Albania in the EU?
Constitutional Implications of the Doctrine of Supremacy of EU Law

LL. M. Anduena Gjevori

Lecturer "Aleksander Xhuvani" State University
Faculty of Economy
Department of Economics and Law

Abstract: *The doctrine of the supremacy of Community Law as developed by the ECJ has been at the heart of juridical and doctrinal debates. One of the most acute issues for national courts in the European Union has been whether to accept EU law as the supreme law of the land, giving it primacy even when conflicting with national constitutional provisions. The judicial approach regarding this principle even in the new Member States from Central Eastern Europe has been varying. Therefore, we analyze the position of a potential Member State such as Albania, the role of its Constitution and Constitutional Court, regarding the doctrine of supremacy of EU law as developed by the ECJ. Many Albanian authors, according to the Kelsenian concept of the legal system as a pyramid, interpret Article 116 of the Albanian Constitution as creating a hierarchy between the sources of the law, by placing the Constitution in the first place. However, the Albanian Constitution was drafted to facilitate the Euro-Atlantic integration of the country and includes specific articles for the abovementioned integration. One of them - Article 122/3 relevant to the doctrine of supremacy of EU law - will be analysed to understand whether its language upholds the doctrine of supremacy of EU law. We will supplement such analysis with a general view of the constitutional provisions and Constitutional Court decisions, which address the problems of international law in the Albanian legal system. Such analysis is both important and timely since the pending 'candidate status' for Albania will both widen and deepen Albania's relationship with the EU making the issue of the supremacy of EU law legally more pressing and socially and politically more pertinent.*

1. Introduction

In December 1990 the communist regime in Albania, one of the most isolated regimes in Eastern Europe, fell. The democratic changes following it and the need to establish a new political and economical system dictated the need for constitutional changes. The first pluralist National Assembly chosen by free elections in 1991 was not able to draft a Constitution (Anastasi, 2008). Consequently, the political parties represented in the National Assembly agreed to approve some provisional constitutional provisions generally defining the organization of the state (Anastasi 2008). These provisions were approved by law No. 7491, date 29.04.1991 "On the Main Constitutional Provisions". Since it was a provisional solution, this law had many gaps and it did not contain a catalogue of human rights.

After the rejection of the 1994 draft constitution in a popular referendum and the 1997 political and institutional crisis, the constitutional question became a major unresolved issue which was holding back the country's democratization and institutionalization reforms. Albania was the sole country from the Eastern Europe which did not have a new post-communist Constitution until November 1998 (Omari, 2008). The actual constitution was approved by the Parliament of Albania on 21 October 1998 and subsequently confirmed by a nationwide referendum on 22 November 1998. This constitution defines Albania as a parliamentary republic, guarantees the independence of the judiciary and is based on the checks and balances principle creating premises for the democratization of the country.

The definition of the relationship between international law and national law in the framework of Albanian's Euro – Atlantic integration was one of the tasks of the drafters of the constitution. The approach the Constitution has towards international law is substantially different from the one held by the Constitutions of the communist regime, which ignored international law. The Constitution reflects the positive view of reciprocal cooperation between international law and constitutional law (Zaganjori, 2004). The relationship between international law and national law is discussed in detail in Part Seven of the Constitution, which regards normative acts and international agreements. This part addresses the normative acts which are effective within the territory of the Republic of Albania, the procedures for the adoption of the norms of international law and the competences of organs in this field.

Since membership in EU and NATO is one of the priorities of the Albanian government the Constitutions reflects the openness of the country's legal structure to accommodate international law principles. Albania has taken different steps in this framework the most important of which are the ratification of the Stabilization and Association Agreement and the application to join EU. The Stabilization and Association Agreement (SAA) between Albania and the EU and the EU member states was signed on 12 June 2006 and entered into force on 1 April 2009 after having been ratified by the last EU Member State Greece.

