

Abstract

The reality of local and regional initiatives in the European Union and Albanian legal-administrative approach for local referendums is the ultimate perspective ahead of my research. Direct democracy is a challenge for citizens on how they truly participate in the decision making.

Despite of having the right to vote, citizens have/must have in their hands the instrument of truly exercising direct democracy. Going from global to local context, regional development is perceived nowadays as a *'sui generis'* concept in this regard. Putting this connection into the heart of the European agenda, exploring local and regional initiatives and the way how they are implemented, is a must in order to identify what is there to offer to the citizens. Strong and vague elements for further improvement are being identified in the European context in order to generate knowledge. The final objective and aim of going through this “exploration” is addressed to the Albanian law on local referendums. The country does not yet have a law for referendums, neither for local referendums, so this legal gap needs to be addressed first and then improved. Starting from the European knowledge and practice is a good option to lead and walk through this process.

Two main cornerstones establish this road path: on one hand European context of local and regional initiatives and on the other hand finding alternatives for the Albanian law for local referendum. Beyond cultural behavior and social challenges needed, having a specific law remains the first step that must be taken in order to lead an open space to this development process. Empowering direct democracy stands a very unique necessity of our societies, helping in this way our steps towards EU integration. Having a more dynamic Europe that respects and truly takes into account regional development and citizens' initiatives to enhance direct democracy framework remains an added value and objective to work for.

The thesis research is being perceived into four main pillars: European reality and institutions, Albanian framework on local referendums, the new proposal for law on local referendums in the country and institutional approach analysis for implementation on legal basis. In specific, the thesis follows these elements:

- Initial framework of the thesis/introductory observations such as: objectives, methodology, literature review, research questions, hypothesis and introduction, the importance and justification of the thesis. The objectives of the research were organized mainly into three pillars: exploration on the local and regional initiatives in EU, the current situation into a social, legal and political approach of Albania and moving forward to draft proposal focusing also into institutional dimension.

In response to reach out the objectives, a qualitative and quantitative methodology is being used throughout. Exploration and comparative analysis were the main qualitative methodologies used and on the other side of the medal questionnaires, semi-structured interview and statistics when appropriate were also brought to measure and give additional arguments to the details and the context. A worldwide literature for methodology and especially a literature review is being conducted from European arena, Romanian and Czech in specific as member countries and on the other hand Albanian resources in this framework. Setting out these cornerstones, a general introduction is presented in order to put into context the original idea and the road path of the overview. One interesting element in this perspective is keeping the focus of the research on the legal discipline, but connected any time with the social, political, administrative and sometimes when needed a few historical facts. The interdisciplinary research challenged this research with many different tasks to be managed.

Following the objectives and research hypothesis, the content of the thesis has four parts:

Part I: Institutions, regulations and European practices concerning local and regional initiatives

The first step of exploration begins from the European reality: EU law, practices in some of the European countries, identification of EU institutions and some reflection from the ECJ jurisprudence on local and regional initiatives.

Cap 1: General view of the European context and EU law on local and regional initiatives

The reality into European context is addressed into exploring within EU legislation: Treaty of Lisbon, Regulations, Directives, Opinions and other acts. Within this level of exploration and identification, some statistics and other research when appropriate have been used in order to demonstrate the level of implementation in European Union. There is a vague reality of local and regional initiatives in the European context. The exploration through this legislation is focused on direct democracy as a theoretical and in some cases as a ‘legal perspective’.

Cap 2: Some good practices among countries on local and regional initiatives

Local and regional initiatives and European Citizens Initiative (ECI) are considered and served from European policy as a national task to be developed and treated. Direct democracy is not the same reality in different European countries. It results that it is a practice being more developed outside the Union, for example in countries such as: United Kingdom, Switzerland. It sounds not very common to find out a high level of attention towards direct democracy into EU countries. Legal frameworks of Romania, Czech Republic, Croatia, Greece are being explored in order to find out best examples for the Albanian new approach.

Cap. 3: European and EU institutions’ role on local and regional initiatives, a public policy perspective

Even though being considered a national policy level of countries and not an exclusive competence of the Union, lining out the common grounds of local and regional policy is a duty of European institutions. The analysis of this research is based on the results of the law reviewed from each of the institutions by bringing into attention even the role, activity and impact of institutional framework on local and regional initiatives.

Sect 3.1 Congress of Local and Regional Authorities

Despite not being an institution of the Union, the Congress of Local and Regional Authorities, of the Council of Europe is being analyzed for the relation that this institution has with the Committee of Regions and on the other side for the fact that it is the only international structure that deals with local and regional democracy. The vision and mission of the Congress includes also the European value of empowering local communities, local governance in country members, so analysis in this context was necessary to be added into the focus of the research.

Sect. 3.2: European Committee of the Regions (CoR)

This institution deals with local and regional initiatives rarely, mostly into the context and umbrella of regional development policy. There are not even specific statistics for this issue and not dedicated legal acts or policy paper into this regard. The Committee of Regions is dedicated to regions activity by supporting also projects that help and promote regional and cross border cooperation for economic or other cultural events.

