Judiciary, North Macedonia, Regulations, Ethical Governance.

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I. INTRODUCTION

The fusion of Artificial Intelligence (AI) with the intricate tapestry of the legal domain heralds a paradigm shift in the functioning of judiciaries worldwide. In the context of North Macedonia, a nation grappling with unique challenges within its judicial system, the prospect of integrating AI technologies presents both promise and complexity. This introduction navigates the terrain of AI's evolution within the legal sphere, unraveling its implications and confronting the multifaceted challenges faced by North Macedonia's judiciary. As AI steadily permeates various industries, its applications within the realm of law - encompassing machine learning, natural language processing, and predictive analytics - beckon a transformative era marked by enhanced efficiency, improved access to justice, and augmented decision-making processes.

North Macedonia, like many nations, confronts hurdles such as case backlogs, resource constraints, and the imperative of ensuring fair and timely trials. The utilization of AI has emerged as a beacon of hope, promising to address these challenges through the automation of legal tasks, expediting processes, and optimizing resource allocation. However, the assimilation of AI within the judiciary raises ethical dilemmas, such as algorithmic bias, transparency, and the preservation of human judgment in legal decision-making. This introduction serves as a precursor to unraveling the multifaceted implications and potential solutions entwined within the convergence of AI and the legal system in North Macedonia. As we embark on this exploration, we scrutinize the delicate balance between leveraging technological advancements and upholding the core tenets of justice, fairness, and ethical integrity within the evolving landscape of North Macedonia's judiciary.

METHODOLOGY

This study conducts a comprehensive literature review focusing on the integration of Artificial Intelligence (AI) within the judicial system of North Macedonia. Primary sources of information include Constitution of North Macedonia, scientific books and papers obtained from renowned online databases like Google Scholar, Researchgate, and Dergipark. These databases encompass journals indexed by leading platforms such as EBSCO, SCOPUS, and WEB OF SCIENCE.

The search methodology employs specific keywords— "Artificial Intelligence," "North Macedonia," and "judiciary system"—to extract relevant publications. The selected papers for review adhere to specific criteria: (a) they are available in English, Macedonian, Turkish, or other languages, (b) their publication dates fall between 2020 and 2023, and they primarily address issues related to the establishment of international organizations and their corresponding treaty obligations. Many scholarly papers meeting these stringent criteria have been retrieved from the online databases. To ensure a diverse array of perspectives, the literature review encompasses materials in different languages, predominantly English, Macedonian, Turkish, etc. enriching the references and overall quality of this research.

II. THEORETICAL FRAMEWORK

(A) Artificial intelligence in North Macedonia

Artificial intelligence technologies and their impact on the jurisdiction of North Macedonia are discussed in the context of intelligence scandals and the need for electronic jurisdiction. The paper by Kostenko proposes the creation of an electronic jurisdiction to regulate public relations in the electronic space, including the use of artificial intelligence technologies (Kostenko, 2022). The paper by Prezelj and Ristevska analyzes intelligence scandals in North Macedonia, highlighting the broad political and security impacts of transgressions committed by intelligence and political actors (Prezelj. I. Ristevska. T. T., 2023). These findings suggest that the use of artificial intelligence in intelligence activities may have implications for the jurisdiction and governance of North Macedonia. However, further research is needed to explore the specific applications and implications of artificial intelligence in the jurisdiction of North Macedonia.

The main challenges to the development of artificial intelligence in North Macedonia include the lack of a specific law on cybersecurity (Poposka, 2023), the need for a high level of functional and technical knowledge in implementing technological advancements in financial services (Filipovska, O., Pendevska, M.,, 2022), and the impact of introducing the digital euro on the country's financial policy (Galetin, M., Škorić, J., Mihajlovic M., 2022). Additionally, the education system faces challenges in terms of achieving its goals and ensuring synergy and logical

connectedness between different segments. The application of ICT in education is emphasized, but there is a need for more didactic materials and resources, as well as stability and continuity in policy planning.