Now that Albania is closer to more substantive EU integration, a number of issues which had not been important are attracting increasing attention. Consequently, this paper will analyse whether there will be any need for Constitutional amendments to accept the supremacy of EU law over acts of Parliament and over the Constitution itself once Albania becomes an EU member. After explaining briefly the doctrine of supremacy of EU as created by ECJ, the paper will give a general overview regarding the relationship between international law and national law in the Albanian legal order. It will be explained that Albania is among those countries which give supremacy to the constitution, however the Albanian constitution includes also the so-called integration Articles. Article 122/3 related to the supremacy of the norms issued by an international organization will be analyzed aiming to understand whether the Albanian Constitution accommodates the doctrine of the supremacy of EU law or not.

2. The doctrine of supremacy of EC law

The doctrine of the supremacy of Community law has no formal basis in the EC Treaty and was developed by the ECJ based on its conception of the "new legal order" (Craig & De Burca, 2008). It was the ECJ, which from the early existence of the Community, touched the issue of supremacy of EC law by stating in Van Gend en Loos (Algemene Transporten Expeditie Onderneming van Gend en Loos v. Nederlandse Amministratie der Belastigen, 1963) that the Community constituted a new legal order of international law for the advantage of which the States had limited their sovereign rights (Craig & De Burca). The supremacy doctrine was the main focus in the decision Costa v. Enel (1964), where ECJ held that EC Treaty had created its own legal order which became part of the legal systems of the Member States which had transferred to the Community institutions "real powers stemming from a limitation of sovereignty". The Court provided giving further arguments such as the *spirit* and the *aims* of the treaty which made it "impossible" for Member States to accord primacy to their national law (Craig & De Burca). Finally, the Court argued that Article 249 of the EC Treaty (now Article 288 TFEU) would be meaningless if Member States would not respect it by approving inconsistent national law. After having created a basis in Costa v Enel (1964) in the following cases such as: Internationale Handelsgesellschaft (Internationale Handelsgesellschaft mbH v. Einfuhr und Vorratsstelle fur Getreide und Futtermittel, 1970) and Simmenthal (Amministrazione delle Finanze dello Stato v. Simmenthal, 1978) ECJ held that not even a fundamental rule part of the national constitution could challenge the supremacy of directly applicable Community law (Craig & De Burca, 2008). It is now established by the case law of the Court of Justice that Community law is supreme over the national law of member states, including the fundamental norms of their national constitutions (Albi, 2007).

The principle of supremacy of Community law has been one of the most important principles of the European Community's legal system because it ensured uniform application and effectiveness of Community law. However, this principle has continuously been at the heart of juridical and doctrinal debates. Member States tend to accept the supremacy of Community law over the laws of the country, but they make certain reservations related to their constitutions. They regard supremacy as a concept rooted in the national constitutions, rather than deriving from the autonomous nature of the Community's legal order (Albi, 2007). As a result, Constitutional Courts have reserved the right to review whether European institutions act within the competences conferred to them and respect fundamental constitutional norms and human rights (Albi). We can mention different cases in this framework such as Solange I and II (1974) and Maastricht (1994) of the German Constitutional Court, cases of the Italian Constitutional Court the Granital (19840 and Frontini (1973).

As it was mentioned above, the principle of supremacy of EC law was developed in the absence of any legal base in the EC Treaty. A provision regarding the supremacy was included in the Constitutional Treaty (2004). Nevertheless, debates regarding the supremacy of EC law continued after the incorporation of the supremacy clause in the Treaty Establishing a Constitution for Europe. For example, the French Constitutional Court and the Spanish Constitutional Tribunal gave decisions on the meaning of the supremacy on the context of the European Constitution (Albi, 2007). The French Conseil Constitutionnel, in a decision of November 2004, held that the supremacy clause, which was included in the European Constitutional Treaty, would not require any changes to the position of the French Constitution at the top of the French internal order (Albi). On the other hand, the Constitutional Court in Spain, in a decision of December 2004, held that primacy of EC law is limited to the exercise of competences that have been conferred on the Community, while ultimate supremacy is in the Spanish Constitution, which remains the essential source of validity (Albi). The Treaty of Lisbon provides also about the supremacy of EC law in the form of declaration.

