



Research Article

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Albania Between the Crisis of the Parliamentary Dialectic and the Dominant Role of the Government

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Abstract

The last years of Albanian parliamentary life were marked by a profound crisis. The parliament, not only had the task of managing a constitutional reform that brought the entire judicial system to its knees, transforming the vetting process into a reform with uncertain results, but also the political crisis, or rather the political-institutional stalemate for leaving the mandates of opposition parliamentarians. The failure to reach the quorum provided by the Constitution of the Republic of Albania, it raises considerable controversy over the legitimacy of the supreme authority and therefore on the legitimacy of institutions that depend on parliamentary votes, such as the election of constitutional judges. At the same time, when the "united opposition" left parliament, the new opposition was trying to keep up with parliamentary dialectics. Moreover, in recent years of parliamentary "identity crisis", the majority have resembled a "group of soldiers" under the command of the Prime Minister. Clearly, Parliament has weakened, lost its value, leading to a strengthening of the executive power, more precisely a strengthening of the figure of the head of government. Without a doubt, the crisis of Parliament translates into an inability of the people's representatives to solve the problems that are present in civil society. Consequently, the crisis of Parliament means a "silent people", a "mute people". The purpose of this document is the constitutional-philosophical analysis of historical memory of the role of Parliament in Albania from the Declaration of Independence to the present day. Perhaps historical memory is the key to reading the present and to better understand the crisis that Albanian Parliament has been going through in recent years.

Keywords: *Parliamentarism in Albania, Independence of Albania, Separation and balance of powers, Crisis of the legislative power in Albania*

1. Introduction

The theme of parliamentarism is an ancient theme, but still extremely topical. Today, more than ever, parliamentary representation must be attentive to changes in society to be able to best represent the vote obtained. But more the modernity needs relevant legislative decisions, more parliamentarism

presents itself as a system in crisis. The same happens also in Albania, where the crisis of parliamentarism is prolonged in the crisis of the society (TOKRRI, 2021). As for Albania, the history of parliamentarism is closely linked to the declaration of independence, where its roots are founded. In fact, the path that Albania has taken towards the consolidation of this very important institution, is short but turbulent.

We can say without a doubt that it was the National Assembly of Vlorë that on behalf of the people gave parliamentarism the first heartbeat but an embryonic heart, as the Parliamentary Institution as the Declaration of Independence was simply declarative and we see its birth only a few years later.

So, Albania could not create institutional stability and taking advantage of this chaotic climate, as nothing arises from chaos and coincidence, the Conference of Ambassadors in 1913 decided that Albania alone was not able to establish a Sovereign state (OMARI, 1970). As a result, we see the arrival of Prince Vid in Albania and the entry into force of the Organic Statute, which provided that the legislative body would be the National Assembly.

Since the declaration of independence until today, parliamentarism in Albania has gone through many challenges and has often been shown to be incapable of representing Albanian citizens with dignity.

2. Literature Review

Analyzing the issue required adequate knowledge especially of constitutional law, specifically concerning the part of the constitutionally provided institutions, such as the Council of Ministers, the Parliament and the President of the Republic.

Concepts such as popular sovereignty, and the separation of powers for the purposes of good governance (Montesquieu, 1989) are very important for the analysis carried out. Thus, it is determined that the principle of virtue and collective interest lies at the basis of good governance.

On the other hand, in order to better understand the evolution of parliamentarism in Albania it was necessary to confront and observe the evolution of this institute in other countries as well.

The modern constitutionalist cannot ignore the sovereign law, which is why knowledge of the law of the European Union becomes necessary to give a more complete conclusion of the reasons for the crisis of parliamentarism in the modern sense.

The doctrine was also consulted on the subject (Morozzo Della Rocca, 1990; Onida, 2007; Sartori, 2006), as even the thought on democracy, like democracy itself, is relative and cannot coexist with absolutism.

The literature proposed to develop the theme is of a historical, political and legal philosophy, with an insight into internal and comparative constitutional law, European Union law and international law with the aim of comparing different ideas. Furthermore, an important moment of the analysis will be the historical-political literature regarding Albanian parliamentarism.