(B) Potential applications of artificial intelligence in North Macedonia

Artificial intelligence (AI) has the potential to be applied in various ways in the North Macedonian judicial system. One potential application is the use of AI in organizing data, consulting, and forecasting, which can help improve the efficiency and effectiveness of court proceedings (Rama. I., 2023). The potential applications of artificial intelligence in the North Macedonian judicial system are vast, with the technology being considered for use in decision-making, document assembly, case retrieval, and other administrative tasks. AI algorithms can also support lawyers and justice administrations by providing artificial intelligence search tools, predictive technologies, and business analytics based on Big Data computation. Additionally, an intelligent judicial trial system called XieZhi has been developed, which utilizes AI to predict crimes and sentences, recommend relevant law articles, and suggest similar cases (Changyi He; Jingbo Ma; Chuan Jin,, 2022). These applications of AI in the judicial system have shown high accuracy and good performance. Overall, the integration of AI in the North Macedonian judicial system has the potential to enhance efficiency, decision-making, and access to justice. For example, researchers at University College London, the University of Sheffield, and the University of Pennsylvania employed an AI algorithm to analyze 584 judicial decisions processed by the European Court of Human Rights. The algorithm discerned patterns within the text of these cases and, after learning from these instances, showcased an ability to predict outcomes in other cases with a 79% accuracy rate. Surprisingly, the study highlighted those elements typically considered non-legal—such as language usage, discussed subjects, and mentioned circumstances within case texts—proved to be more dependable indicators of case outcomes compared to legal arguments.

However, successful integration of AI into our judicial system requires consideration of crucial factors. One fundamental aspect involves ensuring the reliability and authenticity of data used by AI systems. This ensures the integrity of decisions made by these systems. Additionally, acknowledging the limitations inherent in AI algorithms and technology

is vital to prevent over-reliance or misinterpretation of AI-generated insights.

Furthermore, establishing trust and acceptance among judges and legal professionals concerning the adoption of AI-driven tools and recommendations is critical. Providing comprehensive training and awareness about AI's capabilities and limitations can foster acceptance and collaboration between AI systems and human judgment within our legal framework. Successfully addressing these challenges will be instrumental in maximizing the benefits of AI integration within North Macedonia's judicial system, while upholding essential principles like fairness, transparency, and accountability in legal proceedings. It requires collaborative efforts among experts, technologists, and policymakers to ensure the responsible and effective use of AI in our country's judicial processes.

(C) Regulatory framework for AI integration in North Macedonia's judicial system

The regulations required for implementing Artificial Intelligence (AI) within Macedonia's judicial system are designed to ensure the ethical, fair, and responsible utilization of AI technologies. These regulations encompass critical aspects, including the establishment of ethical guidelines governing the development and deployment of AI in legal processes. Ensuring transparency is essential, requiring AI systems to be understandable and explainable, ensuring comprehension among judges, legal professionals, and affected parties. Robust measures address data privacy and security, safeguarding sensitive legal information. Efforts to identify and mitigate biases in AI algorithms are pivotal to prevent discriminatory outcomes. Human oversight remains crucial, emphasizing that AI should complement rather than replace human judgment. Clear frameworks for accountability and liability concerning AI-generated decisions, certification standards, training initiatives, continuous monitoring, and public engagement efforts are central to these regulations. These regulations aim to harness AI's potential within Macedonia's judiciary while upholding ethical standards, ensuring fairness, and sustaining public trust in the legal system.

Incorporating AI within the Macedonian judicial system necessitates a delicate balance between ethical considerations and regulatory measures.

One key aspect highlighted is the importance of human supervision in AI-supported judicial decisions, ensuring transparency and fairness (Spitsin, I.N., & Tarasov, I.N., 2020). Additionally, suggestions have been made for the development of a distinct legal framework specifically addressing AI's role to guide its regulation. Ethical reflection and regulation also emerge as crucial factors in the application of AI within the justice system. Moreover, there's an emphasis on the necessity of clear guidelines and ethical norms governing AI's involvement in judicial trials. Overall, these perspectives collectively stress the critical role of human oversight, ethical considerations, and robust regulatory structures in implementing AI effectively within the Macedonian judicial domain.