3. International Law in the Albanian Legal Order

There are two main theories which explain the relationship between national law and international law. The first one is the dualistic theory and the second one is the monistic theory (Cassese, 2004). The dualistic theory was developed by the end of XIX century and beginning of XX and according to it international law and national legal systems constitute two distinct and legally separate categories of legal orders; they have different subjects, different sources, and different contents. International law cannot directly address itself to individuals or become binding within a certain legal order because it needs to be "transformed" into national law by the mechanisms of implementation decided by the State. International law cannot alter or repeal national legislation and vice versa (Cassese).

While the monist approach was first outlined in 1899 by the German legal scholar Kaufman but and was further developed after the First World War by Kelsen and subsequently by other authors (Cassese 2004). The monist approach advocates the primacy of international law. According to this approach, there is a unitary system which includes all different legal orders operating at various levels; national law should be in conformity with international law and in case of conflict the later declares all national laws not in conformity with it illegal. This doctrine claims that the subjects of international law are not completely different from those of national law and international law can be applied directly by domestic courts without any need for transformation. However, even if transformation is needed, it should be applied on national law rather than international law (Cassese).

The way in which the Albanian Constitution has solved the issue of the relationship between international law and national law is closer to the monistic approach. As will be explained, ratified international agreements are part of the Albanian legal order after being published in the Official Journal, they have supremacy over the national law in case of conflict and they can be directly applied.

The first part of the Albanian Constitution regards basic principles. Article 5 of the Constitution, provides that Albania should apply international law binding upon it. "The republic of Albania applies international law that is binding upon it" (Albanian Const. Article 5). This Article is placed in the first part of the Constitution placing it among the general constitutional principles (Anastasi, 2008). There are different interpretations regarding the above-mentioned Article in the Albanian judicial literature. One is that Article 5 should be interpreted in connection with other Articles of the Constitution especially with Article 122, which means that the Republic of Albania applies only international treaties ratified and published in the Official Journal of the Republic of Albania, because this way they become part of the Albanian national legal order. This kind of interpretation would give Article 5 only declarative character (Anastasi, 2008).

Another view is that Article 5 should be broadly interpreted. The notion "binding international law" should include not only provisions of international agreements ratified by the state, but also provisions of international law generally accepted and general principles of international law (Zaganjori, 2004). There are norms of public international law that are not part of any treaties such as peremptory norms (jus cogens), which are directed to all sates and are generally accepted to have a higher rank over international law (Zaganjori). The Vienna Convention on the Law of treaties gives these peremptory norms (jus cogens) higher rank than treaty law (Vienna Convention on the Law of Treaties, Article 53).

The above-mentioned standing is also supported by the Albanian Constitutional Court. In its judgment regarding the compliance between the Albanian Constitution and the provisions of the Rome Statute for the International Criminal Court it held that: "… since on the basis of Constitution generally accepted rules of international law are part of the internal judicial system, so also the lack of immunity in the international criminal processes regarding definite crimes with high risk, becomes part of the Albanian legal order" (Constitutional Court of the Republic of Albania, 2002). So beside ratified international agreements also peremptory norms should be applied within the Albanian legal order. Supremacy of international law is an issue decided by national law rather than international law, although ICJ has held that "international law prevails over national law" (ICJ, 1988). However, in practice there is no general acceptance of the supremacy of international law, there are states which rank international law in the same position as their national law and there are others which give international law a higher status and rank than that of national law (Cassese, 2004).

The Constitution of the Republic of Albania has clearly defined the supremacy of ratified international agreements over the laws of the land and it has automatically resolved the problem of conflict between international law and national law in favour of international law. Article 116 of the Constitution creates a hierarchy between normative acts which are effective in the territory of the Republic of Albania, by placing the ratified international agreements before the national laws. "Normative acts that are effective in the entire territory of the Republic of Albania are: a. the Constitution; b. ratified international agreements; c. the laws; d. normative acts of the Council of Ministers" (Albanian Const. Article 116/1). According to Article 122/1 every ratified international agreement constitutes part of the Albanian legal order and can be directly applied except for the cases when it is not self-executing and its implementation needs issuance of law. "Any international agreement that has been ratified constitutes part of the internal juridical system after it is published in the