3. Research Method

The analysis carried out is essentially of a political, legal and philosophical type with an immersion in the history of parliamentarism in Albania. Hence the reason why this study is conceptually divided into two parts: the first examines the evolution of parliamentarism from the moment of the declaration of independence of Albania to the present day. The second part focuses on the analysis of the role of the current parliament in Albania.

At the same time, the intent of the analysis aims to understand how such an important organ over the centuries is going through a profound crisis, and a sort of weakening.

The method followed is the historical-juridical, political-philosophical one, used with the aim of better understanding the division of powers.

4. Historical Excursus on Parliamentarism in Albania from the Declaration of Independence Until Today

After the events of the First World War and after a humiliating tutoring, on January 21, 1920, a representative assembly was convened, with the aim of independence, autonomy and sovereignty of the country, also legitimized to adopt acts of a constitutional nature.

Thus, the so-called National Congress of Lushnja approved, on January 31, 1920, the Canonical Basis of the High Council (*Bazat e Kanunores të Këshillës së Naltë*), otherwise known as the Statute of Lushnja. We see the concretization of Parliamentarism in Albania. This Statute, although incomplete because it provides for only six articles, is the first step towards a constitutional state.

Later, the Congress of Lushnja in 1920 created the Senate, the first Albanian Parliament (later the National Council). Where the principles of parliamentarism are affirmed for the first time.

From the elections held in March 1921, 78 deputies represented the country. From this period, the parliament began to appear regularly as a body coming out of the people.

A year later, in 1922, the Parliament approved the final act that integrates and completes the first, known as the Extended Statute of Lushnja.

It was initially considered an interim measure by members of the assembly, despite having the form and characteristics of a true Constitution (AA.VV., 2008; Sordaolli, 2007).

The statute reaffirmed the monarchy and proclaimed a set of fundamental rights for citizens, as well as the principle of legality and equality before the law. (See Morozzo Della Rocca, 1920-1944; Cf., AA.VV., 2002; Tomori, 1994).

In January 1924 we see the birth of the Constitutional Assembly, consisting of 100 deputies, and in March 1925 we have its eclipse from the parliamentary system consisting of two chambers - the only experience in the history of parliamentarism in Albania - we are exactly in the period of the Republic Albanian (1925 - 1928), ie a Parliamentary Republic where sovereignty came from the people.

Then, in 1928, we see the reappearance of the Kingdom and Albania was declared a democratic, parliamentary, and hereditary kingdom. Undoubtedly, this is a very important moment of the institution of parliamentarism in Albania, as it was precisely this body that reformed the system, civil, criminal, commercial, separating the country from the legislation of the Ottoman period. A reformist parliament but which ended with the annexation of Albania by fascist Italy. Legislative power was exercised by the King in cooperation with the Supreme Fascist Corporate Council, without a doubt we have a degradation of the principles of parliamentarism.

In 1945, with the coming to power of Enver Hoxha, we see that for the first time women also took part in the voting and the Constituent Assembly returns to the Popular Assembly. This period is characterized by the lack of political pluralism, and for the fictitiousness of the supreme body and until 1991 we do not have political pluralism and as a result, we do not have elections, just periodic voting, as a result we cannot talk about parliamentarism.

The 1991 elections left the communists still in power, but the wind of parliamentarism began to blow again in the country and after 67 years a multiparty parliament convenes again. Forced by the political and economic situation and international pressure, the parliament repealed the Socialist Constitution in the same year, replacing it with constitutional law no. 7491 of 1991, "*On the main constitutional provisions*", known as the Provisional Constitution.

A year later, after social unrest and economic downturn, new elections were held, so in March 1992 the "old regime" was defeated.

In 1993 the Parliament, now pluriparty, approved the constitutional law no. 7692, on "*Fundamental Human Rights and Freedoms*", which enriches the provisional Constitution of 1991. (Dammacco, 1995).

In 1998 the Popular Assembly approved the new Constitution, now renamed, the unicameral Assembly of Albania, with 140 deputies.

His mission is without question the consolidation of state institutions, the consolidation of democracy, but it seems as if the consolidation of the government at the disadvantage of his role.

5. Weakening of Parliament in the Name of Leadership

Political synthesis is expressed through the exercise of the mandate of deputies, the mandate of this representative of the Sovereign people according to Article 2 of the Constitution of the Republic of Albania where it is stated that sovereignty belongs to the people and the latter exercises sovereignty through its representatives or directly. So, parliament is the place where this synthesis comes to life through one of the most important constitutional freedoms, freedom of expression.