In the European Union (EU), there isn't yet a comprehensive, singular agreement exclusively dedicated to artificial intelligence (AI) that encompasses the entirety of Europe. Nevertheless, the EU has been actively involved in crafting a legal framework and guidelines to regulate AI applications and promote responsible AI development across its member states. Additionally, efforts have been made within the EU to establish a framework for Ethical AI Adoption (EAIA) among its member states. Notably, in April 2021, the European Commission introduced the "Proposal for a Regulation laying down harmonized rules on artificial intelligence" (Mancheva, 2021). This proposal seeks to establish a set of regulations and responsibilities for AI systems, particularly targeting high-risk AI applications. It delineates stringent criteria regarding transparency, accountability, data quality, and human oversight, primarily focusing on AI systems with potential implications on fundamental rights and safety. Considering these developments, Macedonia might find it necessary to revise its domestic legislation and enforce the prescribed regulations to align with the recommendations put forth by the European Commission. An integral facet for Macedonia would be the assimilation of fundamental principles like transparency, accountability, and human oversight in the utilization of Artificial Intelligence within high-risk domains. Embracing these principles stands as a pivotal consideration for Macedonia in its endeavor to modernize and reinforce its regulatory framework in this realm.

III. CONCLUSION

In summary, the integration of Artificial Intelligence (AI) within the North Macedonian judicial system presents significant potential, demonstrated by the discernment of case outcome patterns through AI algorithms. However, the successful implementation of AI in this context requires meticulous attention to multiple factors. Guaranteeing the reliability and authenticity of data, acknowledging the constraints inherent in AI technologies, and fostering confidence and acceptance among legal professionals are pivotal prerequisites for the seamless assimilation of AI-driven tools. Overcoming these challenges necessitates collaborative endeavors among domain experts, technologists, and policymakers. The establishment of comprehensive guidelines, provision of targeted training, and elevation of awareness regarding AI's capabilities and limitations emerge as essential steps toward fostering receptivity and responsible adoption within our judicial mechanisms.

Striking an equilibrium between harnessing the potentials of AI and upholding foundational legal principles, including equity, transparency, and accountability, remains imperative. Effectively navigating these challenges stands to position North Macedonia to leverage AI's benefits while preserving the integrity and credibility of our judicial system. The ethical and judicious utilization of AI stands as a potential avenue for augmenting efficiency and decision-making, ensuring equitable access to justice.

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RECOGNITION AND NON-RECOGNITION OF STATES: LEGAL, POLITICAL AND INTERNATIONAL CONSEQUENCES

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ABSTRACT

Recognition is one of the most difficult and even the most complex concepts to define in both international law and international relations. International recognition means the legal recognition of the existence of a new state that has emerged through self-determination. However, in the issue of recognition, fields such as politics, international law and domestic law are intertwined.

Although legal and political elements are considered together in the act of recognition, states mostly rely on their political preferences. Recognition also includes recognizing and accepting claims on a particular piece of land. Undoubtedly, this situation complicates the issue of recognition seriously. Because recognition does not end with recognizing only a state or government, it also covers the territory under the sovereignty of that state and government. Although the fact of not being recognized has the points where it can be considered as an important criterion at the international level, it does not constitute the basis of "obligation".

Keywords: State, Sovereignty, Recognition, Non-Recognition, International Law

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INTRODUCTION

Recognition of a state and its inclusion in the family of free nations through recognition is one of the most complex issues of international law. Even if international law determines the criteria for recognition, the final decision on recognition is made by sovereign states. What makes recognition difficult is not the absence of general rules regarding recognition, but the fact that recognition has a political dimension in parallel with its legal dimension, and in some cases, the political dimension leaves the legal dimension in the background. When the issue of recognition of a state comes to the fore, it is questioned whether that state meets certain criteria that it is obliged to meet in order to be recognized, but these criteria are often not standard conditions. For example, the criteria put forward for country A may be different when considering country B.

Sometimes the same state can make quite paradoxical decisions on the issue of recognition. Because in the act of recognition, fields such as politics, international law and domestic law can easily be intertwined. The United Netherlands, which declared its independence in 1581, would only be recognized by Spain in 1648. Spain's recognition of the United Netherlands is considered the first example of recognition in history that occurred with the emergence of the modern state. The United Netherlands was recognized by Spain in the same year that the Peace Treaty of Westphalia was signed, which is considered the cornerstone of the emergence of the modern state. In the Middle Ages, joining the family of Christian states was only possible with the approval of the Papacy. In the 19th century, countries such as Britain, Austria, Russia, France and Prussia "accepted" older states such as Iran, China, the Ottoman Empire and Japan into the family of nations. The USA's declaration of

independence in 1776 brought Britain and France into conflict regarding the recognition of this new state. The USA had declared its independence from Great Britain, but Britain defended the thesis that a new state could not be established on any piece of land through war or revolution. Moreover, Britain was not satisfied with this, and put forward the condition that the state that was previously dominant over the lands in question should recognize the new state. Thus, Great Britain was stating that it was invalid for France or any other country to recognize the USA without recognizing the USA as a state. However, France thought differently from Britain on this point and considered it sufficient for a state to be self-sufficient for recognition. Thus, while France recognized the United States in 1778, Britain only recognized the United States in 1782.

