

# THE DEVELOPMENT OF ALBANIAN LEGISLATION AND THE CODIFICATION PROCESS DURING THE ZOGIST PERIOD

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## Abstract

The policy followed by Ahmet Zog during the years 1925-1939, is criticized in many aspects. There are different views about his contribution to the consolidation of the state. During these years the regime changes frequently forms by a Parliamentary Republic to a Monarchy. The main ally during this period was Italy. Regardless the underlying motives, we cannot denied the positive impact on the development of the Albanian legislation. This study is the result of a research on Italy's continued influence on Albanian Legislation. The main purpose of this paper is to present a brief overview of the development of the Albanian Legislation from 1925 until the beginning of the World War II. Zog was based on a detailed reform program to changes Albania by a backward country, in a European one. The essential step in the legislative policy of the Zog Kingdom was the creation of codes. During this period, the lawmaker was appointed to draft the Civil Code, the Penal Code and the Commercial Code inspired by Italian and French Codes. The publication in 1929 of the Civil Code, known as the Zog Code, has similarities with many other codes of countries of that time. The aim of this paper is to treat the legislative reforms introduced by Ahmet Zog and how they have influenced in the Albanian legal tradition. A legal tradition connected with the history of the country, the Albanian identity and being proud of its origins and history.

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**Keywords:** Consolidation, codification, reforms, Relationships

## Introduction

Ahmet Zogu was born on October 8, 1895 in Burgajet, died on April 9, 1961. During his political career, often changed leadership positions, from governor of the Bank of Albania up to the king of the Albanians. He was Governor from 1920 to June of 1924, was elected President of Albania in the

period 1925-1928 and the King of Albanians from 1928 to 1939. Despite everything, he was capable to manipulate the Albanian cause, he was greatly influenced by Benito Mussolini. The year 1925 marks the moment when he came into power with the support of Yugoslavia. After he was elected president on February 1<sup>st</sup>, he became ally of Italy and in 1926 they signed a treaty of friendship that lasted for 20 years.

Despite the various theses that exist on the controversial Zog's figure, those for and against, can not negate the Zog's contributions on the Albanian legislation. During these years, the lawmaker abandoned the archaic model, of the Ottoman Empire to get a modern spirit.

In June 1928 was called the Constitutional Assembly which was tasked to revision the Constitution, exactly on September 1928, declared Albania "a democratic kingdom", and Zog's was appointed the Albanian King. The guidance period of Ahmet Zogu was discussed in many aspects and areas. It is considered by many authors as a period of development that left trace. One of the most important was the legislation. Regarding the years of his reign, historians have different ideas for policies followed by the bird. These last have attempted to show that:

- a. His regime was a dictatorship;
- b. While others weigh in on the fact that his reforms had a significant impact on the prosperity of the state.

According to research conducted, the foreign policy followed by Zog appears interesting. The Zogist diplomacy during the first phase of its development, achieved successfully to affirm the state personality newly formed in the international relations field.

However limited, the greatest achievement of Zog was to ensure the political stability in the country. Zog was clear that for the construction of the Albanian state was not enough just to replicate the models that were applied in other European countries, without getting into consideration the political reality in the country. Supported on his political dualism, Zog eventually created a system combining Eastern ideas with Western ones, East in the form and West in the content (Bernd J. Fischer, "Balkan dictators").

The Zogist diplomacy in the first phase, was successful in trade field, as well as in the foreigners affaires. His aspiration to govern without impacts from foreign countries was a dream, but the economic incompetence of the country's placed him to take a dual position.

### **The consolidation of the Albanian state in the Zogist period**

Ahmet Zogu, after invading the country with the help of Yugoslavia, moved to Tirana with the help of Dibran and Matjan forces "as the absolute master of the country". Once in power, he calls his companions of war,

whom were his main supporters, in this way would be more confident about policies that will be pursued.