Official Journal of the Republic of Albania. It is implemented directly, except for the cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the direct effect of ratifying an international agreement, is done with the same majority" (Albanian Const. Article 122/1). Paragraph 2 of Article 122 recognizes the supremacy of the ratified international agreements over national laws and such agreements prevail over national laws which contradict them. "An international agreement that has been duly ratified by law has superiority over the laws of the country that are not compatible with it" (Albanian Const. Article 122/2). So the Albanian Constitution provides for the supremacy of international law over national law and automatically solves problems of conflicts between them in favour of international law. This confirmed supremacy of international law towards national law separates Albania from the solution given by the dualistic countries regarding the relationship between international and national law (Sadushi, 2003). Many Constitutions of other countries have only provided that their legislation is in conformity with rules and norms of international law, but they leave unsolved the problem of conflict between national norms and international norms. This is a partial solution given by the Constitutions of these countries (Krisafi, 2004). The Albanian Constitution is similar to the Constitutions of Poland and Croatia, which provide for the supremacy of ratified international agreements over the laws of the land, in case of conflict between them (Anastasi, 2008).

This supremacy of international law over national laws sanctioned in the Constitution has also been applied in practice. The Albanian Constitutional Court abrogated provisions of the Criminal Code and provisions of the Criminal Military Code which predicated the death penalty, in order to comply with Protocol No. 6 of the European Convention on Human Rights (Constitutional Court of the Republic of Albania, 1999). Article 21 of the Constitution, "Right to life" was interpreted in the light of the European Convention of Human Rights. According to the Constitutional Court the death penalty was not in compliance with the Albanian Constitution and the European Convention on Human Rights since it denied the right to life and it was related to the elimination of the subject from the society. On the other hand, the limitations predicted by the European Convention on Human Rights were not related to the death penalty as an execution of a final decision of the Court. The Constitutional Court based its arguments on the European Convention on Human Rights also related to the abrogation of death penalty in time of war (Sadushi, 2003).

According to the principle of "direct effect" national courts can apply rules of international law that are not transformed into national law. There should always be a rule of national law authorizing the courts to apply international law (Cassese, 2004). According to Article 122/1 of the Albanian Constitution every ratified international agreement constitutes part of the Albanian legal order and can be directly applied except for the cases when it is not self-executing and its implementation needs issuance of a law. So national courts, can apply articles of a ratified international agreement, which have become part of the national legal order after having been published in the Official Journal and if there is no need for implementing legislation. In practice the judges of national courts in Albania hesitate to apply directly international agreements although they fulfil the above-mentioned criteria (Sadushi 2003)

4. The Position of the Constitution within the Albanian Legal Order

Article 116 of the Albanian Constitution gives a general hierarchy of the normative sources binding within the territory of the Republic of Albania. According to this Article the first normative source is the Constitution, followed by the second normative source which are the international agreements ratified by the National Assembly. International agreements are followed by the laws and the last normative source is the normative acts of the Council of Ministers.

Many Albanian authors (Sadushi, 2003; Zaganjori, 2004; Anastasi, 2008;) interpret Article 116 of the Constitution as creating a hierarchy between the normative acts which are effective in the territory of the Republic of Albania, by placing the Constitution in the first place. The Albanian Constitution gives international law a higher status and rank than national law, but it gives priority to the Constitution over international law; international agreements have the second place after the Constitution (Anastasi). So the Constitution has supremacy over the ratified international agreements, international agreements come after it and have supremacy over the laws of the land. Albania is among those countries - which have adopted the monist system by giving supremacy to the constitution - where international acts come directly after the constitution, after being ratified by law, but they have supremacy only over the other national laws (Anastasi & Omari, 2010).