1. RECOGNITION IN INTERNATIONAL LAW

Recognition, as a unilateral legal transaction, is a state's acceptance of the existence of a certain phenomenon that may affect its rights, obligations or political interests, and its willingness to continue its future legal relations within this framework. Different events that will affect interstate relations, such as the formation of a new state or government, territorial change, rebellion, bring up the problem of recognition.

Existing states reveal their approaches to changing conditions through the process of recognition. Narrow recognition is the acceptance of a new situation with legal consequences. In its broad sense, recognition refers to the acceptance of an existing fact or situation in terms of relations with other states. However, the recognition of states and governments is of particular importance both as an international law transaction and as a political transaction. Because of their important legal and political

consequences, these special aspects of recognition must be distinguished from the use of the term for mere recognition of an existing situation. Recognition is a process that affects the mutual rights and obligations of states and governments.

Generally, the recognition made by the executive body of the states creates a change in the status of the recognized unit in both domestic law and international law in terms of the recognizing state. Once recognition occurs, the new situation becomes assertable against the recognizing state. (PAZARCI: 140) Recognition has consequences for the recognized state, such as gaining the opportunity to file a lawsuit in the domestic legal order of the recognizing state and obtaining immunity for its representatives and property. (KUZU) :20)

The state is the basic unit in which international law regulates its status and relations. Many state definitions have been made until today. Undoubtedly, the most accepted of these definitions is the definition made according to the theory known as "three elements theory", the origin of which can be found in Georg Jellinek's Allgemeine Staatslehre, the first edition of which was published in 1900. (GÖZLER: 4)

In accordance with this definition, a state is an entity where a human community organized on a certain piece of country lives under a political authority and establishes sovereignty. More clearly, a state has three founding elements that enable it to become a state.

These elements that Jellinek also mentioned are; It is a community of people, a country, and a political authority. In addition, the Montevideo Convention, which was signed in 1933 and entered into force the following year, provides both the elements required by a state as a person

of international law and generally accepted articles on the recognition of states. As stated in Article 1 of the Convention, the mentioned founding elements are also emphasized here, but different points are also stated. According to Montevideo, the human community should coexist permanently, not temporarily – and not disperse afterwards; The boundaries of the territory must be specified and, in addition, the state in question must have sufficient capacity to establish relations with other states. (GÖZLER: 6)

1.1.THEORIES OF RECOGNITION

There are two views in the doctrine regarding the legal effects of recognition . between school divided species . According to the founding school, a state, but other states By being recognized by international law, it gains personality . According to the explanatory school, The existence of a state is a fact and international law gives personality to the existence of other states. It is acquired independently of one 's behavior . The second half of the 19th century and the 20th century when modern international law emerged. It is the founding theory that dominated the doctrine at the beginning of the century .

1.1.1. Constitutive Theory

According to the founding theory, the emergence of new states depends on the will of existing states. The philosophical origins of the constitutive theory date back to Hegel, the founder of positivism and the view of absolute sovereignty of states. According to Hegel, states establish legal relations with each other through the process of recognition within the framework of their free will. (LAUTERPACHT:38) In the 19th century positivist thought, the view of absolute and unconditional sovereignty of the state is dominant. According to this view, the rules to

be applied in the international society are determined by the states that are the subjects of international law. Consent is the basis of international rights (Nuredin, 2022) and obligations. The inclusion of a new member in the international community is only possible with the consent of existing members. Oppenheim explains recognition as follows: *"Since the basis of International Law is the common consent of civilized states, being a state does not by itself mean being a member of the family of nations. Member states are either original members who gradually developed International Law through customs and agreements, or they are recognized members by existing members when they emerged. A state acquires international personality only and exclusively by recognition."* (OPPENHEIM:125) According to Jellinek, *"the legal relationship of two units that are not subjects of a superior legal order occurs only as a result of mutual recognition."*

Jellinek, who accepts that a state is a part of the community of states regardless of recognition, sees recognition as necessary in order to obtain a full international personality with rights and obligations in the community of states. The same view is shared by Listz and Oppenheim. (OPPENHEIM:126-127)

Seeing Vereinbarung (combined will) in recognition, Triepel states that with recognition, the recognizing state and the recognized state bind themselves to comply with the current rules of the international community. According to Anzilotti, international law rules are created by agreement. Therefore, an international law person emerges by being a party to an agreement. In this case, recognition is mutual and constitutive because it creates rights and obligations that did not exist before.