After liquidated commitments, that was taken toward Yugoslavia through exchanges in its favor, he decided to secede from Yugoslavia and establish a connection with Italy, politically and financially stronger than before, to become rich and to stay in power as dictator through the force of Italy (Sejfi Vllamasi, *The political confrontations in Albania (1897-1942)*, Tirane 1995, pp 299).

On January 25, 1925 the Constitutional Assembly proclaimed the Republic of Albania. Ten days later, the Constitutional Assembly elected Ahmet Zogu President of the Republic of Albania, being on the same time the head of the executive power.

During this time, Ahmet Zogu returned the stability in the country, as well as provided the signing of the significant agreements in economic, political and military field which strengthened the Albania's positions.

Albania continues to be Republic until September 1928. It was adopted a new democratic and pluralistic Constitution. The new statute contained 142 articles divided into 4 parts. The legislative functions belong to the Parliament which for the first time was composed of two chambers: the Chamber of Deputies and the Senate (The Chamber of Deputies was composed of 57 members and the Senate from 18 members). Ahmet Zogu was elected by the Parliament, head of state, President of the Republic of Albania with a mandate of 7 years.

The institutional and political model had similarities with that of the United States, but rather approached to the French model of 1875, but differently from France, Albanian model gave life to a of sustainable parliamentary system (Article 1 of the Statute: Albania is a Parliamentary Republic. Following the example of the classical bourgeois constitutions, the Statute recognizes the separation of powers: legislative, executive and judicial).

According to the opponent camp, the advent of Zog in power was not determined as evolution in politics, but as an invasion, whom, to ensure his political ambitions, did not hesitate to require external aid, therefore, He had to accept the conditions which grave and endangering the independence of his country. This group without divert the attention to the Yugoslav and Greek risk, on the context of the new Albanian government alliances, in particular condemned the Pact of Tirana signed on 27 November 1927, also called "The Pact of Friendship and Security" ( Fatmira Rama, *Problems of the independence and the consolidation of the Albanian State in the political debate in Albanian emigration 1925-1939, The independence of Albania and the Albanian State challenges during the twentieth century. Summary of studies*), Tirana, 2007, p 305 -307). The alliance between Albania and Italy,

was seen as the main factors for the destruction of the relationships between Italy and Yugoslavia to guarantee a balance of on the Adriatic sea.

For all preceding reasons, the opponents of Zog were afraid even more by the Italian intervention in Albania, also for the confidential negotiations between Italy and Yugoslavia, for these reasons they call on the people to raise their awareness for a complete independence, where each one may freely express their opinions, in the interest of the country.

Despite the numerous attempts by the opposing party in order to minimize Zog's figure, the pro-government party, was of the opinion that despite the numerous difficulties that existed, Albania was a free and independent country, internationally recognized also. Thus the figure of Ahmet Zogu set on a pedestal, as the savior of the country, as the person who took over Albania from destruction.

On July 1, 1928 Ahmet Zogu, by the responsibility of the head of State was addressed to the two chambers of Parliament. Pursuant the Articles 79 and 141 of the Statute, the message demanded to unify the two chambers in a special session to review and change the constitution (Biagini. A, (1998) *Storia dell'Albania*, Bompiani, Milano, p.50). The Parliament votes for its dissolution and the election of a Constituent Assembly for amending the Charter.

The elections had been determined on 17 August, 1928; in fact, the elections were informal, without an opposition party and a single candidates list. The government and the supporters of the President, by the Italian and International financial support, developed a peaceful electoral campaign. This elections produced a Constituent Assembly with some changes from the previous Parliament and Senate. The Republic, selected like the form of the State, did not resolve the problems that were present in the whole country. In this period was created a conviction that just a centralized monarchy can solve the problems in Albania.