The above-mentioned Article has also been interpreted by the Albanian Constitutional Court as creating a hierarchy between the normative acts which are effective in the territory of the Republic of Albania, by placing international agreements in the second place, before the laws and after the Constitution. In its decision (Albanian Constitutional Court, 1999) about the abrogation of the provisions of the Criminal Code and Military Criminal Code which predicted the death penalty, the Constitutional Court held that the Constitution has recognised that Albania applies international law binding

upon it. By ranking international agreements, which are part of the national legal order, in the hierarchy of normative acts effective within the territory of the Republic of Albania before laws the Constitution gives such agreements precedence. The general standing supported by the Albanian authors and the Albanian Constitutional Court that the Albanian Constitution has primacy within the Albanian legal order, is not in compliance with the doctrine of supremacy of EC law as developed by ECJ, according to which EC law should have primacy over the national law of the member states, including the fundamental norms of their national constitutions.

International law can have the same rank with the Constitution within the Albanian national legal order. A special constitutional status is given to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The European Convention for the Protection of Human Rights and Fundamental Freedoms is part of the normative acts which are binding within the territory of the Republic of Albania. The Convention according to Article 122/2 of the Constitution has superiority over the laws. But Article 17 of the Constitution provides that there cannot be limitations of the rights and freedoms which may violate the essence of these rights and freedoms and they cannot go beyond the limitations provided for in the European Convention for the Protection of Human Rights and Fundamental Freedoms, giving the Convention the same rank with the Constitution. The way in which is formulated the above-mentioned Article of the Constitution brings to the conclusion that fundamental human rights should be interpreted in the light of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Sadushi, 2003). This special Constitutional status is given to the provisions of the Convention related to the limitations of rights provided in the Constitution. This is a characteristic of the Albanian Constitution which cannot be found in other legal systems (Anastasi, 2008). This special Constitutional status given to the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and especially to those related to the limitations makes the Convention directly applicable (Sadushi). The intention of the drafters of the Constitution must have been to create a guarantee and not to allow the arbitral interference of the State related to the limitations of human rights.

Although as it was mentioned above, Article 17/2 of the Albanian Constitution refers only to limitations of human rights, the content of the provisions of the Constitution related to human rights is also important. The Articles of the Constitution regarding human rights are compiled in the same way as the Articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms with some small changes (Anastasi, 2008). This makes easier the work of the judges who can refer at the same time to both the Articles of the Constitution and Articles of the Convention when they are formulated in the same way (Anastasi).

5. The Integration Articles Provided by the Albanian Constitution – Article 122/3

The definition of the relationship between international law and national law in the framework of Albanian's Euro – Atlantic integration was one of the tasks of the drafters of the constitution. By carefully analyzing the constitutional status of international acts, besides the general standing explained above, there are also so-called specific articles which provide for the participation of Albania in supranational organizations (Anastasi & Omari, 2010). These are article 122/3: "The norms issued by an international organization have superiority, in case of conflict, over the right of the country if the agreement ratified by the Republic of Albania for its participation in the organization expressly contemplates their direct applicability" and article 123: "1. The Republic of Albania, on the basis of international agreements, delegates to international organizations state powers for specific issues. 2. The law that ratifies an international agreement as provided in paragraph 1 of this article is approved by a majority of all members of the Assemble. 3. The Assembly may decide that the ratification of such an agreement be done through a referendum" for the purpose of this paper it will be analyzed only article 122/3".

The Albanian Constitution creates two systems regarding the relationship between international law and national law (Zaganjori, Anastasi, & Cani, 2011). The first system as it was explained above is based on two basic principles: first on the principle of direct applicability of the ratified international agreements (except for the cases when they are not self-executing and their implementation requires issuance of a law) second on the principle of the superiority of the ratified international agreements over the laws of the country, that are not compatible with them. (Zaganjori et al., 2011).

The second system is related to Article 122/3, which introduces some special characteristics different from the general system of the relationship between ratified international treaties and national law. This Article provides that norms issued by an international organization can have supremacy over the right of the country in case of conflict, but with one condition that the ratified agreement for the participation of the Republic of Albania in that organization should provide for the direct effect of the norms issued by that organization. The norms issued by this international organization will have supremacy not only over the national laws, as it was for the international norms of public international law, but they will have supremacy over the right of the country. From a literal interpretation of Article 122/3, the right of the country

includes all internal norms including the constitution itself, so it is understandable supremacy over the Constitution itself and not only over the national laws (Anastasi & Omari, 2010).