According to Kelsen, recognition has two aspects, one political and the other legal. ***The political aspect of recognition expresses the discretion of the recognizing state, and recognition that does not result in any legal consequences is explanatory in this sense.*** As a legal transaction, recognition is a unilateral constitutive transaction. The legal existence of the recognized community emerges with legal recognition, and thus international law becomes applicable to the relations between two states.(KELSEN:605) Lauterpacht, on the other hand, put forward the view that organized political communities that meet the criteria for statehood have the right to be recognized by existing states, and existing states have the obligation to recognize these communities. Lauterpacht, who tried to take recognition from a political tool to a legal basis, underlined that recognition should not be a discretionary right that can be used freely, but should be realized with a legal decision made by the recognizing state as a result of examining the actual situation. Lauterpacht showed that the reason why this decision was made by the existing states was the absence of an impartial body that could fulfill this task. (KUZU:8)

1.1.2. Explanatory Theory

According to the explanatory theory supported by the majority of writers in modern international law, a state acquires state status by fulfilling the conditions for statehood. Recognition by other states is only a confirmation of this fact and does not give the recognized state international legal personality. Hall expressed the following view on recognition *: "Theoretically, as soon as an organized political community demonstrates that it is capable of becoming a state, it is included in the family of nations and should be treated in accordance with the law."* (HALL:83) The intellectual origins of explanatory theory lie in the natural law view. According to the natural law view, international law is the legal

order of a community of states similar to nature. In such a legal order, the emergence of a state and its inclusion in the international community are independent of the will of other states.

For this reason, every community that meets the conditions for statehood automatically acquires international personality. (KUZU:10) According to the explanatory theory, a state becomes a member of the international community from the moment of its formation and before recognition. Recognition merely constitutes evidence of the existence of an independent state.

1.1.3. Evaluation of Recognition Theories

In the 19th century, the constitutive theory became more accepted in international practice under the influence of positivist international law doctrine. During this period, International Law, which consisted of the rules applied by European States among themselves, was only applied to new states if the members of this closed club recognized it. In the 20th century, explanatory theory, which was more compatible with the doctrine of natural law and the self-determination of peoples, gained importance in practice. According to this theory, the emergence of a state and its acquisition of international personality occurs not by recognition but by meeting the criteria for statehood. In other words, the state acquires an international personality by actually coming into existence. It means that it is immune from prohibitions, for example the prohibition of using force. 20th century practice does not support the constitutive theory in this respect. States that did not recognize a newly established state for political reasons, even though it fulfilled the conditions of being a state, did not claim that this state did not have legal rights and obligations.

1.2. RECOGNITION OF STATES

States are recognized in two ways. These are known as "de jure" and "de facto" recognition. (PAZARCI:140) De jure recognition involves not recognizing a state fully and with all its legal effects. De facto recognition, on the other hand, indicates a recognition that has no continuity, is temporary rather than permanent, and is limited rather than unlimited. Of course, it is impossible for anything to be unlimited. At this point, it is necessary to know that de jure recognition is not completely unlimited. According to US and British court decisions, *it is accepted that "once a state is recognized, this recognition is retroactive* , whether it constitutes the subject of de jure or de facto recognition ." *As a result, the validity of the public acts of the relevant state is accepted not since the date of recognition, but since the date of actual establishment of that state (critical date)* .(PAZARCI:3)

It is useful to proceed from a comparative perspective. We know the conditions for becoming a state. For this, a country, a community of people and a political authority are needed. In de facto recognition, the recognizing state's suspicions about these elements owned by the other state come into play. Let continuity be in doubt, stability and independence be in doubt; All of these are reasons that prevent a state from gaining full recognition. Since de jure recognition is final and irreversible, de facto recognition is already temporary, the state that maintains this recognition has the right to change its decision when necessary, taking into account the situations that may be in favor or against it. It can be changed, thus transitioning from de facto to de jure.(GÖZLER: 4) On the way to recognition, it is necessary to show the existence of a legal process. Recognition can be both explicit and implicit

in form. Covered roads are generally; Establishing diplomatic relations, having diplomatic representations, participating in the same international conferences while being a party to bilateral agreements, having two states as parties to multilateral agreements, or conducting trade may not be included in implicit recognition. (TÜRKEŞ:2) Recognition is a process that depends on the discretion of the recognizing state. However, international practice considers early recognition to be legally ineffective. A unit should be recognized only after it meets the conditions for statehood. Otherwise, it means interference in the internal affairs of the parent state. In order for recognition to have legal effect, the recognized community must have the qualities of a state determined by the rules of international law.