Today the parliamentary institution is affirmed in a European context where representation is in fact a representation of the interests of the voters, the parliament must be able to interpret the evolution of the notions of representation in such a way that it turns out to be a useful institution in relation to the real needs of individuals.

Regarding the political system in Albania in the early '90s we see its restructuring, this is a moment where we can talk about a rebirth of parliamentarism. New political parties enter the scene, from this moment the structure has been tendentially bipolar, seeing two opposing coalitions on the field.

Nowadays we see a deep crisis of this institution in different dimensions of its role. Let us start our analysis exactly from the "source of sources", where all representative institutions find their legitimacy, but also the limits of state power, ie the Constitution. The latter in Article 1 states that "Albania is a parliamentary Republic", while Article 7 states that "The system of government in the Republic of Albania is based on the division and balance between the legislative, executive and judicial power".

In fact we can say that we have three variants of the theory of powers, *distinction*, *balance* and *division*. The difference of powers is the *conditio sine qua non* of their division and balance, it means that first of all the powers must be clearly distinguished in objectives and concepts, despite the fact that they are closely related to each other as they are part of a single entity, thus part of the State.

While the division means the three powers, legislative, executive and judicial, on the other hand balancing provides that their function is exercised jointly with control and counterbalance from all three parts of the state. The latter according to the check and balance formula. But in particular, the moment of formation of legal acts, takes a special role, therefore the role of Parliament can be said to be supreme compared to other powers.

It also turns out that the separation of powers and the balance of power are two different theories, not only in origin - one French and the other English - but when mixed together they give us a system that on the one hand inhibits, on the other hand balances.

So, the powers, as Hegel expressed, cannot be autonomous, but balanced with each other and above all cooperative because the State is one. Thus, division and balancing as constitutional techniques mean that each power is attributed to its characteristic competencies, in such a way that the exercise of power is not only efficient and with as few abuses as possible. Indeed, the figure of the executive must be under constant pressure from parliament according to the formula *simul stabunt vel simul cadent*.

Regarding the Legislative Power in Albania, the Constitution provides according to its article 64 that "consists of 140 deputies, elected by a proportional system with multi-name constituencies".

Beyond the fact that today the Assembly does not consist of 140 deputies, as this analysis would require a special work, we can say without any doubt that this institution today is going through a deep crisis. But the crisis of the Parliament is a crisis of the system, why not a crisis of the society, the latter does not perceive with the parliament as the spokesperson of its problems.

But even the parliament itself in its relations with the executive is going through a phase of crisis, it is clear how the relationship between the parliament and the government has ended unquestionably for the government to dominate the parliament. Indeed, under the Constitution, the executive can "blackmail" parliament by dissolving it, in particular under a clause of the type *simul stabunt vel simul cadent* (Cf., PASQUINO, 2007). Exactly in Article 104 of the Constitutions of the Republic of Albania it is provided that "The Prime Minister has the right to present to the Assembly a

motion of confidence in the Council of Ministers. In case the motion of confidence is voted by less than half of all members of the Assembly, the Prime Minister, within 48 hours from the voting of the motion, requests the President of the Republic to dissolve the Assembly". The motion of confidence implies the political responsibility of the government, as in parliamentary republics, such as Albania, the government is accountable to parliament. Thus, the motion of confidence is considered a practice which expresses, or rather, should express, the weakness of the Executive which, due to the lack of homogeneity of the majority, is unable to manage the parliament. In the reality of Albanian parliamentarism, there is still no known case of the motion of confidence demanded by the Prime Minister, perhaps unnecessarily with a "group of soldiers" following the government.

In fact, the Constitution itself crystallizes the image of a strong Executive¹, and above all the image of a strong Prime Minister, but this does not mean that it provides for a weak Parliament.

The government is accountable to parliament and this responsibility is expressed through the procedures of the motion of confidence but also of the motion of no confidence. Exactly, Article 105 of the Constitution of the Republic of Albania states that: "One fifth of the deputies have the right to submit for a vote in the Assembly a motion of no confidence in the incumbent Prime Minister, proposing a new Prime Minister. The Assembly can vote a no-confidence motion against the Prime Minister only by electing a new Prime Minister with the votes of more than half of all its members".