Let's explain what might be the relationship between EC law and Albanian law according to Article 122/3 of the Constitution. The sources of EC law can be divided into primary and secondary (derived) EC law (Kellermann, 2007). The primary EC law consists of the constituent treaties, EU treaty provisions, and the general concepts of law. The secondary EC law consists of acts of the European institutions. The norms issued by the institutions of the Union are regulations, directives, decisions, recommendations and opinions. According to Article 288 TFEU (ex Article 249 of EC Treaty) in order to exercise the Union's competences the institutions shall adopt regulations, directives, decisions, recommendations and opinions. According to Article 122/3 of the Albanian Constitution the primary EC law will become part of the Albanian legal order and it will be directly applicable once the treaties between EU and the Republic of Albania are signed and ratified by the national Parliament (Zaganjori & et.al. 2011). The secondary legislation will depend on the primary legislation, according to the interpretations of the ECJ. According to the ECJ national courts are required to give immediate effect to the provisions of directly effective EC law of whatever rank in cases which rise before them, and ignore or set aside any national law of whatever rank which would impede the application of EC law (Craig & De Burca, 2008).

Although Article 122/3 can guarantee the supremacy of the norms of an international organisation, even over the constitution itself, it still remains an unclear Article as long as it is not implemented and it is not interpreted by the Albanian Constitutional Court itself (Anastasi & Omari, 2010). According to Anastasi (2010) it would have been better if the Albanian Constitution would have provided for an Article authorising the membership of Albania in the EU. Taking into account the importance of the membership of Albania in the EU, constitutional amendments regarding the supremacy of EU law might be considered and this would also relieve the Albanian Constitutional Court from the duty of clearly defining the relationship between EU law and national law (Daci & Mustafaj, 2011). Kellermann (2007) recommended that there should be a distinction between Community law and international treaties and general rules of international law within the Albanian legal order, so primary and secondary Community law should have legal authority, supremacy and the possibility of direct effect should be clearly mentioned. This can be regulated in the same article providing the legal basis for EU membership or by a separate provision regulating the sources of the law. (Kellermann).

6. Conclusions

The doctrine of supremacy of EC law was developed by ECJ, which held that Community law is supreme over the national law of the member states, including the fundamental norms of their national constitutions. In this regard, the Constitution of the Republic of Albania has clearly defined the supremacy of ratified international agreements over the laws of the land. It has also resolved the problem of conflict between international law and national law in favour of international law. This supremacy of international law over national law within the Albanian legal order has been applied in practice when the Albanian Constitutional Court abrogated the provisions of the Criminal Code and provisions of the Criminal Military Code which predicted death penalty, in order to comply with Protocol No. 6 of the European Convention on Human Rights.

On the other hand, the supremacy doctrine of EC law is not in line with the supremacy of the Constitution within the Albanian legal order. The Albanian Constitution has supremacy over all normative acts including international agreements ratified by law. This is provided by Article 116 of the Constitution which creates a general hierarchy between the normative acts which are effective in the territory of Albania, by giving the Constitution the first place. This standing is also supported by the Albanian Constitutional Court placing Albania among those monist countries which give supremacy to their Constitutions.

Article 122/3 of the Albanian Constitution introduces some special characteristics regarding the relationship between ratified international agreements and national law. It provides that norms issued by an international organization can have supremacy over the right of the country in case of conflict but with the condition that the agreement for the participation of the Republic of Albania in that organization provides for the direct effect of the norms issued by that organization. So the norms issued by that organization would have supremacy not only over the national laws but also over the constitution itself as the right of the country includes also the constitution. Although this Article would provide for the supremacy of the norms issued by an international organization, it is not a clear Article as long as it is not implemented in practice and for as long as there is no interpretation by the Constitutional Court. It does not distinguish between international law and European Community law. This separation should recognize the specific nature of the community law. Under these conditions foreign experts, who consider the specific nature of Community law, supported also by Albanian experts, recommend that it would be better to add in the Albanian Constitution appropriate provisions giving Community law legal

authority, supremacy and direct effect when possible (Kellermann 2007). This Article would not change the position held by the Albanian Constitution towards international law in general as it would only provide for the special status of the Community law within the Albanian legal order (Kellermann).