It is observed that if states have citizens in the country of states they do not recognize, they establish consular relations with these new states without recognizing them. (BAL:14)

The focus of international law theory under the influence of positivist doctrine has been recognition. As the positivist doctrine lost its influence and the view that statehood occurred independently of recognition gained importance, the basic concept that doctrine and practice dealt with began to be the state.

It is not enough for a community to meet the Montevideo criteria, which express the influence on the country required for it to be recognized as a state. It is also important how this event is achieved in order to recognize the community that claims to become a state. Violation of ***the mandatory (jus cogens) rules of*** international law by the community in question results in a ban on recognition. (KUZU:20)

Violation of three norms of general international law has led to a ban on recognition in UN and ICJ practice. According to Dugard, these three norms are jus cogens: the prohibition of territorial acquisition through attack and use of force, the right to self-determination, and the prohibition of racial discrimination.

Prohibition of territorial acquisition through attack and use of force. It is generally accepted that the act of aggression is against international law. The prohibition of aggression prohibits the use of force between states. A state is prohibited from annexing the territory of another state or assisting in the formation of a new state through the use of force. In this context, the international community did not recognize Southern Rhodesia, which was established against the will of the majority of the people. Similarly, the formation of bantustan states in South Africa was condemned by the UN for violation of the right to self-determination. (KUZU:20)

It appears to have been made by the Institute of International Law at the Brussels meeting held between 17-24 April 1936. In this meeting, the Institute of International Law expressed the recognition of states as follows. *"Recognition of a new state is the acceptance, by one or more states, of the existence of a human community within a certain territory, politically organized, independent of any other existing state, and capable of fulfilling obligations arising from international law, and making the new state a member of the international community." It is a free act expressing their intention to count as such."* (ERDAL:157-159)

States must be established legally, or if new states are established by seceding from the territory of another state, other states must recognize the new state if the seceding state allows this new state.

Otherwise, the new entity that does not meet these conditions should not be recognized as a state. (GREWE:497– 498) 1936 Institute of International Law stated the following: *"If a politically organized human community in a certain region is independent of another state and is capable of fulfilling the obligations imposed on a state by international law, the other state or states that accept it as such The process is called recognition. This recognition is an expression of the recognizing states that this state they recognize is seen as a member of the international community."* Since all these decisions, the concept of the state has been dragged into a very complex situation.(AZARKAN:1065)

On the other hand, according to the declaratory theory, recognition of a state is nothing more than an explanation of the actual situation that has emerged, and is not a necessary condition for the existence of the state in terms of international law. (FAMOUS:467–497) An important point that should be underlined here regarding recognition is that the newly recognized state can only obtain the right to have equal status with other sovereign states in the international system through recognition. Based on this justification, the newly established state will have the opportunity to acquire debts and rights by making international agreements with the states that recognize it. (ŞÖHRET:65)

In this way, the recognizing state may enable the citizens of the newly recognized state to benefit from public freedoms within the framework of the principle of equality and to gain the right to benefit from the immunities and privileges imposed by law. (CAŞIN: 422-423) Another legal feature of recognizing newborn states is that this process is a unilateral legal transaction. In other words, whether and when a state will recognize another state depends entirely on its discretion. Again, due to this feature, recognition is a relatively effective legal procedure.

Because, with the recognition process, only the recognizing state comes under a legal obligation, and other states are not bound by this process. (CAŞIN:20

It would also be appropriate to address the following issue. The articles regulating the "Responsibility of States for Acts Contrary to International Law" adopted by the International Law Commission (IHL) confirm this practice. (2) of the document in question. The article provides that no State shall recognize that a serious breach of an obligation arising under a peremptory rule of general international law is compatible with international law. With this provision, the practice of non-recognition of states resulting from the violation of a jus cogens rule has been strengthened.