After the premature elections on August 25, 1928, was proposed the replacement of the government form. The statutory commission was formed, which proposed the changing form of state, from republic to a monarchy regime. This proposal was voted in the parliament and in August 30, 1928, the Constitutional Assembly decided to proclaims Albania a heritable Democratic and Parliamentary Kingdom. The election results were suspicious, with an absolute majority in favor of the Zog projects, whom since the first session (1 September 1928) was appointed the Albanian king.

Should be highlighted the fact that the newly established Albanian Kingdom, immediately founded the Italy and the United Kingdom support. A number of European countries recognized the king and kingdom, while Serbia rejected it, due to the appointment of "King of Albanians and not "of

Albania", which was seen as a provocation for Serbia. Under the British pressure, Serbia joined the countries that recognized the young ruler.

From this moment, Albania is a constitutional monarchy, and the legislative power is entrusted to a single room (The Senate ceases to operate), but it is not an independent authority (Art. 9, the law initiatives belongs to the King and Parliament). Legislative power is collectively exercised by the King and Parliament, which is composed by a room (Art. 8 The fundamental statute of Albania Kingdom, The Albanian Official Gazette, published by the Ministry of Internal Affairs, Tirana, 13 December 1928). The parliament can be dissolved at the discretion of the sovereign. The executive power is directly responsible to the king.

After being declared king, testified that anyone could emerge against his regime there would be strongest sanctions. His movement was a great step forwards the stability of the country.

Any law can be entering into force without the approval of the King. In the history of the Albanian state, was established the State Council for the first time. It was a legal and technical authority for the preparation of legislative acts.

At the same time it was an important economic and legal advisory. Composed of 10 members and was divided into three sections. a) justice; b) administration; c) finance, economics and communication.

Was sanctioned the independence of the judges, Sealed the principle, on the basis of which, their decisions must be based on law and cannot perform in political activities.

Zog throughout his government developed a foreign policy which aimed to preserve the independence of the Albanian state. His policies intended to take advantage of the controversies that exist between the different countries (Kastriot Dervishi, 2006).

The attempt for a national silence constituted a real problem, the most important tribes of the north Albania were flabbergasted by his indifferent attitude toward Kosovo. But he had no intention to provoke the Yugoslavs, because did not want to put at risk the Albanian positions and good relationship with Italy.

After changing the form of government from Republican in the monarchical form, in September 1, 1928, the relationships with Fascist Italy were intensified, including the activities of the Italian consultants in the legislative and administrative field.

### **Crucial legislative reforms during the period of Zog**

Zog is a reformer, a courageous reformer. When he came into power, was confronted with a difficult situation, prejudiced people, a divided society, where as in legal terms, there were no laws or codes.

That is the main reason, where is not possible to treat mainly the Albanian law, if not taken into consideration the impact of Italy, in the development of the Albanian legislation and the codification process.

Regardless of profound Roman bases, only in the nineteenth century Italy has had a significant role in the Albanian legal history. It affirmed a legal state, instead of the previous fragmentation of powers. The legal reforms based on Western models were finalized with a new Constitution.

The appropriate way to achieve the internal unity was, to undertake the religious reform. The four major sects of the religion started by states which they represented. Religious belief, the fourth sects started by Greece, Italy, Turkey, through the centuries have brought the greatest national division.

At the end of 1928 The Albanian Constitution text (13 December 1928) in regarding the religions states: "*The Albanian state has no official religion. All religions and all faiths are respected and guaranteed their free application* (Art 5, paragraph 1 on The fundamental statute of Albania Kingdom, The Albanian Official Gazette, published by the Ministry of Internal Affairs, Tirana, 13 December 1928). *The religion in no way can serve as a prohibition or legal barrier of any type* (5, paragraph 2).

Gradually with the design and implementation of laws, decrees, and finally with the adoption of the new Constitution were created the appropriate premises and was opened the way to performed out the waited process of Albanian institutions society on the road to nationalization to move towards the modernization of this period.

On the early twentieth, gave birth to a genuine movement in support of codification of the Albanian penal law, but just in the years 1925-1932, was made possible throwing of the bases for a new legislation, based on the principles of European law, especially the Italian and French legislation.