Also, Article 104 of the Constitution of the Republic of Albania stipulates that a request for a motion of confidence cannot be submitted during the period of consideration of the motion of no confidence. So, the Government cannot "blackmail" the parliament at the moment of making this important decision. The procedure of approving the motion of no confidence provided in Article 104 of the Constitution seems to be the most appropriate element, the only and truest one, to prevent the degradation of the Executive power. (Cf., Amato, 1994).

As we have pointed out so far, the Constitutional provisions configure the figure of a strong Executive, centralized on the figure of the Prime Minister, the latter clearly possesses the parliamentary majority, moreover has the right provided in the constitution to "blackmail" him, thanks to the mechanisms that imply that together they will stay or we will fall together. (Scoppola, 2001).

Without question, the party chairman - who usually coincides with the figure of the Prime Minister - due to closed lists, selects the candidates himself, as a result we have a parliamentary majority ready to approve any proposal by the head of government / party leader. This comes as a result of the fact that the same person accumulates the posts of party chairman and chairman of the Council of Ministers as happens in the case of Albania, as a consequence the strengthening of the government is an inevitable phenomenon. Another phenomenon that leads to the strengthening of

¹ More precisely regarding the competencies of the Prime Minister, the Constitution provides that: The Minister is appointed and dismissed by the President of the Republic, but on the proposal of the Prime Minister, within 7 days; The Prime Minister represents the Council of Ministers and chairs its meetings, conceives and presents the main directions of the general state policy and is responsible for them, ensures the implementation of legislation and policies approved by the Council of Ministers, coordinates and controls the work of members of the Council of Ministers and other central state administration institutions and that the Prime Minister resolves disputes between ministers. The President, on the proposal of the Prime Minister, appoints and dismisses the plenipotentiary representatives of the Republic of Albania in other countries and in international organizations; The President, on the proposal of the Prime Minister, appoints the director of the state intelligence service; The Council of Ministers takes decisions on the proposal of the Prime Minister or the relevant minister; Acts of the Council of Ministers are valid when signed by the Prime Minister and the proposing minister; The Constitutional Court is set in motion at the request of the Prime Minister; The President of the Republic, in time of peace, exercises the leadership of the Armed Forces through the Prime Minister and the Minister of Defense; The President of the Republic, in time of peace, exercises the leadership of the Armed Forces through the Prime Minister and the Minister of Defense, and in time of war, appoints and dismisses the Commander of the Armed Forces on the proposal of the Prime Minister; The President of the Republic, on the proposal of the Prime Minister, appoints and dismisses the Chief of General Staff.

the Executive is the controversial intellectual level of the representatives.

Today in Albania we can talk about a flexible Parliamentarism that takes the forms of the needs of the Executive. In fact, flexibility should be a virtue of the parliamentary form, as it manages to adapt to the needs that arise to resolve the situation between the powers but also between the Constitutional institutions, why not flexibility in resolving political deadlocks. But if flexibility is not based on the spirit and Constitutional principles of parliamentarism and representation then we can say that it turns into something dangerous, an "institutional suicide" in the name of leadership. (Sartori, 2006).

The experience of European countries has shown that the strengthening of the executive is mainly related to the abuse of the institutions of parliamentary law, starting with the frequent use of the issue of the motion of confidence, which in fact has not happened in Albania². So, in the Albanian system, the Prime Minister does not even need the pressure, as a Constitutional mechanism, on the parliament.

Strengthening the executive risks a form of "Caesarism", which can be perceived as a "necessary gendarme" as Laureano Vallenilla Lanz expressed in 1919. The latter throws the thesis that only the figure of a "Necessary Gendarme" would turn an unstable situation into peace, order and progress. So, a situation of a transition that does not see the end, in an exit from the "tunnel" or from the "closed circuit" where it seems that the Albanians are. But "Caesarism", as Antonio Gramsci put it, can be of two types, regressive or progressive.