References

Anastasi, A.A. (2008). *E drejta Kushtetuese* (2nd ed.) Tirane: Shtepia Botuese Luarasi.

Anastasi, A.A & Omari, L.O. (2010). *E drejta Kushtetuese* (2nd ed.) Tirane: Shtepia Botuese ABC.

Anastasi, A.A. & Zaganjori XH.Z & Cani E.C (2011). *Shteti i se Drejtes ne Kushtetuten e Republikes se Shqiperise* (1st ed.) Tirane: Adelprint.

Anastasi, A.A. (2008). Internacionalizimi i se Drejtes Kushtetuese Klauzolat Kushtetuese te Integrimit te Shqiperise" Polis, 4 40-50.

Albi, A.A. (2007). Supremacy of EC Law in the New Member States. *European Constitutional Law Review*, 3, 25-67.

Albanian Constitution 1998

Bushati, D.B., (2003). Gjykata Nderkombetare Penale. *E Drejta Parlamentare dhe Politika Ligjore,* 12, 21-38.

Brunner, BVerfGE 89, 155 (1993) [1994] C.M.L.R., 57-108.

Craig, P.C. & De Burca, G.B. (2008) *EU Law Text, Cases and Material* (4th ed) Oxford: Oxford University Press.

Cassese, A.C. (2004). *International Law* (2nd ed.) Oxford: Oxford University Press.

Case 26/62 NV Algemene Transporten Expeditie Onderneming van Gend en Loos v. Nederlandse Amministratie der Belastigen [1963] ECR 1

Case 6/64 Faminio Costa v. Enel [1964] ECR 585, 593

Case 11/70 Internationale Hnadelsgesellschaft mbH v. Einfuhr und Vorratsstelle fur Getreide und Futtermittel [1970] ECR 1125

Case 106/77 Amministrazione delle Finanze dello Stato v. Simmenthal SpA [1978] ECR 629. Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Decision No. 65, date 10.12. 1999 of the Constitutional Court of the Republic of Albania.

Decision No. 186, date 23. 09. 2002 of the Constitutional Court of the Republic of Albania

Kellermann, A.A. (2007). Impakti i Anetaresimit ne BE ne Rendin e Brendshem Ligjor te Republikes se Shqiperise. *E Drejta Parlamentare dhe Politikat Ligjore*, 35, 4-34.

Kristafi, K.K. (2004). Kushtetuta Shqiptare dhe e Drejta Nderkombetare. *Tribuna Juridike*, 47 (2), 7-14. Rome Statute of the International Criminal Court (1998)

Sadushi, S.S. (2005). *E drejta Administrative 2.* (3rd ed.) Tirane: Shtepia Botuese Ora.

Sadushi, S. S., (2003). Jurisprudenca e Gjykates Kushtetuese ne frymen e Koneventes Europiane per te Drejtat e Njeriut. *E drejta Parlamentare dhe Politikat Ligjore*, 11, 28 – 41.

Sadushi, S.S. (2005). Rregullorja e Kuvendit te Shqiperise dhe Jurisprudenca e Gjykates Kushtetuese. *E Drejta Parlamentare dhe Politikat Ligjore,* 23, 58-68.

Solange I, [1974] 37 BverfGE 271 et seq.; *Solange II*, 73 BverfGE 378.

Traja, K.T. (2000). *Drejtesia Kushtetuese.* Tirane: Shtepia Botuese Luarasi.

Treaty establishing the European Community as amended by the Treaty of Nice, 26 February 2001.

Treaty establishing a Constitution for Europe (2004)

Treaty of Lisbon (2007)

Vienna Convention on the Law of Treaties (1969)

Zaganjori, Xh.Z. (2004)**.** Vendi i se Drejtes Nderkombetare ne Kushtetuten e Republikes se Shqiperise. *Jeta Juridike*, 2, 26-33.