Sect. 3.3: Other important EU institutions empowering regional initiatives

Apart from the Congress and Committee of Regions, which are the specific institutions for this issue, even other institutions such as: the Commission, the Council, the Parliament, The Ombudsman and Regional Cooperation Council are explored in analysis as secondary structures that deal with local and regional initiatives in European Union. In some cases, the reaction of these institutions has been a very worthy and considerable overview for pushing forward the implementation of citizens' initiative in the Union.

Sect. 3.4 European Parliament

The European Parliament, being an institution which members are elected directly from the European citizens has the main responsibility to bring ECI in a friendly mode among them. Organizing open days when citizens can be encouraged for their initiatives and especially offering them the opportunity to join on different E-tools of EU Parliament can break the barriers on the perception of citizens.

Sect. 3.5: EU Ombudsman

The Ombudsman is competent to address and solve issues of the impact of decision making of EU institutions. Being considered as a guardian of the citizens' rights towards EU institutional framework, there is a lot to be done from the Ombudsman on citizens' initiative. Ombudsman can play a double action role: on the encouragement process to push up the realization of initiatives and on the other hand, Ombudsman can legally gain the competency to be more active when a malfunctioning of EU institutions for local and regional initiatives takes place.

Sect. 3.6: Regional Cooperation Council

This is a structure that goes beyond EU27, connecting EU institutions with candidate countries, especially in the Western Balkans. It would be a concrete action and policy at the same time if EU applies a specific funding scheme for regional initiatives in Western Balkans. This section treats some recommendations on how RCC can be a close structure towards Western Balkan countries integration towards EU.

Sect. 3.7: European Court of Justice 'ruling' on local and regional democracy in the EU

Among many decisions of ECJ, there is not much addressed to citizens' initiative or local and regional ones. Only a few decisions have been taken on for this context. This section explores some of the decisions in this regard.

Sect. 3.8: Some reflections on the impact of jurisprudence of other countries courts when dealing with regional/local initiatives

The impact and role of ECJ jurisprudence on this matter is positioned as a complementary analysis in the frame of all research. To go over the gaps, firstly there is a lot to be done from other institutions rather than ECJ. Due to the fact that there is a vague reality

on the implementation of local and regional initiatives in EU institutions, the role of ECJ is an issue to be reflected in the future, after the proper reaction of EU institutions.

Part II. The Albanian reality on local and regional initiatives – local referenda

After the exploration of European reality, moving into Albanian context remains a challenge of this research. This part of thesis orientates the analysis in the social, politic, historical and economic overview.

Cap 1: The socio - cultural environment in Albania where local referendums can be applied

There is no tradition of local referendums and other referendums in Albania so far. The ancient times (Illyrian period) had not addressed out of any similar instrument of citizens initiatives. Nothing is reflected from the Medieval period and no initiative was provided and implemented in the Ottoman period. This section brings out each of the historical phases and tradition of the country by analyzing and exploring the civic behavior and legal provisions of local referendums in Albania. What it can be highlighted is the fact that before 1990 there is not even a similar practice related to local referendums and after 1990 there have been only initiatives which did not succeed to be approved from CEC.

Cap. 2: Albanian law connection with EU legislation in the framework of integration process towards EU

This section is concentrated on the connection of EU legislation and Albanian one in regard to local and regional initiatives – local referendums. Due to the fact that Albania is a candidate country, preparing already to join the Union, the approximation and establishment of local referendums legislation and social behavior is a must. It results that none of the progress reports of EU highlight this issue as a recommendation. There is also presented some practice from other countries such as: Croatia, Greece, Romania, Czech Republic and others when appropriate in order to get some elements that can (or not) be applied in the alternatives proposed for the draft law of local referendums.

Cap. 3: Current Albanian legislation and situation for local and regional initiatives, local referendums - a (not) direct democracy approach

According to Article 116 of the Albanian Constitution, the hierarchy of the sources of law:

- a. The Constitution
- b. International agreements
- c. Laws
- d. Decisions of the Council of Ministers
- e. Decisions of the local government bodies

This chapter analyses the situation of legislative provisions according to hierarchy sanctioned in the Constitution.

Cap. 4: Towards new legal alternatives for local referendums in Albanian reality

Based on EU context analysis, some European countries practice, also on Albanian context, the structure of the draft law is perceived up to this phase accompanied with a short explanation overview. A useful tool was the development of two questionnaires that measure the feedback of citizens on the actual legislation and attitude towards and the other one that measures the impact of the new law proposed on local referendums. The outcome of these questionnaires has provided with joint arguments on proposing the draft ahead.