Nowadays, where democracy is the leitmotif of the institutions, we can talk about a "democratic Caesarism" and that the strengthening of the figure of the Prime Minister comes as a fact that being the leader of the coalition in the election campaign, he would receive a direct popular mandate. But this is totally unacceptable, in this aspect we can talk more about a passive, apathetic and indirect democracy. A democracy, which in the name of democracy, bypasses democracy, leaving the citizens abandoned, turning the parliament into fictitious and consequently the people into "dumb". Therefore, the motion of trust and distrust must be real instruments, but in order to be realized, the parliament must be "real". These mechanisms are elements of constitutional procedures to prevent the "enthusiasm" of the Executive and to configure the activity of the government thus avoiding the degradation of parliamentarism.

On the other hand, it also serves the government to avoid fragmentation and to have a homogeneous majority. So, constitutional instruments for the balanced good governance of the executive and legislative power. (Cf., Amato, 1994).

Let us not forget that strengthening the government means, above all, strengthening the image of the Prime Minister.

Consequently, this also affects the relations between the President of the Republic and the Ministers, as evidenced by the practice of requesting and receiving the resignation of ministers.

6. Conclusions

The transition from the Ottoman system to a Parliamentary Republic was an important institutional revolution for the Albanian State. But, if with the Declaration of Independence, we have a declaration of parliamentarism, with the Statute of Lushnja in 1920 we see how this idea comes to life. In the following years we see how the constant changes in the form of government, the constant changes in the constitutions, but also the changes in the name of the legislative body, clearly speak of a short,

² In Italy, we see how that a single government has presented the issue of trust over 32 times, where measures and decrees are taken, which means that the government has raised the issue of trust in the process of converting many decrees into law. Let us also not forget that strengthening the government means, above all, strengthening the image of the Prime Minister. As a consequence, it also affects the relationship of the President of the Republic with the Ministers, as evidenced by the practice of requesting and receiving the resignation of ministers.

turbulent and chaotic history of parliamentarism in Albania.

In the process of state building nothing comes from chaos and rest, but from order so much more when it comes to constitutional institutions, which should be "mirrors" that should reflect order and stability in the people.

We see the birth of parliamentarism in Albania with the statute of Lushnja, but with the coming to power of Enver Hoxha we see the west of parliamentarism as this period is characterized by the lack of political pluralism and the fictitiousness of the supreme body. We see the rebirth of the supreme body only after the '90s when the wind of parliamentarism began to blow again.

Today, we can talk about an "eclipse" of parliamentarism in favor of the executive and in function of leadership. But a strong government runs counter to the essential principle of constitutionality developed more than two centuries after the end of the revolutions of the late XVIII century, that is, the principle that opposes the concentration of many powers in a single public office.

We can say that we have a mediocre functioning of the parliament in Albania, making it a formal constitutional body and blocking democracy, ie a non-fluid democracy. We see a flexible parliament, but in a negative sense and consequently a worthily underrepresented people.

For the Albanian system it would be better to have a weak government and a strong parliament.

Perhaps the solution can be found in a strong party, as the party has a representative mechanism of the people, which is then reflected in parliament.

Parties are a very important tool available to citizens and indisputably contribute to the definition of national policy. (ONIDA).

Let us also not forget that a weak parliament paves the way for a presidential system. The latter, in consolidated democracies, do not pose any problem, but in fragile and not well-matured democracies, there is a risk of being a form of presidential government covered under the guise of a parliamentary republic, where "Caesar" can be a regressive figure.

Therefore, for Albania, which has gone through a long and tragic transition, a healthy parliamentarism would be healthy, able to convey the problems of the society it should represent with dignity, because the crisis of the parliament leads the citizen to perceive it as a useless institution. That is why a democratic state should give a central role to electoral assemblies. Even the Constitution of the Republic of Albania has placed the Assembly at the center of the system, the latter is the place where confrontation and mediation is done for the purpose of social inclusion through parliamentary dialectics. (See. D'Andrea, 2009).

Seen from another perspective, the weakening of the role of parliament can be found in Albania's integration into the EU. The integration process also requires an increase in the role of the Executive figure, as Community decisions need to be implemented and the implementation of the law emanating from this supranational organization. It is also indisputable that the leader plays an important role in directing, defining and representing political leadership within the European Council. With the "migration" of sovereignty to the supranational dimensions, parliamentarism - as a symbol of national parliaments - must gradually begin to lose its influence, giving way to a supranational legislative body and turning national parliaments into a kind of *comitia populi tributi*.

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