Zog started by the large number of women killed, drew up a new Civil Code, which recognized the civil marriage and the divorce.

Another one important reform was on education. Its purpose was the emancipation and education of Albanian woman. Exactly the right to education is sanctioned with a special emphasis on the fundamental statute of the Albania Kingdom, is cited as follows: "*The primary education for all Albanian citizens is compulsory and teaching at the state schools is free*" (Art 206, on The fundamental statute of Albania Kingdom).

The pro-fascist Zog's policies following from the moment of creation of the Republic on January 21, 1925, was materialized with a range of special penal laws repressive and anti-liberal. The opposition press was reduced to the silence. Together with the Penal Code about the political crimes on 23 December 1925 was established a special court to judge and punish, even with a capital punishment, perpetrators of the crimes against the

regime. The powers and functions were similar to those of the Mussolini Special Court in defense of state.

During the years when Zog was the head of state was conducted a series of reforms into national legislation. Zog had demanded a thorough reform of the country's legislation. For this purpose on 5 August 1926 by the decision of the Council of Ministers, were established a lawmaker Committee. The Commission submitted as indispensable change of the Penal Code based thorough the Italian model 1889 (Zandarelli Code).

Is observed repressive policies of the monarchic regime's in Penal laws adopted after the declaration of the monarchy (1928-1937) we can mention the following laws:

The law No.17, dated January 7, 1930 "On the disappearance of the fugitives". With this act, the regime intended to annihilate the political opponents.

The Decree Law dated 30 June 1930, amended the article of law dated. 07.02.1925 "On the deportation of dangerous propagandists. This period produced many important reforms that Albania mostly trying to emerge in the international arena as western and a developed country.

### **The Codification under the regime of Zog**

A fundamental step in the Zog's Kingdom legislative policy have been the the establishment of codes. Civil Code, known as the Code of Zog, was the first official Civil Code in Albaina, which displaced the Osman Code of 1876. Before the entry into force of the Code of Zog, the family relations were regulated for the Muslims by the sacred law (Sharia).

The Civil Code represented a kind of modernization, compared with customary law, it attempted to bring innovation with the requirements established by the Kanun. It was based on the classic codes of the time, as the Napoleonic Code, the Italian Civil Code of 1865 and the Swiss Code. About certain issues were specific aspects, which reflect the Albanian reality. The approval of new code strengthened the Albanian state secularism.

The Civil Code came into force on April 1, 1929, consisted in four books or parts, the entry and the previous provision were dedicated to interpreting and applying the law.

- **The first book** was dedicated to the the persons and the family, addressing the principles of citizenship and status of natural persons whose provisions foresee, marriage, fatherhood, motherhood.
- **The second book** is devoted to heritage;
- **The third book** is devoted to the property, property types and methods of acquisition;
- **The fourth book** devoted contracts and law of contract.

The Civil Code prohibited the dual citizenship: the citizenship obtained by the birth, was considered an Albanian citizen:

a) the child of Albanian father's;

b) the child of Albanian mother's, when the father is not known or when the mother is stateless or when have not a citizenship of another country.

**The citizenship by marriage**, the foreign woman married an Albanian citizen, automatically win the Albanian citizenship.

The Family relationships and marriage institute were sanctioned in Articles 129 to 409, focused around the father's recognition child, the husband authority and the father's authority, preserving the inequality of women in the family relations, which exist in the canon of Lek Dukagjin (Shehu. N, Bari 1998).

The second book, handles succession and inheritance. Albanian Civil Code limits the heredity until to the second degree.

Decree-Law No. 128 dated 30 May 1928 stated that the heritage issues, in Shkodra and Dibra which existed before the enactment of the Civil Code of 1929, could be resolved in accordance with the "Tribunal", which consisted of Council District Administration, members of each were wise men, who knew the value and content of the customary law of the KLD (The kanun o Lek Dukagjini).