Accepting the resolution of disputes arising from the succession of states and regional issues by treaty and, where necessary, arbitration. This recognition process, which is essentially determined by the EU, depends on the acceptance of the rule of law, democracy and human rights norms adopted by the Conference on European Cooperation and Security by these European Union member states. It was done. Such an attitude did not cause any problems since the recognition process remained a discretionary process until a new legal order was established. (ATAY:158)

European International Law stated that new states and entities should be recognized after their legal existence has been fully proven. According to this law, states must be established legally, or if new states are established by seceding from the territory of another state, other states must recognize the new state if the seceding state allows this new state. Otherwise, the new entity that does not meet these conditions should not

be recognized as a state. (GREWE: 497–498) The International Court of Justice, in its Advisory Opinion on Kosovo, stated that in cases such as Southern Rhodesia, Republika Srpska and TRNC, the declaration of independence was not invalid per se, but that the prohibition of recognition was incompatible with the prohibition of the use of force in these cases or other rules of general international law, especially mandatory (It was determined that it was caused by a serious violation of the rules of the jus cogens nature. (KUZU:21) Meanwhile, the ability to establish relations with other states and the representation of a state in international organizations and other countries are important. (KÖSTEM:2

CONCLUSION

In essence, the state emerges when a community that defines itself as a people organizes itself around a political authority. The Peace Treaty of Westphaila, signed in 1648, is considered to be the date when the modern state emerged. The most important feature of the modern state lies in the implementation of the principle of sovereignty. The issue of recognition is a political issue as well as an international law issue. It can be said that one of the most important issues in which politics and law are intertwined is the recognition of new states and their inclusion in the family of free nations. It is understood that the political tendencies of states regarding recognition come before international legal regulations and obligations. It should be emphasized that recognition is a political decision.

The inconsistency and lack of consensus noted in many scientific studies on recognition are mainly due to states' recognition or non-recognition of a new political authority in line with their political interests

and foreign policy preferences. In other words, since there is no specific standard or custom among the existing states in the international system, the newly emerging political formation is rewarded with state status by some states, while it is seen as an illegal and illegal separatist movement by some states. As a result, while a new political unit is recognized by some existing states, it faces the problem of not being recognized by others, and these are referred to as black holes, which are seen as abnormal in today's world or on the world political map. These places are essentially places that do not exist in international relations, and they are seen as state-like entities that have no place in the international system formed by sovereign states.

However, although these formations have the essential elements that a normal state should have, they are not like a normal state. Because, although these units have de facto established an effective authority over a certain territory and population, they stand out as entities that have not received international recognition or are recognized by a few states at most. While these units often insist on the right to self-determination in order to legitimize their existence and ensure that they are accepted as a new state by the international community, on the other hand, they are faced with the principle of territorial integrity of states, which is one of the strong principles valid in international law. They stay.

Whether or not a new political authority is recognized as a state is determined, as in the past, today by the attitudes of the major actors (states) that make up the international system and the conjunctural situations of that period. In accordance with the principle of protecting the territorial integrity of existing states, major states that influence the international system generally show strong resistance to recognizing political units that aspire to become new states, formed in other states with which they have good diplomatic relations, as new states. In fact, in some

cases, new states that declare their independence often encounter the "bayonets" of the great powers, so to speak. However, they provide great support in recognizing political units that wish to become new states, formed within existing states with bad diplomatic relations. In fact, it seems that they tend to support such formations themselves from the very beginning. For this reason, these new political formations are easily recognized by the great powers as soon as they declare their independence. Thus, they not only send a diplomatic message to the existing state, but also put it in a difficult situation by giving it the image of a failed state that cannot even protect its own borders within the international system.

While every state stands and defends the situations that will be in its favor, it confronts the events that may have an adverse effect. In other words, the fact that Southern Cyprus, which strongly opposes the recognition of Kosovo, associates Kosovo with the Catalonia issue, just as Azerbaijan considers the Nagorno-Karabakh risk, with the idea that Kosovo can set an example for the TRNC, sheds light on this determination. At this point, whether we are talking about the right to self-determination, the founding elements or compliance with domestic law, each event produces results in its own way, manifesting itself to the states in front of them. Perhaps the point we need to think about here is how fair international law provides. Because law should exist the same for everyone, whether national or international.

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