Part III. Draft law for local referenda

This part is a commentary form of the draft law proposed for local referendums. The proposal is written in the form of the law according to the Albanian templates and models so far. In order to give a general and detailed panorama at the same time of this draft law, some of the provisions/articles have been commented with paragraphs when appropriate. This model of a commentary is perceived as the most important product of this research that can be used further from other interested stakeholders. Keeping in mind that direct democracy elements are in the cornerstone of the referenda instrument, this draft law highly takes into consideration to involve as much as possible it and to shrink as much as possible on choosing the alternative that best fits to citizens' needs.

Part IV. Analysis and conclusions concerning the role of public administration in undergoing the local referendum. Proposals. Challenges

A draft law is not sufficient to change the attitude towards without a proper institutional framework. This frame has begun from the analysis and identification of the present public institutions that manage ‘referendums’ according to law, the new institutions and structures proposed and some brief details related to power of local governance towards direct democracy context.

Cap. 1: Public administration general framework, actors involved

This section identifies in the overall Albanian legislation, the institutions and the role empowered by the law for the implementation of referendums (local referendums) in the country. The actual frame of the institutions responsible for local referendums implementation is a vague dimension.

Cap. 2: The role of local public administration in the adoption of local referendums in Albania

A specific section was dedicated to the local governmental structures and their role in the implementation of local referendums. Local referendums are a product that will produce changes and improvements in the reality of local communities, so local governance actual structures and others need to be created for the successful implementation of local referendums. On the other hand, local governance is seen as an energizer of motivating citizens to initiate local referendums.

Cap. 3: New institutions/structures needed to organize local referendums in Albania: alternatives for a new structure

Despite of some changes in the actual framework of institutions in Albania, some new structures are being proposed. The main crucial change that needs to be done is the establishment of a Citizens’ Committee that will be responsible for the organization of local

referendums. The main perception is the fact that CEC will have to stand only in supportive competencies and logistic framework, meanwhile the whole organization will be managed from Citizens Committees for Local Referendums. At the end of the research conclusions and recommendations are being presented for each chapter and section. Also, challenges are put into the context of the research. The list of references puts the end of the research together with annex. In the annex some of the historical documents and samples/templates of questionnaires or semi structured interview are presented.

One of the most difficult dimensions of this thesis was to explore into a vague arena of European Union and in an empty field of Albanian context. When first putting in the context of local and regional initiatives in the European frame, what was found was less than the expected at the beginning. The conclusion is addressed that European Union consists in a vague policy making of local and regional initiatives. Even though, direct democracy is a close connection reality of national level, setting up common grounds and challenges should be a motto of the Union. Declarations, some regulations and some indirect provisions of Treaty of Lisbon are not enough to speak on a healthy decision making into this regard.

This challenged further when proposing legal alternatives for the draft of local referendums in Albanian context. Beyond keeping close and effectively this connection, finding out that Albanian context in a historical overview and actual situation is an empty field of legislation and cultural behavior, challenged twice the quality of this research. Having no law for local referendums or referendums in general makes it difficult to shrink the proposals into innovative approach. In this perspective, the legislation of Czech Republic, Romania, Croatia, Greece, North Macedonia when appropriate have been studied and used when drafting the Albanian law. On the other side of the medal, working in a barren land, being updated with the potential changes in European context and Albania was an everyday issue to be tackled.

When it comes to European Union, especially the period after the Covid19 pandemics is faced with many frequent decision - making process. Regional development, coming and going many times as a focus in the EU public affairs had the opportunity to bring different changes during these years. Due to the fact, that there are not directly promoted provisions of local and regional initiatives and ECI, finding out similar legal acts led many times into confusion of the research. Since 2019, there were many initiatives from civil society and

recently from some deputies of the Parliament on proposing different drafts and alternatives of referendums. Being updated with this activity was an everyday awareness to properly consult and investigate these alternatives and establishing the unique proposal on the draft law for the purpose of this research.

An additional element, but a very important one to secure sustainable results for the future and to be used from different stakeholders was how to position the international, European context into the best proposal that would best fit to the needs of Albanian reality. Measuring the impact of draft law in the citizens feedback led up to the development of a questionnaire with more than 400 citizens in all over the regions in Albania. Based on the feedback of this questionnaire, new opportunities were set up to the draft law and some of the elements were changed. The mindset that covers all the draft law proposal is how to legally and friendly sending the power of organization of local referendums in the hands of citizens.

I really hope that the results of this research would best serve to the creation of the new law for referendums (local referendums) by motivating also citizens and stakeholders to make referendums a useful cultural behavior in our lifestyle.

Mobilize your friends and neighbors to understand that your day-to-day involvement with local government matters far more than a referendum on the White House every four years.¹

At the end, and especially due to the fact that this thesis offers a product for my country, I would like to address the Albanian version of PhD thesis title *'Realiteti ligjor i iniciativave lokale dhe rajonale në Bashkimin Evropian dhe qasja e re ligjore – administrative e referendumeve vendore në Shqipëri'*.

¹ Michelle Wu quote, a political and lawyer in USA, <https://www.brainyquote.com/lists/topics/top-10-referendum-quotes>, last seen in June 2022