The raports between the tradition and modernity appears backward and therefore sometimes "modern". Laws were adopted. As an example, The Law on engagement of 1934 (This law had recognized the girls' right to express their consensus on the choice made by the father) designates that the engagement cannot be done before the age of 16 years, also this law gave women the right to terminate the engagement.

As regards the penal area, according to the draft prepared by the Italian lawyer Giulio Menzinger, was formed a committee subordinate to the Ministry of Justice, on 30 November 1926 with the task to drafted legislation. This was the final plan for the reform in the criminal field, in some ways preceded the 1928 Criminal Code based on the Italian code of 1889 Zanardelli.

Through the decree of 3 June 1927, were approved, the Albanian Penal Code and the law on the application of the Penal Code. The aforementioned two acts entered into force on 1 January 1928. The Penal Code of 1928 is divided into three books or sections: 1. the first book provided transgressions (criminal offenses); 2. the second book provided offenses and the third book provided the contraventions.

On 19 June 1932, entered into force the Military Penal Code, this one was created according, to the model of the Military Penal Code of the Italy's Kingdom. This Code was based on the legal concepts of western countries.

If we take a comparative overview of the Albanian Penal Code, it does not change with the Penal codes of European countries. It is enshrined the principle that “no one may be punished for an offense that is not prescribed by law”. This principle is sanctioned for the first time in Albania, there was no customary law or in Ottoman law (Ismet Elezi, The historical development of penal law in Albania, Tirana 1998, pp 41-42).

During these years, the influence of Western ideas had a significant impact on crime problems, especially blood feud throughout widespread problem. In fact, the main reason lies in the lack that for a lot of centuries in Albania, a public authority can impose justice.

During the Albanian monarchy, King Zog sees the kanun as a threat to state power and an obstacle to the establishment of a modern country. The kanun implementation was officially abolished, Even though it continued to regulate the Albanians lives. The king was often victim of an assassination attempt against him, based on the code of Kanun.

This phenomenon appeared worrisome and against the, so after invaded Albania, Italian authorities was obliged to intervene with the decree on January 30, 1940, by which the capital punishment was provided for anyone causing the death of another blood feud (Ismet. Elezi, Blood feud and revenge killings in Albania, Tirana, 2000, p.7).

The third important code was the Commercial Code who occupied Commercial Code of 28 July 1850 and the terrestrial Commercial Code 1 August 1860, which supported the French commercial code to 1807.

The new commercial code entered into force on 1 April 1932, was designed by an Italian group of lawyers headed by Prof. Vivante. This Code constitutes a comprehensive legal framework for trading activity exerted by traders and companies. The Commercial Code of 1932 was quite comprehensive and modern for the time, because for its design were taken as model the developed western countries legislation of this period.

Regarding the Civil Code, it is also present today, even though has passed a century from the time of its drafting. Therefore it continues to be an important instrument for specialists in the justice field. It is surprising to thought that the most backward country of Europe has had such strides legislation.

## **Conclusion**

Zog was viewed as an able personage to stabilize Albania by creating the necessary conditions for Albanian establishment individual conscience in the national one. Affirmed with international legal personality the first state founded by the Albanians.

With the design and the implementation of the laws, decrees and the sanctioning of the new Constitution was formed the appropriate premises and

was opened the way to carry out the process of Albanian society institutions on the road to the nationalization and Albanianization walking with the modernization of time. Affirm a legal state instead of the previous powers fragmentation.

Regarding the Civil Code, it is also present today, even though has passed a century from the time of its drafting. Therefore it continues to be an important instrument for specialists working in the field of justice. It is strange to think that Albania, the most backward countries in Europe has had as well as a full and progressive legislation. Certainly not missing the merit of the most contemporary era legislation, codes on which Albanian codification was supported, but have had particularly merit Albanian decision-makers of the time, which was inspired by the most advanced countries.

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